



Judicature (Northern Ireland) Act 1978

1978 CHAPTER 23

PART III

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

41 Appeals to [^{F1}Supreme Court] in other criminal matters.

- (1) Subject to the provisions of this section, an appeal shall lie to the [^{F2}Supreme Court], at the instance of the defendant or the prosecutor,—
 - (a) from any decision of the High Court in a criminal cause or matter;
 - (b) 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.
- (2) No appeal shall lie under this section except with the leave of the court below or of [^{F3}the Supreme Court]; and, subject to section 45(3), 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 [^{F3}the Supreme Court], as the case may be, that the point is one which ought to be considered by [^{F3}the Supreme Court].
- (3) ^{F4}.....
- (4) For the purpose of disposing of an appeal under this section the [^{F5}Supreme Court] may exercise any powers of the court below or may remit the case to that court.
- (5) Schedule 1 shall have effect in relation to appeals under this section.
- (6) In this section, sections 44 and 45 and Schedule 1—
 - (a) any reference to the defendant shall be construed—
 - (i) 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;

Changes to legislation: Judicature (Northern Ireland) Act 1978, Section 41 is up to date with all changes known to be in force on or before 15 April 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

- (ii) 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;
- (iii) 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;
- (b) “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 accordingly as the application does or does not constitute a criminal cause or matter;
- (c) “leave to appeal” means leave to appeal to the [^{F5}Supreme Court] under this section;
- (d) an appeal under this section shall be treated 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 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.

Textual Amendments

- F1** Words in s. 41 sidenote substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40\(4\), 148\(1\), Sch. 9 para. 30\(4\)\(a\)](#); S.I. 2009/1604, [art. 2\(d\)](#)
- F2** Words in s. 41(1) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40\(4\), 148\(1\), Sch. 9 para. 30\(4\)\(a\)](#); S. I. 2009/1604, [art. 2\(d\)](#)
- F3** Words in s. 41(2) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40\(4\), 148\(1\), Sch. 9 para. 30\(4\)\(b\)](#); S.I. 2009/1604, [art. 2\(d\)](#)
- F4** S. 41(3) repealed (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40\(4\), 148\(1\), Sch. 9 para. 30\(4\)\(c\), Sch. 18 Pt. 5](#); S.I. 2009/1604, [arts. 2\(d\)\(f\)](#)
- F5** Words in s. 41(4)(6) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40\(4\), 148\(1\), Sch. 9 para. 30\(4\)\(d\)](#); S.I. 2009/1604, [art. 2\(d\)](#)

Changes to legislation:

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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\(1\)](#)