



Criminal Justice Act 1988

1988 CHAPTER 33

PART IV

REVIEWS OF SENTENCING

36 **Reviews of sentencing**

- (1) If it appears to the Attorney General—
 - (a) that the sentencing of a person in a proceeding in the Crown Court has been unduly lenient; and
 - (b) that the case is one to which this Part of this Act applies,he may, with the leave of the Court of Appeal, refer the case to them for them to review the sentencing of that person; and on such a reference the Court of Appeal may—
 - (i) quash any sentence passed on him in the proceeding; and
 - (ii) in place of it pass such sentence as they think appropriate for the case and as the court below had power to pass when dealing with him.
- (2) Without prejudice to the generality of subsection (1) above, the condition specified in paragraph (a) of that subsection may be satisfied if it appears to the Attorney General that the judge erred in law as to his powers of sentencing.
- (3) For the purposes of this Part of this Act any two or more sentences are to be treated as passed in the same proceeding if they would be so treated for the purposes of section 10 of the Criminal Appeal Act 1968.
- (4) No judge shall sit as a member of the Court of Appeal on the hearing of, or shall determine any application in proceedings incidental or preliminary to, a reference under this section of a sentence passed by himself.
- (5) Where the Court of Appeal have concluded their review of a case referred to them under this section the Attorney General or the person to whose sentencing the reference relates may refer a point of law involved in any sentence passed on that person in the proceeding to the House of Lords for their opinion, and the House shall consider the point and give their opinion on it accordingly, and either remit the case to the Court of

Status: This is the original version (as it was originally enacted).

Appeal to be dealt with or deal with it themselves; and section 35(1) of the Criminal Appeal Act 1968 (composition of House for appeals) shall apply also in relation to any proceedings of the House under this section.

- (6) A reference under subsection (5) above shall be made only with the leave of the Court of Appeal or the House of Lords; and leave shall not be granted unless it is certified by the Court of Appeal that the point of law is of general public importance and it appears to the Court of Appeal or the House of Lords (as the case may be) that the point is one which ought to be considered by that House.
- (7) For the purpose of dealing with a case under this section the House of Lords may exercise any powers of the Court of Appeal.
- (8) The supplementary provisions contained in Schedule 3 to this Act shall have effect.
- (9) In the application of this section to Northern Ireland—
 - (a) any reference to the Attorney General shall be construed as a reference to the Attorney General for Northern Ireland;
 - (b) the references to sections 10 and 35(1) of the Criminal Appeal Act 1968 shall be construed as references to sections 10(2) and 33(1) of the Criminal Appeal (Northern Ireland) Act 1980, respectively.