



Criminal Justice Act 1972

1972 CHAPTER 71

PART III

MISCELLANEOUS PROVISIONS

36 Reference to Court of Appeal of point of law following acquittal on indictment

- (1) Where a person tried on indictment has been acquitted (whether in respect of the whole or part of the indictment) the Attorney General may, if he desires the opinion of the Court of Appeal on a point of law which has arisen in the case, refer that point to the court, and the court shall, in accordance with this section, consider the point and give their opinion on it.
- (2) For the purpose of their consideration of a point referred to them under this section the Court of Appeal shall hear argument—
 - (a) by, or by counsel on behalf of, the Attorney General; and
 - (b) if the acquitted person desires to present any argument to the court, by counsel on his behalf or, with the leave of the court, by the acquitted person himself.
- (3) Where the Court of Appeal have given their opinion on a point referred to them under this section, the court may, of their own motion or in pursuance of an application in that behalf, refer the point to the House of Lords if it appears to the court that the point ought to be considered by that House.
- (4) If a point is referred to the House of Lords under subsection (3) of this section, the House shall consider the point and give their opinion on it accordingly; and section 35(1) of the Criminal Appeal Act 1968 (composition of House for appeals) shall apply also in relation to any proceedings of the House under this section.
- (5) Where, on a point being referred to the Court of Appeal under this section or further referred to the House of Lords, the acquitted person appears by counsel for the purpose of presenting any argument to the court or the House, he shall be entitled to his costs, that is to say to the payment out of central funds of such sums as are reasonably sufficient to compensate him for expenses properly incurred by him for the purpose of being represented on the reference or further reference; and any amount recoverable

Status: *This is the original version (as it was originally enacted).*

under this subsection shall be ascertained, as soon as practicable, by the registrar of criminal appeals or, as the case may be, such officer as may be prescribed by order of the House of Lords.

- (6) Subject to rules of court made under section 1(5) of the Criminal Appeal Act 1966 (power by rules to distribute business of Court of Appeal between its civil and criminal divisions), the jurisdiction of the Court of Appeal under this section shall be exercised by the criminal division of the court; and references in this section to the Court of Appeal shall be construed accordingly as references to that division of the court.
- (7) A reference under this section shall not affect the trial in relation to which the reference is made or any acquittal in that trial.