

Status: Point in time view as at 01/04/2000.

Changes to legislation: Naval Discipline Act 1957 (repealed). Cross Heading: Constitution of courts-martial is up to date with all changes known to be in force on or before 04 August 2024. 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)



Naval Discipline Act 1957 (repealed)

1957 CHAPTER 53 5 and 6 Eliz 2

PART II

TRIAL AND PUNISHMENT OF OFFENCES

Constitution of courts-martial

Textual Amendments applied to the whole legislation

F1 Act repealed (prosp.) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378, 383, [Sch. 17](#) and the repeal being partly in force, as to which see individual provisions

^{F1}53

Textual Amendments

F1 S. 53 repealed (1.4.1997 with savings) by [1996 c. 46](#), ss. 8, 35(2), [Sch. 1 Pt. III para. 50](#), [Sch. 7 Pt. I](#); [S.I. 1997/304](#), [art. 2](#) (with [art. 3](#))

[^{F2}53A Court administration officers.

In this Act—

“court administration officer” means an officer (or other person) appointed by the Defence Council to order courts-martial and perform such other functions as may be prescribed by rules under section 58 of this Act; and

“the court administration officer”, in relation to a court-martial, means the court administration officer who ordered the court-martial and includes his successor or any person for the time being exercising his or his successor’s functions.]

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Textual Amendments

F2 Ss. 53A, 53B and 53C inserted (1.4.1997 with savings) by 1996 c. 46, s. 5, [Sch. 1 Pt. III para. 51](#); S.I. 1997/304, [art. 2](#) (with [art. 3](#))

^{F3}**53B Judge advocates.**

- (1) In this Act “the judge advocate”, in relation to a court-martial, means the judge advocate appointed by or on behalf of the Chief Naval Judge Advocate to be a member of the court-martial.
- (2) No person shall be appointed as the judge advocate unless he is—
 - (a) a person who has a five year general qualification within the meaning of section 71 of the ^{M1}Courts and Legal Services Act 1990;
 - (b) an advocate in Scotland of at least five years’ standing or a solicitor who has had a right of audience in the Court of Session or the High Court of Justiciary for at least five years; or
 - (c) a member of the Bar of Northern Ireland of at least five years’ standing.
- (3) Rulings and directions on questions of law (including questions of procedure and practice) shall be given by the judge advocate.
- (4) Any directions given by the judge advocate shall be binding on the court.

Textual Amendments

F3 Ss. 53A, 53B and 53C inserted (1.4.1997 with savings) by 1996 c. 46, s. 5, [Sch. 1 Pt. III para. 51](#); S.I. 1997/304, [art. 2](#) (with [art. 3](#))

Marginal Citations

M1 1990 c. 41.

^{F4}**53C Ordering of courts-martial.**

- (1) On being notified by the prosecuting authority of the charge preferred, a court administration officer shall order a court-martial.
- (2) The order assembling the court-martial shall specify—
 - (a) the date, time and place at which the court-martial is to sit;
 - (b) the officers who are to be members of the court-martial;
 - (c) which of those officers is to be president of the court-martial;
 - (d) any other officers appointed for the purpose of filling vacancies,
 and shall state that a judge advocate appointed by or on behalf of the Chief Naval Judge Advocate is to be a member of the court-martial.
- (3) At any time before the commencement of the trial, the court administration officer may, in accordance with rules under section 58 of this Act, amend or withdraw the order assembling the court-martial.
- (4) The following shall not be eligible to be members of a court-martial for the trial of a charge—

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- (a) the court administration officer;
 - (b) an officer who at any time between the date on which the preliminary charge was reported to the commanding officer of the accused and the date of the trial has been the commanding officer of the accused;
 - (c) the higher authority to whom the preliminary charge against the accused was referred;
 - (d) any other officer who has investigated the subject matter of the charge against the accused;
 - (e) any other officer who under this Act has held, or has acted as one of the persons holding, an inquiry into matters relating to the subject matter of the charge against the accused.
- (5) In subsection (4) above “the preliminary charge” means the charge referred to higher authority by the commanding officer of the accused.

Textual Amendments

F4 Ss. 53A, 53B and 53C inserted (1.4.1997 with savings) by 1996 c. 46, s. 5, **Sch. 1 Pt. III para. 51**; S.I. 1997/304, **art. 2** (with **art. 3**)

[^{F5}54] **Composition of courts-martial.**

- (1) A court-martial shall consist of the president, not less than four nor more than eight other naval officers and the judge advocate.
- (2) An officer shall not be appointed a member of a court-martial unless he is of or above the rank of lieutenant and he has been an officer of any of Her Majesty’s naval, military or air forces for a period of not less than three years or for periods amounting in the aggregate to not less than three years.
- (3) The officers appointed members of a court-martial shall not all belong to the same ship or naval establishment.
- (4) The president of a court-martial shall not be below the rank of captain, and in the case of a court-martial for the trial of an officer of flag rank shall be an officer of flag rank.
- (5) A court-martial for the trial of an officer of flag rank shall not include any member below the rank of captain.
- (6) A court-martial for the trial of a commodore or captain shall not include any member below the rank of commander.
- (7) A court-martial for the trial of a commander shall include at least two members, in addition to the president, who are not below the rank of commander.
- (8) If, in the opinion of the court administration officer, the necessary number of naval officers having suitable qualifications is not, with due regard to the public service, available, he may appoint as any member of the court (but not as its president) any military or air-force officer of corresponding rank to that required for a naval officer.
- (9) In this section—
“air-force officer” means an officer belonging to Her Majesty’s air forces and subject to air-force law;

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“military officer” means an officer belonging to Her Majesty’s military forces and subject to military law; and
 “naval officer” means an officer belonging to Her Majesty’s naval forces and subject to this Act.]

Textual Amendments

F5 S. 54 substituted (1.4.1997 with savings) by 1996 c. 46, s. 5, **Sch. 1 Pt. III para. 52**; S.I. 1997/304, **art. 2** (with **art. 3**)

F6 55

Textual Amendments

F6 S. 55 repealed (1.4.1997 with savings) by 1996 c. 46, ss. 5, 35(2), Sch. 1 Pt. III para. 53, **Sch. 7 Pt. I**; S.I. 1997/304, **art. 2** (with **art. 3**)

56 Place and time of sittings of courts-martial.

- (1) A court-martial shall be held on board such of Her Majesty’s ships or vessels, or at such premises on shore, whether within or out of the United Kingdom, as may be [^{F7}specified in the order assembling the court].
- (2) A court-martial may, if it appears to the court to be expedient in the interests of justice, be adjourned, either generally or for the purpose of any part of the proceedings, to any other ship, vessel or place ^{F8}. . .
- (3) Without prejudice to the provisions of the last foregoing subsection, a court-martial may, if it appears to the court that an adjournment is desirable for any reason, be adjourned for such period as the court thinks fit:
 Provided that except with the consent of the accused and the [^{F9}prosecuting authority] the period for which the court may be adjourned under this subsection shall not on any occasion exceed six days.
- (4) Subject to the provisions of this section, a court-martial shall, unless prevented by weather or other unavoidable cause, sit from day to day (with the exception of Sundays) until the court has arrived at a finding and, in the case of a conviction, until sentence is pronounced.

Textual Amendments

F7 words in s. 56(1) substituted (1.4.1997 with savings) by 1996 c. 46, s. 5, **Sch. 1 Pt. III para. 54(2)**; S.I. 1997/304, **art. 2** (with **art. 3**)

F8 Words in s. 56(2) repealed (1.4.1997 with savings) by 1996 c. 46, s. 5, 35(2), Sch. 1 Pt. III para. 54(3), **Sch. 7 Pt. I**; S.I. 1997/304, **art. 2** (with **art. 3**)

F9 Words in s. 56(3) substituted (1.4.1997 with savings) by 1996 c. 46, s. 5, **Sch. 1 Pt. III para. 54(4)**; S.I. 1997/304, **art. 2** (with **art. 3**)

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[^{F10}56A Dissolution of courts-martial.

- (1) Where, before the commencement of the trial, it appears to the court administration officer necessary or expedient in the interests of the administration of justice that a court-martial be dissolved, he may by order dissolve the court-martial.
- (2) Where, after the commencement of the trial, it appears to the judge advocate necessary or expedient in the interests of the administration of justice that a court-martial be dissolved, he may by order dissolve the court-martial.
- (3) If after the commencement of the trial the president dies or is otherwise unable to attend, the court-martial shall be dissolved.
- (4) Where a court-martial is dissolved the accused may be tried by another court.]

Textual Amendments

F10 S. 56A inserted (1.4.1997 with savings) by 1996 c. 46, s. 5, **Sch. 1 Pt. III para. 55**; S.I. 1997/304, **art. 2** (with **art. 3**)

57 Quorum.

^{F11}(1)

- (2) The proceedings of a court-martial shall be valid notwithstanding the absence of one or more of the [^{F12}officers] other than the president, so long as the number of [^{F12}officers] present throughout the proceedings is not reduced below four:

Provided that [^{F13}an officer appointed] a member of the court who has been absent for any time during a sitting shall take no further part in the proceedings.

^{F11}(3)

Textual Amendments

F11 S. 57(1) and (3) repealed (1.4.1997 with savings) by 1996 c. 46, ss. 5, 35(2), **Sch. 1 Pt. III para. 56(2)**, **Sch. 7 Pt. I**; S.I. 1997/304, **art. 2** (with **art. 3**)

F12 Word in s. 57(2) substituted (1.4.1997 with savings) by 1996 c. 46, s. 5, **Sch. 1 Pt. III para. 56(3)(a)**; S.I. 1997/304, **art. 2** (with **art. 3**)

F13 Words in s. 57(2) inserted (1.4.1997 with savings) by 1996 c. 46, s. 5, **Sch. 1 Pt. III para. 56(3)(b)**; S.I. 1997/304, **art. 2** (with **art. 3**)

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