

*These notes refer to the Armed Forces Act 2001
(c.19) which received Royal Assent on 11 May 2001*

ARMED FORCES ACT 2001

EXPLANATORY NOTES

THE ACT - COMMENTARY ON SECTIONS

Part 6 – Other amendments

Right of appeal to Courts-Martial Appeal Court

147. [Paragraph 55](#) makes various amendments to the Courts-Martial (Appeals) Act 1968. It replaces a reference to “those Schedules”, which identified the relevant Schedules by reference to a now repealed provision, with wording which simply lists the relevant Schedules.
148. [Paragraph 55](#) also clarifies the provisions dealing with timing of appeals to the Courts-Martial Appeal Court (CMAC). Court-martial decisions are automatically reviewed by an internal reviewing authority, although an accused may petition for a review as well. Previously, an appeal to the CMAC could not be submitted until the end of the prescribed period for petitioning for review or until the accused has been notified that the petition has not been granted, whichever was earlier. These provisions did not state what was to happen if the reviewing authority substituted an equivalent or lesser sentence on petition, before the end of the prescribed period. The amendment to section 8(2) makes it clear that an appeal may be brought. A further change relates to late appeals. The CMAC could allow an appeal to be brought outside the prescribed period, but only if the accused had already petitioned for a review. But all decisions are reviewed, even if the accused does not petition for review. If, after such an automatic review, a convicted person wished to appeal out of time, he had to make a fictitious petition for review. This anomaly is removed by paragraph 55.