

Changes to legislation: Criminal Justice Act 1988, SCHEDULE 3 is up to date with all changes known to be in force on or before 11 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

SCHEDULES

SCHEDULE 3

Section 36.

REVIEWS OF SENTENCING—SUPPLEMENTARY

- 1 Notice of an application for leave to refer a case to the Court of Appeal under section 36 above shall be given within 28 days from the day on which the sentence, or the last of the sentences, in the case was passed.

Modifications etc. (not altering text)

- C1** Sch. 3 para. 1 modified (25.8.2000) by 2000 c. 6, ss. 155(6)(b)(8), 168(1), Sch. 10 paras. 11, 19
Sch. 3 para. 1 modified (E.W.) (24.3.2003) by 2002 c. 29, ss. 15(5)(b), 458(1)
Sch. 3 para. 1 modified (N.I.) (24.3.2003) by 2002 c. 29, ss. 165(5)(b), 458(1)
- C2** Sch. 3 para. 1 modified (N.I.) (14.1.2015) by Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (c. 2), s. 28(2), Sch. 2 para. 3(2)(b)
- C3** Sch. 3 para. 1 modified (E.W.) (1.12.2020) by Sentencing Act 2020 (c. 17), ss. 385(6)(b), 416(1) (with ss. 2, 398(1), 406, Sch. 27); S.I. 2020/1236, reg. 2
- 2 If the registrar of criminal appeals is given notice of a reference or application to the Court of Appeal under section 36 above, he shall—
- (a) take all necessary steps for obtaining a hearing of the reference or application; and
- (b) obtain and lay before the Court in proper form all documents, exhibits and other things which appear necessary for the proper determination of the reference or application.
- 3 Rules of court may enable a person to whose sentencing such a reference or application relates to obtain from the registrar any documents or things, including copies or reproductions of documents, required for the reference or application and may authorise the registrar to make charges for them in accordance with scales and rates fixed from time to time by the Treasury.
- 4 An application to the Court of Appeal for leave to refer a case to the [F¹Supreme Court] under section 36(5) above shall be made within the period of 14 days beginning with the date on which the Court of Appeal conclude their review of the case; and an application to the [F¹Supreme Court] for leave shall be made within the period of 14 days beginning with the date on which the Court of Appeal conclude their review or refuse leave to refer the case to the [F¹Supreme Court] .

Textual Amendments

- F1** Words in Sch. 3 para. 4 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, Sch. 9 para. 48(3)(a); S.I. 2009/1604, art. 2
- 5 The time during which a person whose case has been referred for review under section 36 above is in custody pending its review and pending any reference to the

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[^{F2}Supreme Court] under subsection (5) of that section shall be reckoned as part of the term of any sentence to which he is for the time being subject.

Textual Amendments

F2 Words in [Sch. 3 para. 5](#) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40, 148, Sch. 9 para. 48\(3\)\(a\)](#); [S.I. 2009/1604, art. 2](#)

- 6 Except as provided by paragraphs 7 and 8 below, a person whose sentencing is the subject of a reference to the Court of Appeal under section 36 above shall be entitled to be present, if he wishes it, on the hearing of the reference, although he may be in custody.
- 7 A person in custody shall not be entitled to be present—
 (a) on an application by the Attorney General for leave to refer a case; or
 (b) on any proceedings preliminary or incidental to a reference,
 unless the Court of Appeal give him leave to be present.
- 8 The power of the Court of Appeal to pass sentence on a person may be exercised although he is not present.
- 9 A person whose sentencing is the subject of a reference to [^{F3}the Supreme Court] under section 36(5) above and who is detained pending the hearing of that reference shall not be entitled to be present on the hearing of the reference or of any proceeding preliminary or incidental thereto except where an order of [^{F3}the Supreme Court] authorises him to be present, or where the House or the Court of Appeal, as the case may be, give him leave to be present.

Textual Amendments

F3 Words in [Sch. 3 para. 9](#) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40, 148, Sch. 9 para. 48\(3\)\(b\)](#); [S.I. 2009/1604, art. 2](#)

- 10 The term of any sentence passed by the Court of Appeal or [^{F4}Supreme Court] under section 36 above shall, unless they otherwise direct, begin to run from the time when it would have begun to run if passed in the proceeding in relation to which the reference was made.

Textual Amendments

F4 Words in [Sch. 3 para. 10](#) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40, 148, {Sch. 9 para. 48\(3\)c}](#); [S.I. 2009/1604, art. 2](#)

- 11 [^{F5}(1)] Where on a reference to the Court of Appeal under section 36 above or a reference to the [^{F6}the Supreme Court] under subsection (5) of that section the person whose sentencing is the subject of the reference appears by counsel for the purpose of presenting any argument to [^{F7}the Court of Appeal or the Supreme Court] , he shall be entitled ^{F8}... to the payment out of central funds of such funds as are reasonably sufficient to compensate him for expenses properly incurred by him for the purpose of being represented on the reference; and any amount recoverable under this paragraph shall be ascertained, as soon as practicable, by the registrar of criminal appeals or, as the case may be, [^{F9}under Supreme Court Rules] .

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- [^{F10}(2) Sub-paragraph (1) has effect subject to—
- (a) sub-paragraph (3), and
 - (b) regulations under section 20(1A)(d) of the Prosecution of Offences Act 1985 (as applied by this paragraph).
- (3) A person is not entitled under sub-paragraph (1) to the payment of sums in respect of legal costs (as defined in section 16A of the Prosecution of Offences Act 1985) incurred in proceedings in the Court of Appeal.
- (4) Subsections (1A) to (1C) and (3) of section 20 of the Prosecution of Offences Act 1985 (regulations as to amounts ordered to be paid out of central funds) apply in relation to funds payable out of central funds under sub-paragraph (1) as they apply in relation to amounts payable out of central funds in pursuance of costs orders made under section 16 of that Act.]

Textual Amendments

- F5** Sch. 3 para. 11(1): Sch. 3 para. 11 renumbered as Sch. 3 para. 11(1) (1.10.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 7 para. 11(2)(a)** (with Sch. 7 Pt. 4); S.I. 2012/2412, art. 2(g)
- F6** Words in Sch. 3 para. 11 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, **Sch. 9 para. 48(3)(d)(i)**; S.I. 2009/1604, art. 2
- F7** Words in Sch. 3 para. 11 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, **Sch. 9 para. 48(3)(d)(ii)**; S.I. 2009/1604, art. 2
- F8** Words in Sch. 3 para. 11(1) omitted (1.10.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 7 para. 11(2)(b)** (with Sch. 7 Pt. 4); S.I. 2012/2412, art. 2(g)
- F9** Words in Sch. 3 para. 11 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, **Sch. 9 para. 48(3)(d)(iii)**; S.I. 2009/1604, art. 2
- F10** Sch. 3 para. 11(2)-(4) inserted (1.10.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 7 para. 11(2)(c)** (with Sch. 7 Pt. 4); S.I. 2012/2412, art. 2(g)

- 12 In the application of this Schedule to Northern Ireland—
- (a) any reference to the Attorney General shall be construed as a reference to the [^{F11}Director of Public Prosecutions for Northern Ireland];
 - (b) any reference (except in paragraph [^{F12}11(1)]) to the registrar of criminal appeals shall be construed as a reference to the Master (Queen’s Bench and Appeals);
 - (c) the reference in paragraph [^{F12}11(1)] to central funds shall be construed as a reference to money provided by Parliament;
 - (d) the reference in paragraph [^{F12}11(1)] to the registrar of criminal appeals shall be construed as a reference to the Master (Taxing Office).
- [^{F13}(e) paragraph 11 has effect as if sub-paragraphs (2) to (4) were omitted.]

Textual Amendments

- F11** Words in Sch. 3 para. 12 substituted (12.4.2010) by Justice (Northern Ireland) Act 2002 (c. 26), s. 87(1), **Sch. 12 para. 41**; S.R. 2010/113, art. 2, Sch. para. 20(b)
- F12** Words in Sch. 3 para. 12 substituted (1.10.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 7 para. 11(3)(a)** (with Sch. 7 Pt. 4); S.I. 2012/2412, art. 2(g)

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F13 Sch. 3 para. 12(e) inserted (1.10.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) (c. 10), s. 151(1), **Sch. 7 para. 11(3)(b)** (with Sch. 7 Pt. 4); S.I. 2012/2412, art. 2(g)

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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. 36(2)(b)(v) and word inserted by [2019 c. 17 s. 13\(3\)\(b\)](#)
- s. 36(3A)(3B) substituted for s. 36(3A) by [2008 c. 4 s. 46\(2\)](#)
- s. 41(4A) inserted by [2004 c. 28 Sch. 10 para. 28](#)
- s. 139AZA(1)(a)(iii) and word inserted by [2019 c. 17 s. 13\(4\)\(b\)](#)