



Crime and Punishment (Scotland) Act 1997

1997 CHAPTER 48

PART II

CRIMINAL PROCEDURE

Appeals

19 Appeal against automatic sentence where earlier conviction quashed.

- (1) After section 106 of the 1995 Act (appeals), there shall be inserted the following section—

“106A Appeal against automatic sentences where earlier conviction quashed.

- (1) This subsection applies where—
- (a) a person has been sentenced under section 205A(2) of this Act;
 - (b) he had, at the time at which the offence for which he was so sentenced was committed, only one previous conviction for a qualifying offence or a relevant offence within the meaning of that section; and
 - (c) after he has been so sentenced, the conviction mentioned in paragraph (b) above has been quashed.
- (2) This subsection applies where—
- (a) a person has been sentenced under section 205B(2) of this Act;
 - (b) he had, at the time at which the offence for which he was so sentenced was committed, only two previous convictions for class A drug trafficking offences within the meaning of that section; and
 - (c) after he has been so sentenced, one of the convictions mentioned in paragraph (b) above has been quashed.

Changes to legislation: There are currently no known outstanding effects for the Crime and Punishment (Scotland) Act 1997, Section 19. (See end of Document for details)

- (3) Where subsection (1) or (2) above applies, the person may appeal under section 106(1)(b) of this Act against the sentence imposed on him under section 205A(2) or, as the case may be, 205B(2) of this Act.
- (4) An appeal under section 106(1)(b) of this Act by virtue of subsection (3) above—
- (a) may be made notwithstanding that the person has previously appealed under that section; and
 - (b) shall be lodged within two weeks of the quashing of the conviction as mentioned in subsection (1)(c) or, as the case may be, (2)(c) above.
- (5) Where an appeal is made under section 106(1)(b) by virtue of this section, the following provisions of this Act shall not apply in relation to such an appeal, namely—
- (a) section 121; and
 - (b) section 126.”.
- (2) In section 110(1) of the 1995 Act (notes of appeal), in paragraph (a), for the words from “passing” to “sentence)” there shall be substituted the words “ appropriate date (being, as the case may be, the date on which sentence was passed, the order disposing of the case was made, sentence was deferred or the previous conviction was quashed as mentioned in section 106A(1)(c) or (2)(c) of this Act) ”.

Commencement Information

- II** [S. 19](#) partly in force; [s. 19](#) not in force at Royal Assent see [s. 65\(2\)](#); [s. 19](#) in force for certain purposes at 20.10.1997 by [S.I. 1997/2323](#), [art. 3](#), [Sch. 1](#)

Changes to legislation:

There are currently no known outstanding effects for the Crime and Punishment (Scotland) Act 1997, Section 19.