
STATUTORY INSTRUMENTS

2009 No. 993

The Armed Forces (Proceedings) (Costs) Regulations 2009

PART 2

Transitional Provisions

Definitions for the purposes of Part 2

9. In this part—

“court-martial” means a court-martial constituted under any of the services Acts;

“the services Acts” means the Army Act 1955(1), the Air Force Act 1955(2) and the Naval Discipline Act 1957(3);

“Standing Civilian Court” means a court established under section 6 of the Armed Forces Act 1976(4);

“a summary appeal court” means a summary appeal court established by any of the services Acts.

Proceedings under the services Acts

10.—(1) In relation to proceedings before a court-martial, a summary appeal court, or a Standing Civilian Court for an offence under any of the services Acts, these Regulations have effect with the following modifications.

(2) The definition of “wasted costs order” is to be read as if for that definition there were substituted—

““wasted costs order” means any action taken by a court-martial, a summary appeal court, a Standing Civilian Court or the Court Martial Appeal Court under section 27(1) of the Act.”

(3) Regulation 3(1) is to be read as if for the words before “is satisfied” there were substituted—
“Subject to the provisions of this regulation, where at any time during proceedings for an offence under any of the services Acts—

- (a) a court-martial,
- (b) a summary appeal court, or
- (c) a Standing Civilian Court”.

(4) Regulation 3(5) is to be read as if for “the Service Civilian Court” there were substituted “a Standing Civilian Court”.

(5) Regulation 5(1)(a) is to be read as if for “the Court Martial” there were substituted “a court-martial”.

(1) 1955 c. 18.
(2) 1955 c. 19.
(3) 1957 c. 53.
(4) 1976 c. 52.

(6) Regulation 5(1)(b) is to be read as if—

- (a) for “the Summary Appeal Court” there were substituted “a summary appeal court”; and
- (b) for “the Service Civilian Court” there were substituted “a Standing Civilian Court”.

(7) In regulation 6, the reference to “a court mentioned in section 27(1)” is to be taken to include a court-martial, a summary appeal court and a Standing Civilian Court.

Costs incurred by prosecuting authorities

11.—(1) This regulation applies in relation to proceedings before a court-martial, a summary appeal court, a Standing Civilian Court or the Court Martial Appeal Court.

(2) In regulation 6, the reference to the exercise by the Director of his functions as a party to proceedings is to be taken to include any exercise by a prosecuting authority appointed under any of the services Acts, before the coming into force of these regulations, of its functions as a party to the same proceedings.

Appeals instituted under the Armed Forces Proceedings (Costs) Regulations 2005

12. Where an appeal has been instituted under regulation 5 of the Armed Forces Proceedings (Costs) Regulations 2005 (“the 2005 Regulations”) but not determined—

- (a) it shall be treated as if it had been an appeal instituted under regulation 5 of these regulations as modified by regulations 10(5) and (6);
- (b) any notice given or document served in accordance with a provision of regulation 5 of the 2005 Regulations shall be treated as given or, as the case may be, served in accordance with the corresponding provision of regulation 5 of these Regulations;
- (c) any extension of time granted under regulation 5(5) of the 2005 Regulations shall be treated as if it had been granted under regulation 5(5) of these Regulations; and
- (d) where an interested party has, in accordance with rule 5(6) of the 2005 Regulations, been allowed to make representations, the appeal court’s duty under regulation 5(6) of these Regulations to allow any interested party to make representations shall be treated as discharged.