



Criminal Appeal Act 1968

1968 CHAPTER 19

PART III

MISCELLANEOUS AND GENERAL

45 [^{F1}Construction of references in Parts I and II to Court of Appeal and a single judge.]

[^{F1}(1) References in Parts I and II [^{F2}and [^{F3}sections 44A and 51]] 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 [^{F4}23A,][^{F5}31 to 31C][^{F6}, 44 and 44A] of this Act to a single judge are to any judge of the Court of Appeal or ^{F7}... 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(1) substituted (1.9.2004) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 36 para. 89\(a\)](#); S.I. 2004/1629, [art. 3\(1\)\(2\)\(g\)](#)
- F4** Word in s. 45(2) inserted (1.9.2004) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 36 para. 89\(b\)](#); S.I. 2004/1629, [art. 3\(1\)\(2\)\(g\)](#)
- F5** Words in s. 45 substituted (1.4.2005) by [Courts Act 2003 \(c. 39\), s. 110\(1\), Sch. 8 para. 128](#); S.I. 2005/910, [art. 3\(y\)](#)
- F6** 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](#))
- F7** Words repealed by [Administration of Justice Act 1970 \(c. 31\), Sch. 11](#)

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Textual Amendments

F8 S. 46 repealed by [Supreme Court Act 1981 \(c. 54, SIF 37\)](#), [Sch. 7](#)

47 **F9**

Textual Amendments

F9 S. 47 repealed by s. 47(7) of this Act and [S.I. 1967/1234](#), [Sch. 5](#)

F10 **48** **Appeal in capital cases.**

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Textual Amendments

F10 S. 48 repealed (1.4.2005) by [Courts Act 2003 \(c. 39\)](#), s. 110(1), [Sch. 8 para. 129](#), [Sch. 10](#); [S.I. 2005/910](#), art. 3(y)

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”.**

[^{F11}(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 ^{M1}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;]
^{F12}(bb)
- (c) a recommendation for deportation;
[a confiscation order under Part 2 of the Proceeds of Crime Act 2002;
^{F13}(ca)
- (cb) an order which varies a confiscation order made under Part 2 of the Proceeds of Crime Act 2002 if the varying order is made under section 21, 22 or 29 of that Act (but not otherwise);]
- (d) a confiscation order under the [^{F14}Drug Trafficking Act 1994] other than one made by the High Court;
- (e) a confiscation order under Part VI of the ^{M2}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 [^{F15}section 19 of the Act of 1994]; and

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- (h) a declaration of relevance under [^{F16}section 31 of the Public Order Act 1986 or under] the ^{M3}Football Spectators Act 1989][^{F17}; and
- (i) an order under section 129(2) of the Licensing Act 2003 (forfeiture or suspension of personal licence).]

[^{F18}(1A) [^{F19}Section 14 of the Powers of Criminal Courts (Sentencing) Act] (under which a conviction of an offence for which ^{F20}. . . 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.

[^{F21}(3) An order under section 17 of the Access to Justice Act 1999 is not a sentence for the purposes of this Act.]

Textual Amendments

- F11** S. 50(1) substituted (14.8.1995) by 1993 c. 36, s. 78(3), **Sch. 5 Pt. 1 para. 1**; S.I. 1995/1958, **art. 2**
- F12** 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)(l)(2)(c)**
- F13** S. 50(1)(ca)(cb) inserted (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), **Sch. 11 para. 4(3)**; S.I. 2003/333, **art. 2, Sch.**
- F14** Words in s. 50(1)(d) substituted (3.2.1995) by 1994 c. 37, ss. 65(1), 69(2), **Sch. 1 para. 2**
- F15** Words in s. 50(1)(g) substituted (3.2.1995) by 1994 c. 37, ss. 65(1), 69(2), **Sch. 1 para. 2(b)**
- F16** Words in s. 50(1)(h) inserted (27.9.1999) by Football (Offences and Disorder) Act 1999 (c. 21), **ss. 7(2)(b), 12(2)** (with s. 12(3))
- F17** S. 50(1)(i) and preceding word inserted (24.11.2005) by Licensing Act 2003 (c. 17), s. 201(2), **Sch. 6 para. 42** (with ss. 2(3), 15(2), 195); S.I. 2005/3056, **art. 2(2)**
- F18** S. 50(1A) inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 66(1)**
- F19** Words in s. 50(1A) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 30**
- F20** 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**
- F21** S. 50(3) inserted (2.4.2001) by 1999 c. 22, s. 24, **Sch. 4 para. 3** (with s. 107, **Sch. 14 para. 7(2)**); S.I. 2001/916, **art. 3(a)(ii)**

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;

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

F22

[^{F23}“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;]

[^{F24}“the judge of the court of trial” means, where the Crown Court comprises justices of the peace, the judge presiding;]

[^{F25}“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 ^{M4}Criminal Procedure (Insanity) Act 1964 (unfitness to plead); and

F26

[^{F27}(1A) In Part 2 of this Act “the defendant”—

- (a) in relation to an appeal under section 33(1) of this Act against a decision of the Court of Appeal on an appeal under Part 1 of this Act, means the person who was the appellant before the Court of Appeal,
- (b) in relation to an appeal under section 33(1) of this Act against any other decision, means a defendant in the proceedings before the Crown Court who was a party to the proceedings before the Court of Appeal, and
- (c) in relation to an appeal under section 33(1B) of this Act, shall be construed in accordance with section 33(4) of this Act;

and, subject to section 33(1A) of this Act, “prosecutor” shall be construed accordingly.]

(2) Any expression used in this Act which is defined in [^{F28}section 145(1) [^{F29}and (1AA)] of the Mental Health Act 1983] has the same meaning in this Act as in that Act.

[^{F30}(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 [^{F31}6 or 14] 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.]

^{F32}(3)

Textual Amendments

- F22** Words in s. 51(1) repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 36 para. 90\(2\), Sch. 37 Pt. 12](#); S.I. 2005/950, art. 2(1), Sch. 1 para. 43(c) (with Sch. 2) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2](#); [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10, Sch. 14 para. 17](#); [S.I. 2012/2906](#), art. 2(1))
- F23** Definition in s. 51(1) inserted (1.1.1992) 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](#)
- F24** Definition substituted by [Courts Act 1971 \(c. 23\), Sch. 8 para. 57\(3\)](#)
- F25** Definition in s. 51(1) inserted (1.1.1992) 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](#)
- F26** Definition of “recommendation for deportation” repealed by [Immigration Act 1971 \(c. 77\), Sch. 6](#)

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- F27** S. 51(1A) inserted (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 36 para. 90(3)**; S.I. 2005/950, art. 2(1), **Sch. 1 para. 43(c)** (with **Sch. 2**) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))
- F28** Words substituted by Mental Health Act 1983 (c. 20, SIF 85), **Sch. 4 para. 23(j)**
- F29** Words in s. 51(2) inserted (1.4.2000) S.I. 2000/90, art. 3(2), **Sch. 2 Pt. I para. 1** (with art. 2(5))
- F30** S. 51(2A) inserted (1.1.1992) 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**
- F31** Words in s. 51(2A) substituted (31.3.2005) by Domestic Violence, Crime and Victims Act 2004 (c. 28), s. 60, **Sch. 10 para. 6** (with Sch. 12 para. 8); S.I. 2005/579, art. 3(g)
- F32** 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) **F33**

Textual Amendments

F33 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.

55 Short title, commencement and extent.

(1) This Act may be cited as the Criminal Appeal Act 1968.

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- (2) This Act shall come into force on the day appointed under section 106(5) of the ^{M5}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 ^{M6}Geneva Conventions Act 1957 shall extend to Scotland and Northern Ireland and the repeal by this Act of section 2(2) of the ^{M7}Administration of Justice Act 1960 shall extend to Northern Ireland; but except as aforesaid this Act shall not extend to Scotland or Northern Ireland.

Modifications etc. (not altering text)

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

Marginal Citations

M5 1967 c. 80.

M6 1957 c. 52.

M7 1960 c. 65.

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Changes to legislation:

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