



# Courts-Martial (Appeals) Act 1968

## 1968 CHAPTER 20

### PART II

[<sup>F1</sup>APPEALS FROM COURTS-MARTIAL][<sup>F1</sup>APPEALS FROM THE COURT MARTIAL]

#### *Costs*

#### 31 **Costs of successful appeal.**

- (1) Where the Appeal Court allow an appeal [<sup>F2</sup>other than an appeal against sentence] they may if they think fit, direct the payment by the Secretary of State of costs to the appellant.
- (2) The costs which may under this section be directed to be paid are such sums as appear to the Appeal Court reasonably sufficient to compensate the appellant for any expenses properly incurred by him in the [<sup>F3</sup>case that is to say—  
[<sup>F3</sup>proceedings (in the Appeal Court and below).]

#### **Textual Amendments**

- F2** Words inserted by [Armed Forces Act 1971 \(c. 33\)](#), [Sch. 2 para. 1\(6\)](#)
- F3** Words in s. 31(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. 33](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

#### 32 **Costs against appellant.** **E+W+S**

- (1) Where the Appeal Court dismiss an appeal or an application for leave to appeal they may, if they think fit, order the appellant or applicant (as the case may be) to pay to the Secretary of State the whole or any part of the costs of the appeal or application, including the costs of copying or transcribing any documents for the use of the Appeal Court.

*Status: Point in time view as at 28/03/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Courts-Martial (Appeals) Act 1968, Cross Heading: Costs. (See end of Document for details)*

- (2) An order under this section may be enforced—
- [<sup>F4</sup>(a) in the same manner as an order for costs made by the criminal division of the Court of Appeal <sup>F5</sup>. . . ; or]
- (b)
- or partly in the one way and partly in the other.
- (3) Any sums which by virtue of subsection (2)(a) above are recovered from a person by the Secretary of State shall be paid into the Exchequer.

#### Extent Information

- E1** This version of this provision extends to England and Wales and Scotland only; a separate version has been created for Northern Ireland only.

#### Textual Amendments

- F4** S. 32(2)(a) substituted (E.W.) (S.) by [Administration of Justice Act 1970 \(c. 31\), s. 41\(7\)](#)
- F5** Words in s. 32(2)(a) repealed (1.4.1997 with savings) by [1996 c. 46, s. 35\(2\), Sch. 7 Pt. III](#); [S.I. 1996/304, art. 2, Sch. 1](#) (with [art. 3](#))
- F6** S. 32(2)(b) 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. 34](#); [S.I. 2009/812, art. 3\(a\)\(b\)](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167, art. 4](#)

## 32 Costs against appellant. N.I.

- (1) Where the Appeal Court dismiss an appeal or an application for leave to appeal they may, if they think fit, order the appellant or applicant (as the case may be) to pay to the Secretary of State the whole or any part of the costs of the appeal or application, including the costs of copying or transcribing any documents for the use of the Appeal Court.
- (2) An order under this section may be enforced—
- (a) in the same manner as an order for the payment of costs made by the High Court in civil proceedings; or
- (b) [<sup>F6</sup>if the appellant or applicant is a member of the regular or reserve forces (as defined by section 374 of the 2006 Act), by making deductions from pay due to him,]
- or partly in the one way and partly in the other.
- (3) Any sums which by virtue of subsection (2)(a) above are recovered from a person by the Secretary of State shall be paid into the Exchequer.

#### Extent Information

- E2** This version of this provision extends to Northern Ireland only; a separate version has been created for England and Wales and Scotland only.

#### Textual Amendments

- F6** S. 32(2)(b) 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. 34](#); [S.I. 2009/812, art. 3\(a\)\(b\)](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167, art. 4](#)

*Status: Point in time view as at 28/03/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Courts-Martial (Appeals) Act 1968, Cross Heading: Costs. (See end of Document for details)*

### 33 Witnesses' expenses.

(1) The Appeal Court may, whether or not they exercise their powers under either of the two foregoing sections, order the payment out of moneys provided by Parliament of such sums as appear to the Court reasonably sufficient to compensate any person properly attending to give evidence on an appeal under this Part of this Act or any proceedings preliminary or incidental thereto (whether or not he gives evidence) for the expense, trouble or loss of time properly incurred in or incidental to his attendance.

[<sup>F7</sup>(1A) Subsection (1) applies in relation to a registered medical practitioner who makes a written report to the Appeal Court in pursuance of a request made by the court as it applies in relation to a person who is called to give evidence at the instance of the court.]

(2) The amount of any costs ordered to be paid under this section shall be ascertained as soon as practicable by the registrar.

#### Textual Amendments

**F7** S. 33(1A) 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. 35](#); [S.I. 2009/812](#), art. 3(a)(b) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), art. 4

### [<sup>F8</sup>33A Appellant's expenses.

Without prejudice to section 31 above, where an appellant who is not in custody appears before the Appeal Court either on the hearing of his appeal or in any preliminary or incidental proceedings, the Appeal Court may direct the Secretary of State to pay him the expenses of his appearance.]

#### Textual Amendments

**F8** S. 33A added by [Administration of Justice Act 1977 \(c. 38, SIF 37\)](#), s. 5(1)

**Status:**

Point in time view as at 28/03/2009.

**Changes to legislation:**

There are currently no known outstanding effects for the Courts-Martial (Appeals) Act 1968,  
Cross Heading: Costs.