

Reprint
as at 1 July 2009

**Courts-Martial Appeal
Amendment Rules 2004**

(SR 2004/28)

Courts-Martial Appeal Amendment Rules 2004: revoked, on 1 July 2009, pursuant to rule 54(1) of the Court Martial Appeal Court Rules 2008 (SR 2008/238).

Pursuant to section 26 of the Courts-Martial Appeals Act 1953 and section 51C of the Judicature Act 1908, Her Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, and with the concurrence of the Right Honourable the Chief Justice and at least 2 other members of the Rules Committee (of whom at least 1 was a Judge of the High Court), makes the following rules.

Contents

	Page
1 Title	2
2 Commencement	2
3 Order for compensation	2
4 Order for restitution	3

Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this eprint.

A general outline of these changes is set out in the notes at the end of this eprint, together with other explanatory material about this eprint.

These rules are administered by the New Zealand Defence Force.

1 Title

- (1) These rules are the Courts-Martial Appeal Amendment Rules 2004.
- (2) In these rules, the Courts-Martial Appeal Rules 1954¹ are called “the principal rules”.

2 Commencement

These rules come into force on 1 April 2004.

3 Order for compensation

Rule 21 of the principal rules is amended by revoking subclause (2), and substituting the following subclause:

- “(2) Where the consent referred to in subclause (1) is not given, the operation of the order is suspended—
- “(a) until the expiry of the period prescribed by section 10(1) of the Act as the period within which an application for a certificate to appeal to the Court of Appeal must be made; and
 - “(b) if, within the period so prescribed, an application under section 10(1) of the Act for a certificate to appeal to the Court of Appeal is made in respect of the conviction upon which the order was made or an application to the Supreme Court for leave to appeal directly to the Supreme Court is made in respect of that conviction,—
 - “(i) until the close of the day on which the application is refused; or
 - “(ii) if the certificate or the leave to appeal is granted, until the close of the day on which the appeal is determined or abandoned; and
 - “(c) if the decision on the appeal is that of the Court of Appeal, until the expiry of the period prescribed under the Supreme Court Act 2003 as the period within which an application to the Supreme Court for leave to appeal under section 10A of the Act against that decision must be made; and
 - “(d) if, within the period referred to in paragraph (c) an application to the Supreme Court for leave to appeal under

¹ SR 1954/215

section 10A of the Act against the decision of the Court of Appeal is made,—

- “(i) until the close of the day on which the application is refused; or
- “(ii) if leave to appeal under section 10A of the Act is granted, until the close of the day on which the appeal is determined or abandoned.”

4 Order for restitution

Rule 21A of the principal rules is amended by revoking subclause (3), and substituting the following subclause:

- “(3) Where no statement of a kind referred to in subclause (1) is made, the operation of the order is suspended—
 - “(a) until the expiry of the period prescribed by section 10(1) of the Act as the period within which an application for a certificate to appeal to the Court of Appeal must be made; and
 - “(b) if, within the period so prescribed, an application under section 10(1) of the Act for a certificate to appeal to the Court of Appeal is made in respect of the conviction upon which the order was made or an application to the Supreme Court for leave to appeal directly to the Supreme Court is made in respect of that conviction,—
 - “(i) until the close of the day on which the application is refused; or
 - “(ii) if the certificate or leave to appeal is granted, until the close of the day on which the appeal is determined or abandoned; and
 - “(c) if the decision on the appeal is that of the Court of Appeal, until the expiry of the period prescribed under the Supreme Court Act 2003 as the period within which an application to the Supreme Court for leave to appeal under section 10A of the Act against that decision must be made; and
 - “(d) if, within the period referred to in paragraph (c) an application to the Supreme Court for leave to appeal under section 10A of the Act against the decision of the Court of Appeal is made,—

- “(i) until the close of the day on which the application is refused; or
- “(ii) if leave to appeal under section 10A of the Act is granted, until the close of the day on which the appeal is determined or abandoned.”

Diane Morcom,
Clerk of the Executive Council.

Explanatory note

This note is not part of the rules, but is intended to indicate their general effect.

These rules, which come into force on 1 April 2004, amend rules 21 and 21A of the Courts-Martial Appeal Rules 1954. Rule 21 relates to orders for compensation. Rule 21A relates to orders for restitution. Those rules are amended to cover the circumstances that will arise in relation to the suspension of orders for compensation and orders for restitution where an application is made to the Supreme Court for leave to appeal to the Supreme Court.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 4 March 2004.

Contents

- 1 General
 - 2 About this eprint
 - 3 List of amendments incorporated in this eprint (most recent first)
-

Notes

1 General

This is an eprint of the Courts-Martial Appeal Amendment Rules 2004. It incorporates all the amendments to the rules as at 1 July 2009. The list of amendments at the end of these notes specifies all the amendments incorporated into this eprint since 3 September 2007. Relevant provisions of any amending enactments that contain transitional, savings, or application provisions are also included, after the Principal enactment, in chronological order.

2 About this eprint

This eprint has not been officialised. For more information about officialisation, please see “Making online legislation official” under “Status of legislation on this site” in the About section of this website.

3 List of amendments incorporated in this eprint (most recent first)

Court Martial Appeal Court Rules 2008 (SR 2008/238): rule 54(1)
