

Status: Point in time view as at 31/10/2009.

Changes to legislation: Courts-Martial (Appeals) Act 1968 is up to date with all changes known to be in force on or before 02 June 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

[^{F1}SCHEDULE 1

Section 20

PROVISIONS AS TO RETRIAL

Textual Amendments

- F1** Sch. 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. 54](#); [S.I. 2009/812](#), art. 3(a)(b) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), art. 4

- 1 This Schedule applies where an order under section 19 is made authorising the retrial of a person.
- 2 Evidence given at the retrial must be given orally if it was given orally at the original trial, unless—
 - (a) all parties to the retrial agree otherwise;
 - (b) section 116 of the Criminal Justice Act 2003 applies (admissibility of hearsay evidence where a witness is unavailable); or
 - (c) the witness is unavailable to give evidence, otherwise than as mentioned in subsection (2) of that section, and section 114(1)(d) of that Act applies (admission of hearsay evidence under residual discretion).
- 3 If the person is convicted on the retrial, the Court Martial may not pass a sentence that is (or sentences that, taken together, are) more severe than the sentence (or the sentences, taken together) passed at the original trial.
- 4 In sections 246 and 247 of the 2006 Act (crediting of time in service custody) as they apply in relation to the retrial, references to the offender being kept in service custody include references to his being kept in custody (whether service or otherwise) in pursuance of a sentence passed at the original trial.]

[^{F2}SCHEDULE 2

Section 55.

Textual Amendments

- F2** Sch. 2 repealed (1.4.2005) by [Courts Act 2003 \(c. 39\)](#), s. 110(1), [Sch. 8 para. 131\(b\)](#), [Sch. 10](#); [S.I. 2005/910](#), art. 3(y)

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F4

F5

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Textual Amendments

F5 Entry relating to the Mental Health Act 1959 repealed by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), s. 148, [Sch. 6](#)

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Textual Amendments

F5 Entry relating to the Mental Health Act 1959 repealed by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), s. 148, [Sch. 6](#)

F6

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Textual Amendments

F6 Entry relating to Mental Health (Scotland) Act 1960 repealed by [Mental Health \(Scotland\) Act 1984 \(c. 36, SIF 85\)](#), s. 127(2), [Sch. 5](#)

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Textual Amendments

F6 Entry relating to Mental Health (Scotland) Act 1960 repealed by [Mental Health \(Scotland\) Act 1984 \(c. 36, SIF 85\)](#), s. 127(2), [Sch. 5](#)

F7

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Textual Amendments

F7 Entry relating to Mental Health Act (Northern Ireland) 1961 repealed by [S.I. 1986/596](#), [art. 6\(e\)](#)

.....
Textual Amendments

F7 Entry relating to Mental Health Act (Northern Ireland) 1961 repealed by [S.I. 1986/596](#), [art. 6\(e\)](#)

SCHEDULE 5

Section 59.

TRANSITIONAL PROVISIONS

- 1 (1) Any right of appeal subsisting immediately before the commencement of this Act by virtue of an enactment repealed thereby shall after that commencement be treated as subsisting by virtue of the corresponding enactment in this Act.
- (2) Any appeal or application pending before the said commencement under an enactment so repealed may be presented and disposed of in accordance with the

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provisions of this Act corresponding to those in force immediately before the said commencement and applicable to the appeal or application.

- 2 (1) In so far as any order, appointment, rule or regulation made, petition presented, direction given or other thing done under an enactment repealed by this Act could have been made, presented, given or done under a corresponding provision of this Act, it shall not be invalidated by the repeal of that enactment but shall have effect as if made, presented, given or done under that corresponding provision.
- (2) Any document referring to an enactment repealed by this Act shall, so far as may be necessary for preserving its effect, be construed as referring, or as including a reference, to the corresponding enactment in this Act.
- 3 The mention of particular matters in this Schedule shall not be taken to affect the general application of section 38 of the ^{M1}Interpretation Act 1889 with regard to the effect of repeal

Marginal Citations

M1 1889 c. 63.

SCHEDULE 6

Section 60.

REPEALS

Modifications etc. (not altering text)

C1 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

Chapter	Short Title	Extent of Repeal
14 & 15 Geo. 6 c. 46.	The Courts-Martial (Appeals) Act 1951.	Part I (that is to say, sections 1 to 27).
3 & 4 Eliz. 2 c. 20.	The Revision of the Army and Air Force Acts (Transitional Provisions) Act 1955.	In Schedule 2, paragraph 15(2) to (5).
5 & 6 Eliz. 2 c. 52.	The Geneva Conventions Act 1957.	Section 4(3).
5 & 6 Eliz. 2 c. 53.	The Naval Discipline Act 1957.	In Schedule 5, the entry relating to the Courts-Martial (Appeals) Act 1951.
8 & 9 Eliz. 2 c. 65.	The Administration of Justice Act 1960.	Section 10; in section 20(2) the words from the beginning to "such appeals"; Schedule 1 and so much of Schedule 3 as amends the Courts-Martial (Appeals) Act 1951.
9 & 10 Eliz. 2 c. 52.	The Army and Air Force Act 1961.	In Schedule 2, the entry relating to the Courts-Martial (Appeals) Act 1951.
1964 c. 43.	The Criminal Appeal Act 1964.	Section 4; section 6(3) and, in section 6(5) the words "except so far as it relates to appeals from and retrials by courts-martial"; Schedule 1; and so much of Schedule 2 as amends the Courts-Martial (Appeals) Act 1951.
1964 c. 84.	The Criminal Procedure (Insanity) Act 1964.	In section 7, the references to the Courts-Martial (Appeals) Act 1951 and Part III of Schedule 2 to the Act; and Part III of that Schedule.
1966 c. 31.	The Criminal Appeal Act 1966.	Section 9(1); in section 12(2) the definition of "the 1951 Act"; section 12(4); in section 12(7) the words "appeals from, and"; and Part 1 of Schedule 1.
1967 c. 80.	The Criminal Justice Act 1967.	In Schedule 4, paragraphs 16 to 19, 31, 32 and 40.

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