



Courts-Martial (Appeals) Act 1968

1968 CHAPTER 20

PART III

[^{F1}APPEAL FROM COURT MARTIAL APPEAL COURT TO [^{F1}COURT OF JUDICATURE]]

40 Application for leave to appeal.

- (1) An application to the Appeal Court for leave to appeal to [^{F1}the Supreme Court] shall be made within the period of [^{F2}28] days beginning with the [^{F3}relevant date] ; and an application to [^{F1}the Supreme Court] for leave shall be made within the period of [^{F2}28] days beginning with the date on which the application is refused by the Appeal Court.

[^{F4}(1A) In subsection (1), “the relevant date” means—

- (a) the date of the Appeal Court’s decision, or
- (b) if later, the date on which the Appeal Court gives reasons for its decision.]

- (2) [^{F1}The Supreme Court] or the Appeal Court may, upon application made at any time by the accused [^{F5}or, in the case of an appeal under section 39(1A), by the prosecuting officer], extend the time within which an application may be made by him to [^{F1}the Supreme Court] or [^{F6}the Appeal Court] under subsection (1) above.

- (3) An appeal shall be treated as pending until any application for leave to appeal is disposed of and, if leave to appeal is granted, until the appeal is disposed of; and for purposes of this Part of this Act an application for leave to appeal shall be treated as disposed of at the expiration of the time within which it may be made, if it is not made within that time.

Textual Amendments

- F1** Words in s. 40 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), s. 148\(1\), Sch. 9 para. 17\(3\)\(a\)](#); S.I. 2009/1604, art. 2(d)
- F2** Word in s. 40(1) substituted (1.4.2005) by [Courts Act 2003 \(c. 39\), s. 91\(1\)\(2\)\(a\), 110\(1\)](#); S.I. 2005/910, art. 3(v)

Changes to legislation: *There are currently no known outstanding effects for the Courts-Martial (Appeals) Act 1968, Section 40. (See end of Document for details)*

- F3** Words in s. 40(1) substituted (1.4.2005) by Courts Act 2003 (c. 39), **s. 91(1)(2)(b)**, 110(1); S.I. 2005/910, art. 3(v)
- F4** S. 40(1A) inserted (1.4.2005) by Courts Act 2003 (c. 39), **ss. 91(3)**, 110(1) (as amended (1.10.2009) by Constitutional Reform Act 2005 (c. 4), s. 148(1), **Sch. 9 para. 80(3)(c)**; S.I. 2009/1604, art. 2(d)); S.I. 2005/910, art. 3(v)
- F5** Words in s. 40(2) inserted (1.8.2013) by The Armed Forces (Retrial for Serious Offences) Order 2013 (S.I. 2013/1852), arts. 1, **15(4)** (with art. 3)
- F6** Words in s. 40(1A)(b) substituted by 2003 c. 39, s. 91(3) (as amended (1.10.2009) by Constitutional Reform Act 2005 (c. 4), s. 148(1), **Sch. 9 para. 80(3)(c)**; S.I. 2009/1604, art. 2(d))

Changes to legislation:

There are currently no known outstanding effects for the Courts-Martial (Appeals) Act 1968, Section 40.