



Administration of Justice Act 1960

1960 CHAPTER 65

Appeal to House of Lords in Criminal Cases

1 Right of appeal

- (1) Subject to the provisions of this section, an appeal shall lie to the House of Lords, at the instance of the defendant or the prosecutor.—
 - (a) from any decision of a Divisional Court of the Queen's Bench Division in a criminal cause or matter;
 - (b) from any decision of the Court of Criminal Appeal on an appeal to that court.
- (2) No appeal shall lie under this section except with the leave of the court below or of the House of Lords; and such leave shall not be granted unless it is certified by the court below that a point of law of general public importance is involved in the decision and it appears to that court or to the House of Lords, as the case may be, that the point is one which ought to be considered by that House.
- (3) Section five of the Appellate Jurisdiction Act, 1876 (which regulates the composition of the House of Lords for the hearing and determination of appeals) shall apply to the hearing and determination of an appeal or application for leave to appeal under this section as it applies to the hearing and determination of an appeal under that Act; and any order of that House which provides for the hearing of such applications by a committee constituted in accordance with the said section five may direct that the decision of that committee shall be taken on behalf of the House.
- (4) For the purpose of disposing of an appeal under this section the House of Lords may exercise any powers of the court below or may remit the case to that court.
- (5) In this Act, unless the context otherwise requires, "leave to appeal" means leave to appeal to the House of Lords under this section.

2 Application for leave to appeal

- (1) Subject to the provisions of this section, an application to the court below for leave to appeal shall be made within the period of fourteen days beginning with the date

of the decision of that court; and an application to the House of Lords for such leave shall be made within the period of fourteen days beginning with the date on which the application is refused by the court below.

- (2) In the case of an appeal by a protected prisoner of war or protected internee within the meaning of the Geneva Conventions Act, 1957, the periods specified in subsection (1) of this section shall be extended until fourteen days after the date on which the applicant receives notice, given as mentioned in paragraph (a) or paragraph (b) of subsection (1) of section four of that Act, that the protecting power has been notified of the decision of the court below, or of the refusal by that court of the application, as the case may be.
- (3) Except in a case involving sentence of death, the House of Lords or the court below may, upon application made at any time by the defendant, extend the time within which an application may be made by him to that House or that court under subsection (1) of this section.

3 Special provisions as to capital cases

- (1) Any application for leave to appeal in a case involving sentence of death, and any appeal for which leave is granted on such an application, shall be heard and determined with as much expedition as practicable.
- (2) Where an appeal to the Court of Criminal Appeal is dismissed in a case involving sentence of death, the sentence shall not in any case be executed until after the expiration of the time within which an application for leave to appeal may be made; and if such an application is duly made, the sentence shall not be executed while that application, and any appeal for which leave is granted thereon, is pending.

4 Admission of appellant to bail

- (1) The power of the Court of Criminal Appeal under section fourteen of the Criminal Appeal Act, 1907, to grant bail pending an appeal to that court shall include power to grant bail to an appellant pending an appeal from that court under section one of this Act.
- (2) The power of the High Court under any enactment or rule of law to grant bail in connection with proceedings pending before a Divisional Court shall include power to grant bail to an appellant pending an appeal under section one of this Act in such proceedings; and in relation to any recognizance to be entered into under section thirty-seven of the Criminal Justice Act, 1948, as applied by this subsection, any reference in that section to the judgment of the High Court shall be construed as a reference to the judgment of the House of Lords or, if the case is remitted by that House to the court below, to the judgment of that court on the case as so remitted.
- (3) Where application is made to a Divisional Court for leave to appeal, that court may give such directions as it thinks fit for discharging or enlarging any recognizances entered into by the applicant or any surety, under any enactment or otherwise, with reference to the proceedings of that court.

5 Power to order detention or admission to bail of defendant

- (1) Where the defendant in any proceedings from which an appeal lies under section one of this Act would, but for the decision of the court below, be liable to be detained,

and immediately after that decision the prosecutor is granted, or gives notice that he intends to apply for, leave to appeal, the court may make an order providing for -the detention of the defendant, or directing that he shall not be released except on bail, so long as any appeal under section one of this Act is pending.

- (2) Bail may be granted under this section by the court below subject to the like conditions and other incidents and subject to the like power of variation and revocation (if any) by that court as in the case of bail granted to a person appealing under section one of this Act from a decision of that court.
- (3) An order under subsection (1) of this section shall (unless the appeal has previously been disposed of) cease to have effect at the expiration of the period for which the defendant would have been liable to be detained but for the decision of the court below.
- (4) Any order made under the said subsection (1) for the detention of a defendant who, but for the decision of the court below, would be liable to be detained in pursuance of an order or direction under Part V of the Mental Health Act, 1959, shall be an order authorising his continued detention in pursuance of the order or direction under the said Part V, and the provisions of the said Act with respect to persons so liable (including provisions as to the renewal of authority for detention and the removal or discharge of patients) shall apply accordingly.
- (5) Where the court below has power to make an order under subsection (1) of this section, and either no such order is made or the defendant is released or discharged by virtue of subsection (3) or subsection (4) of this section before the appeal is disposed of, the defendant shall not be liable to be again detained as the result of the decision of the House of Lords on the appeal.

6 Computation of sentence where bail granted

- (1) Where a person subject to a sentence is admitted to bail pending an appeal under section one 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) In relation to a person sentenced to borstal training, the reference in subsection (1) of this section to the term of his sentence shall be construed as a reference to the period during which, under section forty-five of the Prison Act, 1952, he may be detained in a borstal institution; and nothing in that subsection shall be construed as affecting the period during which a person so sentenced is liable to supervision under the said section forty-five.
- (3) Subject to the foregoing provisions of this section, any sentence passed on an appeal under section one of this Act in substitution for another sentence shall, unless the House of Lords or the court below otherwise directs, begin to run from the time when that other sentence would have begun to run.

7 Restitution and reversion 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 Criminal Appeal, then, if the conviction is not quashed on that appeal, the operation of the order shall continue to be suspended—

- (a) in any case, until the expiration of the time within which an application for leave to appeal may be made (disregarding any extension of time which may be granted under section two of this Act); and
 - (b) if any such application is made within that time, so long as the appeal under section one of this Act is pending.
- (2) Where the operation of any such order as aforesaid is suspended under this section—
- (a) the order shall not take effect if the conviction is quashed on appeal to the House of Lords ;
 - (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 by rules under section eighteen of the Criminal Appeal Act, 1907.
- (3) Where by reason of the quashing by the Court of Criminal Appeal of a person's conviction any such order does not take effect and on an appeal under this Act the conviction is restored by the House of Lords, that House may make any order for the restitution of property which could be made on his conviction by the court which convicted him.
- (4) This section applies in relation to subsection (1) of section twenty-four of the Sale of Goods Act, 1893 (which provides that the property in stolen goods is to revert in the owner on the conviction of the thief) as it applies in relation to an order for the restitution of property; and without prejudice to the powers of the House of Lords under subsection (3) of this section, the said section twenty-four shall apply in any case where a conviction on indictment is restored by that House as it applies on the conviction of an offender.

8 Legal aid and costs on appeal from Court of Criminal Appeal

- (1) Section ten of the Criminal Appeal Act, 1907 (which enables the Court of Criminal Appeal to grant legal aid to an appellant under that Act), and subsection (3) of section three of the Costs in Criminal Cases Act, 1952, so far as it relates to the payment out of local funds of the fees of counsel and the expenses and fees of any solicitor assigned to an appellant under the said section ten, shall have effect as if references to an appeal and an appellant included references to an appeal under section one of this Act and to the defendant (whether appellant or respondent in the appeal).
- (2) In relation to any expenses or fees payable out of local funds by virtue of the foregoing subsection, subsection (3) of section three of the Costs in Criminal Cases Act, 1952, shall have effect as if for the words " up to an amount allowed by the Court " there were substituted the words " up to an amount allowed by the House of Lords or by such officer or officers of that House as may be prescribed by order of that House ".
- (3) Where the Court of Criminal Appeal or the House of Lords dismisses an application for leave to appeal from that court, that court or that House may, if it thinks fit.—
- (a) where the application was made by the prosecutor, order the payment out of local funds of such sums as appear to it reasonably sufficient to compensate the defendant for any expenses properly incurred by him in resisting the application;
 - (b) where the application was made by the defendant, order him to pay the whole or any part of the costs of the application.
- (4) Except as provided by this section and section four of the Costs in Criminal Cases Act, 1952 (which empowers the House of Lords to award costs to a defendant who

is successful on an appeal to that House), no costs shall be allowed on the hearing or determination of an appeal under section one of this Act from the Court of Criminal Appeal or of any proceedings preliminary or incidental to such an appeal.

- (5) Subsection (3) of this section shall be construed as one with the Costs in Criminal Cases Act, 1952.

9 Procedure

- (1) Section eighteen of the Criminal Appeal Act, 1907 (which provides for the making of rules of court for the purposes of that Act) shall have effect as if references to that Act included references to the foregoing provisions of this Act so far as they relate to the Court of Criminal Appeal.
- (2) Subsection (4) of section thirty-seven of the Criminal Justice Act, 1948 (which enables rules of court to be made with respect to the security given for the purposes of that section and the recommitment of persons admitted to bail thereunder) shall have effect as if references to that section included references to sections four and five of this Act so far as they relate to a Divisional Court.
- (3) A defendant who is detained pending an appeal under section one of this Act shall not be entitled to be present on the hearing of the appeal or of any proceedings preliminary or incidental thereto except where an order of the House of Lords or rules of court, as the case may be, authorise him to be present or where that House or the court below, as the case may be, gives him leave to be present.
- (4) The following powers of the Court of Criminal Appeal under this Act may be exercised by any judge of that court, that is to say the power—
- (a) to extend under section two of this Act the time for making an application for leave to appeal;
 - (b) to make an order for or in relation to bail under this Act;
 - (c) to grant free legal aid under section eight of this Act; or
 - (d) to give leave under subsection (3) of this section to be present at the hearing of any proceedings preliminary or incidental to an appeal;
- but where the judge refuses an application to exercise any such power, the applicant shall be entitled to have the application determined by the court.

10 Appeals from Courts-Martial Appeal Court

The foregoing provisions of this Act shall apply in relation to the Courts-Martial Appeal Court as they apply in relation to the Court of Criminal Appeal subject to the modifications set out in the First Schedule to this Act, and shall so apply whether the court is sitting within or outside the United Kingdom.