

Chapter 35

The powers of the Criminal Cases Review Commission

	Page
Index	2-35-1
Introduction	2-35-2
Independent public body	2-35-2
Powers	2-35-2
Impact on victims	2-35-2
Sources	2-35-2
Powers of the CCRC	2-35-2
General	2-35-2
Court Martial Appeal Court (CMAC)	2-35-2
Cases dealt with by the CM	2-35-2
Sentence	2-35-3
Related conviction	2-35-3
Disability	2-35-3
Insanity	2-35-3
Cases dealt with by SCC	2-35-3
Sentencing after reference	2-35-3
References treated as appeals	2-35-3
Supplementary powers	2-35-3
Conditions of reference	2-35-3
Conditions for making a reference	2-35-3

Chapter 35

The powers of the Criminal Cases Review Commission

Introduction

1. **Independent public body.** The Criminal Case Review Commission (CCRC) is an independent public body which was set up under the Criminal Appeals Act 1995 to review possible miscarriages of justice in magistrates courts and the Crown Courts of England, Wales and Northern Ireland. The Armed Forces Act 2006 (the Act), section 321 and Schedule 11, extend the jurisdiction of the CCRC to the Court Martial (CM) and the Service Civilian Court (SCC).
2. **Powers.** The CCRC has powers to refer cases to the appropriate court for an appeal to be heard. The CCRC does not consider innocence or guilt, but whether there is new evidence or argument that may cast doubt on the safety of a decision. The CCRC has wide-ranging investigative powers and can obtain and preserve documentation held by any public body (including the Services). The CCRC will also investigate and report to the Court Martial Appeal Court (CMAC) on any matter referred to them by the Court.
3. **Impact on victims.** The CCRC is mindful of the impact that the review of cases can have on the original victims of a crime and their families. It therefore has an established policy that sets out the circumstances in which victims are informed about case reviews and the process for doing so.
4. **Sources.** Reference should be made to the following sources:
 - a. Section 321 and Schedule 11 of the Act (relating to powers of CCRC);
 - b. The Court Martial Appeals Act 1968, section 29A (power to order investigation by CCRC);
 - c. The Criminal Appeal Act 1995 (Part II, as amended by the Act) ;
 - d. The current edition of Archbold, Criminal Pleading Evidence & Practice; and
 - e. CCRC's website: <http://www.ccrc.gov.uk>.

Powers of the CCRC

5. **General.** The CCRC may make a reference to the CMAC for appeal of a conviction, verdict, finding or sentence with or without an application being made by the person to whom it relates.
6. **Court Martial Appeal Court (CMAC).** On an appeal against conviction or an application for leave to appeal against conviction, the CMAC may direct the CCRC to investigate and report to the court in order to resolve any matter relating either to an appeal or an application for leave to appeal
7. **Cases dealt with by the CM.** Where a person has been convicted by the CM (including on an appeal brought from the SCC) the CCRC may at any time refer the conviction to the CMAC.

8. **Sentence.** Where a person has been convicted by the CM and (whether or not the conviction is referred) the CCRC may at any time refer to the CMAC any sentence (other than one fixed by law) imposed by the CM on, or in subsequent proceedings relating to, the conviction. Where a person has been convicted by the SCC and sentenced by the CM on an appeal against sentence only, the CCRC may at any time refer to the CMAC that sentence of the CM and any other sentence imposed by the CM in respect of a connected conviction being a conviction of the same person by the same court on the same day.
9. **Related conviction.** On a reference of a person's conviction the CCRC may give notice to the CMAC that any related conviction (being a conviction of the same person in the same proceedings) is to be treated as referred to the CMAC.
10. **Disability.** Where the CM has found that a person is under a disability and that he did the act or made the omission charged against him, the CCRC may at any time refer either or both of those findings to the CMAC.
11. **Insanity.** Where a finding of not guilty by reason of insanity has been made by the CM, the CCRC may at any time refer the finding to the CMAC.
12. **Cases dealt with by SCC.** Where a person has been convicted of an offence by the SCC the CCRC may, at any time, refer the conviction to the CM and (whether or not they refer the conviction) may at any time refer any sentence on, or in subsequent proceedings relating to, the conviction.
13. **Sentencing after reference.** On a reference to the CM from the SCC, the CM may not impose a sentence more severe than that imposed by the SCC.
14. **References treated as appeals.** A reference of a conviction, sentence or finding will be treated as an appeal by the person against whom it is made.
15. **Supplementary powers.** The main supplementary powers of the CCRC are set out in the Criminal Appeal Act 1995, sections 17 to 22 (relating to obtaining documents and mounting investigations). In relation to a CM or SCC case the CCRC may require a Service to produce documents and materials to the CCRC or give the CCRC access to them and it may require the appointment of the Service Police or another police force to carry out an investigation to assist it.

Conditions of reference

16. **Conditions for making a reference.** A reference will not be made unless:
 - a. The CCRC considers that there is a real possibility that the conviction, verdict, finding or sentence would not be upheld were the reference to be made;
 - b. The CCRC so consider:
 - (1) In the case of a conviction, verdict or finding because of an argument or evidence not raised in the proceedings which led to it or on any appeal or application for leave to appeal, or
 - (2) In the case of a sentence, because of an argument on a point of law or information not so raised, and
 - c. An appeal has been dismissed or leave to appeal refused.

However, nothing in b(1) or c above will prevent the making of a reference if it appears to the CCRC that there are exceptional circumstances which justify it. For example, inadequate representation of the defence case to the court at trial or on appeal or where the court has developed the law by accepting an argument which has been previously rejected.