
STATUTORY INSTRUMENTS

2024 No. 619

**The Armed Forces (Appeals Against
Review of Sentence) Regulations 2024**

Part 2

**Appeals from the Court Martial under section 304D
or 304E of the Armed Forces Act 2006**

Chapter 1

Initiating appeals

Application of these Regulations

3. These Regulations apply to appeals against review of sentence, brought under sections 304D(8) or (9) (review of sentence following offer of assistance) or 304E(7) or (8) (review of sentence following failure to assist) of the 2006 Act.

Application for leave to appeal

4.—(1) Leave to appeal to the Appeal Court must not be given except on an application made by or on behalf of the appellant and lodged, within the period specified in the Rules, with the registrar.

(2) The application must—

(a) be in the form specified by the Rules;

(b) specify—

(i) the grounds on which leave to appeal is sought, and

(ii) such other particulars, if any, as may be specified in the Rules.

(3) The Appeal Court may extend the period within which an application for leave to appeal must be lodged, whether that period has expired or not.

(4) The Rules may provide that an application which is lodged with a person other than the registrar is to be treated for the purposes of paragraph (1) as having been lodged with the registrar.

(5) A person other than the registrar with whom an application is lodged in accordance with the Rules must—

(a) forward the application to the registrar with as much expedition as practicable, and

(b) if it appears to the person practicable to do so, and in all the circumstances expedient, forward the particulars of the application to the registrar before the registrar receives the application, as will enable the registrar to prepare a copy of it.

Consideration of application by Appeal Court

5. In considering whether or not to give leave to appeal, the Appeal Court must have regard to any opinion expressed by the Judge Advocate General that the case is a fit one for appeal, and if any such expression is so made they may, without more, give leave to appeal.

Detention of offender on appeal to Appeal Court

6.—(1) [This regulation](#) applies where all of the following criteria apply—

- (a) the Court Martial has substituted a lesser sentence in accordance with section 304D(6) of the 2006 Act (the “decision under appeal”);
- (b) the Appeal Court has granted the Director of Service Prosecutions permission to appeal;
- (c) the Director of Service Prosecutions seeks a longer sentence than that substituted by the Court Martial; and
- (d) the effect of the substituted sentence is such that it is likely that the offender will be liable to be released prior to the conclusion of the appeal proceedings.

(2) Where [this regulations](#) applies, the Appeal Court may make one of the following orders—

- (a) an order providing for the detention of the offender so long as the appeal is pending;
- (b) an order directing that, so long as the appeal is pending, the offender is not to be released except on bail.

(3) Where an order under [paragraph \(2\)\(b\)](#) is made, the Appeal Court may grant the offender bail, from the end of the substituted sentence, pending the appeal.

(4) An order under [paragraph \(2\)\(a\)](#) or [\(b\)](#), unless the appeal has previously been disposed of, is to cease to have effect at the expiration of the period for which the offender would have been liable to be detained but for the decision under appeal.

(5) Where an order is made under [this regulation](#) for the detention of a person who, but for the decision under appeal, would be liable to be detained in pursuance of an order or direction under United Kingdom mental health legislation (see [paragraph \(6\)](#))—

- (a) the order must authorise that person’s continued detention in pursuance of that order or direction, and
- (b) the relevant provisions of that legislation with respect to persons liable to be detained under it (including provision as to the renewal of authority for detention and the removal or discharge of patients) apply accordingly.

(6) The legislation referred to in [paragraph \(5\)](#) above is—

- (a) Part III of the Mental Health Act 1983;
- (b) the Mental Health (Care and Treatment) (Scotland) Act 2003⁽¹⁾;
- (c) the Mental Health (Northern Ireland) Order 1986⁽²⁾.

(7) The provisions of the Mental Health Act 1983⁽³⁾ with respect to community treatment orders (within the meaning of that Act) also apply for the purposes of [paragraph \(5\)](#).

(8) The offender is not liable to be detained again as a result of the decision of the Appeal Court on appeal if the Appeal Court has made an order within [paragraph \(2\)\(a\)](#) or [\(b\)](#) but the order has ceased to have effect by virtue of [paragraph \(4\)](#) or the offender has been released or discharged by virtue of [paragraph \(5\)](#).

(1) 2003 asp 13.

(2) S.I. 1986/595 (N.I. 4).

(3) 1983 c. 20.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.
