



Courts-Martial (Appeals) Act 1968

1968 CHAPTER 20

PART IV

MISCELLANEOUS AND GENERAL

49 Rules of Court.

- (1) Rules of court made [^{F1}in accordance with Part 1 of Schedule 1 to the Constitutional Reform Act 2005] may provide for regulating the procedure and practice to be followed in the Appeal Court and for any other matters which by this Act are expressed to be subjects for rules of court.
- (2) Rules of court made for the purposes of any provision of this Act may make different provision in relation to different classes of cases and may provide for any incidental or supplementary matters for which it appears to the [^{F2}person making the rules] to be necessary or expedient for the purposes of that provision to provide.

^{F3}(3)

^{F3}(4)

Textual Amendments

- F1** Words in s. 49(1) substituted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), s. 148\(1\), Sch. 1 para. 9\(2\)](#); S.I. 2006/1014, art. 2(a), Sch. 1 para. 7
- F2** Words in s. 49(2) substituted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), s. 148\(1\), Sch. 1 para. 9\(3\)](#); S.I. 2006/1014, art. 2(a), Sch. 1 para. 7
- F3** S. 49(3)(4) repealed (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), s. 148\(1\), Sch. 1 para. 9\(4\), Sch. 18 Pt. 1](#); S.I. 2006/1014, art. 2(a), Sch. 1 paras. 730(a)

50 Duties of registrar with respect to appeals etc.

- (1) The registrar shall take all necessary steps for obtaining the determination of an appeal or application under this Act, and shall obtain and lay before the Appeal Court in

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proper form all documents, exhibits and other things relating to the proceedings in the [F⁴Court Martial] which appear necessary for the proper determination of the appeal or application.

- (2) The registrar shall furnish the necessary forms and instructions relating to applications for leave to appeal under this Act to any person who demands them, to persons in charge of places where persons sentenced by [F⁵the Court Martial] may lawfully be confined for the purpose of serving their sentences and to such other persons as he thinks fit.
- (3) Every person in charge of such a place as is referred to in subsection (2) above shall cause the said forms and instructions to be placed at the disposal of persons confined in that place who wish to apply for leave to appeal to the Appeal Court, or from that Court to the [F⁶Supreme Court].

Textual Amendments

- F4** Words in s. 50(1) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 8 para. 47\(a\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F5** Words in s. 50(2) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 8 para. 47\(b\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F6** Words in s. 50 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), s. 148(1), [Sch. 9 para. 17\(10\)](#); S.I. 2009/1604, art. 2(d)

Modifications etc. (not altering text)

- C1** S. 50(1) applied (24.4.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [The Armed Forces Act 2006 \(Transitional Provisions etc\) Order 2009 \(S.I. 2009/1059\)](#), arts. 1(3), [127](#)

51 F⁷

Textual Amendments

- F7** [S. 51](#) repealed (1.10.1968) on coming into force of Pt. IV of [Criminal Justice Act 1967 \(c. 80\)](#) by [Courts-Martial \(Appeals\) Act 1968 \(c. 20\)](#), s. [51\(8\)](#)

52 Removal of prisoners.

Rules or regulations made under—

- [F⁸(a) section 300 of the 2006 Act;]
(d) section 47 of the ^{M1}Prison Act 1952;
[X¹(e) section 35 of the ^{M2}Prisons (Scotland) Act 1952; or]
[F⁹(e) section 39 of the Prisons (Scotland) Act 1989; or]
(f) section 13 of the ^{M3}Prison Act (Northern Ireland) 1953

may provide in what manner an appellant, when in custody, is to be taken to, kept in custody at, and brought back from any place at which he is entitled to be present for purposes of Part II or Part III of this Act or any place to which the Appeal Court or a judge of it may order him to be taken for the purpose of any proceedings of the Court.

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Editorial Information

- X1** S. 52(e) beginning “section 39” substituted (S.) for S. 52(e) beginning “section 35” by [Prisons \(Scotland\) Act 1989 \(c. 45, SIF 39:1\)](#), s. 45(1), **Sch. 2 para. 10**

Textual Amendments

- F8** S. 52(a) substituted for s. 52(a)-(c) (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), **Sch. 8 para. 48**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F9** S. 52(e) beginning “section 39” substituted (S.) for S. 52(e) beginning “section 35” by [Prisons \(Scotland\) Act 1989 \(c. 45, SIF 39:1\)](#), s. 45(1), **Sch. 2 para. 10**

Marginal Citations

- M1** 1952 c. 52.
M2 1952 c. 61.
M3 1953 c. 18 (N.I.)

^{F10} 53

Textual Amendments

- F10** S. 53 repealed (1.4.1997) by [1996 c. 46, s. 35\(2\)](#), Sch. 7 Pt. III; S.I. 1997/304, art. 2, **Sch. 1**

54 Saving for prerogative.

- (1) Nothing in this Act is to be taken as affecting any right of Her Majesty, by virtue of Her Royal prerogative or otherwise, to quash a conviction by [^{F11}the Court Martial], so far as regards the exercise thereof at a time before whichever of the following two events first occurs—
- (a) the receipt by the registrar of an application for leave to appeal under Part II of this Act against the conviction; or
 - (b) the receipt by him of particulars of such an application furnished in pursuance of section 9 of this Act.
- (2) Nothing in this Act is to be taken as affecting Her Majesty’s Royal prerogative of mercy.

Textual Amendments

- F11** Words in s. 54(1) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), **Sch. 8 para. 49**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

Modifications etc. (not altering text)

- C2** S. 54(1) modified (24.4.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [The Armed Forces Act 2006 \(Transitional Provisions etc\) Order 2009 \(S.I. 2009/1059\)](#), arts. 1(3), **128**

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^{F12}**55 Modification of provisions in Parts II and III for capital cases.**

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Textual Amendments

F12 S. 55 repealed (1.4.2005) by Courts Act 2003 (c. 39), s. 110(1), Sch. 8 para. 131(a), **Sch. 10**; S.I. 2005/910, art. 3(y)

^{F13}**56 Modifications for protected prisoners of war**

As respects a protected prisoner of war (as defined by section 7(1) of the Geneva Conventions Act 1957), this Act applies in relation to a prisoner of war court-martial constituted under a Royal Warrant as it applies in relation to the Court Martial, subject to such modifications as may be contained in the Royal Warrant.]

Textual Amendments

F13 S. 56 substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by Armed Forces Act 2006 (c. 52), s. 383(2), **Sch. 8 para. 50**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

57 Interpretation.

(1) In this Act, unless the context otherwise requires,—

^{F14}“the 2006 Act” means the Armed Forces Act 2006;]

^{F15} ...

^{F15} ...

“appellant” includes a person who ^{F16}... wishes to appeal under Part II of this Act to the Appeal Court;

^{F15} ...

^{F15} ...

^{F15} ...

^{F17}“Director of Service Prosecutions” has the meaning given by section 374 of the 2006 Act;]

^{F15} ...

^{F15} ...

“enactment” includes an enactment of the Parliament of Northern Ireland; ^{F18}“hospital order” has the meaning given in section 37 of the Mental Health Act 1983;]

^{F18}“interim hospital order” has the meaning given in section 38 of that Act;]

^{F15} ...

^{F15} ...

^{F15} ...

“the Lord Chief Justice” means the Lord Chief Justice of England;

^{F15} ...

^{F15} ...

^{F15} ...

“prescribed” means prescribed by rules of court; ^{F19} . . .

“the registrar” means the registrar of the Appeal Court. ^{F20}; and

^{F15} ...

^{F15} ...

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“sentence”, in relation to an offence, includes any order made by a court when dealing with an offender.]

F15
...

F21(2)

F21(2A)

F21(2B)

- (3) In Part III of this Act “the accused” means, in relation to an appeal from the Appeal Court to the [F22Supreme Court], the person who was [F23the appellant in the Appeal Court.]
- (4) Any reference in this Act to another enactment is a reference thereto as amended by or under any other enactment, including this Act.
- (5) Any reference in this Act to an enactment of the Parliament of Northern Ireland includes a reference to an enactment corresponding thereto and for the time being in force in Northern Ireland.

Textual Amendments

- F14** Words in s. 57(1) inserted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), **Sch. 8 para. 51(2)(a)**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F15** Words in s. 57(1) repealed (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), **Sch. 8 para. 51(2)(b)**, **Sch. 17**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F16** Words in s. 57(1) repealed (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), **Sch. 8 para. 51(2)(c)**, **Sch. 17**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F17** Words in s. 57(1) inserted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), **Sch. 8 para. 51(2)(d)**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F18** Words in s. 57(1) inserted (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), s. 60, **Sch. 3 para. 14(2)** (with Sch. 12 para. 8); S.I. 2005/579, art. 3(b)
- F19** Word in s. 57(1) repealed (1.4.1997) by [1996 c. 46](#), s. 35(2), Sch. 7 Pt. III; S.I. 1997/304, art. 2, **Sch. 1**
- F20** Word and definition inserted (1.4.1997 with savings) by [1996 c. 46](#), s. 17(7); S.I. 1997/304, **art. 2** (with art. 3)
- F21** S. 57(2)-(2B) repealed (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), **Sch. 8 para. 51(3)**, **Sch. 17**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F22** Words in s. 57 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), s. 148(1), **Sch. 9 para. 17(10)**; S.I. 2009/1604, art. 2(d)
- F23** Words in s. 57(3) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), **Sch. 8 para. 51(4)**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

F2458 Consequential amendments of enactments.

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Textual Amendments

- F24** S. 58 repealed (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), Sch. 8 para. 52, **Sch. 17**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

59 Transitional provisions.

The transitional provisions set out in Schedule 5 to this Act shall have effect.

60 Repeals.

The enactments specified in the second column of Schedule 6 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

Modifications etc. (not altering text)

- C3** The text of ss. 58, 60, Sch. 6 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any repeals or amendments which may have been made prior to 1.2.1991

61 Short title and commencement.

- (1) This Act may be cited as the [^{F25}Court Martial Appeals Act 1968].
- (2) This Act shall come into force on the day appointed under section 106(5) of the ^{M4}Criminal Justice Act 1967 for the coming into force of section 98 of that Act.

Textual Amendments

- F25** Words in s. 61(1) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), **Sch. 8 para. 53**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

Modifications etc. (not altering text)

- C4** Section 98 of the Criminal Justice Act 1967 came into force 1.9.1968 by [S.I. 1968/325](#)

Marginal Citations

- M4** 1967 c. 80.

Changes to legislation:

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