



# Criminal Appeal (Northern Ireland) Act 1980

## 1980 CHAPTER 47

### PART I

#### APPEAL TO COURT OF APPEAL FROM CROWN COURT

##### *The hearing*

#### **24 Right of appellant to be present.**

(1) Except as provided by this section, an appellant shall be entitled to be present, if he desires it, on the hearing of his appeal, although he may be in custody.

(2) A person in custody shall not be entitled to be present—

- (a) where the appeal is on some ground involving a question of law alone; or
- (b) on any proceedings preliminary or incidental to an appeal;

unless rules of court provide that he is to be so entitled or the Court of Appeal gives him leave to be present; nor shall he be so entitled where he is in custody in consequence of a finding of not guilty on the ground of insanity [<sup>F1</sup>or of a finding of unfitness to be tried].

[<sup>F2</sup>(2A) The Court of Appeal may at any time give a live link direction in relation to any proceedings at which the appellant is expected to be in custody but is entitled to be present.

(2B) For this purpose—

- (a) a “live link direction” is a direction that the appellant (if he is being held in custody at the time of the proceedings) is to attend the proceedings through a live link from the place at which he is held; and
- (b) “live link” means an arrangement by which the appellant is able to see and hear, and to be seen and heard by, the Court of Appeal (and for this purpose any impairment of eyesight or hearing is to be disregarded)

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(2C) The Court of Appeal—

- (a) shall not give a live link direction unless—
  - (i) the appellant has consented to the direction; and
  - (ii) any other party to the appeal has had the opportunity to make representations about the giving of such a direction; and
- (b) may rescind a live link direction at any time before or during any proceedings to which it applies (whether of its own motion or on the application of a party).

(2D) The Court of Appeal must not give a live link direction—

- (a) it has been notified by the Secretary of State that a live link is available between the Court and the institution at which the appellant is expected to be in custody; and
- (b) the notice has not been withdrawn.]

- (3) The power of the Court to pass sentence may be exercised notwithstanding that the appellant is for any reason not present.

**Textual Amendments**

- F1** Words added by S.I. 1986/595 (N.I. 4), arts. 51(6), 136(1), **Sch. 5 Pt. 1**
- F2** S. 24(2A)-(2D) inserted (N.I.) (2.2.2009) by **The Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1))**, arts. 1, **83(1)**; S.R. 2008/472, **art. 2(4)**, Sch. Pt. 4

**25 Evidence.**

- (1) For the purposes of [<sup>F3</sup>an appeal [<sup>F4</sup>, or an application for leave to appeal,] under] this Part of this Act, the Court of Appeal may, if it thinks it necessary or expedient in the interests of justice—
  - (a) order the production of any document, exhibit, or other thing connected with the proceedings, the production of which appears to the Court necessary for the determination of the case;
  - [<sup>F5</sup>(b) order any witness to attend and be examined before the Court (whether or not he was called at the trial); and]
  - [<sup>F6</sup>(c) receive any evidence which was not adduced at the trial.]
- [<sup>F7</sup>(1A) The power conferred by subsection (1)(a) may be exercised so as to require the production of any document, exhibit or other thing mentioned in that subsection to—
  - (a) the Court;
  - (b) the appellant;
  - (c) the respondent.]
- [<sup>F8</sup>(2) The Court of Appeal shall, in considering whether to receive any evidence, have regard in particular to—
  - (a) whether the evidence appears to the Court to be capable of belief;
  - (b) whether it appears to the Court that the evidence may afford any ground for allowing the appeal;
  - (c) whether the evidence would have been admissible in the proceedings from which the appeal lies on an issue which is the subject of the appeal; and
  - (d) whether there is a reasonable explanation for the failure to adduce the evidence in those proceedings.]

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(3) Subsection (1)(c) above applies to any [<sup>F9</sup>evidence of a] witness (including the appellant) who is competent but not compellable <sup>F10</sup> . . .

[<sup>F11</sup>(4) A live link direction under section 24(2A) does not apply to the giving of oral evidence by the appellant at any hearing unless that direction, or any subsequent direction of the court, provides expressly for the giving of such evidence through a live link.]

[<sup>F12</sup>(4) In this section, “respondent” includes a person who will be a respondent if leave to appeal is granted.]

#### Textual Amendments

- F3** Words in s. 25(1) inserted (1.1.1996) by 1995 c. 35, s. 29(1), **Sch. 2 para. 12(3)**; S.I. 1995/3061, **art. 3(h)**
- F4** Words in s. 25(1) inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 47, 153(7)(8), **Sch. 8 para. 22(2)**; S.I. 2008/1586, **art. 2(1)(3)**, Sch. 1 para. 26 (subject to Sch. 2)
- F5** S. 25(1)(b) substituted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 47, 153(7)(8), **Sch. 8 para. 22(3)**; S.I. 2008/1586, **art. 2(1)(3)**, Sch. 1 para. 26 (subject to Sch. 2)
- F6** S. 25(1)(c) substituted (1.1.1996) by 1995 c. 35, s. 4(2)(a); S.I. 1995/3061, **art. 3(a)**
- F7** S. 25(1A) inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 47, 153(7)(8), **Sch. 8 para. 22(4)**; S.I. 2008/1586, **art. 2(1)(3)**, Sch. 1 para. 26 (subject to Sch. 2)
- F8** S. 25(2) substituted (1.1.1996) by 1995 c. 35, s. 4(2)(b); S.I. 1995/3061, **art. 3(a)**
- F9** Words in s. 25(3) inserted (1.1.1996) by 1995 c. 35, s. 4(2)(c); S.I. 1995/3061, **art. 3(a)**
- F10** Word in s. 25(3) repealed (1.1.1996) by 1995 c. 35, s. 29(2), **Sch. 3**; S.I. 1995/3061, **art. 3(i)**
- F11** S. 25(4) inserted (N.I.) (2.2.2009) "after subsection (3)" by virtue of The Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)), arts. 1, **83(2)**; S.R. 2010/472, **art. 2(4)**, Sch. Pt. 4
- F12** S. 25(4) inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 47, 153(7)(8), **Sch. 8 para. 22(5)**; S.I. 2008/1586, **art. 2(1)(3)**, Sch. 1 para. 26 (subject to Sch. 2)

#### [<sup>F13</sup>25A Power to order investigations.

(1) On an appeal against conviction [<sup>F14</sup>or an application for leave to appeal against conviction,] the Court of Appeal may direct the Criminal Cases Review Commission to investigate and report to the Court on any matter if it appears to the Court that—

(a) [<sup>F15</sup>in the case of an appeal,]the matter is relevant to the determination of the [<sup>F16</sup>appeal] and ought, if possible, to be resolved before the [<sup>F17</sup>appeal] is determined;

[<sup>F18</sup>(aa) in the case of an application for leave to appeal, the matter is relevant to the determination of the application and ought, if possible, to be resolved before the application is determined;]

(b) an investigation of the matter by the Commission is likely to result in the Court being able to resolve it; and

(c) the matter cannot be resolved by the Court without an investigation by the Commission.

[ A direction under subsection (1) above may not be given by a single judge, <sup>F19</sup>(1A) notwithstanding that, in the case of an application for leave to appeal, the application may be determined by a single judge as provided for by section 45 below.]

(2) A direction by the Court under subsection (1) above shall be given in writing and shall specify the matter to be investigated.

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- (3) Copies of such a direction shall be made available to the appellant and the respondent.
- (4) Where the Commission have reported to the Court of Appeal on any matter which they have been directed under subsection (1) above to investigate, the Court—
  - (a) shall notify the appellant and the respondent that the Commission have reported; and
  - (b) may make available to the appellant and the respondent the report of the Commission and any statements, opinions and reports which accompanied it.

[ In this section “respondent” includes a person who will be a respondent if leave to <sup>F20</sup>(5) appeal is granted.]]

#### Textual Amendments

- F13** S. 25A inserted (31.3.1997) by 1995 c. 35, s. 5(2); S.I. 1997/402, art. 3(a)
- F14** Words in s. 25A(1) inserted (N.I.) (1.9.2004) by Criminal Justice Act 2003 (c. 44), s. 336, s. 314(2); S.I. 2004/1629, art. 3(2)(b) (subject to art. 3(3)(4))
- F15** Words in s. 25A(1)(a) inserted (N.I.) (1.9.2004) by Criminal Justice Act 2003 (c. 44), s. 336, s. 314(3)(a); S.I. 2004/1629, art. 3(2)(b) (subject to art. 3(3)(4))
- F16** Words in s. 25A(1)(a) substituted (N.I.) (1.9.2004) by Criminal Justice Act 2003 (c. 44), s. 336, s. 314(3)(b); S.I. 2004/1629, art. 3(2)(b) (subject to art. 3(3)(4))
- F17** Words in s. 25A(1)(a) substituted (N.I.) (1.9.2004) by Criminal Justice Act 2003 (c. 44), s. 336, s. 314(3)(b); S.I. 2004/1629, art. 3(2)(b) (subject to art. 3(3)(4))
- F18** Words in s. 25A(1)(aa) inserted (N.I.) (1.9.2004) by Criminal Justice Act 2003 (c. 44), s. 336, s. 314(4); S.I. 2004/1629, art. 3(2)(b) (subject to art. 3(3)(4))
- F19** Words in s. 25A(1A) inserted (N.I.) (1.9.2004) by Criminal Justice Act 2003 (c. 44), s. 336, s. 314(5); S.I. 2004/1629, art. 3(2)(b) (subject to art. 3(3)(4))
- F20** S. 25A(5) inserted (N.I.) (1.9.2004) by Criminal Justice Act 2003 (c. 44), s. 336, s. 314(6); S.I. 2004/1629, art. 3(2)(b) (subject to art. 3(3)(4))

## 26 Additional powers of Court.

- (1) For the purposes of [<sup>F21</sup>an appeal [<sup>F22</sup>, or an application for leave to appeal,] under] this Part of this Act, the Court of Appeal may exercise any of the following powers, where it thinks it necessary or expedient in the interests of justice:—
  - (a) in the case of any witness whose attendances might be required under section 25(1)(b) above, the Court may order his examination to be conducted in the prescribed manner before a judge of the Court or before any other person appointed by the Court for the purpose, and allow the admission of any deposition so taken as evidence before the Court;
  - (b) where a question arising on an appeal involves prolonged examination of documents or accounts, or any scientific or local investigation, which cannot in the opinion of the Court conveniently be conducted before it, the Court may order the reference of the question in the prescribed manner for inquiry and report to a special commissioner appointed by the Court, and act upon the report of the commissioner so far as the Court thinks fit to adopt it;
  - (c) the Court may appoint a person with special expert knowledge to act as assessor to the Court in a case where it appears to the Court that such knowledge is required for the proper determination of the case.

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- (2) The Court may, in relation to its proceedings, exercise any other powers which may for the time being be exercised by the Court on appeals in civil matters, and may issue any warrants necessary for enforcing the orders or sentences of the Court.

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**Textual Amendments**

**F21** Words in s. 26(1) inserted (1.1.1996) by 1995 c. 35, s. 29(1), **Sch. 2 para. 12(4)**; S.I. 1995/3061, **art. 3(h)**

**F22** Words in s. 26(1) inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 47, 153(7)(8), **Sch. 8 para. 23**; S.I. 2008/1586, **art. 2(1)(3)**, Sch. 1 para. 26 (subject to Sch. 2)

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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. 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\(3\)\(c\)\(ii\)](#)