



Air Force Act 1955 (repealed)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} Review of proceedings of courts-martial]

Textual Amendments

- F1** Cross-heading and s. 112 substituted for s. 112 (1.4.1997) by 1996 c. 46, s. 16, **Sch. 5 para. 3**; 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 112

Textual Amendments

- F2** S. 112 repealed (11.5.2001) by 2001 c. 19, s. 38, **Sch. 7 Pt. 4**

[^{F3}113 Review of findings and sentences of courts-martial.

- (1) Where a court-martial has found the accused guilty of any offence, the accused may, before the end of the prescribed period after sentence is passed, present a petition to the Defence Council against finding or sentence or both.

Status: Point in time view as at 11/05/2001.

Changes to legislation: There are currently no known outstanding effects for the Air Force Act 1955 (repealed), Cross Heading: Review of proceedings of courts-martial.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

- (2) The reviewing authority shall, in accordance with subsections (3) and (4) below, review any finding of guilt made, and sentence passed, by a court-martial.
- (3) The review under this section shall (if it does not begin sooner) begin as soon as is practicable after—
 - (a) in a case where a petition has been presented under this section, the presentation of the petition;
 - (b) in any other case, the end of the period within which a petition under this section may be presented.
- (4) Where an application for leave to appeal to the Courts-Martial Appeal Court against a finding or sentence has been made before the review under this section of the finding or sentence has been completed—
 - (a) the reviewing authority shall complete the review as soon as is practicable; but
 - (b) if leave to appeal is granted before the review has been completed, the authority shall cease considering the review.
- (5) For the purposes of this Act the reviewing authority is—
 - (a) the Defence Council; or
 - (b) any officer to whom all or any of the powers of the Defence Council as reviewing authority may be delegated by the Defence Council.

^{F4}(6)]

Textual Amendments

- F3** Ss. 113, 113AA substituted for s. 113 (1.4.1997) by 1996 c. 46, s. 16, [Sch. 5 para. 4](#); S.I. 1997/304, [art. 2](#) (with [art. 3](#), [Sch. 2](#))
- F4** S. 113(6) repealed (11.5.2001) by 2001 c. 19, s. 38, [Sch. 7 Pt. 4](#)

^{F5}113AA Powers of the reviewing authority.

- (1) On a review under section 113 of this Act of a finding or sentence of a court-martial the reviewing authority has the following powers.
- (2) In so far as the review is of a finding of guilt, the authority may—
 - (a) quash that finding and, if the sentence relates only to that finding, quash the sentence passed in consequence of that finding;
 - (b) substitute a finding mentioned in subsection (3) below if that finding could have been validly made by the court-martial and the authority is of the opinion that the court-martial must have been satisfied of facts which would justify the making of that finding;

and, where another finding is so substituted, the authority may pass any such sentence (not being, in the opinion of the authority, more severe than the sentence originally passed) open to a court-martial on making such a finding as appears proper.
- (3) The findings referred to in subsection (2) above are—
 - (a) any finding of guilt which could have been validly made by the court-martial on the charge before it;

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- (b) if the court-martial recorded no finding on a charge alternative to a charge on which the court made the finding being reviewed, a finding of guilt on that alternative charge.
- (4) In so far as the review is of a sentence, the authority may quash the sentence or substitute a sentence (not being, in the opinion of the authority, more severe than the sentence originally passed) which was open to the court-martial.
- (5) In reviewing a sentence, the authority may—
 - (a) revoke an order made by the court under section 120A(1) of this Act;
 - (b) remit in whole or part any punishment awarded by the court;
 - (c) commute any such punishment for one or more punishments provided by this Act, being less than the punishment commuted.
- (6) Where it appears to the reviewing authority that the court-martial, in sentencing the accused, exceeded or erroneously exercised its powers to take other offences into consideration, the authority shall (whether or not substituting a different sentence or remitting or commuting punishment) annul the taking into consideration of the other offence or offences in question and any orders dependent thereon; and where the authority does so the offence or offences shall be treated for all purposes as not having been taken into consideration.
- (7) Any substituted finding or sentence, or sentence having effect after the remission or commutation of punishment—
 - (a) shall be treated for all purposes as having been made or passed by the court;
 - (b) shall be promulgated and shall have effect as from the date of promulgation.

Textual Amendments

F5 Ss. 113, 113AA substituted for s. 113 (1.4.1997) by 1996 c. 46, s. 16, [Sch. 5 para. 4](#); S.I. 1996/304, [art. 2](#) (with [art. 3](#), [Sch. 2](#))

[^{F6}113A Power of reviewing authority to authorise retrial.

—(1) The following provisions of the ^{M1}Courts-Martial (Appeals) Act 1968, that is to say,—

section 19,
section 20, and
Parts III and IV of Schedule 1,

(power of Courts-Martial Appeal Court to authorise retrial and supplementary provisions applicable when the power is exercised) shall apply with any necessary modifications in relation to the review by [^{F7}the reviewing authority] under section 113 of this Act of the findings of a court-martial, as they apply in relation to an appeal to the Courts-Martial Appeal Court.

- (2) Any document purporting to be an order or direction made or given by virtue of the foregoing subsection by the [^{F8}reviewing authority] shall be evidence of the making of the order or the giving of the direction, as the case may be, and of its contents.]

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Textual Amendments

F6

S. 113A inserted by Courts-Martial (Appeals) Act 1968 (c. 20), Sch. 4

F7

Words in s. 113A(1) substituted (1.4.1997) by 1996 c. 46, s. 16, Sch. 5 para. 5(a); S.I. 1997/304, art. 2 (with art. 3, Sch. 2)

F8

Words in s. 113A(2) substituted (1.4.1997) by 1996 c. 46, s. 16, Sch. 5 para. 5(b); S.I. 1997/304, art. 2 (with art. 3, Sch. 2)

Modifications etc. (not altering text)

C1

S. 113A excluded (1.4.1997) by S.I. 1997/172, art. 86

Marginal Citations

M1

1968 c. 20.

^{F9}114

Textual Amendments

F9

S. 114 repealed by Armed Forces Act 1986 (c. 21, SIF 7:1), s. 16(2), Sch. 2

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Point in time view as at 11/05/2001.

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