



Criminal Appeal Act 1968

1968 CHAPTER 19

PART I

APPEAL TO COURT OF APPEAL IN CRIMINAL CASES

Appeal against sentence

9 Appeal against sentence following conviction on indictment.

[^{F1}(1)] A person who has been convicted of an offence on indictment may appeal to the Court of Appeal against any sentence (not being a sentence fixed by law) passed on him for the offence, whether passed on his conviction or in subsequent proceedings.

[^{F2}(1A) In subsection (1) of this section, the reference to a sentence fixed by law does not include a reference to an order made under [^{F3}section 321 of the Sentencing Code] in relation to a life sentence (as defined in [^{F4}section 324 of that Code]) that is fixed by law.]

[^{F1}(2) A person who on conviction on indictment has also been convicted of a summary offence under ^{F5}... [^{F6}or paragraph 6 of Schedule 3 to the Crime and Disorder Act 1998 (power of Crown Court to deal with summary offence where person sent for trial for indictable-only offence)] may appeal to the Court of Appeal against any sentence passed on him for the summary offence (whether on his conviction or in subsequent proceedings) under subsection (7) of that section [^{F7}or sub-paragraph (4) of that paragraph.]]

Textual Amendments

- F1** S. 9 renumbered to become s. 9(1) and s. 9(2) added by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 170, [Sch. 8 para 16](#), [Sch. 15 para. 20](#),
- F2** S. 9(1A) inserted (18.12.2003) by [Criminal Justice Act 2003 \(c. 44\)](#), [ss. 271\(1\)](#), 336(2)
- F3** Words in s. 9(1A) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 9\(a\)](#) (with [Sch. 24 para. 447](#), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2

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- F4** Words in s. 9(1A) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 9(b)** (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2
- F5** Words in s. 9(2) repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 3 para. 44(3), **Sch. 37 Pt. 4**; S.I. 2012/1320, art. 4(1)(c)(d)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3)(c)(d), Sch. (with arts. 34) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(c)(d)(2)(3) (with arts. 34)
- F6** Words in s. 9(2) inserted (4.1.1999 for specified purposes and otherwise 15.1.2001) by 1998 c. 37, s. 119, **Sch. 8 para. 12**; S.I. 1998/2327, art. 4(2)(c), **Sch. 2**; S.I. 2000/3283, **art. 2(c)** (subject to art. 3)
- F7** Words in s. 9(2) inserted (27.9.1999) by 1999 c. 22, **ss. 58(3)**, 108(3) (with s. 107, Sch. 14 para. 7(2))

Modifications etc. (not altering text)

- C1** S. 9 modified (25.8.2000) by 2000 c. 6, **ss. 116(9)**, 168(1)
- C2** S. 9 applied (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by Armed Forces Act 2006 (c. 52), s. 383(2), **Sch. 5 para. 9** (with s. 385); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- C3** S. 9 applied (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by Armed Forces Act 2006 (c. 52), **ss. 179(3)**, 383(2) (with s. 385); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- C4** S. 9 applied (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by Armed Forces Act 2006 (c. 52), **ss. 205(4)**, 383(2) (with s. 385); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- C5** S. 9 applied (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by Armed Forces Act 2006 (c. 52), **ss. 203(4)**, 383(2) (with s. 385); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- C6** S. 9 applied by 2020 c. 17, Sch. 16 para. 25(8B) (as modified by 2006 c. 52, Sch. 7 para. 13 (as substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 25 paras. 19, 26 (with s. 416(7), Sch. 27); S.I. 2020/1236, reg. 2))
- C7** S. 9 modified by 2020 c. 17, Sch. 10 para. 5A(4) (as modified by 2006 c. 52, s. 181(3) (as substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 25 para. 6** (with s. 416(7), Sch. 27); S.I. 2020/1236, reg. 2))
- C8** S. 9 modified by 2020 c. 17, Sch. 9 para. 22 (as modified by 2006 c. 52, s. 179(3) (as substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 25 para. 4** (with s. 416(7), Sch. 27); S.I. 2020/1236, reg. 2))
- C9** S. 9 applied by 2020 c. 17, Sch. 9 para. 22(5B) (as modified by 2006 c. 52, s. 203(4) (as substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 25 para. 21** (with s. 416(7), Sch. 27); S.I. 2020/1236, reg. 2))

10 Appeal against sentence in other cases dealt with at assizes or quarter sessions.

- (1) This section has effect for providing rights of appeal against sentence when a person is dealt with by [^{F8}the Crown Court] (otherwise than on appeal from a magistrates' court) for an offence of which he was not convicted on indictment.
- (2) The proceedings from which an appeal against sentence lies under this section are those where an offender convicted of an offence by a magistrates' court—
- (a) is committed by the court to be dealt with for his offence [^{F8}before the Crown Court]; or
 - [^{F9}(b) having been given a suspended sentence or made the subject of—
 - (i) an order for conditional discharge,

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- (ii) a youth rehabilitation order within [^{F10}the meaning given by section 173 of the Sentencing Code], or
- (iii) a community order within [^{F11}the meaning given by section 200 of that Code],

appears or is brought before the Crown Court to be further dealt with for the offence.]

^{F12}(c)

[^{F13}(3) An offender dealt with for an offence before the Crown Court in a proceeding to which subsection (2) of this section applies may appeal to the Court of Appeal against any sentence passed on him for the offence by the Crown Court.]

- (4) For purposes of subsection (3)(a) of this section [^{F14}and section 11 of this Act], any two or more sentences are to be treated as passed in the same proceeding if—
 - (a) they are passed on the same day; or
 - (b) they are passed on different days but the court in passing any one of them states that it is treating that one together with the other or others as substantially one sentence;

and consecutive terms of imprisonment [^{F15}or detention] and terms which are wholly or partly concurrent are to be treated as a single term

[^{F16}(5) If by virtue of an order made under section 14 of the Criminal Justice Act 1982, the term of 4 months specified in section 4 of that Act is increased to a term of 6 months or more, subsection (3)(a) above shall have effect, for so long as the term so specified is 6 months or more, as if after the word “more” there were inserted the words “or an order for his detention in a detention centre for a term of 6 months or more has been made under section 4 of the Criminal Justice Act 1982”].

Textual Amendments

- F8** Words substituted by [Courts Act 1971 \(c. 23\), Sch. 8 para. 57\(1\)](#)
- F9** S. 10(2)(b) substituted (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\), s. 153\(7\), Sch. 4 para. 4](#) (with [Sch. 27 paras. 1, 5](#)); [S.I. 2009/3074, art. 2\(p\)\(iii\)](#)
- F10** Words in s. 10(2)(b)(ii) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\), s. 416\(1\), Sch. 24 para. 10\(a\)](#) (with [Sch. 24 para. 447, Sch. 27](#)); [S.I. 2020/1236, reg. 2](#)
- F11** Words in s. 10(2)(b)(iii) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\), s. 416\(1\), Sch. 24 para. 10\(b\)](#) (with [Sch. 24 para. 447, Sch. 27](#)); [S.I. 2020/1236, reg. 2](#)
- F12** S. 10(2)(c) and preceding word repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 32 para. 8\(2\)\(b\), Sch. 37 Pt. 7](#); [S.I. 2005/950, art. 2\(1\), Sch. 1 paras. 42\(6\), 44\(4\)\(c\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122, art. 2](#); and as amended: (14.7.2008) by [2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48\(s\), 50\(2\)\(d\)](#); (30.11.2009) by [S.I. 2009/3111, art. 2](#); (3.12.2012) by [S.I. 2012/2905, art. 4](#); (3.12.2012) by [2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2\(1\)](#))
- F13** S. 10(3) substituted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\), ss. 319\(2\), 336\(3\)\(4\); S.I. 2005/950, art. 2\(1\), Sch. 1 para. 25](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122, art. 2](#); and as amended: (14.7.2008) by [2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48\(s\), 50\(2\)\(d\)](#); (30.11.2009) by [S.I. 2009/3111, art. 2](#); (3.12.2012) by [S.I. 2012/2905, art. 4](#); (3.12.2012) by [2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2\(1\)](#))
- F14** Words inserted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\), s. 170, Sch. 8 para. 16, Sch. 15 para. 22\(2\)](#)
- F15** Words in s. 10(4) inserted (27.9.1999) by [1999 c. 22, ss. 58\(7\), 108\(3\)](#) (with [s. 107, Sch. 14 para. 7\(2\)](#))
- F16** S. 10(5) inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), Sch. 14 para. 23\(c\)](#)

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Modifications etc. (not altering text)

C10 S. 10 modified (25.8.2000) by 2000 c. 6, ss. 116(9), 168(1)

11 Supplementary provisions as to appeal against sentence.

- (1) [^{F17}Subject to subsection (1A) below, an] appeal against sentence, whether under section 9 or under section 10 of this Act, lies only with the leave of the Court of Appeal.
- [^{F18}(1A) If [^{F19}, within 28 days from the date on which the sentence was passed,] the judge who passed [^{F20}it] grants a certificate that the case is fit for appeal under section 9 or 10 of this Act, an appeal lies under this section without the leave of the Court of Appeal.]
- (2) Where [^{F21}the Crown Court], in dealing with an offender either on his conviction on indictment or in a proceeding to which section 10(2) of this Act applies, has passed on him two or more sentences in the same proceeding (which expression has the same meaning in this subsection as it has for the purposes of section 10), being sentences against which an appeal lies under section 9 [^{F22}(1)] or section 10, an appeal or application for leave to appeal against any one of those sentences shall be treated as an appeal or application in respect of both or all of them.
- [^{F23}(2A) Where following conviction on indictment a person has been convicted under section 41 of the Criminal Justice Act 1988 of a summary offence an appeal or application for leave to appeal against any sentence for the offence triable either way shall be treated also as an appeal or application in respect of any sentence for the summary offence and an appeal or application for leave to appeal against any sentence for the summary offence shall be treated also as an appeal or application in respect of the offence triable either way.
- (2B) If the appellant or applicant was convicted on indictment of two or more offences triable either way, the references to the offence triable either way in subsection (2A) above are to be construed, in relation to any summary offence of which he was convicted under section 41 of the Criminal Justice Act 1988 following the conviction on indictment, as references to the offence triable either way specified in the notice relating to that summary offence which was given under subsection (2) of that section.]
- (3) On an appeal against sentence the Court of Appeal, if they consider that the appellant should be sentenced differently for an offence for which he was dealt with by the court below may—
- (a) quash any sentence or order which is the subject of the appeal; and
 - (b) in place of it pass such sentence or make such order as they think appropriate for the case and as the court below had power to pass or make when dealing with him for the offence;
- but the Court shall so exercise their powers under this subsection that, taking the case as a whole, the appellant is not more severely dealt with on appeal than he was dealt with by the court below.
- [^{F24}(3A) Where the Court of Appeal exercise their power under paragraph (a) of subsection (3) to quash a confiscation order, the Court may, instead of proceeding under paragraph (b) of that subsection, direct the Crown Court to proceed afresh under the relevant enactment.
- (3B) When proceeding afresh pursuant to subsection (3A), the Crown Court shall comply with any directions the Court of Appeal may make.

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(3C) The Court of Appeal shall exercise the power to give such directions so as to ensure that any confiscation order made in respect of the appellant by the Crown Court does not deal more severely with the appellant than the order quashed under subsection (3) (a).

(3D) For the purposes of this section—

“confiscation order” means a confiscation order made under—

- (a) section 1 of the Drug Trafficking Offences Act 1986,
- (b) section 71 of the Criminal Justice Act 1988,
- (c) section 2 of the Drug Trafficking Act 1994, or
- (d) section 6 of the Proceeds of Crime Act 2002;

“relevant enactment”, in relation to a confiscation order quashed under subsection (3)(a), means the enactment under which the order was made.]

^{F25}(4)

[^{F26}(5) The fact that an appeal is pending against an interim hospital order under [^{F27}the Mental Health Act 1983] shall not affect the power of the court below to renew or terminate the order or to deal with the appellant on its termination; and where the Court of Appeal quashes such an order but do not pass any sentence or make any other order in its place the Court may [^{F28}, subject to section 25 of the Criminal Justice and Public Order Act 1994,] direct the appellant to be kept in custody or released on bail pending his being dealt with by the court below.]

^{F29}(6)

[^{F30}(7) For the purposes of this section, any two or more sentences are to be treated as passed in the same proceeding if—

- (a) they are passed on the same day; or
- (b) they are passed on different days but the court in passing any one of them states that it is treating that one together with the other or others as substantially one sentence.]

Textual Amendments

- F17** Words substituted by [Criminal Justice Act 1982 \(c. 48\), s. 29\(2\)\(a\)\(i\)](#)
- F18** S. 11(1A) inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 29\(2\)\(a\)\(ii\)](#)
- F19** Words in s. 11(1A) inserted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), s. 153\(7\), Sch. 8 para. 3\(a\)](#); S.I. 2008/1586, art. 2(1), Sch. 1 para. 26
- F20** Word in s. 11(1A) substituted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), s. 153\(7\), Sch. 8 para. 3\(b\)](#); S.I. 2008/1586, art. 2(1), Sch. 1 para. 26
- F21** Words substituted by [Courts Act 1971 \(c. 23\), Sch. 8 para. 57\(1\)](#)
- F22** Numeral “(1)” inserted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\), s. 170, Sch. 8 para. 16, Sch. 15 para. 23\(1\)](#)
- F23** S. 11(2A)(2B) inserted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\), s. 170, Sch. 8 para. 16, Sch. 15 para. 23\(2\)](#)
- F24** S. 11(3A)-(3D) inserted (1.2.2010) by [Coroners and Justice Act 2009 \(c. 25\), ss. 140\(2\), 182\(5\)](#) (with s. 180, Sch. 22 para. 39); S.I. 2010/145, art. 2(2), Sch. para. 10
- F25** S. 11(4) repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 32 para. 9, Sch. 37 Pt. 7](#); S.I. 2005/950, art. 2(1), Sch. 1 paras. 42(6), 44(4)(c) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by [2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2](#);

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- S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))
- F26** S. 11(5)(6) inserted by **Mental Health (Amendment) Act 1982 (c. 51, SIF 85), Sch. 3 para. 37**
- F27** Words substituted by **Mental Health Act 1983 (c. 20, SIF 85), Sch. 4 para. 23(d)**
- F28** Words in s. 11(5) inserted (10.4.1995) by 1994 c. 33, s. 168(2), **Sch. 10 para. 20**; S.I. 1995/721, art. 1, **Sch. Appendix A**
- F29** S. 11(6) repealed (14.7.2008) by **Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), Sch. 8 para. 7(b), Sch. 28 Pt. 3**; S.I. 2008/1586, art. 2(1), Sch. 1 paras. 26, 50(3)(a) (with Sch. 2 para. 5)
- F30** S. 11(7) inserted (4.4.2005) by **Criminal Justice Act 2003 (c. 44), ss. 319(3), 336(3)(4)**; S.I. 2005/950, art. 2(1), **Sch. 1 para. 25** (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))

[^{F31}11A **Quashing of certain confiscation orders: supplementary**

- (1) This section applies where the Court of Appeal—
 - (a) quash a confiscation order under section 11(3)(a) (“the quashed order”), and
 - (b) under section 11(3A), direct the Crown Court to proceed afresh under the relevant enactment.
- (2) Nothing in this section prevents any sum paid by the appellant pursuant to the quashed order being a sum which is recoverable from the Secretary of State as a debt owing to the appellant, but the Court of Appeal may direct that any such sum is not to be repaid until such time as the Crown Court makes a confiscation order, or decides not to make such an order, when proceeding afresh pursuant to section 11(3A).
- (3) Nothing in this section prevents an amount which would otherwise fall to be repaid as a result of the order being quashed being set against an amount which the appellant is required to pay by virtue of a confiscation order made by the Crown Court in those proceedings.
- (4) In this section “confiscation order” and “relevant enactment” have the same meaning as in section 11(3D).]

Textual Amendments

- F31** S. 11A inserted (1.2.2010) by **Coroners and Justice Act 2009 (c. 25), ss. 140(3), 182(5)** (with s. 180, Sch. 22 para. 39); S.I. 2010/145, art. 2(2), Sch. para. 10

Changes to legislation:

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