



# Criminal Appeal Act 1968

## 1968 CHAPTER 19

### PART III

#### MISCELLANEOUS AND GENERAL

**45** [<sup>F1</sup>Construction of references in Parts I and II to Court of Appeal and a single judge.]

[<sup>F1</sup>(1) References in Parts I and II [<sup>F2</sup>and section 44A] of this Act to the Court of Appeal shall be construed as references to the criminal division of the Court.]

(2) The references in sections 31 [<sup>F3</sup>, 31A, 44 and 44A] of this Act to a single judge are to any judge of the Court of Appeal or . . . <sup>F4</sup> the High Court.

**Textual Amendments**

- F1** S. 45(1) and sidenote substituted by [Supreme Court Act 1981 \(c. 54\), Sch. 5 para. 2](#)
- F2** Words in s. 45(1) inserted (1.1.1996) by [1995 c. 35, s. 29\(1\), Sch. 2 para. 4\(5\)\(a\)](#); S.I. 1995/3061, [art. 3\(d\)\(h\)](#) (with [art. 4](#))
- F3** Words in s. 45(2) substituted (1.1.1996) by [1995 c. 35, s. 29\(1\), Sch. 2 para. 4\(5\)\(b\)](#); S.I. 1995/3061, [art. 3\(d\)\(h\)](#) (with [art. 4](#))
- F4** Words repealed by [Administration of Justice Act 1970 \(c. 31\), Sch. 11](#)

**46** ..... <sup>F5</sup>

**Textual Amendments**

- F5** S. 46 repealed by [Supreme Court Act 1981 \(c. 54, SIF 37\), Sch. 7](#)

**47** ..... <sup>F6</sup>

*Status: Point in time view as at 27/09/1999.*

*Changes to legislation: There are currently no known outstanding effects for the Criminal Appeal Act 1968, Part III. (See end of Document for details)*

#### Textual Amendments

**F6** S. 47 repealed by s. 47(7) of this Act and S.I. 1967/1234, **Sch. 5**

#### 48 Appeal in capital cases.

Schedule 4 to this Act shall have effect so as to modify and supplement certain provisions in Parts I and II of this Act in relation to cases involving sentence of death.

#### 49 Saving for prerogative of mercy.

Nothing in this Act is to be taken as affecting Her Majesty's prerogative of mercy.

#### 50 Meaning of "sentence".

[<sup>F7</sup>(1) In this Act "sentence", in relation to an offence, includes any order made by a court when dealing with an offender including, in particular—

- (a) a hospital order under Part III of the <sup>M1</sup>Mental Health Act 1983, with or without a restriction order;
- (b) an interim hospital order under that Part;
- [ a hospital direction and a limitation direction under that Part;]
- <sup>F8</sup>(bb)
- (c) a recommendation for deportation;
- (d) a confiscation order under the [<sup>F9</sup>Drug Trafficking Act 1994] other than one made by the High Court;
- (e) a confiscation order under Part VI of the <sup>M2</sup>Criminal Justice Act 1988;
- (f) an order varying a confiscation order of a kind which is included by virtue of paragraph (d) or (e) above;
- (g) an order made by the Crown Court varying a confiscation order which was made by the High Court by virtue of [<sup>F10</sup>section 19 of the Act of 1994]; and
- (h) a declaration of relevance under [<sup>F11</sup>section 31 of the Public Order Act 1986 or under]the <sup>M3</sup>Football Spectators Act 1989.]

[<sup>F12</sup>(1A) [<sup>F13</sup>Section 1C] of the Powers of Criminal Courts Act 1973 (under which a conviction of an offence for which <sup>F14</sup>... an order for a conditional or absolute discharge is made is deemed not to be a conviction except for certain purposes) shall not prevent an appeal under this Act, whether against conviction or otherwise.]

- (2) Any power of the criminal division of the Court of Appeal to pass a sentence includes a power to make a recommendation for deportation in cases where the court from which the appeal lies had power to make such a recommendation.

#### Textual Amendments

**F7** S. 50(1) substituted (14.8.1995) by 1993 c. 36, s. 78(3), **Sch. 5 Pt. I para. 1**; S.I. 1995/1958, **art. 2**

**F8** S. 50(1)(bb) inserted (1.10.1997) by 1997 c. 43, s. 55(1), **Sch. 4 para. 6(1)(a)**; S.I. 1997/2200, **art. 2(1)(I)(2)(c)**

**F9** Words in s. 50(1)(d) substituted (3.2.1995) by 1994 c. 37, ss. 65(1), 69(2), **Sch. 1 para. 2**

**F10** Words in s. 50(1)(g) substituted (3.2.1995) by 1994 c. 37, ss. 65(1), 69(2), **Sch. 1 para. 2(b)**

**F11** Words in s. 50(1)(h) inserted (27.9.1999) by 1999 c. 21, **ss. 7(2)(b)**, 12(2) (with s. 12(3))

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- F12** S. 50(1A) inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 66(1)  
**F13** Words in s. 50(1A) substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 100, Sch. 11 para. 4; S.I. 1992/333, art. 2(2), Sch. 2  
**F14** Words in s. 50(1A) repealed (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 100, 101(2), Sch. 11 para. 4, Sch. 13; S.I. 1992/333, art. 2(2), Sch. 2

**Modifications etc. (not altering text)**

- C1** S. 50(1) modified (1.10.1997 for specified purposes otherwise 1.12.1999) by 1997 c. 43, ss. 55(2), 57(2), Sch. 4 para. 6(1); S.I. 1997/2200, art. 2(1)(m) and S.I. 1999/3096, art. 2(d)

**Marginal Citations**

- M1** 1983 c. 20.  
**M2** 1988 c. 33.  
**M3** 1989 c. 37.

**51 Interpretation.**

(1) In this Act, except where the context otherwise requires—

“appeal”, where used in Part I or II of this Act, means appeal under that Part, and “appellant” has a corresponding meaning and in Part I includes a person who has given notice of application for leave to appeal;

“the court of trial”, in relation to an appeal, means the court from which the appeal lies;

“the defendant”, in Part II of this Act, means, in relation to an appeal, the person who was the appellant before the criminal division of the Court of Appeal, and references to the prosecutor shall be construed accordingly;

[<sup>F15</sup>“duly approved”, in relation to a registered medical practitioner, means approved for the purposes of section 12 of the Mental Health Act 1983 by the Secretary of State as having special experience in the diagnosis or treatment of mental disorder;]

[<sup>F16</sup>“the judge of the court of trial” means, where the Crown Court comprises justices of the peace, the judge presiding;]

[<sup>F17</sup>“registered medical practitioner” means a fully registered person within the meaning of the Medical Act 1983;]

“under disability” has the meaning assigned to it by section 4 of the <sup>M4</sup>Criminal Procedure (Insanity) Act 1964 (unfitness to plead); and

<sup>F18</sup>

(2) Any expression used in this Act which is defined in [<sup>F19</sup>section 145(1) of the Mental Health Act 1983] has the same meaning in this Act as in that Act.

[<sup>F20</sup>(2A) Subsections (2) and (3) of section 54 of the Mental Health Act 1983 shall have effect with respect to proof of the appellant’s mental condition for the purposes of section 6, 14 or 14A of this Act as they have effect with respect to proof of an offender’s mental condition for the purposes of section 37(2)(a) of that Act.]

(3) ..... <sup>F21</sup>

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#### Textual Amendments

- F15** Definition in s. 51(1) inserted (01.01.1992) by [Criminal Procedure \(Insanity and Unfitness to Plead\) Act 1991 \(c. 25, SIF 39:1\)](#), ss. 7, 8, **Sch. 3**, para. 5(1)(a); S.I. 1991/2488, **art. 2**.
- F16** Definition substituted by [Courts Act 1971 \(c. 23\)](#), **Sch. 8 para. 57(3)**
- F17** Definition in s. 51(1) inserted (01.01.1992) by [Criminal Procedure \(Insanity and Unfitness to Plead\) Act 1991 \(c. 25, SIF 39:1\)](#), ss. 7, 8, **Sch. 3**, para. 5(1)(b); S.I. 1991/2488, **art. 2**.
- F18** Definition of “recommendation for deportation” repealed by [Immigration Act 1971 \(c. 77\)](#), **Sch. 6**
- F19** Words substituted by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), **Sch. 4 para. 23(j)**
- F20** [S. 51\(2A\)](#) inserted (01.01.1992) by [Criminal Procedure \(Insanity and Unfitness to Plead\) Act 1991 \(c. 25, SIF 39:1\)](#), ss. 7, 8, **Sch. 3**, para.5(2); S.I. 1991/2488, **art. 2**.
- F21** [S. 51\(3\)](#) repealed by [Supreme Court Act 1981 \(c. 54, SIF 37\)](#), **Sch. 7**

#### Marginal Citations

- M4** 1964 c. 84.

## 52 Consequential amendment of enactments.

- (1) The enactments specified in Part I of Schedule 5 to this Act shall be amended as shown in that Schedule.
- (2) ..... **F22**

#### Textual Amendments

- F22** [S. 52\(2\)](#) repealed by [Statute Law \(Repeals\) Act 1973 \(c. 39\)](#), **Sch. 1 Pt. V**

#### Modifications etc. (not altering text)

- C2** The text of s. 52, Sch. 5, is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

## 53 Transitional provisions.

The transitional provisions contained in Schedule 6 to this Act shall have effect.

## 54 Repeals.

The enactments specified in the second column of Schedule 7 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

#### Modifications etc. (not altering text)

- C3** The text of s. 54, Sch. 7 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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## **55 Short title, commencement and extent.**

- (1) This Act may be cited as the Criminal Appeal Act 1968.
- (2) This Act shall come into force on the day appointed under section 106(5) of the <sup>M5</sup>Criminal Justice Act 1967 for the coming into force of section 98 of that Act.
- (3) So much of Schedule 5 to this Act as amends the <sup>M6</sup>Geneva Conventions Act 1957 shall extend to Scotland and Northern Ireland and the repeal by this Act of section 2(2) of the <sup>M7</sup>Administration of Justice Act 1960 shall extend to Northern Ireland; but except as aforesaid this Act shall not extend to Scotland or Northern Ireland.

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### **Modifications etc. (not altering text)**

**C4** 1.9.1968 appointed by [S.I. 1968/325](#), [art. 1](#)

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### **Marginal Citations**

**M5** 1967 c. 80.  
**M6** 1957 c. 52.  
**M7** 1960 c. 65.

**Status:**

Point in time view as at 27/09/1999.

**Changes to legislation:**

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