
STATUTORY INSTRUMENTS

2024 No. 619

**The Armed Forces (Appeals Against
Review of Sentence) Regulations 2024**

Part 3

Appeal from Court Martial Appeal Court to Supreme Court

Right of appeal

26.—(1) An appeal lies to the Supreme Court, at the instance of the offender or the Director of Service Prosecutions, from any decision of the Appeal Court on an appeal to it under these Regulations, whether given by it when sitting within or outside the United Kingdom.

(2) The appeal lies only with the leave of the Appeal Court or the Supreme Court and such leave is not to be granted unless it is certified by the Appeal Court that a point of law of general public importance is involved in the decision and it appears to the Appeal Court or the Supreme Court, as the case may be, that the point is one that ought to be considered by the Supreme Court.

Commencement Information

II Reg. 26 comes into force in accordance with reg. 1(2)

Application for leave to appeal

27.—(1) An application to the Appeal Court for leave to appeal to the Supreme Court is to be made within the period of 28 days beginning with the relevant date.

(2) In [paragraph \(1\)](#) “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.

(3) An application to the Supreme Court is to be made within the period of 28 days beginning with the date on which the application referred to in [paragraph \(1\)](#) is refused by the Appeal Court.

(4) The Supreme Court or the Appeal Court may, upon application made at any time by the offender or the Director of Service Prosecutions extend the time within which an application may be made to the Supreme Court or the Appeal Court.

(5) In this Part—

- (a) an appeal must be treated as pending—
 - (i) until any application for leave to appeal is disposed of, and
 - (ii) if leave to appeal is granted, until the appeal is disposed of;
- (b) an application for leave to appeal must 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.

Commencement Information

I2 Reg. 27 comes into force in accordance with reg. 1(2)

Hearing and disposal of appeal

28. For the purpose of disposing of an appeal under this Part, the Supreme Court may—

- (a) exercise any powers of the Appeal Court, or
- (b) remit the case to the Appeal Court.

Commencement Information

I3 Reg. 28 comes into force in accordance with reg. 1(2)

Detention of offender on appeal to the Supreme Court

29.—(1) The Appeal Court must make one of the orders specified in [paragraph \(2\)](#) where—

- (a) but for the decision of the Appeal Court, the offender would be liable to be detained, and
- (b) immediately after that decision, the Director of Service Prosecutions is granted leave to appeal or gives notice of intention to apply for leave to appeal.

(2) The orders specified in this paragraph are—

- (a) an order providing for the detention of the offender so long as any appeal to the Supreme Court is pending;
- (b) an order directing that, so long as any appeal to the Supreme Court is pending, the offender is not to be released except on bail;
- (c) an order that the offender be released without bail.

(3) Where an order within [paragraph \(2\)\(b\)](#) is made, the Appeal Court may grant the offender bail pending the appeal.

(4) The Appeal Court may make an order under [paragraph \(2\)\(c\)](#) only if it thinks it is in the interests of justice that the offender should not be liable to be detained as a result of the decision of the Supreme Court on the appeal.

(5) An order under [paragraph \(2\)\(a\)](#) or [\(b\)](#), unless the appeal has previously been disposed of, is to cease to have effect at the expiration of the period for which the offender would have been liable to be detained but for the decision of the Appeal Court.

(6) Where an order is made under [this regulation](#) for the detention of a person who, but for the decision of the Appeal Court would be liable to be detained in pursuance of an order or direction under United Kingdom mental health legislation (see [paragraph \(7\)](#))—

- (a) the order must authorise that person’s continued detention in pursuance of that order or direction, and
- (b) the relevant provisions of that legislation with respect to persons liable to be detained under it (including provision as to the renewal of authority for detention and the removal or discharge of patients) apply accordingly.

(7) The legislation referred to in [paragraph \(6\)](#) above is—

- (a) Part III of the Mental Health Act 1983;
- (b) the Mental Health (Care and Treatment) (Scotland) Act 2003;

(c) the Mental Health (Northern Ireland) Order 1986.

(8) The relevant provisions of the Mental Health Act 1983 with respect to community treatment orders (within the meaning of that Act) also apply for the purposes of [paragraph \(6\)](#).

(9) The offender is not liable to be detained again as a result of the decision of the Supreme Court on appeal if—

(a) the Appeal Court has made an order within [paragraph \(2\)\(c\)](#), or

(b) the Appeal Court has made an order within [paragraph \(2\)\(a\)](#) or [\(b\)](#) but the order has ceased to have effect by virtue of [paragraph \(5\)](#) or the offender has been released or discharged by virtue of [paragraph \(6\)](#).

Commencement Information

I4 Reg. 29 comes into force in accordance with reg. 1(2)

Presence of offender at hearing

30. Where the offender is detained pending an appeal from the Appeal Court to the Supreme Court, the offender is not to be entitled to be present on the hearing of the appeal or of any proceedings preliminary or incidental to the hearing unless Supreme Court rules authorise the offender to be present, or the Supreme Court or Appeal Court gives the offender leave to be present.

Commencement Information

I5 Reg. 30 comes into force in accordance with reg. 1(2)

Effect of appeal on sentence

31.—(1) Any sentence passed on an appeal from the Appeal Court to the Supreme Court in substitution for another sentence, unless the Supreme Court or the Appeal Court otherwise direct, is to begin to run from the time when that other sentence began to run.

(2) Where under these Regulations a person subject to a sentence is granted bail pending an appeal, the time during which that person is released on bail is to be disregarded in computing the term of that person's sentence.

Commencement Information

I6 Reg. 31 comes into force in accordance with reg. 1(2)

Costs: application to Appeal Court by Director of Service Prosecutions

32.—(1) Where the Appeal Court dismisses an application for leave to appeal to the Supreme Court made by the Director of Service Prosecutions, the Appeal Court may direct the payment by the Secretary of State of such sums as appear to them to be reasonably sufficient to compensate the offender for any expenses properly incurred by the offender in resisting the application, subject to—

(a) [paragraph \(2\)](#), and

(b) regulations made under [regulation 35\(1\)\(d\)](#).

(2) The sums which the Appeal Court may direct the Secretary of State to pay may not include legal costs, except where regulations made by the Lord Chancellor provide otherwise.

- (3) Regulations under [paragraph \(2\)](#) may, in particular, include—
- (a) provision for an exception to arise where a determination has been made by a person specified in the regulations;
 - (b) provision requiring the Appeal Court, when it directs the payment of a sum that includes a sum in respect of legal costs, to include a statement to that effect in the direction;
 - (c) provision that the Appeal Court may not direct the payment of a sum in respect of legal costs exceeding an amount specified in the regulations.

Commencement Information

I7 Reg. 32 comes into force in accordance with reg. 1(2)

Costs: application to Appeal Court by offender

33. Where the Appeal Court dismisses an application for leave to appeal to the Supreme Court made by the offender—

- (a) the Appeal Court may make such order as may be made by the Appeal Court under [regulation 15\(1\)](#) of these Regulations where it dismisses an application for leave to appeal to the Appeal Court,
- (b) an order made under this regulation may be enforced in the manner described in [regulation 15\(2\)](#) of these Regulations, and
- (c) [regulation 15\(3\)](#) of these Regulations applies in relation to any sum recovered by virtue of [regulation 15\(2\)\(a\)](#) (as applied by [this regulation](#)).

Commencement Information

I8 Reg. 33 comes into force in accordance with reg. 1(2)

Costs: application to Supreme Court

34.—(1) Where the Supreme Court dismisses an application for leave to appeal to the Supreme Court and the application was made by the Director of Service Prosecutions, the Supreme Court may direct the payment by the Secretary of State of such sums as appear to the Supreme Court to be reasonably sufficient to compensate the offender for any expenses properly incurred by the offender in resisting the application.

(2) Where the Supreme Court dismisses an application for leave to appeal to the Supreme Court and the application was made by the offender, the Supreme Court may make such order as may be made by the Appeal Court under [regulation 15\(1\)](#) of these Regulations where it dismisses an application for leave to appeal to the Appeal Court and any order under [this paragraph](#) may be enforced in the manner described in [regulation 15\(2\)](#) of these Regulations.

(3) [Regulation 15\(3\)](#) of these Regulations applies in relation to any sum recovered by virtue of [paragraph \(2\)](#).

(4) On determining an appeal from the Appeal Court, the Supreme Court may, if it thinks fit, direct the payment by the Secretary of State of such sums as appear to the Supreme Court to be reasonably sufficient to compensate the offender for any expenses properly incurred by the offender in the proceedings (in the Supreme Court and below) subject to—

- (a) [paragraph \(5\)](#), and
- (b) regulations made under [regulation 35\(1\)\(d\)](#).

(5) The costs which the Supreme Court may direct the Secretary of State to pay do not include legal costs incurred in the proceedings in a court below it, except where regulations made by the Lord Chancellor provide otherwise.

(6) Regulations under [paragraph \(5\)](#) may, in particular, include—

- (a) provision for an exception to arise where a determination has been made by a person specified in the Regulations;
- (b) provision requiring the Supreme Court, when it directs the payment of a sum that includes a sum in respect of legal costs, to include a statement to that effect in the direction;
- (c) provision that the Supreme Court may not direct the payment of a sum in respect of legal costs exceeding an amount specified in the regulations.

(7) Except as provided by [regulations 32, 33](#) and [this regulation](#), no costs are to be allowed on the hearing or determination of an appeal from the Appeal Court to the Supreme Court or of any proceedings preliminary or incidental to such an appeal.

Commencement Information

I9 Reg. 34 comes into force in accordance with reg. 1(2)

Further provision about costs

35.—(1) The Lord Chancellor may by regulations make provision—

- (a) as to the sums that may be directed to be paid under [regulation 32](#) or [34\(4\)](#), whether by specifying rates or scales or by making such other provision as to the calculation of the sums;
- (b) as to the circumstances in which, and conditions under which, such sums may be paid or directed to be paid;
- (c) requiring such sums to be fixed having regard to regulations under paragraphs (a) and (b);
- (d) requiring such sums to be calculated in accordance with such regulations (whether or not that results in the fixing of an amount that the Appeal Court considers reasonable sufficient to compensate the person concerned).

(2) The power under [paragraph \(1\)\(d\)](#) may not be exercised in respect of sums ordered by the Supreme Court to be paid in respect of expenses incurred in proceedings before that court.

(3) Regulations made under this regulation may provide that provision as to the calculation of sums (whether in the form of rates or scales or other provision) may be determined by the Lord Chancellor with consent of the Treasury.

Commencement Information

I10 Reg. 35 comes into force in accordance with reg. 1(2)

Regulations under this Part

36.—(1) Regulations made under [regulations 32, 34](#) and [35](#) may, in particular, make different provision in relation to different cases and different classes of case, including different provision in relation to different expenses, trouble and loss, different directions and orders and different areas.

(2) A power to make regulations in this Part is exercisable by statutory instrument.

Changes to legislation: There are currently no known outstanding effects for the The Armed Forces (Appeals Against Review of Sentence) Regulations 2024, Part 3. (See end of Document for details)

(3) A statutory instrument containing regulations made under [this Part](#) is subject to annulment in pursuance of a resolution of either House of Parliament, subject to paragraph (4).

(4) Regulations made under regulations 32 or 34 (whether alone or with other provision) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

Commencement Information

I11 Reg. 36 comes into force in accordance with reg. 1(2)

Powers under this Part which are exercisable by a single judge

37.—(1) The following powers of the Appeal Court under this Part may be exercised by any judge of the Appeal Court—

- (a) to extend the time limit for making an application for leave to appeal;
- (b) to make an order for or in relation to bail;
- (c) to give leave to be present at the hearing of any proceedings preliminary or incidental to an appeal.

(2) Where a single judge refuses an application to exercise any of the powers in [paragraph \(1\)](#), the applicant is entitled to have the application determined by the Appeal Court.

Commencement Information

I12 Reg. 37 comes into force in accordance with reg. 1(2)

Changes to legislation:

There are currently no known outstanding effects for the The Armed Forces (Appeals Against Review of Sentence) Regulations 2024, Part 3.