



# Criminal Appeal Act 1968

## 1968 CHAPTER 19

### PART I

#### APPEAL TO COURT OF APPEAL IN CRIMINAL CASES

##### *Appeal in cases of insanity*

#### **12 Appeal against verdict of not guilty by reason of insanity.**

A person in whose case there is returned a verdict of not guilty by reason of insanity may appeal to the Court of Appeal [<sup>F1</sup>against the verdict—

- (a) with the leave of the Court of Appeal; or
- (b) if [<sup>F2</sup>, within 28 days from the date of the verdict,] the judge of the court of trial grants a certificate that the case is fit for appeal.]

#### **Textual Amendments**

- F1** Words in s. 12 substituted (1.1.1996) by 1995 c. 35, s. 1(3); S.I. 1995/3061, art. 3(a) (with art. 4)
- F2** Words in s. 12(1)(b) inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), Sch. 8 para. 4; S.I. 2008/1586, art. 2(1), Sch. 1 para. 26

#### **Modifications etc. (not altering text)**

- C1** S. 12 extended (27.7.1999) by 1999 c. 25, s. 2(1)

#### **13 Disposal of appeal under s. 12.**

[<sup>F3</sup>(1) Subject to the provisions of this section, the Court of Appeal—

- (a) shall allow an appeal under section 12 of this Act if they think that the verdict is unsafe; and
- (b) shall dismiss such an appeal in any other case.]

(3) Where apart from this subsection—

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- (a) an appeal under section 12 of this Act would fall to be allowed; and
- (b) none of the grounds for allowing it relates to the question of the insanity of the accused,

the Court of Appeal may dismiss the appeal if they are of opinion that, but for the insanity of the accused, the proper verdict would have been that he was guilty of an offence other than the offence charged.

- (4) Where an appeal under section 12 of this Act is allowed, the following provisions apply:—
- (a) if the ground, or one of the grounds, for allowing the appeal is that the finding of the jury as to the insanity of the accused ought not to stand and the Court of Appeal are of opinion that the proper verdict would have been that he was guilty of an offence (whether the offence charged or any other offence of which the jury could have found him guilty), the Court—
    - (i) shall substitute for the verdict of not guilty by reason of insanity a verdict of guilty of that offence; and
    - (ii) shall, subject to subsection (5) below, have the like powers of punishing or otherwise dealing with the appellant, and other powers, as the court of trial would have had if the jury had come to the substituted verdict; and
  - (b) in any other case, the Court of Appeal shall substitute for the verdict of the jury a verdict of acquittal.
- (5) The Court of Appeal shall not by virtue of subsection (4)(a) above sentence any person to death; but where under that paragraph they substitute a verdict of guilty of an offence for which apart from this subsection they would be required to sentence the appellant to death, their sentence shall (whatever the circumstances) be one of imprisonment for life.
- (6) An order of the Court of Appeal allowing an appeal in accordance with this section shall operate as a direction to the court of trial to amend the record to conform with the order.

#### Textual Amendments

**F3** S. 13(1) substituted for s. 13(1)(2) (1.1.1996) by [1995 c. 35, s. 2\(3\)](#); [S.I. 1995/3061, art. 3\(a\)](#) (with [art. 4](#))

#### Modifications etc. (not altering text)

**C2** S. 13 modified (27.7.1999) by [1999 c. 25, s. 2\(2\)](#)

**C3** S. 13(1) modified (24.7.2002) by [1999 c. 23, s. 56\(5\)](#) (with [s. 63\(2\)](#), [Sch. 7 paras. 3\(3\), 5\(2\)](#)); [S.I. 2002/1739, art. 2](#)

#### [<sup>F4</sup>14 Substitution of findings of unfitness to plead etc.

- (1) This section applies where, on an appeal under section 12 of this Act, the Court of Appeal, on the written or oral evidence of two or more registered medical practitioners at least one of whom is duly approved, are of opinion that—
- (a) the case is not one where there should have been a verdict of acquittal; but
  - (b) there should have been findings that the accused was under a disability and that he did the act or made the omission charged against him.

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- [<sup>F5</sup>(2) The Court of Appeal shall make in respect of the accused—
- (a) a hospital order (with or without a restriction order);
  - (b) a supervision order; or
  - (c) an order for his absolute discharge.
- (3) Where—
- (a) the offence to which the appeal relates is an offence the sentence for which is fixed by law, and
  - (b) the court have power to make a hospital order,
- the court shall make a hospital order with a restriction order (whether or not they would have power to make a restriction order apart from this subsection).
- (4) Section 5A of the Criminal Procedure (Insanity) Act 1964 (“the 1964 Act”) applies in relation to this section as it applies in relation to section 5 of that Act.
- <sup>F6</sup>(5) .....
- (6) Where the Court of Appeal make a supervision order by virtue of this section, any power of revoking or amending it shall be exercisable as if the order had been made by the court below.
- (7) In this section—
- “hospital order” has the meaning given in section 37 of the Mental Health Act 1983;
- <sup>F7</sup> .....
- “restriction order” has the meaning given to it by section 41 of that Act;
- “supervision order” has the meaning given in Part 1 of Schedule 1A to the 1964 Act.]]

**Textual Amendments**

- F4** Ss. 14, 14A substituted (1.1.1992) for s. 14 by [Criminal Procedure \(Insanity and Unfitness to Plead\) Act 1991 \(c. 25, SIF 39:1\)](#), **ss. 4(2)**, 8; S.I. 1991/2488, **art. 2**.
- F5** S. 14(2)-(7) substituted (31.3.2005) for s. 14(2)(3) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), **ss. 24(3)**, 60 (with [Sch. 12 para. 8](#)); S.I. 2005/579, **art. 3(b)**
- F6** S. 14(5) repealed (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), [Sch. 8 para. 7\(c\)](#), **Sch. 28 Pt. 3**; S.I. 2008/1586, **art. 2(1)**, [Sch. 1 paras. 26, 50\(3\)\(a\)](#) (with [Sch. 2 para. 5](#))
- F7** Words in s. 14(7) repealed (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), [Sch. 8 para. 7\(c\)](#), **Sch. 28 Pt. 3**; S.I. 2008/1586, **art. 2(1)**, [Sch. 1 paras. 26, 50\(3\)\(a\)](#) (with [Sch. 2 para. 5](#))

**Modifications etc. (not altering text)**

- C4** S. 14 modified (27.7.1999) by [1999 c. 25, s. 2\(2\)](#)

<sup>F8</sup>**14A Substitution of verdict of acquittal.**

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#### **Textual Amendments**

- F8** S. 14A repealed (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), ss. 24(4), 60, [Sch. 11](#); S.I. 2005/579, [art. 3\(i\)](#)

**Changes to legislation:**

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