



Criminal Appeal (Northern Ireland) Act 1980

1980 CHAPTER 47

PART III

MISCELLANEOUS AND SUPPLEMENTARY

Exercise of jurisdiction under this Act by Court of Appeal

43 Jurisdiction of Court of Appeal under this Act.

- (1) The Court of Appeal shall have full power to determine, in accordance with this Act, any question necessary to be determined for the purpose of doing justice in the case before the Court.
- (2) Except as provided by Part II of this Act, the determination by the Court of any appeal or other matter under Part I of this Act shall be final and no appeal shall lie from any such determination to any other court.

44 Composition of Court of Appeal sitting under this Act.

- (1) Subject to the provisions of this and the next following section, every appeal or reference to the Court of Appeal under this Act [^{F1}or section 36 of the Criminal Justice Act 1988] and every matter preliminary or incidental to such appeal or reference shall be heard before three judges of the Court and shall, where necessary, be determined according to the opinion of the majority.
- (2) Where the Lord Chief Justice so directs, any such appeal, reference or matter may be heard before two judges.
- (3) Where in accordance with subsection (2) above an appeal, reference or matter is heard before two judges and those judges differ in opinion it shall be re-heard and determined by three judges.

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- (4) No judge of the Court shall sit as a judge on the hearing of, or shall determine any application in proceedings incidental or preliminary to—
- (a) an appeal against a conviction before him or a sentence passed by him; or
 - (b) a reference to the Court under section ^{F2}. . . 15 of this Act [^{F3}or section 36 of the Criminal Justice Act 1988] of any case or any point arising in any case tried before him.

Textual Amendments

- F1** Words inserted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\), s. 170, Sch. 15 para. 76\(1\)](#)
F2 Words in s. 44(4) repealed (31.3.1997) by [1995 c. 35, s. 29\(2\), Sch. 3; S.I. 1997/402, art. 3\(f\)](#)
F3 Words inserted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\), s. 170, Sch. 15 para. 76\(2\)](#)

45 Powers of Court which are exercisable by single judge.

- (1) Subject to section 44(4) above, the powers of the Court of Appeal under Part I of this Act which are specified in subsection (2) below and the powers of the Court under Part II of this Act which are specified in subsection (3) below may be exercised by a single judge of the Court.
- (2) The said powers under Part I of this Act are the following, namely—
- (a) to give leave to appeal;
 - (b) to make orders under section 7(2) of this Act and discharge or vary such orders;
 - (c) to extend the time for giving notice of appeal or of application for leave to appeal;
 - [^{F4}(d) to exercise the powers conferred by section 17 of the Act;]
 - ^{F5}(e)
 - (f) to give leave for an appellant to be present at any proceedings;
 - [^{F6}(fa) to give a live link direction under section 24(2A); [^{F7}or under section 18 of the Justice Act (Northern Ireland) 2011]]
 - (g) to order a witness to attend for examination;
 - (h) to give directions under section 29(2) of this Act;
 - (i) to hear and determine such other matters preliminary or incidental to an appeal as may be prescribed.
- (3) The said powers under Part II of this Act are the following, namely—
- (a) to extend the time for applying for leave to appeal;
 - (b) to make an order for or in relation to bail;
 - ^{F8}(c)
 - (d) to give leave for a defendant to be present at the hearing of any proceedings preliminary or incidental to an appeal;
 - (e) to make an order under section 41(1) of this Act.
- [^{F9}(3ZA) The power of the Court of Appeal to renew an interim hospital order made by it by virtue of any provision of this Act may be exercised by a single judge in the same manner as it may be exercised by the Court.]

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- [^{F10}(3A) The power of the Court of Appeal to grant leave to appeal under section 159 of the Criminal Justice Act 1988 may be exercised by a single judge in the same manner as it may be exercised by the Court.]
- [^{F11}(3B) Subject to section 44(4) above, the power of the Court of Appeal to approve a person under section 47A of this Act may be exercised by a single judge of the Court.]
- [^{F12}(3C) Subject to section 44(4) above, the power of the Court of Appeal to give leave under section 14(4B) of the Criminal Appeal Act 1995 may be exercised by a single judge of the Court.]
- [^{F13}(3D) The power of the Court of Appeal to grant leave to appeal under Article 8(11) of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988 may be exercised by a single judge in the same manner as it may be exercised by the Court.]
- [^{F14}(3E) Subject to section 44(4) above, the powers of the Court of Appeal to make, discharge or vary a witness anonymity order under Chapter 2 of Part 3 of the Coroners and Justice Act 2009 may be exercised by a single judge of the Court.]
- (4) An appellant who is aggrieved by the decision of a single judge on any matter under this section shall be entitled to have the matter re-heard and determined by the Court as constituted under section 44 of this Act.

Textual Amendments

- F4** S. 45(2)(d) substituted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 170, **Sch. 15 para. 77**
- F5** S. 45(2)(e) repealed (N.I.) (24.3.2016) by [Access to Justice \(Northern Ireland\) Order 2003 \(S.I. 2003/435 \(N.I. 10\)\)](#), art. 1(2), **Sch. 5** (with art. 45); S.R. 2016/199, art. 2(1), Sch. (with art. 2(2))
- F6** S. 45(2)(fa) inserted (N.I.) (2.2.2009) by [The Criminal Justice \(Northern Ireland\) Order 2008 \(S.I. 2008/1216 \(N.I. 1\)\)](#), arts. 1, **83(3)**; S.R. 2008/472, **art. 2(4)**, Sch. Pt. 4
- F7** Words in s. 45(2)(fa) inserted (N.I.) (5.7.2011) by [Justice Act \(Northern Ireland\) 2011 \(c. 24\)](#), **ss. 18(7)**, 111(3); S.R. 2011/224, art. 2
- F8** S. 45(3)(c) repealed (N.I.) (24.3.2016) by [Access to Justice \(Northern Ireland\) Order 2003 \(S.I. 2003/435 \(N.I. 10\)\)](#), art. 1(2), **Sch. 5** (with art. 45); S.R. 2016/199, art. 2(1), Sch. (with art. 2(2))
- F9** S. 45(3ZA) inserted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 47, 153(7)(8), **Sch. 8 para. 21**; S.I. 2008/1586, **art. 2(1)(3)**, Sch. 1 para. 26 (subject to Sch. 2)
- F10** S. 45(3A) inserted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 170, **Sch. 15 para. 78**
- F11** S. 45(3B) inserted (1.1.1996) by 1995 c. 35, s. 29(1), **Sch. 2 para. 12(6)**; S.I. 1995/3061, **art. 3(h)**
- F12** S. 45(3C) inserted (4.4.2007) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 331, 336, **Sch. 36 Pt. 6 para. 95**; S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 43(c) (subject to art. 2(2), Sch. 2) (as amended by S.I. 2005/2122 and S.I. 2007/391)
- F13** S. 45(3D) inserted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 47, 153(7)(8), **Sch. 8 para. 25(2)**; S.I. 2008/1586, **art. 2(1)(3)**, Sch. 1 para. 26 (subject to Sch. 2)
- F14** S. 45(3E) inserted (1.1.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), ss. 177(1), 182(3)(b), **Sch. 21 para. 71**

46 Judgment.

Unless the Court of Appeal directs to the contrary in a case where it considers the question to be one of law on which it would be convenient that separate judgments should be pronounced by the members of the Court, on an appeal under this Act—

- (a) the judgment of the Court shall be pronounced by the president of the Court or such other member of the Court hearing the case as the president directs; and

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- (b) no judgment with respect to the determination of any question shall be separately pronounced by any other member of the Court.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 7(3A) words substituted by [2016 c. 18 \(N.I.\) Sch. 10 para. 3\(3\)\(a\)](#)
- s. 7(3A) words substituted by [2016 c. 18 \(N.I.\) Sch. 10 para. 3\(3\)\(b\)](#)
- s. 7(3A) words substituted by [2016 c. 18 \(N.I.\) Sch. 10 para. 3\(3\)\(c\)](#)
- s. 36(3)(b) words substituted by [2016 c. 18 \(N.I.\) Sch. 10 para. 11\(3\)\(b\)\(i\)](#)
- s. 36(3)(b) words substituted by [2016 c. 18 \(N.I.\) Sch. 10 para. 11\(3\)\(b\)\(ii\)](#)
- s. 36(3)(c) words substituted by [2016 c. 18 \(N.I.\) Sch. 10 para. 11\(3\)\(c\)\(i\)](#)
- s. 36(3)(c) words substituted by [2016 c. 18 \(N.I.\) Sch. 10 para. 11\(3\)\(c\)\(ii\)](#)