Criminal Appeal (Northern Ireland) Act 1980

1980 CHAPTER 47

PART I

APPEAL TO COURT OF APPEAL FROM CROWN COURT

Retrial

6 Power to order retrial.

(1) Where an appeal against conviction is allowed by the Court of Appeal under section 2 of this Act and it appears to the Court that the interests of justice so require, the Court, upon quashing the conviction and any sentence passed thereon, may order the appellant to be retried.

(2) Where, on an appeal to the Court against a sentence imposed upon conviction on indictments, it appears to the Court that there has been a mistrial of the indictment, the Court may quash the conviction, and sentence and may, if it appears to the Court that the interests of justice so require, order the appellant to be retried.

(3) An appellant shall not be retried by virtue of this section for any offence other than—

(a) the offence of which he was convicted at the original trial;

(b) any offence of which he could have been convicted at the original trial on an indictment for the first-mentioned offence;

(c) any offence charged in an alternative count of the indictment in respect of which **[**[F1]no verdict was given**]** in consequence of that conviction.

Changes to legislation: *Criminal Appeal (Northern Ireland) Act 1980, Cross Heading: Retrial is up to date with all changes known to be in force on or before 13 May 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*

Textual Amendments

F1 Words in s. 6(3)(c) substituted (24.7.2006 for E.W. and otherwise 8.1.2007) by Criminal Justice Act 2003 (c. 44), ss. 331, 336, **Sch. 36 para. 46**; S.I. 2006/1835, **art. 2(h)** (subject to art. 3); S.I. 2006/3422, **art. 2**

7 Supplementary provisions as to retrial.

(1) An appellant who is to be retried for an offence in pursuance of an order under section 6 of this Act shall be tried upon a fresh indictment preferred by the direction of the Court of Appeal and shall be tried before the Crown Court at such place as the Court of Appeal may direct or, if no such direction is given, at the place at which he was originally tried or such other place as the Crown Court may direct.

(2) The Court of Appeal may, upon ordering a retrial under section 6 of this Act, make such orders as appear to the Court to be necessary or expedient—

(a) for the custody or admission to bail of the appellant pending the retrial; or

(b) for the retention pending the retrial of any property or money forfeited, restored or paid by virtue of the original conviction or any order made on that conviction.

(3) Where a retrial is ordered under section 6 of this Act in the case of a person who, immediately before the determination of his appeal, was liable to be detained in pursuance of an order or direction under Part III of the [M1]Mental Health **[**[F2]Order (other than under Article 42, 43 or 45 of that Order)**]**—

(a) that order or direction shall continue in force pending the retrial as if the appeal had not been allowed; and

(b) any order made by the Court of Appeal under this section for his custody or admission to bail shall have effect subject to the order or direction under the said Part III.

[[F3](3A) Where a retrial is ordered under section 6 of this Act in the case of a person who, immediately before the determination of his appeal, was liable to be detained in pursuance of a remand under Article 43 of the Mental Health Order or an interim hospital order under Article 45 of that Order, the Court of Appeal may, if it thinks fit, order that he shall continue to be detained in hospital, and in that event Part III of the Mental Health Order shall apply as if he had been ordered under this section to be kept in custody pending his retrial and were detained in pursuance of a transfer direction together with a restriction direction.**]**

(4) Schedule 1 to this Act has effect with respect to [F4]... a person ordered under section 6 of this Act to be retried, his retrial, and the sentence which may be passed if the retrial results in his conviction.

Textual Amendments

F2 Words substituted by S.I. 1986/595 (N.I. 4), arts. 51(6), 136(1), **Sch. 5 Pt. I**

F3 S. 7(3A) inserted by S.I. 1986/595 (N.I. 4), arts. 51(6), 136(1), **Sch. 5 Pt. I**

F4 Words in s. 7(4) repealed (N.I.) (24.3.2016) by Access to Justice (Northern Ireland) Order 2003 (S.I. 2003/435 (N.I. 10)), art. 1(2), **Sch. 5** (with art. 45); S.R. 2016/199, art. 2(1), Sch. (with art. 2(2))

Changes to legislation: *Criminal Appeal (Northern Ireland) Act 1980, Cross Heading: Retrial is up to date with all changes known to be in force on or before 13 May 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*

Marginal Citations

M1 1961 c. 15 (N.I.)

Changes to legislation:
Criminal Appeal (Northern Ireland) Act 1980, Cross Heading: Retrial is up to date with all changes known to be in force on or before 13 May 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 the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 7(3A) words substituted by 2016 c. 18 (N.I.) Sch. 10 para. 3(3)(a)
- s. 7(3A) words substituted by 2016 c. 18 (N.I.) Sch. 10 para. 3(3)(b)
- s. 7(3A) words substituted by 2016 c. 18 (N.I.) Sch. 10 para. 3(3)(c)
- s. 36(3)(b) words substituted by 2016 c. 18 (N.I.) Sch. 10 para. 11(3)(b)(i)
- s. 36(3)(b) words substituted by 2016 c. 18 (N.I.) Sch. 10 para. 11(3)(b)(ii)
- s. 36(3)(c) words substituted by 2016 c. 18 (N.I.) Sch. 10 para. 11(3)(c)(i)
- s. 36(3)(c) words substituted by 2016 c. 18 (N.I.) Sch. 10 para. 11(3(c)(ii)