



# Courts–Martial (Appeals) Act 1951

1951 CHAPTER 46 14 and 15 Geo 6

## PART II

PROVISIONS WITH RESPECT TO OFFICES OF JUDGE ADVOCATE  
OF HIS MAJESTY’S FLEET AND JUDGE ADVOCATE GENERAL

*Provisions with respect to Office of Judge Advocate of His Majesty’s Fleet*

### **<sup>F1</sup>28 Provisions with respect to office of Judge Advocate of His Majesty’s Fleet.**

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#### **Textual Amendments**

**F1** S. 28 repealed (1.1.2008) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 17](#); [S.I. 2007/2913](#), art. 3

*Provisions with respect to Office of Judge Advocate General*

### **29 Appointment of Judge Advocate General.**

Any appointment after the passing of this Act of a person to be the Advocate General or Judge Martial of all [<sup>F2</sup>Her Majesty’s regular and reserve naval, land and air forces] (commonly known, and hereafter in this Part of this Act referred to, as the “Judge Advocate General”) shall be of a person recommended to His Majesty by the Lord Chancellor.

#### **Textual Amendments**

**F2** Words in s. 29 substituted (1.1.2008) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 16 para. 16](#); [S.I. 2007/2913](#), art. 3

*Changes to legislation:* There are currently no known outstanding effects for the Courts–Martial (Appeals) Act 1951, Part II. (See end of Document for details)

**30 Assistants to Judge Advocate General.**

(1) For the purpose of assisting the Judge Advocate General in the exercise and performance of his powers and duties there shall be—

- (a) an officer to be known as the Vice Judge Advocate General, to be appointed by the Lord Chancellor; and
- (b) such number of officers to be known as Assistant Judge Advocates General <sup>F3</sup> . . . to be appointed <sup>F4</sup> . . . by the Lord Chancellor, as the Lord Chancellor, with the approval of the Treasury, may determine.

(2) If at any time it appears to the Lord Chancellor that it is expedient that the Judge Advocate General should be temporarily assisted in the exercise and performance of his powers and duties by more persons than hold appointments by virtue of the foregoing subsection, the Lord Chancellor may appoint such persons temporarily to assist the Judge Advocate General in the exercise and performance of his powers and duties as the Lord Chancellor may, with the approval of the Treasury as to numbers, determine.

- <sup>F5</sup>(3) . . . . .
- <sup>F5</sup>(4) . . . . .
- <sup>F5</sup>(5) . . . . .

**Textual Amendments**

**F3** Words in s. 30(1)(b) repealed (1.10.2001) by 2001 c. 19, ss. 34, 38, Sch. 6 Pt. 2 para. 5(a), **Sch. 7 Pt. 3**; S.I. 2001/3234, **art. 2**

**F4** Words in s. 30(1)(b) repealed (1.10.2001) by 2001 c. 19, ss. 34, 38, Sch. 6 Pt. 2 para. 5(b), **Sch. 7 Pt. 3**; S.I. 2001/3234, **art. 2**

**F5** S. 30(3)-(5) omitted (10.3.2022 for specified purposes, 1.10.2022 in so far as not already in force) by virtue of **Public Service Pensions and Judicial Offices Act 2022 (c. 7)**, s. 131(1)(4)(c), **Sch. 4 para. 1**; S.I. 2022/1014, **reg. 2(d)** (with **reg. 3**)

**31 Qualifications of Judge Advocate General and assistants.**

(1) No person shall be qualified for appointment as Judge Advocate General [<sup>F6</sup>unless he is—

- [<sup>F7</sup>(a) a person who satisfies the judicial-appointment eligibility condition on a 7-year basis;]
- (b) an advocate in Scotland of at least [<sup>F8</sup>7] years’ standing, or a solicitor who has [<sup>F9</sup>had a right of audience in the Court of Session or] the High Court of Justiciary for at least [<sup>F8</sup> 7] years;
- (c) a member of the Bar of Northern Ireland of at least [<sup>F10</sup>7] years’ standing;
- (d) the Vice Judge Advocate General; or
- (e) an Assistant Judge Advocate General.]

(2) No person shall be qualified for appointment as the Vice Judge Advocate General or an Assistant Judge Advocate General [<sup>F11</sup>unless he is—

- [<sup>F12</sup>(a) a person who satisfies the judicial-appointment eligibility condition on a 5-year basis;]

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(b) an advocate in Scotland of at least [<sup>F13</sup>5] years' standing, or a solicitor who has [<sup>F9</sup>had a right of audience in the Court of Session or] the High Court of Justiciary for at least [<sup>F13</sup>5] years [<sup>F14</sup>or];

(c) a member of the Bar of Northern Ireland of at least [<sup>F15</sup>5] years' standing;]. . .

<sup>F16</sup>(d) . . . . .

<sup>F17</sup>(3) . . . . .

(4) Before recommending a person for appointment as Judge Advocate General or appointing a person to be the Vice Judge Advocate General [<sup>F18</sup>or an Assistant Judge Advocate General], the Lord Chancellor shall take steps to satisfy himself that the health of the person proposed to be recommended for appointment, or to be appointed, as the case may be, is satisfactory.

(5) . . . . . <sup>F19</sup>

#### Textual Amendments

**F6** Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 71(2), **Sch. 10 para. 11(1)**

**F7** S. 31(1)(a) substituted (21.7.2008) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, **Sch. 10 para. 6(2)(a)**; S.I. 2008/1653, art. 2(d) (with arts. 34)

**F8** Words in s. 31(1)(b) substituted (21.7.2008) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, **Sch. 10 para. 6(2)(b)**; S.I. 2008/1653, art. 2(d) (with arts. 34)

**F9** Words in s. 31 in para. (b) in each of the subsections of (1),(2) and (3) substituted (1.4.1997) by 1996 c. 46, s. 5, **Sch. 1 Pt. IV para. 65**; S.I. 1997/304, **art. 2** with savings in para. 3

**F10** Word in s. 31(1)(c) substituted (21.7.2008) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, **Sch. 10 para. 6(2)(b)**; S.I. 2008/1653, art. 2(d) (with arts. 34)

**F11** Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 71(2), **Sch. 10 para. 11(2)**

**F12** S. 31(2)(a) substituted (21.7.2008) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, **Sch. 10 para. 6(3)(a)**; S.I. 2008/1653, art. 2(d) (with arts. 34)

**F13** Words in s. 31(2)(b) substituted (21.7.2008) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, **Sch. 10 para. 6(3)(b)**; S.I. 2008/1653, art. 2(d) (with arts. 34)

**F14** Word in s. 31(2)(b) inserted (1.10.2001) by 2001 c. 19, s. 34, **Sch. 6 Pt. 2 para. 6(a)(i)**; S.I. 2001/3234, **art. 2**

**F15** Words in s. 31(2)(c) substituted (21.7.2008) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, **Sch. 10 para. 6(3)(b)**; S.I. 2008/1653, art. 2(d) (with arts. 34)

**F16** S. 31(2)(d) and word preceding it repealed (1.10.2001) by 2001 c. 19, ss. 34, 38, Sch. 6 Pt. 2 para. 6(a)(ii), **Sch. 7 Pt. 3**; S.I. 2001/3234, **art. 2**

**F17** S. 31(3) repealed (1.10.2001) by 2001 c. 19, ss. 34, 38, Sch. 6 Pt. 2 para. 6(b), **Sch. 7 Pt. 3**; S.I. 2001/3234, **art. 2**

**F18** Words in s. 31(4) substituted (1.10.2001) by 2001 c. 19, s. 34, **Sch. 6 Pt. 2 para. 6(c)**; S.I. 2001/3234, **art. 2**

**F19** S. 31(5) repealed by Courts and Legal Services Act 1990 (c. 41, SIF 76), s. 125(7), **Sch. 20**

## 32 Tenure of office of Judge Advocate General and assistants.

[<sup>F20</sup>(1) The Judge Advocate General shall be removable by Her Majesty on the ground of inability or misbehaviour upon a recommendation in that behalf made by the Lord Chancellor with the concurrence of all of the following—

(a) the Lord Chief Justice of England and Wales;

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- (b) the Lord President of the Court of Session;
  - (c) the Lord Chief Justice of Northern Ireland.
- (1A) The Vice Judge Advocate General may be removed for inability or misbehaviour by the Lord Chancellor with the concurrence of all of the following—
- (a) the Lord Chief Justice of England and Wales;
  - (b) the Lord President of the Court of Session;
  - (c) the Lord Chief Justice of Northern Ireland.
- (1B) An Assistant Judge Advocate General may be removed for inability or misbehaviour by the Lord Chancellor with the concurrence of the appropriate senior judge.
- (1C) The appropriate senior judge is the Lord Chief Justice of England and Wales, unless—
- (a) the Assistant Judge Advocate General exercises functions wholly or mainly in Scotland, in which case it is the Lord President of the Court of Session, or
  - (b) the Assistant Judge Advocate General exercises functions wholly or mainly in Northern Ireland, in which case it is the Lord Chief Justice of Northern Ireland.]
- (2) The Judge Advocate General shall <sup>F21</sup>... vacate his office [<sup>F22</sup>on the day on which] he attains the age of [<sup>F23</sup>75], and any such officer as is mentioned in subsection (1) of section thirty of this Act shall vacate his office [<sup>F22</sup>on the day on which] he attains the age of [<sup>F23</sup>75]:
- [<sup>F24</sup>Provided that, where the Lord Chancellor considers it desirable in the public interest to retain the Judge Advocate General or any such officer as aforesaid in office after the time when his office is required to be vacated under the foregoing provisions of this subsection, the Lord Chancellor may from time to time authorise the continuance of the Judge Advocate General or officer in office up to such age (not exceeding seventy–two years in the case of the Judge Advocate General and seventy years in any other case) as the Lord Chancellor thinks fit.]
- (3) A person appointed under subsection (2) of section thirty of this Act temporarily to assist the Judge Advocate General in the exercise and performance of his powers and duties shall hold and vacate office in accordance with the terms of his appointment.

#### Textual Amendments

- F20** substituted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), s. 148\(1\), Sch. 4 para. 40](#); S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(d)
- F21** Words in s. 32(2) omitted (10.3.2022) by virtue of [Public Service Pensions and Judicial Offices Act 2022 \(c. 7\), s. 131\(1\)\(4\)\(a\), Sch. 1 para. 5\(a\)](#) (with Sch. 1 para. 43)
- F22** Words in s. 32(2) inserted (31.3.1995) by 1993, c. 8, s. 26, Sch. 6 para. 34(a)(b)
- F23** Word in s. 32(2) substituted (10.3.2022) by [Public Service Pensions and Judicial Offices Act 2022 \(c. 7\), s. 131\(1\)\(4\)\(a\), Sch. 1 para. 5\(b\)](#) (with Sch. 1 para. 43)
- F24** Proviso to s. 32(2) repealed and superseded (31.3.1995) by 1993, c. 8, ss. 26 (4)–(6), 31(4), Sch. 6 para. 34(c), Sch. 9

### 33 Salaries of Judge Advocate General and assistants.

There may be paid to the Judge Advocate General and the persons appointed under this Part of this Act to assist him in the exercise and performance of his powers and

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duties, out of moneys provided by Parliament, such salaries and such <sup>F25</sup>... allowances as the Lord Chancellor may, with the approval of the Treasury, determine.

**Textual Amendments**

**F25** Words in s. 33 omitted (10.3.2022 for specified purposes, 10.5.2022 in so far as not already in force) by virtue of [Public Service Pensions and Judicial Offices Act 2022 \(c. 7\)](#), s. 131(1)(4)(b)(ii), [Sch. 2 para. 3](#)

**34** ..... <sup>F26</sup>

**Textual Amendments**

**F26** S. 34 repealed by [Judicial Pensions Act 1981 \(c. 20, SIF 71:2\)](#), s. 36, [Sch. 4](#)

[<sup>F27</sup> **35 Pensions of assistants to Judge Advocate General.**

[ The principal civil service pension scheme within the meaning of section 2 of the <sup>F28</sup>(1) <sup>M1</sup>Superannuation Act 1972 and for the time being in force shall have effect as if employment as such an officer as is mentioned in section 30(1) of this Act were employment in the civil service of the State.]

[<sup>F28</sup>(2) The foregoing subsection shall not have effect in relation to a person to whom Part I of the Judicial Pensions and Retirement Act 1993 applies, except to the extent provided by or under that Act.]

**Textual Amendments**

**F27** S. 35 substituted by [Superannuation Act 1972 \(c. 11\)](#), [Sch. 6 para. 29](#)

**F28** S. 35 renumbered (31.3.1995) as s. 35(1) and s.35(2) added (31.3.1995) by 1993, c. 8, ss. 31(3), Sch. 8 para. 1

**Marginal Citations**

**M1** 1972 c. 11.

**Changes to legislation:**

There are currently no known outstanding effects for the Courts–Martial (Appeals) Act 1951, Part II.