

SCHEDULES

SCHEDULE 1

Section 7(4).

PROVISIONS APPLICABLE ON RETRIAL

Legal Aid

F11

Textual Amendments

F1 Sch. 1 para. 1 repealed (N.I.) (1.4.2015) by [Access to Justice \(Northern Ireland\) Order 2003 \(S.I. 2003/435 \(N.I. 10\)\)](#), art. 1(2), Sch. 4 para. 5(5), **Sch. 5** (with art. 45); S.R. 2015/194, art. 2, Sch. (with art. 3); S.R. 2015/237, art. 2, Sch. 1

[F2Evidence]

Textual Amendments

F2 [Sch. 1 para. 2](#) and preceding cross-heading substituted (N.I.) (18.4.2005) for Sch. 1 para. 2, 2A and preceding cross-heading by [The Criminal Justice \(Evidence\) \(Northern Ireland\) Order 2004 \(S.I. 2004/1501 \(N.I. 10\)\)](#), arts. 1, **34** (with savings in art. 43); S.R. 2005/242, **art. 2**

[F32.—(1) Evidence given at a retrial ordered under section 6 of this Act must be given orally if it was given orally at the original trial, unless—

(a) all the parties to the retrial agree otherwise;

(b) Article 20 of the Criminal Justice (Evidence) (Northern Ireland) Order 2004 applies (admissibility of hearsay evidence where a witness is unavailable); or

(c) the witness is unavailable to give evidence, otherwise than as mentioned in paragraph (2) of that Article, and Article 18(1)(d) of that Order applies (admission of hearsay evidence under residual discretion).

(2) On a retrial ordered under section 6 of this Act, Article 42(1) of the Magistrates' Courts (Northern Ireland) Order 1981 (reading of depositions) shall not apply to the depositions of any person who gave evidence at the original trial.]

Textual Amendments

F3 [Sch. 1 para. 2](#) and preceding cross-heading substituted (N.I.) (18.4.2005) for Sch. 1 para. 2, 2A and preceding cross-heading by [The Criminal Justice \(Evidence\) \(Northern Ireland\) Order 2004 \(S.I. 2004/1501 \(N.I. 10\)\)](#), arts. 1, **34** (with savings in art. 43); S.R. 2005/242, **art. 2**

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Changes to legislation: Criminal Appeal (Northern Ireland) Act 1980, SCHEDULE 1 is up to date with all changes known to be in force on or before 08 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](#)

- ^{F5}2A Subject to paragraph 2 above, evidence given orally at the original trial must be given orally at the retrial.

Conviction and sentence

- 3 Notwithstanding any rule of law to the contrary, a person ordered to be retried under section 6 of this Act may, if found guilty, be convicted on the retrial and the court before whom he is so convicted may pass in respect of the offence of which he is so convicted any sentence authorised by law to be imposed upon a conviction for that offence.
- 4 Without prejudice to the power of the court to impose any other sentence, the court before whom a person is convicted on retrial may pass in respect of the offence any sentence lawfully passed in respect of the offence charged on the original conviction notwithstanding that, on the date of the conviction on retrial, that person has ceased to be of an age at which such a sentence could otherwise be passed.
- 5 Where the person convicted on retrial is sentenced to imprisonment or other detention, the sentence shall begin to run from the time when such a sentence passed at the original trial would have begun to run; but, in computing the term of his sentence or the period for which he may be detained thereunder, as the case may be, there shall be disregarded—
- (a) any time before his conviction on retrial which would have been disregarded if the sentence had been passed at the original trial and the original conviction had not been quashed; or
 - (b) any time during which he was at large after being admitted to bail under section 17 of this Act.

Changes to legislation:

Criminal Appeal (Northern Ireland) Act 1980, SCHEDULE 1 is up to date with all changes known to be in force on or before 08 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.

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