



Air Force Act 1955 (repealed)

1955 CHAPTER 19 3 and 4 Eliz 2

PART II

DISCIPLINE AND TRIAL AND PUNISHMENT OF AIR-FORCE OFFENCES

Courts-martial: general provisions

84 Trial to be by general court-martial, district court-martial or in certain cases field general court-martial.

- (1) Subject to the provisions of this section, a charge which is to be tried by court-martial shall be tried either by general court-martial or by district court-martial.
- (2) Where the officer commanding a body of the regular air force on active service—
 - (a) being an officer (whether air-force, naval or military) to whom a charge has been submitted under subsection (1) of section seventy-nine of this Act for determining how it is to be dealt with, or
 - (b) being the accused's commanding officer who has investigated a charge which cannot be dealt with summarily or which in his opinion ought not to be so dealt with, or
 - (c) being the accused's commanding officer or the appropriate superior authority who has investigated a charge on which the accused has elected to be tried by court-martial,

is of opinion that it is not possible without serious detriment to the public service that the charge should be tried by a general or district court-martial, the officer may (whether or not he is authorised to convene general courts-martial) direct that the charge shall be tried by a field general court-martial.

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Changes to legislation: There are currently no known outstanding effects for the Air Force Act 1955 (repealed), Cross Heading: Courts-martial: general provisions. (See end of Document for details)

VALID FROM 01/04/1997

[^{F1}84A Court administration officers.

In this Act—

“court administration officer” means an officer (or other person) appointed by the Defence Council to convene general and district courts-martial and perform such other functions as may be prescribed; and

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

Textual Amendments

F1 Ss. 84A-84D inserted (1.4.1997) by 1996 c. 46, s. 5, **Sch. 1 Pt. III para. 35**; S.I. 1997/304, **art. 2** (art. 3, Sch. 2)

VALID FROM 01/04/1997

^{F2}84B 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 Judge Advocate General 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

F2 Ss. 84A-84D inserted (1.4.1997) by 1996 c. 46, s. 5, **Sch. 1 Pt. III para. 35**; S.I. 1997/304, **art. 2** (with art. 3, Sch. 2)

Marginal Citations

M1 1990 c. 41.

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VALID FROM 01/04/1997

F³84C Convening of general and district courts-martial.

- (1) On being notified by the prosecuting authority of the charge preferred and the description of court-martial by which the charge is to be tried, a court administration officer shall by order convene a court-martial of that description.
- (2) The order convening 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 Judge Advocate General 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 103 of this Act, amend or withdraw the order convening the court-martial.
- (4) The following shall not be eligible to be members of a court-martial for the trial of a charge—
 - (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

F3 Ss. 84A-84D inserted (1.4.1997) by 1996 c. 46, s. 5, Sch. 1 Pt. III para. 35; S.I. 1997/304, art. 2 (with art. 3, Sch. 2)

VALID FROM 01/04/1997

F⁴84D Constitution of general and district courts-martial.

- (1) A general court-martial shall consist of the president, not less than four other air-force officers and the judge advocate.

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- (2) A district court-martial shall consist of the president, not less than two other air-force officers and the judge advocate.
- (3) An officer shall not be appointed a member of a general court-martial unless he has held a commission in 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.
- (4) An officer shall not be appointed a member of a district court-martial unless he has held a commission in any of Her Majesty's naval, military or air forces for a period of not less than two years or for periods amounting in the aggregate to not less than two years.
- (5) Not less than four of the members of a general court-martial shall be of a rank not below that of flight lieutenant.
- (6) A general court-martial for the trial of an officer above the rank of flight lieutenant shall not include any member below the rank of flight lieutenant.
- (7) The president of a general or district court-martial shall not be below the rank of squadron leader unless in the opinion of the court administration officer a squadron leader having suitable qualifications is not, with due regard to the public service, available; and in any event the president of such a court-martial shall not be below the rank of flight lieutenant.
- (8) If, in the opinion of the court administration officer, the necessary number of air-force 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 naval or military officer of corresponding rank to that required for an air-force officer.
- (9) In this section—
 - “air-force officer” means an officer belonging to Her Majesty's air forces and subject to air-force law;
 - “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 the ^{M2}Naval Discipline Act 1957.

Textual Amendments

F4 Ss. 84A-84D inserted (1.4.1997) by 1996 c. 46, s. 5, **Sch. 1 Pt. III para. 35**; S.I. 1997/304, **art. 2** (with art. 3, Sch. 2)

Marginal Citations

M2 1957 c. 53.

85 Powers of different descriptions of court-martial.

- (1) A general court-martial shall have power to try any person subject to air-force law for any offence which under this Act is triable by court-martial, and to award for any such offence any punishment authorised by this Act for that offence.

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- (2) A district court-martial shall have the powers of a general court-martial except that it shall not try an officer or sentence a warrant officer to imprisonment, discharge with ignominy, dismissal or detention, and shall not award the punishment of death or of imprisonment for a term exceeding two years [^{F5}or make an order committing a person to be detained under section 71AA of this Act for a period exceeding two years].
- (3) A field general court-martial shall have the powers of a general court-martial, except that where the court consists of less than three officers the sentence shall not exceed imprisonment for a term of two years [^{F6}or detention under section 71AA of this Act for a period of two years].

Textual Amendments

- F5** Words inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#),s. 58, Sch. 8 para. 5(a)
F6 Words inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#),s. 58, Sch. 8 para. 5(b)

VALID FROM 02/10/2000

[^{F7}85A Powers of court-martial where accused elected court-martial trial.

- (1) Where a court-martial tries a person in pursuance of an election for court-martial trial, the court shall not award any punishment which could not have been awarded by the commanding officer or appropriate superior authority who would have dealt summarily with the preliminary charge if the election had not been made.
- (2) In subsection (1) above “the preliminary charge” means the charge which would have been dealt with summarily had the accused not elected court-martial trial.
- (3) For the purposes of this section a court-martial is not to be regarded as trying a person in pursuance of an election for court-martial trial if, since the election was made, the prosecuting authority has referred the charge back to the commanding officer under section 83BB of this Act.]

Textual Amendments

- F7** [S. 85A](#) inserted (2.10.2000) by [2000 c. 4, s. 12\(1\)](#); [S.I. 2000/2366, art. 2](#) (with transitional provisions in [art. 3, Sch. para. 14](#))

86 Officers having power to convene courts-martial.

- (1) A general court-martial may be convened by any qualified officer authorised by Her Majesty by warrant under Her sign manual to convene general courts-martial or that court-martial, [^{F8}or by any officer to whom a qualified officer so authorised has delegated his power under the warrant, being an officer under the command of the qualified officer and not below the rank of group captain].
- (2) A district court-martial may be convened by an officer authorised to convene general courts-martial, by any person, not below the rank of flight lieutenant, under the command of such an officer whom that officer has authorised to convene district

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courts-martial, by any air officer commanding a body of the air force or by any officer for the time being acting in the place of such an air officer.

- (3) A field general court-martial may be convened by the officer who directed that the charge should be tried by field general court-martial.
- (4)
- ^{F9}(5) In this section the expression “qualified officer” means any officer not below the rank of squadron leader or corresponding rank who—
- (a) is in command of a body of the regular air force, or
 - (b) is in command of the command within which a body of the regular air force is serving.
- (6) Any warrant under this section, or any authorisation under this section to convene courts-martial—
- (a) may be made subject to restrictions, reservations, exceptions or conditions;
 - (b) may be addressed to officers by name or by designation of their offices, and may be issued or given to a named or designated officer, to a named or designated officer and to the person for the time being performing the duties of his office, to a named or designated officer and his successors in that office or to a named or designated officer and such person and successors;
 - (c) may be varied or may be revoked, either wholly or in part, by a subsequent warrant of Her Majesty or, as the case may be, by the officer by whom it was given or his successor in office.
- (7) Where an officer on board ship—
- (a) has had power to convene general courts-martial delegated to him by an officer under whose command he was before the departure of the ship, or
 - (b) has been authorised under subsection (2) of this section to convene district courts-martial by such an officer,
- he may convene courts-martial to the like extent as if he had continued under the command of the officer delegating the power or granting the authorisation.

Textual Amendments

F8 Words substituted by [Armed Forces Act 1971 \(c. 33\), s. 48\(1\)\(2\)](#)

F9 [S. 86\(4\)](#) repealed by [Armed Forces Act 1976 \(c. 52\), Sch. 10](#)

87 Constitution of general courts-martial.

- (1) A general court-martial shall consist of the president and not less than four other officers.
- (2) Save as hereinafter provided, an officer shall not be appointed a member of a general court-martial unless he belongs to Her Majesty’s air forces, is subject to air-force law and has held a commission in [^{F10}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) Not less than four of the members of a general court-martial shall be of a rank not below that of flight lieutenant.

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- (4) The president of a general court-martial shall be appointed by order of the convening officer, and shall be of the rank of squadron leader or higher rank unless in the opinion of the convening officer no such officer having suitable qualifications is, with due regard to the public service, available; and in any event the president of a general court-martial shall not be under the rank of flight lieutenant.
- (5) The members of a general court-martial, other than the president, shall be appointed by order of the convening officer or in such other manner as may be prescribed.
- (6) An officer under the rank of flight lieutenant shall not be a member of a general court-martial for the trial of an officer above that rank.

Textual Amendments

F10 Words substituted by [Armed Forces Act 1966 \(c. 45\), s. 24](#)

88 Constitution of district courts-martial.

- (1) A district court-martial shall consist of the president and not less than two other officers.
- (2) Save as hereinafter provided, an officer shall not be appointed to be a member of a district court-martial unless he belongs to Her Majesty's air forces, is subject to air-force law and has held a commission in [^{F11}any of Her Majesty's naval, military or air forces] for a period of not less than two years or for periods amounting in the aggregate to not less than two years.
- (3) The president of a district court-martial shall be appointed by order of the authority convening the court, and shall be of the rank of squadron leader or higher rank unless in the opinion of the authority convening the court no such officer having suitable qualifications is, with due regard to the public service, available; and in any event the president of a district court-martial shall not be under the rank of flight lieutenant.
- (4) The members of a district court-martial, other than the president, shall be appointed by order of the authority convening the court or in such other manner as may be prescribed.

Textual Amendments

F11 Words substituted by [Armed Forces Act 1966 \(c. 45\), s. 24](#)

89 Constitution of field general courts-martial.

- (1) A field general court-martial shall consist of the president and not less than two other officers, or, if the convening officer is of opinion that three officers having suitable qualifications are not available without serious detriment to the public service, shall consist of the president and one other officer.
- (2) Save as hereinafter provided, the members of a field general court-martial shall be persons belonging to Her Majesty's air forces and subject to air-force law.

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- (3) The president of a field general court-martial shall be an officer appointed by the convening officer and shall not be under the rank of flight lieutenant.
- (4) The members of a field general court-martial, other than the president, shall be appointed by order of the convening officer or in such other manner as may be prescribed.

90 Supplementary provisions as to constitution of courts-martial.

- (1) The officer who convened a court-martial shall not be a member of that court-martial:

Provided that if in the case of a field general court-martial it is not practicable in the opinion of the convening officer to appoint another officer as president, he may himself be president of the court-martial.

- (2) An officer who at any time between the date on which the accused was charged with the offence and the date of the trial has been the commanding officer of the accused, and any other officer who has investigated the charge against the accused, or 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, shall not sit as a member of a general or district court-martial, or act as judge advocate at such a court-martial.
- (3) If any court-martial is required to be convened at any place where in the opinion of the convening officer the necessary number of air-force officers having suitable qualifications is not available to form the court, and cannot be made available with due regard to the public service, the convening officer may, with the consent of the proper naval or military authority, appoint any naval or military officer as president in lieu of an air-force officer or as any other member of the court in lieu of or in addition to an air-force officer or air-force officers:

Provided that no naval or military officer shall be qualified to act in relation to a court-martial unless he is of corresponding rank to that which would have been required in the case of an air-force officer and has held a commission in [^{F12}any of Her Majesty's naval, military or air forces] for the like period or periods as would have been so required.

- (4) Where—
 - (a) the officer convening a general or district court-martial appoints a flight lieutenant to be president, being of opinion that no officer of higher rank having suitable qualifications is, with due regard to the public service, available;
 - (b) an officer directs that an offender shall be tried by a field general court-martial, being of opinion that it is not possible without serious detriment to the public service that the offender should be tried by a general or district court-martial, or the officer convening a field general court-martial appoints two officers only to be members of the court, being of opinion that three officers having suitable qualifications are not without serious detriment to the public service available, or appoints himself to be president, being of opinion that it is not practicable to appoint another officer as president, or
 - (c) the officer convening any court-martial appoints an officer not being an air-force officer as president or any other member of the court, being of opinion that the necessary number of air-force officers having suitable qualifications

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is not available to form the court and cannot be made available with due regard to the public service,

the order convening the court-martial shall contain a statement of the said opinion, and that statement shall be conclusive.

- (5) In this section the expression “air-force officer” means an officer belonging to Her Majesty’s air forces and subject to air-force law.

Textual Amendments

F12 Words substituted by [Armed Forces Act 1966 \(c. 45\), s. 24](#)

91 Place for sitting of courts-martial and adjournment to other places.

- (1) Subject to the provisions of this section, a court-martial shall sit at such place (whether within or without Her Majesty’s dominions) as may be specified in the order convening the court; and the convening officer may convene it to sit [^{F13}at any place, whether or not, in the case of an officer having a command, within the limits of his command].
- (2) A court-martial sitting at any place shall if the convening officer directs it to sit at some other place, and may without any such direction if it appears to the court requisite in the interests of justice to sit at some other place, adjourn for the purpose of sitting at that other place.

Textual Amendments

F13 Words substituted by [Armed Forces Act 1981 \(c. 55\), Sch. 2 para. 4](#)

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