



Air Force Act 1955 (repealed)

1955 CHAPTER 19 3 and 4 Eliz 2

PART II

DISCIPLINE AND TRIAL AND PUNISHMENT OF AIR-FORCE OFFENCES

^{F1}Field General Courts-Martial

Textual Amendments

F1 Ss. 103A-103C inserted (1.4.1997) by 1996 c. 46, s. 5, Sch. 1 Pt. III para. 47; S.I. 1997/304, art. 2 (with art. 3, Sch. 2)

Textual Amendments applied to the whole legislation

F1 Act: the provisions of the 1955 Acts providing for findings of courts-martial to be subject to confirmation and to revision at the direction of the confirming officer cease to have effect (1.4.1997 subject to art. 3 of the commencing S.I.) by virtue of 1996 c. 46, s. 15; S.I. 1997/304, arts. 2, 3, Sch. 2

^{F2}103A Field general courts-martial.

- (1) Where an officer to whom this subsection applies—
 - (a) is commanding a body of the regular air force on active service; and
 - (b) is of opinion that it is not possible without serious detriment to the public service for a charge against a member of that body to be tried by a general or district court-martial,he may direct that the charge be tried by a field general court-martial.
- (2) Subsection (1) above applies to—
 - (a) the commanding officer who has investigated the charge;
 - (b) the commanding officer or appropriate superior authority who has determined on a summary dealing that the charge against the accused has been proved,

Status: Point in time view as at 15/10/2007.

Changes to legislation: There are currently no known outstanding effects for the Air Force Act 1955 (repealed), Cross Heading: Field General Courts-Martial.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

- in a case where the accused has elected court-martial trial and that election has not been withdrawn;
- (c) where the charge is against an officer or warrant officer, the higher authority to whom the charge has been referred by the commanding officer.
- (3) If an officer to whom subsection (1) above applies directs that a charge be tried by a field general court-martial, he shall by order convene a field general court-martial.
- (4) The order convening the field general 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.
- [any warrant officer who is to be a member of the court-martial.]]
- ^{F3}(d)
- ^{F4}(4A) Where a judge advocate, as defined by section 103B(4) of this Act, is to be a member of a field general court-martial, the order convening the court-martial shall state that fact, and state whether the judge advocate is to be appointed by or on behalf of the Judge Advocate General or by the officer convening the court-martial.]
- (5) At any time before the commencement of the trial, the officer who convened the field general court-martial may, in accordance with rules under section 103C of this Act, amend or withdraw the order convening the court-martial.
- (6) Subject to subsection (7) below, the officer convening the field general court-martial shall not be a member of the court-martial.
- (7) The officer convening the field general court-martial may be its president if, in his opinion, it is not possible, without serious detriment to the public service, to appoint another officer as president.

Textual Amendments

- F2** Ss. 103A-103C inserted (1.4.1997) by 1996 c. 46, s. 5, **Sch. 1 Pt. III para. 47**; S.I. 1997/304, **art. 2** (with **art. 3**, **Sch. 2**)
- F3** S. 103A(4)(d) inserted (28.2.2002) by 2001 c. 19, ss. 19, **Sch. 2 para. 12(2)**; S.I. 2002/345, **arts. 2, 3**
- F4** S. 103(4A) inserted (28.2.2002) by 2001 c. 19, ss. 19, 39(2), **Sch. 2 para. 12(3)**; S.I. 2002/345, **arts. 2, 3**

^{F5}**103B Constitution of field general courts-martial.**

- (1) Subject to subsections (2) and (3) below, a field general court-martial shall ^{F6}consist of—
- (a) the president, who shall be an air-force officer, and
 - (b) at least two persons appointed under this paragraph, of whom—
 - (i) one shall be either an air-force officer or an air-force warrant officer, and
 - (ii) the rest shall be air-force officers.]
- (2) If the officer who convened the field general court-martial is of opinion that ^{F7}three persons having suitable qualifications are not available for appointment under subsection (1)(a) and (b) above] without serious detriment to the public service, the field general court-martial shall consist of the president and one other air-force officer.

Status: Point in time view as at 15/10/2007.

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

- (3) Unless the officer convening the field general court-martial is of opinion that a judge advocate is not available without serious detriment to the public service, a judge advocate shall be a member of the court-martial.
- (4) In subsection (3) above, “a judge advocate” means a judge advocate appointed by or on behalf of the Judge Advocate General or, if the officer convening the field general court-martial is of opinion that no such judge advocate is available without serious detriment to the public service, a qualified officer appointed by that officer.
- (5) An officer is “qualified” for the purposes of subsection (4) above if he is—
- (a) a person who has a general qualification within the meaning of section 71 of the ^{M1}Courts and Legal Services Act 1990;
 - (b) an advocate or solicitor in Scotland; or
 - (c) a member of the Bar of Northern Ireland or a solicitor of the Supreme Court of Northern Ireland.
- (6) The president of a field general court-martial shall not be below the rank of flight lieutenant.
- ^{F8}(6A) A field general court-martial shall not include any warrant officer unless the court-martial is for the trial of a person of a rank below that of the warrant officer concerned.]
- ^{F9}(7) If a field general court-martial is to be convened at any place where, in the opinion of the officer convening it, the necessary number of air-force officers or air-force warrant officers having suitable qualifications is not, with due regard to the public service, available for appointment under subsection (1)(b) above, he may appoint under that provision—
- (a) any naval or military officer having qualifications corresponding to those required for an air-force officer, or
 - (b) where an air-force warrant officer could be appointed, any naval or military warrant officer having qualifications corresponding to those required for an air-force warrant officer.]
- (8) A field general court-martial shall have the powers of a general court-martial except that where ^{F10}only two persons, apart from any judge advocate (as defined by subsection (4) above),] are members of the court the sentence shall not exceed imprisonment for a term of two years or detention under section 71AA of this Act for a period of two years.
- (9) In this section—
- “air-force officer” means an officer belonging to Her Majesty’s air forces and subject to air-force law;
 - ^{F11}“air-force warrant officer” means a warrant 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
 - [“military warrant officer” means a warrant officer belonging to Her Majesty’s military forces and subject to military law;]
 - “naval officer” means an officer belonging to Her Majesty’s naval forces and subject to the ^{M2}Naval Discipline Act 1957.
 - ^{F11}“naval warrant officer” means a warrant officer belonging to Her Majesty’s naval forces and subject to the Naval Discipline Act 1957.]

Status: Point in time view as at 15/10/2007.

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

Textual Amendments

- F5** Ss. 103A-103C inserted (1.4.1997) by 1996 c. 46, s. 5, **Sch. 1 Pt. III para. 47**; S.I. 1997/304, **art. 2** (with **art. 3, Sch. 2**)
- F6** Words and sub-paragraphs (a)(b) substituted (28.2.2002) for words in s. 103B(1) by 2001 c. 19, ss. 19, 39(2), **Sch. 2 para. 13(2)**; S.I. 2002/345, **arts. 2, 3**
- F7** Words in s. 103B(2) substituted (28.2.2002) by 2001 c. 19, ss. 19, 39(2), **Sch. 2 para. 13(3)**; S.I. 2002/345, **arts. 2, 3**
- F8** S. 103B(6A) inserted (28.2.2002) by 2001 c. 19, ss. 19, 39(2), **Sch. 2 para. 13(4)**; S.I. 2002/345, **arts. 2, 3**
- F9** S. 103B(7) substituted (28.2.2002) by 2001 c. 19, ss. 19, 39(2), **Sch. 2 para. 13(5)**; S.I. 2002/345, **arts. 2, 3**
- F10** Words in s. 103B(8) substituted (28.2.2002) by 2001 c. 19, ss. 19, 39(2), **Sch. 2 para. 13(6)**; S.I. 2002/345, **arts. 2, 3**
- F11** Definitions in s. 103B(9) inserted (28.2.2002) by 2001 c. 19, ss. 19, 39(2), **Sch. 2 para. 13(7)**; S.I. 2002/345, **arts. 2, 3**

Marginal Citations

- M1** 1990 c. 41.
- M2** 1957 c. 53.

^{F12}103C Field General Court-Martial Rules.

- (1) The Secretary of State may by statutory instrument make rules with respect to field general courts-martial.
- (2) Rules under this section may in particular—
 - (a) provide for any provision of this Act relating to general or district courts-martial or the proceedings of such courts-martial to apply to field general courts-martial or the proceedings of such courts-martial with the necessary modifications;
 - (b) make any provision with respect to field general courts-martial which may be made with respect to general and district courts-martial by rules under section 103 of this Act.

Textual Amendments

- F12** Ss. 103A-103C inserted (1.4.1997) by 1996 c. 46, s. 5, **Sch. 1 Pt. III para. 47**; S.I. 1997/304, **art. 2** (with **art. 3, Sch. 2**)

^{F13}104

Textual Amendments

- F13** S. 104 repealed (1.4.1997) by 1996 c. 46, ss. 5, 35(2), **Sch. 1 Pt. III para. 48, Sch. 7 Pt. I**; S.I. 1997/304, **art. 2** (with **art. 3, Sch. 2**)

Status: Point in time view as at 15/10/2007.

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

F14 **105**

.....
Textual Amendments

F14 S. 105 repealed (1.4.1997) by 1996 c. 46, ss. 5, 35(2), Sch. 1 Pt. III para. 48, **Sch. 7 Pt. I**; S.I. 1997/304, **art. 2** (with art. 3, Sch. 2)

F15 **106**

.....
Textual Amendments

F15 S. 106 repealed (1.4.1997) by 1996 c. 46, ss. 5, 35(2), Sch. 1 Pt. III para. 48, **Sch. 7 Pt. I**; S.I. 1997/304, **art. 2** (with art. 3, Sch. 2)

Status:

Point in time view as at 15/10/2007.

Changes to legislation:

There are currently no known outstanding effects for the Air Force Act 1955 (repealed), Cross Heading: Field General Courts-Martial.