

Administration of Justice Act, 1960

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Appeal to House of Lords in criminal cases

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CHAPTER 65

An Act to make further provision for appeals to the House of Lords in criminal cases; to amend the law relating to contempt of court, habeas corpus and certiorari; and for purposes connected with the matters aforesaid.

[27th October, 1960]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Appeal to House of Lords in Criminal Cases.

1.—(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.

Application
for leave to
appeal.

2.—(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.

Special
provisions as
to capital
cases.

3.—(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.

Admission of
appellant to
bail.

4.—(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.—(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.

Power to order detention or admission to bail of defendant.

(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.

Computation
of sentence
where bail
granted.

6.—(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.

Restitution
and re-vesting
of property.

7.—(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.—(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). Legal aid and costs on appeal from Court of Criminal 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.

Procedure.

9.—(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 recommittal 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.

Appeals from
Courts-Martial
Appeal Court.

10. 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.

*Contempt of court, habeas corpus and certiorari*Innocent
publication
and
distribution.

11.—(1) A person shall not be guilty of contempt of court on the ground that he has published any matter calculated to interfere with the course of justice in connection with any proceedings pending or imminent at the time of publication if at that time (having taken all reasonable care) he did not know and

had no reason to suspect that the proceedings were pending, or that such proceedings were imminent, as the case may be.

(2) A person shall not be guilty of contempt of court on the ground that he has distributed a publication containing such matter as is mentioned in subsection (1) of this section if at the time of distribution (having taken all reasonable care) he did not know that it contained any such matter as aforesaid and had no reason to suspect that it was likely to do so.

(3) The proof of any fact tending to establish a defence afforded by this section to any person in proceedings for contempt of court shall lie upon that person.

12.—(1) The publication of information relating to proceedings before any court sitting in private shall not of itself be contempt of court except in the following cases, that is to say—

Publication of information relating to proceedings in private.

- (a) where the proceedings relate to the wardship or adoption of an infant or wholly or mainly to the guardianship, custody, maintenance or upbringing of an infant, or rights of access to an infant ;
- (b) where the proceedings are brought under Part VIII of the Mental Health Act, 1959, or under any provision of that Act authorising an application or reference to be made to a Mental Health Review Tribunal or to a county court ;
- (c) where the court sits in private for reasons of national security during that part of the proceedings about which the information in question is published ;
- (d) where the information relates to a secret process, discovery or invention which is in issue in the proceedings ;
- (e) where the court (having power to do so) expressly prohibits the publication of all information relating to the proceedings or of information of the description which is published.

(2) Without prejudice to the foregoing subsection, the publication of the text or a summary of the whole or part of an order made by a court sitting in private shall not of itself be contempt of court except where the court (having power to do so) expressly prohibits the publication.

(3) In this section references to a court include references to a judge and to a tribunal and to any person exercising the functions of a court, a judge or a tribunal ; and references to a court sitting in private include references to a court sitting in camera or in chambers.

(4) Nothing in this section shall be construed as implying that any publication is punishable as contempt of court which would not be so punishable apart from this section.

Appeal in cases of contempt of court.

13.—(1) Subject to the provisions of this section, an appeal shall lie under this section from any order or decision of a court in the exercise of jurisdiction to punish for contempt of court (including criminal contempt); and in relation to any such order or decision the provisions of this section shall have effect in substitution for any other enactment relating to appeals in civil or criminal proceedings.

(2) An appeal under this section shall lie in any case at the instance of the defendant and, in the case of an application for committal or attachment, at the instance of the applicant; and the appeal shall lie—

- (a) from an order or decision of any inferior court not referred to in the next following paragraph, to a Divisional Court of the High Court;
- (b) from an order or decision of a county court or any other inferior court from which appeals generally lie to the Court of Appeal, and from an order or decision of the Chancery Court of a County Palatine, of a single judge of the High Court, or of any court having the powers of the High Court or of a judge of that court, to the Court of Appeal;
- (c) from an order or decision of a Divisional Court or the Court of Appeal (including a decision of either of those courts on an appeal under this section), and from an order or decision of the Court of Criminal Appeal or the Courts-Martial Appeal Court, to the House of Lords.

(3) The court to which an appeal is brought under this section may reverse or vary the order or decision of the court below, and make such other order as may be just; and without prejudice to the inherent powers of any court referred to in subsection (2) of this section, provision may be made by rules of court for authorising the release on bail of an appellant under this section.

(4) Subsections (2) to (4) of section one and section two of this Act shall apply to an appeal to the House of Lords under this section as they apply to an appeal to that House under the said section one, except that so much of the said subsection (2) as restricts the grant of leave to appeal shall apply only where the decision of the court below is a decision on appeal to that court under this section.

(5) In this section “court” includes any tribunal or person having power to punish for contempt; and references in this section to an order or decision of a court in the exercise of jurisdiction to punish for contempt of court include references—

- (a) to an order or decision of the High Court or a county court under any enactment enabling that court to deal with an offence as if it were contempt of court;

- (b) to an order or decision of a county court, or of any court having the powers of a county court, under section thirty, section one hundred and twenty-seven or section one hundred and fifty-seven of the County Courts Act, 1959 ;
- (c) to an order or decision of a magistrates' court under subsection (3) of section fifty-four of the Magistrates' Courts Act, 1952.

but do not include references to orders under section five of the Debtors Act, 1869, or under any provision of the Magistrates' Courts Act, 1952, or the County Courts Act, 1959, except those referred to in paragraphs (b) and (c) of this subsection and except sections seventy-four and one hundred and ninety-five of the last mentioned Act so far as those sections confer jurisdiction in respect of contempt of court.

(6) This section does not apply to a conviction or sentence in respect of which an appeal lies under the Criminal Appeal Act, 1907, or to a decision of the Court of Criminal Appeal under that Act ; and for the purposes of that Act and of this subsection an order for the punishment of any person for contempt of court in proceedings in which he has a right of appeal against his sentence shall be treated as part of that sentence.

14.—(1) On a criminal application for habeas corpus an order for the release of the person restrained shall be refused only by a Divisional Court of the Queen's Bench Division, whether the application is made in the first instance to such a court or to a single judge in accordance with rules of court. Procedure on application for habeas corpus.

(2) Notwithstanding anything in any enactment or rule of law, where a criminal or civil application for habeas corpus has been made by or in respect of any person, no such application shall again be made by or in respect of that person on the same grounds, whether to the same court or judge or to any other court or judge, unless fresh evidence is adduced in support of the application ; and no such application shall in any case be made to the Lord Chancellor.

(3) In every case where the person by or in respect of whom an application for habeas corpus is made is restrained as a person liable, or treated by virtue of any enactment as liable, to be detained in pursuance of an order or direction under Part V of the Mental Health Act, 1959 (otherwise than by virtue of paragraph (e) or paragraph (f) of subsection (2) of section seventy-three of that Act), the application shall be deemed for the purposes of this section and of any appeal in the proceedings to constitute a criminal cause or matter.

Appeal in
habeas corpus
proceedings.

15.—(1) Subject to the provisions of this section, an appeal shall lie, in any proceedings upon application for habeas corpus, whether civil or criminal, against an order for the release of the person restrained as well as against the refusal of such an order.

(2) No appeal shall lie by virtue of this section from an order made by a single judge on a criminal application for habeas corpus.

(3) In relation to a decision of a Divisional Court on a criminal application for habeas corpus, section one of this Act shall have effect as if so much of subsection (2) as restricts the grant of leave to appeal were omitted.

(4) Except as provided by section five of this Act in the case of an appeal against an order of a Divisional Court on a criminal application, an appeal brought by virtue of this section shall not affect the right of the person restrained to be discharged in pursuance of the order under appeal and (unless an order under subsection (1) of that section is in force at the determination of the appeal) to remain at large regardless of the decision on appeal.

Power of High
Court to vary
sentence on
certiorari.

16.—(1) Where a person who has been sentenced for an offence by a magistrates' court or, on appeal against conviction or sentence, by quarter sessions applies to the High Court for an order of certiorari to remove the proceedings of the magistrates' court or the court of quarter sessions into the High Court, and the High Court determines that the magistrates' court or court of quarter sessions had no power to pass the sentence, the High Court may, instead of quashing the conviction, amend it by substituting for the sentence passed any sentence which the magistrates' court had power to impose.

(2) Any sentence passed by the High Court by virtue of this section in substitution for the sentence passed in the proceedings of the magistrates' court or quarter sessions shall, unless the High Court otherwise directs, begin to run from the time when it would have begun to run if passed in those proceedings; but in computing the term of the sentence any time during which the offender was at large after being admitted to bail in pursuance of paragraph (d) of subsection (1) of section thirty-seven of the Criminal Justice Act, 1948, shall be disregarded.

(3) The foregoing provisions of this section shall apply, with the necessary modifications, in relation to any order of a magistrates' court or court of quarter sessions which is made on, but does not form part of, the conviction of an offender as they apply in relation to a conviction and sentence.

Supplementary

17.—(1) In this Act any reference to the defendant shall be construed— Interpretation.

(a) in relation to proceedings for an offence, and in relation to an application for an order of mandamus, prohibition or certiorari in connection with such proceedings, as a reference to the person who was or would have been the defendant in those proceedings ;

(b) in relation to any proceedings or order for or in respect of contempt of court, as a reference to the person against whom the proceedings were brought or the order was made ;

(c) in relation to a criminal application for habeas corpus, as a reference to the person by or in respect of whom that application was made,

and any reference to the prosecutor shall be construed accordingly.

(2) In this Act “ application for habeas corpus ” means an application for a writ of habeas corpus ad subjiciendum and references to a criminal application or civil application shall be construed according as the application does or does not constitute a criminal cause or matter.

(3) In this Act any reference to the court below shall, in relation to any function of a Divisional Court, be construed as a reference to the Divisional Court or to a judge according as the function is by virtue of rules of court exercisable by the Divisional Court or a judge.

(4) An appeal under section one of this Act shall be treated for the purposes of this Act as pending until any application for leave to appeal is disposed of and, if leave to appeal is granted, until the appeal is disposed of ; and for the purposes of this Act an application for leave to appeal shall be treated as disposed of at the expiration of the time within which it may be made, if it is not made within that time.

(5) In this Act references to an appeal to the Court of Criminal Appeal shall be construed as including references to proceedings under the Crown Cases Act, 1848.

(6) Any reference in this Act to any other enactment is a reference thereto as amended by or under any other enactment, including this Act.

18.—(1) No limitation or restriction imposed by the Government of Ireland Act, 1920, on the power of the Parliament of Northern Ireland to make laws shall preclude that Parliament from enacting provisions— Provisions as to Northern Ireland.

(a) conferring any jurisdiction or power on the Court of Criminal Appeal in Northern Ireland or any judge or officer of that court ;

- (b) conferring on the rule-making authority power to make rules of court regulating the procedure and practice of that court ;

and subsection (3) of section twenty-one of the Criminal Appeal (Northern Ireland) Act, 1930 (which, in effect, enables that Parliament to amend or repeal that Act so far as it relates to matters within the powers of that Parliament) shall have effect accordingly.

(2) For the purposes of section six of the Government of Ireland Act, 1920, this Act shall, so far as it relates to matters within the powers of the Parliament of Northern Ireland, be deemed to be an Act passed before the appointed day within the meaning of that section.

(3) An appeal shall lie to the House of Lords from any decision of the Court of Appeal in Northern Ireland in proceedings begun by a civil application for habeas corpus in like manner and subject to the like conditions (including requirements as to leave to appeal) as an appeal from a decision of the Court of Appeal in England in such proceedings.

(4) This Act shall, in its application to Northern Ireland, have effect subject to the modifications set out in the Second Schedule to this Act ; but this subsection shall not affect the operation of section ten of this Act in relation to proceedings of the Courts-Martial Appeal Court sitting in Northern Ireland.

Minor and consequential amendments and repeals.

19.—(1) The enactments described in the Third Schedule to this Act shall have effect subject to the amendments specified in the second column of that Schedule, being minor amendments and amendments consequential on the provisions of this Act.

(2) The enactments described in the Fourth Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.

(3) The repeals effected by subsection (2) of this section in section four of the Geneva Conventions Act, 1957, shall not affect the power of Her Majesty under subsection (2) of section eight of that Act to extend the provisions of that Act outside the United Kingdom.

Short title and extent.

20.—(1) This Act may be cited as the Administration of Justice Act, 1960.

(2) Except so far as it relates to appeals from the Courts-Martial Appeal Court and to proceedings preliminary or incidental to such appeals, this Act shall not extend to Scotland.

SCHEDULES

FIRST SCHEDULE

Section 10.

MODIFICATIONS OF SECTIONS 1 TO 9 IN RELATION TO APPEALS FROM COURTS-MARTIAL APPEAL COURT

1.—(1) The power to grant bail under section four or section five shall not be exercised by the Courts-Martial Appeal Court except in respect of persons who—

- (a) not being subject to the Naval Discipline Act, 1957, to military law or to air force law, are liable by virtue of any of the provisions of the Naval Discipline Act, 1957, the Army Act, 1955, or the Air Force Act, 1955, to be tried as if they were so subject; or
- (b) are subject to the Naval Discipline Act, 1957, by virtue only of subsection (1) of section one hundred and nineteen of that Act (which relates to sentenced offenders).

(2) Where bail is granted by the court under section four or section five it may be granted subject to the like conditions and other incidents and subject to the like power of variation and revocation as in the case of bail granted by the Court of Criminal Appeal.

(3) In subsection (4) of section five the references to any provision of the Mental Health Act, 1959, shall include references to the corresponding provision of the enactments for the time being in force in Scotland and Northern Ireland with respect to prisoners or other persons suffering from mental illness or other mental disorder.

2.—(1) In section seven, for the references to an order for the restitution of property there shall be substituted references to an order under section seventy-six of the Naval Discipline Act, 1957, section one hundred and thirty-eight of the Army Act, 1955, or section one hundred and thirty-eight of the Air Force Act, 1955.

(2) In subsection (2) of section seven for the reference to section eighteen of the Criminal Appeal Act, 1907, there shall be substituted a reference to section twenty-two of the Courts-Martial (Appeals) Act, 1951.

(3) In subsection (3) of section seven the reference to the court which convicted a person shall, in relation to an appeal relating to a conviction under the Naval Discipline Act, 1957, include a reference to the Admiralty.

3.—(1) Section eight shall not apply, but the following provisions of this paragraph shall apply instead.

(2) Section ten of the Courts-Martial (Appeals) Act, 1951 (which enables the Courts-Martial Appeal Court to grant legal assistance to an appellant under that Act) 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).

1st SCH.

(3) Where the Courts-Martial Appeal Court or the House of Lords dismisses an application for leave to appeal under the said section one, that court or that House may—

- (a) where the application was made by the Admiralty or the Secretary of State, direct the payment by the Admiralty or the Secretary of State, as the case may require, of such sums as appear to the court or the House to be 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, make the like order as may be made by the court under subsection (3) of section thirteen of the Courts-Martial (Appeals) Act, 1951, where it dismisses an application for leave to appeal to that court ;

and any order made under paragraph (b) of this sub-paragraph may be enforced in the same manner as an order made under the said subsection (3).

(4) Except as provided by sub-paragraph (3) of this paragraph and subsection (2) of the said section thirteen (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 Courts-Martial Appeal Court or of any proceedings preliminary or incidental to such an appeal.

4. For subsection (1) of section nine there shall be substituted the following subsection :—

“(1) Section twenty-two of the Courts-Martial (Appeals) Act, 1951 (which provides for the making of rules of court for the purposes of Part I of that Act) shall have effect as if references to the said Part I included references to the foregoing provisions of this Act so far as they relate to the Courts-Martial Appeal Court.”

Section 18.

SECOND SCHEDULE

MODIFICATIONS OF ACT IN RELATION TO NORTHERN IRELAND

PART I

GENERAL MODIFICATIONS

1. For any reference to the Court of Criminal Appeal there shall be substituted a reference to the Court of Criminal Appeal in Northern Ireland.

2. For references to the High Court and the Court of Appeal there shall be substituted references to the High Court of Justice in Northern Ireland and the Court of Appeal in Northern Ireland respectively, and references to a Divisional Court of the Queen's Bench Division shall be construed accordingly.

3. Any reference to a magistrates' court shall be construed as a reference to a court of summary jurisdiction or a resident magistrate or justice of the peace sitting out of petty sessions to hear and determine any charge which he has power so to hear and determine.

4. For references to the Criminal Appeal Act, 1907, and the provisions of that Act set out in the first column of the following Table there shall be substituted references to the Criminal Appeal (Northern Ireland) Act, 1930, and the provisions set out in the second column of that Table.

TABLE

<i>Criminal Appeal Act, 1907</i>	<i>Criminal Appeal (Northern Ireland) Act, 1930</i>
Section ten	Subsection (2) of section ten
Section fourteen	Section thirteen
Section eighteen	Section sixteen

5. For any reference to an order of mandamus, prohibition or certiorari there shall be substituted a reference to a writ of mandamus, prohibition or certiorari.

6. Any reference in a provision of this Act to any other provision of this Act shall be construed as a reference to that other provision as modified by this Schedule, and any reference in this Act to an enactment shall be construed as including references to an enactment of the Parliament of Northern Ireland.

PART II

SPECIFIC MODIFICATIONS

Section one

At the end of subsection (1) there shall be added the following paragraph:—

“(c) from any decision of the Court of Appeal in a criminal cause or matter upon a case stated by a county court or a magistrates’ court”.

Section four

(1) For subsection (2) there shall be substituted the following subsection:—

“(2) Without prejudice to any other power of the Supreme Court or a judge thereof to grant bail, a person seeking to appeal from the Court of Appeal or the Divisional Court of the Queen’s Bench Division under section one of this Act may be admitted to bail by the court below pending the appeal; and in relation to any recognizances to be entered into under section three of the Summary Jurisdiction Act, 1857, or under section twenty-six of the Summary Jurisdiction and Criminal Justice Act (Northern Ireland), 1935, any reference in those sections to the judgment of the Court of Appeal shall be construed as including a reference to the judgment of the House of Lords or, if the case is remitted by that House to the Court of Appeal, to the judgment of that court on the case as so remitted.”

(2) In subsection (3) the reference to the Divisional Court shall include a reference to the Court of Appeal.

Section five

In subsection (4), for any reference to any provision of the Mental Health Act, 1959, there shall be substituted a reference to the

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corresponding provision of the enactments for the time being in force in Northern Ireland with respect to prisoners or other persons suffering from mental illness or other mental disorder.

Section six

In subsection (2) for references to section forty-five of the Prison Act, 1952, there shall be substituted references to the Second Schedule to the Prison Act (Northern Ireland) 1953.

Section eight

(1) In subsection (1), the words from "and subsection (3)" to "the said section ten" shall be omitted, and for subsection (2) there shall be substituted the following subsection:—

"(2) The fees of any counsel, and the expenses and fees of any solicitor, assigned to a defendant by virtue of subsection (1) of this section, in either case 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, shall be paid by the Ministry of Home Affairs."

(2) In subsection (3), for any reference to an order for the payment out of local funds of any sums referred to in that section there shall be substituted a reference to an order for payment by the Ministry of Home Affairs of such sums.

(3) After subsection (3) there shall be inserted the following subsection:—

"(3A) Where an appeal to the House of Lords from the Court of Criminal Appeal in Northern Ireland under section one of this Act is determined in favour of the defendant, the House of Lords may, if it thinks fit, order the payment by the Ministry of Home Affairs of such sums as appear to the House reasonably sufficient to compensate the defendant for any expenses properly incurred by him—

(a) in the appeal to the House of Lords or in the proceedings before the Court of Criminal Appeal, as the case may be (including the cost of any application for leave to appeal); or

(b) in carrying on his defence before the court of assize or county court, at the preliminary investigation and before any other court of assize or county court before which proceedings for the offence in respect of which he was committed for trial were begun but not concluded."

(4) In subsection (4), the words from "and section four" to "that House)" shall be omitted.

(5) For subsection (5) there shall be substituted the following subsection:—

"(5) Where the Court of Criminal Appeal or the House of Lords orders the payment of costs by the defendant under this section, 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."

Section nine

For subsection (2) there shall be substituted the following subsection:—

“(2) Without prejudice to the power to make rules of court under section sixty-one of the Supreme Court of Judicature Act (Ireland), 1877, any such rules may be made—

- (a) for determining the cases in which the powers of the Divisional Court or Court of Appeal under this Act may be exercised by a judge thereof ;
- (b) for prescribing the persons before whom and the manner in which a recognizance shall be entered into, or other security given, where bail is granted to a person under section four or section five of this Act pending an appeal under section one of this Act from the decision of a Divisional Court or the Court of Appeal, and the manner in which any such recognizance or security may be enforced ; and
- (c) for authorising the recommittal of any person to whom bail is so granted ”.

Section twelve

For paragraph (b) of subsection (1) there shall be substituted the following paragraph:—

“(b) where the proceedings are brought under the law for the time being in force in Northern Ireland with respect to the care or custody of, or to the property and affairs of, persons suffering from mental illness or other mental disorder ; ”.

Section thirteen

(1) In subsection (2), for paragraphs (a) to (c) there shall be substituted the following paragraphs:—

- “(a) from an order or decision of any inferior court (including a county court) or of a single judge of the High Court, or of any court having the powers of the High Court or a judge of that Court, to the Court of Appeal ;
- (b) from an order or decision of the Court of Appeal (including a decision of that court on an appeal under this section) and from an order or decision of a Divisional Court, the Court of Criminal Appeal or the Courts-Martial Appeal Court, to the House of Lords.”

(2) For subsection (5) there shall be substituted the following subsection:—

“(5) In this section ‘court’ includes any tribunal or person having power to punish for contempt ; and references in this section to an order or decision of a court in the exercise of jurisdiction to punish for contempt include references—

- (a) to an order or decision of the High Court or a county court under any enactment enabling that court to deal with an offence as if it were contempt of court ;
- (b) to an order or decision of a county court under section fifty-seven or section one hundred and forty-one of the County Courts Act (Northern Ireland), 1959 ;
- (c) to an order or decision of a magistrates’ court under subsection (2) of section thirty-four of the Summary Jurisdiction Act, 1879, or under any corresponding enactment for the time being in force in Northern Ireland,

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but do not include references to orders under section six or section six A of the Debtors Act (Ireland), 1872, under any provision of the Summary Jurisdiction Acts (Northern Ireland) or the County Courts Act (Northern Ireland), 1959, except those referred to in paragraphs (b) and (c) of this subsection and except sections seventy-one and one hundred and forty of the last-mentioned Act so far as those sections confer jurisdiction in respect of contempt of court."

Section fourteen

(1) In subsection (2) the words from "and no such application" to the end of the subsection shall be omitted.

(2) In subsection (3) for any reference to a provision of the Mental Health Act, 1959, there shall be substituted a reference to the corresponding provision of the enactments for the time being in force in Northern Ireland with respect to prisoners or other persons suffering from mental illness or other mental disorder.

Section sixteen

(1) For any reference to a court of quarter sessions there shall be substituted a reference to a county court.

(2) In subsection (2), the words from "but in computing" to the end shall be omitted.

(3) At the end of the section there shall be added the following subsections:—

"(4) The High Court or a judge thereof may release from custody a person who has been convicted or sentenced by a magistrates' court and has applied to the High Court for a writ of certiorari to remove the proceedings of the magistrates' court into the High Court on his entering into a recognizance, with or without sureties, conditioned for his appearance, within ten days after the judgment of the High Court shall have been given, unless the conviction or sentence is quashed by that judgment.

(5) The time during which a person is admitted to bail under this section shall not count as any term of imprisonment or detention under his sentence, and any sentence of imprisonment or detention imposed by a magistrates' court or, on appeal, by a county court after the imposition of which a person is so admitted to bail shall be deemed to begin to run or to be resumed as from the date on which he is received under the sentence in the prison or other place where he is to be detained.

(6) Without prejudice to the power to make rules of court under section sixty-one of the Supreme Court of Judicature Act (Ireland), 1877, any such rules may prescribe the persons before whom and the manner in which a recognizance under subsection (4) of this section shall be entered into by a person applying for a writ of certiorari and the manner in which such a recognizance may be enforced and may authorise the recommittal of persons so applying."

Section seventeen

(1) In subsection (3), any reference to a Divisional Court shall include a reference to the Court of Appeal.

(2) Subsection (5) shall be omitted.

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Section 19.

MINOR AND CONSEQUENTIAL AMENDMENTS

Enactment	Amendment
The Summary Jurisdiction Act, 1857. 20 & 21 Vict. c. 43.	In section six, after the words "seem fit; and" there shall be inserted the words "except as provided by the Administration of Justice Act, 1960".
The Criminal Appeal Act, 1907. 7 Edw. 7. c. 23.	<p>In section one, in subsection (6), for the words from the beginning to "subject thereto" there shall be substituted the words "Except as provided by the Administration of Justice Act, 1960".</p> <p>In section nineteen, for the words from "on the consideration" to "so convicted" there shall be substituted the words "on an application made to him by a person convicted on indictment or without any such application," and for the words "heard and determined by the Court of Criminal Appeal as in the case of an appeal by a" there shall be substituted the words "treated for all purposes as an appeal to that Court by the".</p>
The Supreme Court of Judicature (Consolidation) Act, 1925. 15 & 16 Geo. 5. c. 49.	In section thirty-one, in subsection (1), in paragraph (a), after the words "this Act" there shall be inserted the words "or the Administration of Justice Act, 1960".
The Criminal Appeal (Northern Ireland) Act, 1930. 20 & 21 Geo. 5. c. 45.	<p>In section six, in subsection (1), for the words from the beginning to "subject thereto" there shall be substituted the words "Except as provided by the Administration of Justice Act, 1960".</p> <p>In section seventeen, in subsection (1), for the words from "on the consideration" to "so convicted" there shall be substituted the words "on an application made to him by a person convicted on indictment or without any such application", and for the words "heard and determined by the Court as in the case of an appeal by a" there shall be substituted the words "treated for all purposes as an appeal to the Court by a".</p> <p>In section eighteen, after the words "except as provided by this Act" there shall be inserted the words "or the Administration of Justice Act, 1960".</p>
The Criminal Justice Act, 1948. 11 & 12 Geo. 6. c. 58.	In section thirty-eight, in subsection (2), after the words "for the purposes of the appeal" there shall be inserted the words "nor in the case of a reference under paragraph (a) of section nineteen of that Act".

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Enactment	Amendment
<p>The Courts-Martial (Appeals) Act, 1951. 14 & 15 Geo. 6. c. 46.</p>	<p>In section seven, in subsection (1), for the words from the beginning to "this subsection" there shall be substituted the words "Except as provided by the Administration of Justice Act, 1960".</p> <p>In section thirteen, in subsection (2), for the words "subsection (1) of section seven of this Act" there shall be substituted the words "section one of the Administration of Justice Act, 1960".</p> <p>In section sixteen, after the word "Act" there shall be inserted the words "or the Administration of Justice Act, 1960".</p> <p>In section seventeen, after the words "this Part of this Act" there shall be inserted the words "or the Administration of Justice Act, 1960".</p> <p>In section nineteen, after the words "this Act" wherever they occur there shall be inserted the words "or the Administration of Justice Act, 1960".</p>
<p>The Costs in Criminal Cases Act, 1952. 15 & 16 Geo. 6 and 1 Eliz. 2. c. 48.</p>	<p>In section four, in subsection (1), for the words "subsection (6) of section one of the Criminal Appeal Act, 1907," there shall be substituted the words "section one of the Administration of Justice Act, 1960", and after the word "Lords" in the third place where it occurs there shall be inserted the words "(including any application for leave to appeal under that section)".</p> <p>In section ten, in subsection (2), for the words "under this Act" there shall be substituted the words "under section three of this Act, or that court or the House of Lords orders the payment of costs by the defendant under section eight of the Administration of Justice Act, 1960".</p>

FOURTH SCHEDULE

Section 19.

ENACTMENTS REPEALED

Session and Chapter	Short Title	Extent of Repeal
39 & 40 Vict. c. 59.	The Appellate Jurisdiction Act, 1876.	Section ten.
45 & 46 Vict. c. 50.	The Municipal Corporations Act, 1882.	In section ninety-two, in subsection (6), the words from "except" to the end of the subsection.
47 & 48 Vict. c. 70.	The Municipal Elections (Corrupt and Illegal Practices) Act, 1884.	In section twenty-eight, subsection (7).
7 Edw. 7. c. 23.	The Criminal Appeal Act, 1907.	In section nineteen, the words "with a view to the determination of the petition".
15 & 16 Geo. 5. c. 86.	The Criminal Justice Act, 1925.	Section sixteen.
20 & 21 Geo. 5. c. 45.	The Criminal Appeal (Northern Ireland) Act, 1930.	In section six, subsection (2). In section thirteen, subsection (3). In section seventeen, in subsection (1), in paragraph (b), the words "with a view to the determination of the petition".
11 & 12 Geo. 6. c. 58.	The Criminal Justice Act, 1948.	In section thirty-eight, subsection (6). In the Ninth Schedule, the amendment of section nineteen of the Criminal Appeal Act, 1907.
12, 13 & 14 Geo. 6. c. 68.	The Representation of the People Act, 1949.	In section one hundred and fifteen, in subsection (6), the words from "except" to the end of the subsection. In section one hundred and forty-nine, subsection (10).
14 & 15 Geo. 6. c. 46.	The Courts-Martial (Appeals) Act, 1951.	In section seven, subsection (2). In section fourteen, in subsection (1), paragraphs (c) and (d), and in subsection (2), the words from "and any appeal" to "conviction" in the last place where it occurs.
15 & 16 Geo. 6 & 1 Eliz. 2. c. 48.	The Costs in Criminal Cases Act, 1952.	In section three, in subsection (4), the words "and the next following".
5 & 6 Eliz. 2. c. 52.	The Geneva Conventions Act, 1957.	In section four, subsection (2) and, in subsection (3), the words from "and the last foregoing" to the end of the subsection.

Table of Statutes referred to in this Act

Short Title	Session and Chapter
Crown Cases Act, 1848	11 & 12 Vict. c. 78.
Summary Jurisdiction Act, 1857	20 & 21 Vict. c. 43.
Debtors Act, 1869	32 & 33 Vict. c. 62.
Debtors Act (Ireland), 1872	35 & 36 Vict. c. 57.
Appellate Jurisdiction Act, 1876	39 & 40 Vict. c. 59.
Supreme Court of Judicature Act (Ireland), 1877	40 & 41 Vict. c. 57.
Summary Jurisdiction Act, 1879	42 & 43 Vict. c. 49.
Sale of Goods Act, 1893	56 & 57 Vict. c. 71.
Criminal Appeal Act, 1907	7 & 8 Edw. 7. c. 23.
Government of Ireland Act, 1920	10 & 11 Geo. 5. c. 67.
Criminal Appeal (Northern Ireland) Act, 1930	20 & 21 Geo. 5. c. 45.
Criminal Justice Act, 1948	11 & 12 Geo. 6. c. 58.
Courts-Martial (Appeals) Act, 1951	14 & 15 Geo. 6. c. 46.
Costs in Criminal Cases Act, 1952	15 & 16 Geo. 6. & 1 Eliz. 2. c. 48.
Prison Act, 1952	15 & 16 Geo. 6. & 1 Eliz. 2. c. 52.
Magistrates' Courts Act, 1952	15 & 16 Geo. 6. & 1 Eliz. 2. c. 55.
Army Act, 1955	3 & 4 Eliz. 2. c. 18.
Air Force Act, 1955	3 & 4 Eliz. 2. c. 19.
Geneva Conventions Act, 1957	5 & 6 Eliz. 2. c. 52.
Naval Discipline Act, 1957	5 & 6 Eliz. 2. c. 53.
County Courts Act, 1959	7 & 8 Eliz. 2. c. 22.
Mental Health Act, 1959	7 & 8 Eliz. 2. c. 72.

PRINTED BY SIR JOHN ROUGHTON SIMPSON, C.B.

Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament

LONDON: PUBLISHED BY HER MAJESTY'S STATIONERY OFFICE

Price 1s. 3d. net

PRINTED IN ENGLAND

(38688)