



Number 19 of 1983

COURTS-MARTIAL APPEALS ACT 1983

REVISED

Updated to 7 April 2017

This Revised Act is an administrative consolidation of the *Courts-Martial Appeals Act 1983*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975 (3/1975)* to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including *Knowledge Development Box (Certification of Inventions) Act 2017 (6/2017)*, enacted 12 April 2017, and all statutory instruments up to and including *European Union Habitats (Blackwater Bank Special Area of Conservation 002953) Regulations 2017 (S.I. No. 149 of 2017)*, made 7 April 2017, were considered in the preparation of this Revised Act.

Disclaimer: While every care has been taken in the preparation of this Revised Act, the Law Reform Commission can assume no responsibility for and give no guarantees, undertakings or warranties concerning the accuracy, completeness or up to date nature of the information provided and does not accept any liability whatsoever arising from any errors or omissions. Please notify any errors, omissions and comments by email to revisedacts@lawreform.ie.



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Introduction

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

Related legislation

This Act is not collectively cited with any other legislation. However, it deals with the same subject matter as the legislation below.

Defence Acts 1954 to 2015: this is a group of Acts included in this collective citation, to be construed together as one (*Defence (Amendment) Act 2015*, s. 4(2)). The Acts in the collectively cited group are:

- *Defence Act 1954* (18/1954)
- *Defence (Amendment) (No. 2) Act 1960* (44/1960)
- *Defence (Amendment) Act 1979* (1/1979)
- *Defence (Amendment) (No. 2) Act 1979* (28/1979)
- *Defence (Amendment) Act 1987* (8/1987)
- *Defence (Amendment) Act 1990* (6/1990)
- *Defence (Amendment) Act 1998* (31/1998)
- *Defence (Amendment) Act 2006* (20/2006)
- *Defence (Amendment) Act 2007* (24/2007)
- *Defence (Amendment) Act 2011* (17/2011)
- *Defence (Amendment) Act 2015* (24/2015)

Acts previously included in the group but now repealed are:

- *Defence (Amendment) Act 1960* (22/1960)
- *Defence (Amendment) Act 1993* (18/1993)

Defence Acts 1954 to 1997: this is a group of Acts included in this collective citation, to be construed together as one (*Criminal Law Act 1997*, s. 14 and sch. 2). The Acts in the collectively cited group are:

- *Defence Act 1954* (18/1954)
- *Defence (Amendment) (No. 2) Act 1960* (44/1960)
- *Defence (Amendment) Act 1979* (1/1979)
- *Defence (Amendment) (No. 2) Act 1979* (28/1979)
- *Defence (Amendment) Act 1987* (8/1987)
- *Defence (Amendment) Act 1990* (6/1990)
- *Criminal Law Act 1997* (14/1997)

Acts previously included in the group but now repealed are:

- *Defence (Amendment) Act 1960 (22/1960)*
- *Defence (Amendment) Act 1993 (18/1993)*

The following legislation deals with related subject matter:

- *Civil Defence Act 2002 (16/2002)* (not amended)
- *Ombudsman (Defence Forces) Act 2004 (36/2004)*
- *Defence (Miscellaneous Provisions) Act 2009 (35/2009)*

Annotations

This Revised Act is not annotated and only shows textual amendments. An annotated version of this revision is also available which shows textual and non-textual amendments and their sources. It also shows editorial notes including statutory instruments made pursuant to the Act and previous affecting provisions.

Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available. A list of legislative changes to any Act, and to statutory instruments from 1996, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.



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ACTS REFERRED TO

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COURTS-MARTIAL APPEALS ACT 1983

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Updated to 7 April 2017

AN ACT TO ESTABLISH A COURTS-MARTIAL APPEAL COURT, TO MAKE PROVISION FOR THE GRANT BY THE STATE OF FREE LEGAL AID IN CERTAIN COURTS-MARTIAL CASES AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH. [29th June, 1983]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART I

PRELIMINARY AND GENERAL

- Short title. **1.**—This Act may be cited as the Courts-Martial Appeals Act, 1983.
- Commencement of Part III. **2.**—*Part III* of this Act shall come into operation on such day as may be fixed therefor by order of the Minister.
- Definitions. **3.**—In this Act—
- [“Act of 1947” means the Courts of Justice Act 1947;]
- “the Act of 1954” means the Defence Act, 1954;
- “the Court” means the Courts-Martial Appeal Court established by section 9;
- “the Minister” means the Minister for Defence.
- [“military judge”—
- (a) means a military judge appointed under Chapter IVC of Part V of the Act of 1954, and
- (b) in relation to the performance of the functions of a military judge under this Act or any instrument made under it, where a temporary designation of a Circuit Judge to carry out the functions of a military judge has been made under section 11A of the Act of 1947, references to the performance of such functions shall be construed in accordance with section 3A.]

[Performance of functions of military judge by Circuit Judge.

3A.—(1) Where a Circuit Judge has been temporarily designated under section 11A of the Courts of Justice Act 1947 pursuant to a request under section 184LA of the Act of 1954, notwithstanding the definition of military judge in section 3, references in this Act, or any instrument made under it, to a military judge in relation to the carrying out of the functions of a military judge under this Act, or any instrument made under it, shall be construed in accordance with such temporary designation of such Circuit Judge and nothing in this Act, or any statutory instrument made under it, shall be construed as preventing such Circuit Judge from carrying out such functions of a military judge.

(2) In this section ‘Circuit Judge’ has the meaning assigned to it by the Act of 1947.]

Expenses.

4.—The expenses incurred by a Minister of the Government in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

Amendment of section 202 of Act of 1954.

5.—Section 202 of the Act of 1954 is hereby amended—

(a) by the substitution of the following paragraph for paragraphs *(b)* and *(c)* of subsection (1):

“(b) the court-martial shall order that such person be kept in custody in an institution suitable for the detention of such person until such time as he is fit to take his trial or until his release is sooner ordered by the Minister or the High Court, which court shall for that purpose have all the powers which a judge of the Central Criminal Court would have had if the case had been tried before him.”, and

(b) by the substitution of the following subsection for subsection (2):

“(2) A finding under this section shall not require confirmation or be subject to revision.”,

and that section, as so amended, is set out in the Table to this section.

TABLE

202.—(1) Where at the trial by court-martial of a person charged with an offence it appears that such person is by reason of insanity unfit to take his trial, the following provisions shall have effect, that is to say:—

(a) the court-martial shall find specially that fact;

(b) the court-martial shall order that such person be kept in custody in an institution suitable for the detention of such person until such time as he is fit to take his trial or until his release is sooner ordered by the Minister or the High Court, which court shall for that purpose have all the powers which a judge of the Central Criminal Court would have had if the case had been tried before him.

(2) A finding under this section shall not require confirmation or be subject to revision.

Amendment of section 203 of Act of 1954.

6.—Section 203 of the Act of 1954 is hereby amended—

(a) by the substitution of the following paragraph for paragraphs *(b)* and *(c)* of subsection (1):

“(b) the court-martial shall order that such person be kept in custody in an institution suitable for the detention of such person until further order of the High Court, which court shall for that purpose have all the powers

which a judge of the Central Criminal Court would have had if such person had been tried before him.”, and

(b) by the substitution of the following subsection for subsection (2):

“(2) A finding under this section shall not require confirmation or be subject to revision.”,

and that section, as so amended, is set out in the Table to this section.

TABLE

203.—(1) Where at the trial by court-martial of a person charged with an offence it appears that such person did the act or made the omission charged, but was insane at the time when he did the said act or made the said omission, the following provisions shall have effect, that is to say:—

- (a) the court-martial shall find specially that the accused was guilty of the act or omission charged but was insane at the time he did the act or made the omission;
- (b) the court-martial shall order that such person be kept in custody in an institution suitable for the detention of such person until further order of the High Court, which court shall for that purpose have all the powers which a judge of the Central Criminal Court would have had if such person had been tried before him.

(2) A finding under this section shall not require confirmation or be subject to revision.

Amendment of section 215 of Act of 1954.

7.—Section 215 of the Act of 1954 is hereby amended by the substitution for “Subject to section 204,” of “Subject to sections 202 to 204,” and that section, as so amended, is set out in the Table to this section.

TABLE

215.—Subject to sections 202 to 204, the finding and sentence of a court-martial shall not be valid except in so far as the same may be confirmed by a confirming authority under this Chapter.

Restriction of section 224 of Act of 1954.

8.—Section 224 of the Act of 1954 (quashing of finding of court-martial) shall not have effect in relation to the finding or sentence of a court-martial against which the person convicted may, by virtue of an order under *section 24* of this Act, appeal to the Court.

PART II

COURTS-MARTIAL APPEAL COURT

Establishment and constitution of the Courts-Martial Appeal Court.

9.—[...]

Court to be a superior court of record, etc.

10.—[...]

Registrar of the Court.	11.—[...]
Sittings and procedure of the Court.	12.—[...]
Right of appeal to the Court.	<p>13.—[(1)]A person convicted by a court-martial may appeal to the Court against the finding or sentence change [...] of the court-martial or against both such finding and such sentence.</p> <p>[(2) A person in respect of whom a finding or order of committal is made under section 202 or 203 of the Act of 1954 may appeal that finding or order of committal to the Court.]</p>
Appeal to the Supreme Court.	14.—[...]
Interlocutory applications.	15.—[...]
Consequential orders of the Court.	<p>16.—Where a person convicted by a court-martial gives notice of appeal to the Court, the Court shall have power to make all consequential orders it may think fit, including—</p> <p style="margin-left: 40px;">(a) in the case of an appellant who is a member of the Defence Forces, an order suspending the operation of a sentence of [...] imprisonment or detention pending the determination of the appeal, and</p> <p style="margin-left: 40px;">(b) in the case of an appellant who is not a member of the Defence Forces, an order admitting the appellant to bail on such terms as the Court thinks proper pending the determination of the appeal.</p>
Hearing of appeal by the Court.	<p>17.—(1) An appeal to the Court shall be heard and determined by the Court on the proceedings of the trial of the appellant, with power to the Court to hear new or additional evidence and to refer any matter for report by the [military judge presiding at the court-martial] by which the appellant was tried.</p> <p>(2) [...]</p>
Jurisdiction of the Court.	18.—[...]
Finding of guilty but insane.	<p>19.—If on any appeal [(other than an appeal under sections 203B to 203D (inserted by the Defence (Amendment) Act 2007) of the Act of 1954)] it appears to the Court that, although the appellant did the act or made the omission charged against him, he was insane at the time when the act was done or the omission was made so as not to be responsible according to law for the act or omission, the Court may quash the sentence passed at the trial and order the appellant to be kept in custody in like manner as if the case had been determined by the Court of Criminal Appeal on appeal from a conviction on indictment.</p>
[Appeals (mental disorder at time of trial).	<p>19A.—Where an appeal is made to the Court under section 203B (inserted by the Defence (Amendment) Act 2007) of the Act of 1954 from a finding by a court-martial pursuant to section 202 of that Act, the Court shall, if it allows the appeal, order that the appellant be tried or retried, as the case may be, by court-martial for the offence alleged.]</p>

[Appeals (mental disorder at time of commission of offence)].

19B.—(1) A person tried for an offence by court-martial and found not guilty by reason of insanity may appeal to the Court against the finding on all or any of the following grounds:

- (a) that it was not proved that the person did the act or made the omission in question;
- (b) that the person was not, at the time when he did the act or made the omission, suffering from a mental disorder of the nature referred to in section 203(1) of the Act of 1954;
- (c) that the military judge ought to have made a finding in respect of the person that he was unfit to take his trial.

(2) If on an appeal to the Court on the ground referred to in subsection (1)(a) of this section, the Court is satisfied that it was not established that the appellant did the act or made the omission in question it shall order that the appellant be acquitted.

(3) If, on an appeal to the Court on the ground referred to in subsection (1)(b) of this section, the Court is satisfied that the appellant did the act or made the omission alleged but having considered the evidence or any new evidence relating to the mental condition of the appellant given by a consultant psychiatrist is satisfied that he was not suffering from a mental disorder of the nature referred to in section 203(1) of the Act of 1954, the Court shall substitute a verdict of guilty of the offence charged or of any other offence of which it is satisfied that the person could (by virtue of the charge) and ought to have been convicted, and shall have the like powers of punishing or otherwise dealing with the person as the court-martial concerned would have had if the person had been convicted of the offence in respect of which the verdict of guilty has been so substituted.

(4) If, on appeal to the Court on the ground set out at subsection (1)(c) of this section, the Court is satisfied that the appellant ought to have been found unfit to take his trial it shall make a finding to that effect and, in that case the provisions of section 202(1)(b) of the Act of 1954 shall apply.

(5) If on appeal to the Court, the Court is satisfied, having considered the evidence or any new evidence relating to the mental condition of the appellant, that he was at the time that the offence alleged was committed suffering from a mental disorder of the nature referred to in section 203(1) of the Act of 1954 and that but for that disorder the appellant would have been found guilty of the offence charged or of another offence of which the person could have been found guilty by virtue of the charge, the Court shall dismiss the appeal.

(6) In this section and in section 19C of this Act ‘consultant psychiatrist’ has the same meaning as in the Mental Health Act 2001.]

[Appeals (supplementary provisions)].

19C.—(1) Where an appeal is made to the Court against a decision by a court-martial to make or not to make an order of committal under section 202(1)(b) or 203(2) of the Act of 1954, the Court may, having considered the evidence or any new evidence relating to the mental condition of the person charged given by a consultant psychiatrist, make such order, being an order that it was open to the court-martial to make, as it considers appropriate and, without prejudice to the provisions of section 13 of the Criminal Law (Insanity) Act 2006 relating to the review of orders of committal, no further appeal shall lie from an order made on an appeal under this section.

(2) Where the Court allows an appeal against a conviction or against a verdict of not guilty by reason of insanity on the ground that the appellant ought to have been found unfit to take his trial, or allows an appeal against a conviction on the ground that the appellant ought to have been found not guilty by reason of insanity, it shall have the same powers to deal with the appellant as the court-martial concerned would have had under section 202 or 203 of the Act of 1954 if it had come to the same conclusion.

(3) All ancillary and procedural provisions contained in a statute or an instrument made under statute relating to appeals against convictions, including provisions relating to leave to appeal, shall apply with the necessary modifications to appeals under sections 19A and 19B of this Act and subsection (1) of this section.

(4) The powers of the Court in an appeal under section 19A or 19B of this Act or subsection (1) of this section shall include the power to make any such order as may be necessary for the purpose of doing justice in accordance with the provisions of this Act and the Criminal Law (Insanity) Act 2006.]

Convictions and sentences of the Court, etc.

20.—(1) Where on any appeal the Court substitutes a conviction of a different offence or substitutes a different sentence, that conviction or sentence shall, for the purposes of the Defence Acts, 1954 to 1979, and any instrument made thereunder, be deemed to be a duly confirmed finding or sentence of a court-martial.

(2) Notwithstanding section 206 of the Act of 1954, the Court may by order provide for the date on which a sentence substituted by it, or passed by a court-martial and not varied by the Court, shall commence or take effect.

Postponement of execution of sentence of death.

21.—[...]

Defence of appeal.

22.—The defence of an appeal under this Part of this Act shall be undertaken by [the Director of Military Prosecutions].

[Case stated for the Court on question of law.

22A.—Where an appeal is made to the summary court-martial under section 178E (inserted by the Defence (Amendment) Act 2007) of the Act of 1954, the military judge—

(a) shall, if requested by the appellant or the respondent, unless the military judge considers the request frivolous, and

(b) may, without request,

refer any question of law arising in that appeal to the Court for determination in accordance with this Act.]

[Review of certain sentences.

22B.—(1) An application by the Director of Military Prosecutions under section 212B (inserted by the *Defence (Amendment) Act 2007*) of the Defence Act 1954 to review a sentence awarded by a court-martial shall be made, on notice given to the convicted person, within 28 days or such longer period not exceeding 56 days as the Court may, on application to it in that behalf, determine, from the day on which the sentence was awarded.

(2) On such an application, the Court may either—

(a) quash the sentence and in its place award to the convicted person the sentence it considers appropriate, being a sentence which could have been awarded to him by the court-martial concerned, or

(b) refuse the application.]

Rules of court.

23.—The Superior Courts Rules Committee shall, with the concurrence of the Minister for Justice, make rules of court for the purposes of this Part of this Act.

[Section 23:
supplemental
provisions.]

23A.— Without prejudice to the generality of section 23, rules of court made under that section may, in relation to the functions of a military judge provided for in those rules, include provisions required for the performance of the functions of a military judge by a Circuit Judge who, pursuant to section 184LA of the Act of 1954 is temporarily designated to perform such functions under section 11A of the Act of 1947.]

Application of
Part II.

24.—The provisions of this Part of this Act shall have effect in relation to convictions by courts-martial of which the findings are or were promulgated on or after such day (whether before or after the passing of this Act) as the Minister may fix by order under this section.

PART III

LEGAL AID

Definitions for
Part III.

25.—In this Part of this Act—

“legal aid certificate” means a legal aid (preliminary proceedings) certificate, a legal aid (court-martial) certificate, [a legal aid (court-martial appeal) certificate] or a legal aid (Supreme Court) certificate;

“the prescribed authority” means the person prescribed by regulations under *section 33* of this Act to be the prescribed authority for the purposes of this Part of this Act.

Legal aid (prelimi-
nary proceedings)
certificate.

26.—Where—

(a) a person (in this section referred to as “the accused”) is charged with an offence against military law, and

[(b) any of the provisions of the Act of 1954 or any instrument made under that Act permit the accused to be represented by counsel or by a solicitor at the investigation of the charge or the taking down of the evidence pursuant to any such provisions or instrument (or at both such investigation and such taking down of evidence),]

then, if it appears to the prescribed authority—

(i) that the means of the accused are insufficient to enable him to obtain legal aid, and

(ii) that by reason of the gravity of the charge or of exceptional circumstances it is essential in the interests of justice that he should have legal aid at the investigation of the charge or the taking down of the evidence (or at both such investigation and such taking down of evidence),

the prescribed authority shall, on application being made to him in that behalf, grant in respect of the accused a certificate for free legal aid (in this Part of this Act referred to as “a legal aid (preliminary proceedings) certificate”) and thereupon the accused shall be entitled to such aid and to have a solicitor and (where he is charged with [an offence for which a person would be required on conviction to be sentenced to imprisonment for life] and the prescribed authority thinks fit) counsel assigned to him for such investigation or such taking down of evidence (or both such investigation and such taking down of evidence) in such manner as may be prescribed by regulations under *section 33* of this Act.

Legal aid (court-
martial) certifi-
cate.

27.—(1) Where—

[(a) a person (in this section referred to as ‘the accused’)—

(i) is, at the direction of the Director of Military Prosecutions, to be tried by court-martial, or

(ii) appeals to the summary court-martial pursuant to section 178E (inserted by the *Defence (Amendment) Act 2007*) of the Act of 1954,

and]

(b) a certificate for free legal aid (in this Part of this Act referred to as “a legal aid (court-martial) certificate”) is granted in respect of the accused by the prescribed authority,

the accused shall be entitled to free legal aid in the preparation and conduct of his defence at the trial [or of his appeal, as the case may be,] and to have a solicitor and (where the prescribed authority thinks fit) counsel assigned to him for that purpose in such manner as may be prescribed by regulations under *section 33* of this Act.

(2) A legal aid (court-martial) certificate shall be granted in respect of the accused if (but only if)—

(a) application is made therefor,

(b) it appears to the prescribed authority that the means of the accused are insufficient to enable him to obtain legal aid, and

(c) either—

(i) the trial is on [a charge of an offence for which a person would be required on conviction to be sentenced to imprisonment for life], or

(ii) it appears to the prescribed authority that, having regard to all the circumstances of the case (including the nature of such defence, if any, as may have been set up [or appeal, as the case may be]), it is essential in the interests of justice that the accused should have legal aid in the preparation and conduct of his defence at the trial [or of his appeal, as the case may be].

[Legal aid (case stated) certificate.

27A.—(1) Where—

(a) a person appeals to the summary court-martial under section 178E (inserted by the *Defence (Amendment) Act 2007*) of the Act of 1954 and the military judge before whom the appeal is heard refers a question of law arising in the proceedings to the Court pursuant to section 22A of this Act, and

(b) a certificate for free legal aid (in this Part of this Act referred to as ‘a legal aid (case stated) certificate’) is granted in respect of the person by the prescribed authority or under subsection (3) of this section,

the person shall be entitled to free legal aid in the preparation and conduct of his case in relation to the case stated and to have a solicitor and counsel assigned to him for that purpose in such manner as may be prescribed by regulations under section 33 of this Act.

(2) A legal aid (case stated) certificate shall be granted in respect of the person concerned if (but only if)—

(a) application is made therefor,

(b) it appears to the prescribed authority that the means of the person are insufficient to enable him to obtain legal aid, and

(c) it appears to the prescribed authority that, by reason of the serious nature of the offence with which the person is charged or of exceptional circumstances,

it is essential in the interests of justice that a legal aid (case stated) certificate should be granted in respect of the person.

(3) Where, in relation to a case stated, a person is refused a legal aid (case stated) certificate by the prescribed authority, he may apply for the certificate to the Court either—

- (a) by letter addressed to the registrar of the Court setting out the facts of the case and the grounds of the application, or
- (b) to the Court itself,

and the Court shall grant the certificate if (but only if)—

- (i) it appears to the Court that the means of the person are insufficient to enable him to obtain legal aid, and
- (ii) it appears to the Court that, by reason of the serious nature of the offence with which the person is charged or of exceptional circumstances, it is essential in the interests of justice that a legal aid (case stated) certificate should be granted in respect of the person.]

Legal aid (Courts-Martial Appeal Court) certificate.

28.—(1) Where—

[(a) a person (in this section referred to as ‘the accused’)—

- (i) is convicted by a court-martial, or
- (ii) is found to be unfit to take his trial pursuant to section 202 of the Act of 1954, or
- (iii) is found not guilty by reason of insanity pursuant to section 203 of the Act of 1954,

and]

(b) a certificate for free legal aid (in this Part of this Act referred to as “[a legal aid (court-martial appeal) certificate]”) is granted in respect of the accused by the prescribed authority or under *subsection (3)* of this section,

the accused shall be entitled to free legal aid in the preparation and conduct of an appeal against the finding or sentence of the court-martial or against both such finding and such sentence [or against a decision by a court-martial to make or not to make an order of committal under section 202(1)(b) or section 203(2) of the Act of 1954] and to have a solicitor and counsel assigned to him for that purpose in such manner as may be prescribed by regulations under *section 33* of this Act.

(2) [A legal aid (court-martial appeal) certificate] shall be granted in respect of the accused if (but only if)—

- (a) application is made therefor,
- (b) it appears to the prescribed authority that the means of the accused are insufficient to enable him to obtain legal aid, and
- (c) either—
 - (i) the conviction is [an offence for which a person would be required on conviction to be sentenced to imprisonment for life], or
 - (ii) it appears to the prescribed authority that, by reason of the serious nature of the offence or of exceptional circumstances, it is essential in the interests of justice that the accused should have legal aid in the preparation and conduct of an appeal.

(3) Where the accused is refused [a legal aid (court-martial appeal) certificate] by the prescribed authority, he may apply for the certificate to the Court either—

(a) by letter addressed to the registrar of the Court setting out the facts of the case and the grounds of the application, or

(b) to the Court itself,

and the Court shall grant the certificate if (but only if)—

(i) it appears to the Court that the means of the accused are insufficient to enable him to obtain legal aid, and

(ii) either—

(I) the conviction is of [an offence for which a person would be required on conviction to be sentenced to imprisonment for life], or

(II) it appears to the Court that, by reason of the serious nature of the offence or of exceptional circumstances, it is essential in the interests of justice that the accused should have legal aid in the preparation and conduct of an appeal.

Legal aid
(Supreme Court)
certificate.

29.—(1) Where—

(a) a person (in this section referred to as “the accused”) is charged with an offence against military law,

(b) an appeal is brought to the Supreme Court from a determination of the Court in relation to the offence or the punishment (if any) imposed in respect thereof, and

(c) a certificate for free legal aid (in this Part of this Act referred to as “a legal aid (Supreme Court) certificate”) is granted in respect of the accused by the Court or under subsection (3) of this section,

the accused shall be entitled to free legal aid in the preparation and conduct of his case in relation to the appeal and to have a solicitor and counsel assigned to him for that purpose in such manner as may be prescribed by regulations under section 33 of this Act.

(2) A legal aid (Supreme Court) certificate shall be granted if (but only if)—

(a) application is made therefor, and

(b) it appears to the Court that the means of the accused are insufficient to enable him to obtain legal aid.

(3) Where the accused is refused a legal aid (Supreme Court) certificate by the Court, he may apply for the certificate to the Supreme Court either—

(a) by letter addressed to the registrar of the Supreme Court setting out the facts of the case and the grounds of the application, or

(b) to the Supreme Court itself,

and the Supreme Court shall grant the certificate if (but only if) it appears to that court that the means of the accused are insufficient to enable him to obtain legal aid.

Payment of
expenses of legal
aid.

30.—(1) Where a legal aid (preliminary proceedings) certificate has been granted in respect of a person, any fees, costs or other expenses properly incurred in preparing and conducting the person's case in relation to the proceedings to which

the certificate relates shall, subject to regulations under *section 33* of this Act, be paid out of moneys provided by the Oireachtas.

(2) Where a legal aid (court-martial) certificate has been granted in respect of a person, any fees, costs or other expenses properly incurred in preparing and conducting the defence to which the certificate relates shall, subject to regulations under *section 33* of this Act, be paid out of moneys provided by the Oireachtas.

(3) Where [a legal aid (court-martial appeal) certificate] or a legal aid (Supreme Court) certificate has been granted in respect of a person, any fees, costs or other expenses properly incurred in preparing and conducting the person's case in relation to the appeal to which the certificate relates shall, subject to regulations under *section 33* of this Act, be paid out of moneys provided by the Oireachtas.

Restriction of
section 18.

31.—(1) Where a legal aid (preliminary proceedings) certificate or a legal aid (court-martial) certificate has been granted in respect of a person, the Court shall not have jurisdiction under *section 18* of this Act to award costs to the person in respect of proceedings in relation to which the certificate applies.

(2) Where [a legal aid (court-martial appeal) certificate] has been granted in respect of a person, the Court shall not have jurisdiction under *section 18* of this Act to award costs to the person in respect of court proceedings in relation to which the certificate applies.

Statement as to
means.

32.—Before a person is granted a legal aid certificate he may be required by the prescribed authority, the court or the judge, as the case may be, granting the certificate to furnish a written statement in such form as may be prescribed by the Minister by regulations under *section 33* of this Act about matters relevant for determining whether his means are insufficient to enable him to obtain legal aid.

Regulations.

33.—(1) The Minister may make regulations for carrying this Part of this Act into effect and the regulations may, in particular, prescribe—

- (a) the form of legal aid certificates,
- (b) the rates or scales of payment of any fees, costs or other expenses payable out of moneys provided by the Oireachtas pursuant to such certificates, and
- (c) the manner in which solicitors and counsel are to be assigned pursuant to such certificates.

(2) Regulations under this section in relation to the matters specified in *paragraph (b)* of *subsection (1)* of this section shall not be made without the consent of the Minister for Finance.

[(2A) Without prejudice to the generality of *subsection (1)*, regulations under this section may, in relation to the functions of a military judge provided for in those regulations, include provisions required for the performance of the functions of a military judge by a Circuit Judge who, pursuant to *section 184LA* of the Act of 1954 is temporarily designated to perform such functions under *section 11A* of the Act of 1947.]

(3) Every regulation made by the Minister under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next subsequent twenty-one days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly but without prejudice to anything previously done thereunder.

Penalty for false
or misleading
statements.

34.—(1) A person who, for the purpose of obtaining free legal aid under this Part of this Act, whether for himself or some other person, knowingly makes a false statement or false representation either verbally or in writing or knowingly conceals any material fact shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding [€2,000] or to imprisonment for a term not exceeding six months or to both.

(2) Upon conviction of a person of an offence under this section, the court by which the person is convicted may, if in the circumstances of the case the court so thinks fit, order the person to pay to the Minister the whole or part (as the court considers appropriate) of any sum paid under *section 30* of this Act in respect of the free legal aid in relation to which the offence was committed, and any sum paid to the Minister pursuant to this section shall be paid into or disposed of for the benefit of the Exchequer in accordance with the directions of the Minister for Finance.