



Judicature (Northern Ireland) Act 1978

1978 CHAPTER 23

PART III

[^{F1}THE COURT OF APPEAL AND THE SUPREME COURT]

35 Appeals to Court of Appeal from High Court.

- (1) Subject as otherwise provided in this or any other statutory provision, the Court of Appeal shall have jurisdiction to hear and determine in accordance with rules of court appeals from any judgment or order of the High Court or a judge thereof.
- (2) No appeal to the Court of Appeal shall lie—
 - (a) except as provided by the following provisions of this Part from any judgment of the High Court in any criminal cause or matter;
 - (b) from an order allowing an extension of time for appealing from a judgment or order;
 - (c) from an order of a judge giving unconditional leave to defend an action;
 - (d) from an order or judgment of the High Court or any judge thereof where it is provided by or by virtue of any statutory provision that that order or judgment or the decision or determination upon which it is made or given is to be final;
 - (e) from a decree absolute for the dissolution or nullity of marriage by a party aggrieved thereby who, having had time and the opportunity to appeal from the decree nisi on which the decree absolute was founded, has not appealed from that decree nisi;
 - [^{F1}(ea) from a [^{F2}dissolution order or nullity order] under Chapter 2 of Part 4 of the Civil Partnership Act 2004 that has been made final, by a party who, having had time and the opportunity to appeal from the conditional order on which the final order was founded, has not appealed from that conditional order;]
 - (f) without the leave of the court or judge making the order, from an order of the High Court or a judge thereof made with the consent of the parties or as to costs only;
 - [^{F3}(fa) except as provided by Part I of the Arbitration Act 1996, from any decision of the High Court under that Part;]

Changes to legislation: *Judicature (Northern Ireland) Act 1978, Section 35 is up to date with all changes known to be in force on or before 06 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (g) without the leave of the judge or of the Court of Appeal, from any interlocutory order or judgment made or given by a judge of the High Court, except in the following cases namely:—
 - (i) where the liberty of the subject or the [^{F4}residence of, or contact with,] minors is concerned;
 - (ii) where an injunction or the appointment of a receiver is granted or refused;
 - (iii) in the case of a decision determining the claim of any creditor or the liability of any contributory or the liability of any director or other officer under the [^{F5}the Companies Acts (as defined in section 2 of the Companies Act 2006)] in respect of misfeasance or otherwise;
 - (iv) in the case of a decree nisi in a matrimonial cause [^{F6}, a conditional order in a civil partnership cause] or a judgment or order in an admiralty action determining liability;
 - ^{F7}(v)
 - (vi) in such other cases as may be prescribed being cases appearing to the Rules Committee to be of the nature of final decisions;
 - (h) from the decision of the High Court on any question of law, whether on appeal or otherwise, under [^{F8}sections 120 to 156 of the ^{M1} Representation of the People Act 1983];
 - (i) from a decision granting or refusing a certificate under section 12 of the ^{M2}Administration of Justice Act 1969.
 - [^{F9}(j) without the leave of the High Court or of the Court of Appeal, from a decision of the High Court under the Insolvency (Northern Ireland) Order 1989]
- (3) An order refusing unconditional leave to defend an action shall not be deemed to be an interlocutory order within the meaning of this section.
- (4) Subject to subsection (3), any doubt which may arise as to what orders or judgments are final and what are interlocutory shall be determined by the Court of Appeal.
- (5) Notwithstanding any provision of this section or of any other statutory provision, where any decision of a court in Northern Ireland involves the decision of any question as to the validity of any provision made by or under an Act of the Parliament of Northern Ireland or a Measure of the Northern Ireland Assembly and the decision is not otherwise subject to any appeal to the Court of Appeal or the [^{F10}Supreme Court] an appeal shall lie to the Court of Appeal by virtue of this subsection.
- (6) Where under any statutory provision passed or made before the commencement of this Act an appeal, either by way of case stated or upon a point of law only, lies from any lower deciding authority to the High Court or to a judge of the [^{F11}Court of Judicature] and the decision of any such court or judge is expressed to be final, such appeal shall lie instead to the Court of Appeal, and the decision of that court shall be final.

Textual Amendments

- F1** S. 35(2)(ea) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), ss. 261(3), 263(10)(d), [Sch. 29 para. 25\(2\)](#); S.I. 2005/3255, [art. 2\(2\)](#)
- F2** Words in s. 35(2)(ea) substituted (N.I.) (9.11.2009) by [Presumption of Death Act \(Northern Ireland\) 2009 \(c. 6 \(N.I.\)\)](#), ss. 19(1), 20(2), [Sch. 2](#); S.R. 2009/356, [art. 2](#)
- F3** S. 35(2)(fa) added (31.1.1997) by [1996 c. 23](#), s. 107(1), [Sch. 3](#), para. 34(2), (with 81(2)); S.I. 1996/3146, [art.3](#), (with art. 4, Sch. 2)

Changes to legislation: Judicature (Northern Ireland) Act 1978, Section 35 is up to date with all changes known to be in force on or before 06 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- F4** S. 35(2)(g)(i) amended (4.11.1996) by S.I. 1995/755(N.I. 2) art. 185(1), Sch. 9, para. 92; S.R. 96/297, art. 2(2)
- F5** Words in s. 35(2)(g)(iii) substituted (1.10.2007) by The Companies Act 2006 (Commencement No. 3, Consequential Amendments, Transitional Provisions and Savings) Order 2007 (S.I. 2007/2194), art. 10(1), **Sch. 4 para. 33** (with art. 12)
- F6** Words in s. 35(2)(g)(iv) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 261(3), 263(10) (d), **Sch. 29 para. 25(3)**; S.I. 2005/3255, **art. 2(2)**
- F7** S. 35(2)(g)(v) repealed (31.1.1997) by 1996 c. 23, s. 107(2), **Sch. 4** (with s. 81(2)); S.I. 1996/3146, art. 3, **Sch. 1**, (with art. 4, Sch. 2)
- F8** Words substituted by Representation of the People Act 1983 (c. 2, SIF 42), s. 205, **Sch. 8 para. 24**
- F9** S. 35(2)(j) inserted (N.I.) (1. 10. 1991) by S.I. 1989/2405, art. 381, **Sch. 9 Pt. II para. 29**; S.R. 1991/411, **art. 2**.
- F10** Words in s. 35(5) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40(4), 148(1), **Sch. 9 para. 30(3)**; S.I. 2009/1604, **art. 2(d)**
- F11** Words in s. 35(6) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 59, 148, **Sch. 11 para. 6(1)**; S.I. 2009/1604, **art. 2(d)**

Modifications etc. (not altering text)

- C1** S. 35(2)(h) applied (with modifications) (28.5.1998) by S.I. 1998/1287, **art. 3(4)**; S.I. 1998/1313, **art. 2**
- C2** S. 35(2)(h) extended with modifications by S.I. 1986/2250, **regs. 2, 3, 5(3)**
- C3** S. 35(2)(h) applied (with modifications) (4.5.1996) by S.I. 1996/1220, **art. 3(4)**
S. 35(2)(h) applied (with modifications) (1.8.2001) by S.I. 2001/2599, **art. 3(4)**
- C4** S. 35(2)(h) applied (with modifications) by Northern Ireland Assembly (Elections) Order 2001 (S.I. 2001/2599), art. 3(4) (as substituted (10.2.2007) by S.I. 2009/256, arts. 1(2), **3(1)**)

Marginal Citations

- M1** 1983 c. 2
- M2** 1969 c. 58.

Changes to legislation:

Judicature (Northern Ireland) Act 1978, Section 35 is up to date with all changes known to be in force on or before 06 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to :

- s. 35 excluded by SI 2003/435 (N.I. 10), art. 27A(6) (as inserted) by [2011 c. 24 \(N.I.\) s. 84\(2\)](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 14(1)(1A) substituted for s. 14(1) by [2002 c. 26 Sch. 12 para. 13](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 5 repealed (3.4.2006) without ever being in force by 2005 c. 4, Sch. 5 para. 125, Sch. 18 Pt. 3; S.I. 2006/1014, art. 2, Sch. 1 paras. 12(f), 30(c))
- s. 106(3A) inserted by [2011 c. 24 \(N.I.\) s. 89\(1\)](#)