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# Criminal Appeal (Northern Ireland) Act 1980

## 1980 CHAPTER 47

### PART II

#### APPEAL TO HOUSE OF LORDS [<sup>F1</sup>FROM COURT OF APPEAL]

##### *Matters depending on result of appeal*

#### **39 Computation of sentence.**

- (1) If a person subject to a sentence is admitted to bail pending an appeal under this Part of this Act, the time during which he is at large after being so admitted shall be disregarded in computing the term of his sentence.
- (2) Subject to the foregoing subsection, any sentence passed on such an appeal in substitution for another sentence shall, unless the [<sup>F1</sup>Supreme Court] or the Court of Appeal otherwise directs, begin to run from the time when the other sentence would have begun to run.

#### **Textual Amendments**

- F1** Words in s. 39(2) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40, 148, Sch. 9 para. 33\(9\)](#); [S.I. 2009/1604, art. 2\(d\)](#)

#### **40 Restitution of property.**

- (1) Where the operation of an order for the restitution of property made on conviction on indictment is suspended until the determination of an appeal to the Court of Appeal, then, if the conviction is not quashed on that appeal, the operation of the order shall continue to be suspended—

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- (a) in any case until the expiration of the time within which an application for leave to appeal under this Part of this Act may be made (disregarding any extension of time which may be granted under section 32(2) of this Act); and
  - (b) if any such application is made within that time, so long as the appeal under this Part of this Act is pending.
- (2) Where the operation of any such order is suspended under this section—
- (a) the order shall not take effect if the conviction is quashed on appeal to <sup>F2</sup>the Supreme Court]; and
  - (b) such steps shall be taken for the safe custody of the property in question during the period during which the operation of the order is suspended as may be prescribed.
- (3) Where by reason of the quashing by the Court of a person's conviction such an order does not take effect and on an appeal under this Part of this Act the conviction is restored by <sup>F2</sup>the Supreme Court], <sup>F2</sup>the Supreme Court] may make any order for the restitution of property which could be made on his conviction by the court which convicted him.
- (4) References in this section to an order for the restitution of property include references to—
- (a) an order made under section 27 of the <sup>M1</sup>Theft Act (Northern Ireland) 1969; and
  - (b) a compensation order made under <sup>F3</sup>Article 14 of the Criminal Justice (Northern Ireland) Order 1994].

#### Textual Amendments

- F2** Words in s. 40 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40, 148, Sch. 9 para. 33\(10\)](#); [S.I. 2009/1604, art. 2\(d\)](#)
- F3** Words in s. 40(4)(b) substituted (9.1.1995) by [S.I. 1994/2795 \(N.I. 15\) art. 26\(1\), Sch. 2 para. 8](#); [S.R. 1994/446, art.2](#)

#### Marginal Citations

- M1** [1969 c. 16 \(N.I.\)](#)

## 41 Costs.

- (1) Where the Court of Appeal or <sup>F4</sup>the Supreme Court] dismisses an application for leave to appeal under this Part of this Act, the Court or <sup>F4</sup>the Supreme Court] may, if it thinks fit,—
- (a) where the application was made by the prosecutor, order the payment by the Secretary of State to the defendant of such sums as appear to the Court or <sup>F4</sup>the Supreme Court] reasonably sufficient to compensate the defendant for any expenses properly incurred by him in resisting the application; or
  - (b) where the application was made by the defendant, order him to pay the whole or any part of the costs of the application.
- (2) Where an appeal to <sup>F4</sup>the Supreme Court] from the Court under this Part of this Act is determined in favour of the defendant, <sup>F4</sup>the Supreme Court] may, if it thinks fit, order the payment by the Secretary of State of such sums as appear to <sup>F4</sup>the Supreme

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Court] reasonably sufficient to compensate the defendant for any expenses properly incurred by him—

- (a) in the appeal to [<sup>F4</sup>the Supreme Court] or in the proceedings before the Court, as the case may be (including the cost of any application for leave to appeal); or
  - (b) in carrying on his defence before the Crown Court, at the preliminary investigation or preliminary enquiry and before any other court before which proceedings for the offence in respect of which he was committed for trial were begun but not concluded.
- (3) Where in any proceedings on an appeal or application for leave to appeal to [<sup>F4</sup>the Supreme Court] under this Part of this Act, an interpreter is required because of a defendant's lack of English, the expenses properly incurred on his employment shall be defrayed by the Secretary of State up to an amount allowed by [<sup>F4</sup>the Supreme Court] .
- (4) Except as provided by this section, no costs shall be allowed on the hearing or determination of an appeal under this Part of this Act or of any proceedings preliminary or incidental to such an appeal.

#### Textual Amendments

- F4** Words in s. 41 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40, 148, Sch. 9 para. 33\(11\); S.I. 2009/1604, art. 2\(d\)](#)

## 42 Taxation of costs.

- (1) Any amount which the Court of Appeal orders to be paid under section 41(1) of this Act shall, except where it is a specific amount ordered to be paid towards the costs of the application as a whole, be ascertained as soon as practicable by the Court.
- (2) Any amount which [<sup>F5</sup>the Supreme Court] orders to be paid under section 41(1) or (2) of this Act shall, except as aforesaid, be ascertained as soon as practicable [<sup>F6</sup>under Supreme Court Rules] .
- (3) Where the Court or [<sup>F7</sup>the Supreme Court] orders the payment of costs by the defendant under section 41 of this Act, the order shall be enforceable in the same manner as an order for payment of costs made by the High Court in a civil case.

#### Textual Amendments

- F5** Words in s. 42(2) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40, 148, Sch. 9 para. 33\(12\)\(a\)\(i\); S.I. 2009/1604, art. 2\(d\)](#)
- F6** Words in s. 42(2) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40, 148, Sch. 9 para. 33\(12\)\(a\)\(ii\); S.I. 2009/1604, art. 2\(d\)](#)
- F7** Words in s. 42(3) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40, 148, Sch. 9 para. 33\(12\)\(b\); S.I. 2009/1604, art. 2\(d\)](#)

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