



# Criminal Appeal Act 1995

## 1995 CHAPTER 35

### PART II

#### THE CRIMINAL CASES REVIEW COMMISSION

##### *References to court*

#### **9 Cases dealt with on indictment in England and Wales.**

- (1) Where a person has been convicted of an offence on indictment in England and Wales, the Commission—
  - (a) may at any time refer the conviction to the Court of Appeal, and
  - (b) (whether or not they refer the conviction) may at any time refer to the Court of Appeal any sentence (not being a sentence fixed by law) imposed on, or in subsequent proceedings relating to, the conviction.
- (2) A reference under subsection (1) of a person's conviction shall be treated for all purposes as an appeal by the person under section 1 of the 1968 Act against the conviction.
- (3) A reference under subsection (1) of a sentence imposed on, or in subsequent proceedings relating to, a person's conviction on an indictment shall be treated for all purposes as an appeal by the person under section 9 of the 1968 Act against—
  - (a) the sentence, and
  - (b) any other sentence (not being a sentence fixed by law) imposed on, or in subsequent proceedings relating to, the conviction or any other conviction on the indictment.
- (4) On a reference under subsection (1) of a person's conviction on an indictment the Commission may give notice to the Court of Appeal that any other conviction on the indictment which is specified in the notice is to be treated as referred to the Court of Appeal under subsection (1).

*Status: Point in time view as at 31/03/2005.*

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- (5) Where a verdict of not guilty by reason of insanity has been returned in England and Wales in the case of a person, the Commission may at any time refer the verdict to the Court of Appeal; and a reference under this subsection shall be treated for all purposes as an appeal by the person under section 12 of the 1968 Act against the verdict.
- (6) Where [<sup>F1</sup>in England and Wales there have been] findings that a person is under a disability and that he did the act or made the omission charged against him, the Commission may at any time refer either or both of those findings to the Court of Appeal; and a reference under this subsection shall be treated for all purposes as an appeal by the person under section 15 of the 1968 Act against the finding or findings referred.

#### **Textual Amendments**

- F1** Words in s. 9(6) substituted (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), s. 60, [Sch. 10 para. 31](#); [S.I. 2005/579](#), art. 3(g)

## **10 Cases dealt with on indictment in Northern Ireland.**

- (1) Where a person has been convicted of an offence on indictment in Northern Ireland, the Commission—
  - (a) may at any time refer the conviction to the Court of Appeal, and
  - (b) (whether or not they refer the conviction) may at any time refer to the Court of Appeal any sentence (not being a sentence fixed by law) imposed on, or in subsequent proceedings relating to, the conviction.
- (2) A reference under subsection (1) of a person's conviction shall be treated for all purposes as an appeal by the person under section 1 of the 1980 Act against the conviction.
- (3) A reference under subsection (1) of a sentence imposed on, or in subsequent proceedings relating to, a person's conviction on an indictment shall be treated for all purposes as an appeal by the person under section 8 or 9 (as the case may be) of the 1980 Act against—
  - (a) the sentence, and
  - (b) any other sentence (not being a sentence fixed by law) imposed on, or in subsequent proceedings relating to, the conviction or any other conviction on the indictment.
- (4) On a reference under subsection (1) of a person's conviction on an indictment the Commission may give notice to the Court of Appeal that any other conviction on the indictment which is specified in the notice is to be treated as referred to the Court of Appeal under subsection (1).
- (5) On a reference under subsection (1) the Court of Appeal may not pass any sentence more severe than that passed by the Crown Court.
- (6) Where a finding of not guilty on the ground of insanity has been recorded in Northern Ireland in the case of a person, the Commission may at any time refer the finding to the Court of Appeal; and a reference under this subsection shall be treated for all purposes as an appeal by the person under section 12 of the 1980 Act against the finding.

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- (7) Where [<sup>F2</sup>in Northern Ireland there has been] a finding that a person is unfit to be tried, the Commission may at any time refer the finding to the Court of Appeal; and a reference under this subsection shall be treated for all purposes as an appeal by the person under section 13A of the 1980 Act against the finding.

#### Textual Amendments

- F2** Words in s. 10(7) substituted (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), s. 60, [Sch. 10 para. 32](#); [S.I. 2005/579](#), art. 3(g)

## 11 Cases dealt with summarily in England and Wales.

- (1) Where a person has been convicted of an offence by a magistrates' court in England and Wales, the Commission—
- may at any time refer the conviction to the Crown Court, and
  - (whether or not they refer the conviction) may at any time refer to the Crown Court any sentence imposed on, or in subsequent proceedings relating to, the conviction.
- (2) A reference under subsection (1) of a person's conviction shall be treated for all purposes as an appeal by the person under section 108(1) of the <sup>M1</sup>Magistrates' Courts Act 1980 against the conviction (whether or not he pleaded guilty).
- (3) A reference under subsection (1) of a sentence imposed on, or in subsequent proceedings relating to, a person's conviction shall be treated for all purposes as an appeal by the person under section 108(1) of the Magistrates' Courts Act 1980 against—
- the sentence, and
  - any other sentence imposed on, or in subsequent proceedings relating to, the conviction or any related conviction.
- (4) On a reference under subsection (1) of a person's conviction the Commission may give notice to the Crown Court that any related conviction which is specified in the notice is to be treated as referred to the Crown Court under subsection (1).
- (5) For the purposes of this section convictions are related if they are convictions of the same person by the same court on the same day.
- (6) On a reference under this section the Crown Court may not award any punishment more severe than that awarded by the court whose decision is referred.
- (7) The Crown Court may grant bail to a person whose conviction or sentence has been referred under this section; and any time during which he is released on bail shall not count as part of any term of imprisonment or detention under his sentence.

#### Marginal Citations

- M1** 1980 c. 43.

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## 12 Cases dealt with summarily in Northern Ireland.

- (1) Where a person has been convicted of an offence by a magistrates' court in Northern Ireland, the Commission—
  - (a) may at any time refer the conviction to a county court, and
  - (b) (whether or not they refer the conviction) may at any time refer to a county court any sentence imposed on, or in subsequent proceedings relating to, the conviction.
- (2) A reference under subsection (1) of a person's conviction shall be treated for all purposes as an appeal by the person under Article 140(1) of the <sup>M2</sup>Magistrates' Courts (Northern Ireland) Order 1981 against the conviction (whether or not he pleaded guilty).
- (3) A reference under subsection (1) of a sentence imposed on, or in subsequent proceedings relating to, a person's conviction shall be treated for all purposes as an appeal by the person under Article 140(1) of the Magistrates' Courts (Northern Ireland) Order 1981 against—
  - (a) the sentence, and
  - (b) any other sentence imposed on, or in subsequent proceedings relating to, the conviction or any related conviction.
- (4) On a reference under subsection (1) of a person's conviction the Commission may give notice to the county court that any related conviction which is specified in the notice is to be treated as referred to the county court under subsection (1).
- (5) For the purposes of this section convictions are related if they are convictions of the same person by the same court on the same day.
- (6) On a reference under this section a county court may not award any punishment more severe than that awarded by the court whose decision is referred.
- (7) The High Court may grant bail to a person whose conviction or sentence has been referred to a county court under this section; and any time during which he is released on bail shall not count as part of any term of imprisonment or detention under his sentence.

### Marginal Citations

M2 [S.I. 1981/1675 \(N.I.26\)](#).

## 13 Conditions for making of references.

- (1) A reference of a conviction, verdict, finding or sentence shall not be made under any of sections 9 to 12 unless—
  - (a) the Commission consider that there is a real possibility that the conviction, verdict, finding or sentence would not be upheld were the reference to be made,
  - (b) the Commission so consider—
    - (i) in the case of a conviction, verdict or finding, because of an argument, or evidence, not raised in the proceedings which led to it or on any appeal or application for leave to appeal against it, or

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- (ii) in the case of a sentence, because of an argument on a point of law, or information, not so raised, and
  - (c) an appeal against the conviction, verdict, finding or sentence has been determined or leave to appeal against it has been refused.
- (2) Nothing in subsection (1)(b)(i) or (c) shall prevent the making of a reference if it appears to the Commission that there are exceptional circumstances which justify making it.

#### **14 Further provisions about references.**

- (1) A reference of a conviction, verdict, finding or sentence may be made under any of sections 9 to 12 either after an application has been made by or on behalf of the person to whom it relates or without an application having been so made.
- (2) In considering whether to make a reference of a conviction, verdict, finding or sentence under any of sections 9 to 12 the Commission shall have regard to—
- (a) any application or representations made to the Commission by or on behalf of the person to whom it relates,
  - (b) any other representations made to the Commission in relation to it, and
  - (c) any other matters which appear to the Commission to be relevant.
- (3) In considering whether to make a reference under section 9 or 10 the Commission may at any time refer any point on which they desire the assistance of the Court of Appeal to that Court for the Court's opinion on it; and on a reference under this subsection the Court of Appeal shall consider the point referred and furnish the Commission with the Court's opinion on the point.
- (4) Where the Commission make a reference under any of sections 9 to 12 the Commission shall—
- (a) give to the court to which the reference is made a statement of the Commission's reasons for making the reference, and
  - (b) send a copy of the statement to every person who appears to the Commission to be likely to be a party to any proceedings on the appeal arising from the reference.
- (5) Where a reference under any of sections 9 to 12 is treated as an appeal against any conviction, verdict, finding or sentence, the appeal may be on any ground relating to the conviction, verdict, finding or sentence (whether or not the ground is related to any reason given by the Commission for making the reference).
- (6) In every case in which—
- (a) an application has been made to the Commission by or on behalf of any person for the reference under any of sections 9 to 12 of any conviction, verdict, finding or sentence, but
  - (b) the Commission decide not to make a reference of the conviction, verdict, finding or sentence,
- the Commission shall give a statement of the reasons for their decision to the person who made the application.

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**Modifications etc. (not altering text)**

**C1** S. 14 extended (27.7.1999) by [1999 c. 25, s. 1\(3\)](#)

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