

CRIMINAL JUSTICE ACT 2003

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 10: Retrial for Serious Offences

Section 76: Application to Court of Appeal

314. *Section 76* allows a prosecutor to apply to the Court of Appeal for an order which quashes the person's acquittal and orders him to be retried for the qualifying offence. A "prosecutor" means a person or body responsible for bringing public prosecutions, such as the Crown Prosecution Service or HM Customs and Excise. Where a person has been acquitted outside the United Kingdom the Court will need to consider whether or not the acquittal would act as a bar to a further trial here and, if it does, the Court can order that it must not be a bar.
315. Applications to the Court of Appeal require the personal written consent of the Director of Public Prosecutions (DPP). This provides a safeguard to ensure that only those cases in which there is sufficient evidence are referred to the Court of Appeal. The DPP will also consider whether it is in the public interest to proceed. This section also recognises any international obligations arising under the Treaty of the European Union, under which negotiations are taking place to support the mutual recognition of the decisions of the courts in other EU member states.
316. Applications may also be brought by public prosecuting authorities if new evidence arises in cases which have previously been tried by means of a private prosecution.
317. Only one application for an acquittal to be quashed may be made in relation to any acquittal.