



Air Force Act 1955 (repealed)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]

[^{F1}113C Review of sentences by Courts-Martial Appeal Court

- (1) If it appears to the Attorney General—
 - (a) that a sentence passed on a person by a court-martial has been unduly lenient, and
 - (b) that the case is one to which this section applies,he may, with the leave of the Courts-Martial Appeal Court, refer the case to them for them to review the sentencing of that person.
- (2) On a reference under subsection (1) above the Courts-Martial Appeal Court may—
 - (a) quash the sentence passed by the court-martial on the person; and
 - (b) in place of it pass such sentence, being a sentence which would have been open to the court-martial on the findings made against that person, as they think appropriate.
- (3) Without prejudice to the generality of subsection (1) above, the condition specified in paragraph (a) of that subsection may be satisfied if it appears to the Attorney General that—
 - (a) the court-martial erred in law as to its powers of sentencing or the reviewing authority so erred as to its powers on a review under section 113 of this Act; or
 - (b) the sentence passed on the person was not that required by section 70(3B), (3E) or (3G) of this Act.

[Where a reference under this section relates to an order under subsection (2) of ^{F2}(3A) section 269 of the Criminal Justice Act 2003 (determination of minimum term in relation to mandatory life sentence), the Courts-Martial Appeal Court shall not, in

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deciding what order under that section is appropriate for the case, make any allowance for the fact that the person to whom it relates is being sentenced for a second time.]

- (4) Where the Courts-Martial Appeal Court have concluded their review of a case referred to them under this section, the Attorney General or the person to whose sentencing the reference relates may refer a point of law involved in any sentence passed on that person in the proceedings to the House of Lords for their opinion, and the House shall consider the point and give their opinion on it accordingly, and either remit the case to the Courts-Martial Appeal Court to be dealt with or deal with it themselves; and section 41(1) of the Courts-Martial (Appeals) Act 1968 (composition of House for appeals) shall apply also in relation to any proceedings of the House under this section.
- (5) A reference under subsection (4) above shall be made only with the leave of the Courts-Martial Appeal Court or the House of Lords; and leave shall not be granted unless it is certified by the Courts-Martial Appeal Court that the point of law is of general public importance and it appears to the Courts-Martial Appeal Court or the House of Lords (as the case may be) that the point is one which ought to be considered by that House.
- (6) For the purpose of dealing with a case under this section the House of Lords may exercise any powers of the Courts-Martial Appeal Court.
- (7) A sentence passed by the Courts-Martial Appeal Court or the House of Lords under subsection (2)(b) above shall be treated for the purposes of this Act as a sentence passed by a court-martial.
- (8) The Secretary of State may by regulations made by statutory instrument make supplementary provision with respect to references and applications under this section; and the regulations may in particular contain provision equivalent to that made by any provision of Schedule 3 to the Criminal Justice Act 1988 (which contains supplementary provisions relating to reviews under Part 4 of that Act), subject to such modifications as the Secretary of State thinks fit.
- (9) A statutory instrument containing regulations under subsection (8) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

Textual Amendments

F1 Ss. 113B, 113C inserted (28.2.2007) by [Armed Forces Act 2001 \(c. 19\)](#), **ss. 21(1)**, 39(2); S.I. 2007/662, art. 2

F2 S. 113C(3A) inserted (18.12.2003) by [Criminal Justice Act 2003 \(c. 44\)](#), **ss. 272(2)(b)(3)**, 336(2)

Modifications etc. (not altering text)

C1 [S. 113C](#) applied (31.3.2007) by [The Courts-Martial \(Review of Sentencing\) \(Categories of Offences\) Order 2007 \(S.I. 2007/711\)](#), arts. 1, 2, **Sch.** (with art. 3)

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**

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