



# Criminal Justice Act 2003

## 2003 CHAPTER 44

### PART 9

#### PROSECUTION APPEALS

##### *General right of appeal in respect of rulings*

#### **58 General right of appeal in respect of rulings**

- (1) This section applies where a judge makes a ruling in relation to a trial on indictment at an applicable time and the ruling relates to one or more offences included in the indictment.
- (2) The prosecution may appeal in respect of the ruling in accordance with this section.
- (3) The ruling is to have no effect whilst the prosecution is able to take any steps under subsection (4).
- (4) The prosecution may not appeal in respect of the ruling unless—
  - (a) following the making of the ruling, it—
    - (i) informs the court that it intends to appeal, or
    - (ii) requests an adjournment to consider whether to appeal, and
  - (b) if such an adjournment is granted, it informs the court following the adjournment that it intends to appeal.
- (5) If the prosecution requests an adjournment under subsection (4)(a)(ii), the judge may grant such an adjournment.
- (6) Where the ruling relates to two or more offences—
  - (a) any one or more of those offences may be the subject of the appeal, and
  - (b) if the prosecution informs the court in accordance with subsection (4) that it intends to appeal, it must at the same time inform the court of the offence or offences which are the subject of the appeal.
- (7) Where—

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**Changes to legislation:** Criminal Justice Act 2003, Section 58 is up to date with all changes known to be in force on or before 22 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

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- (a) the ruling is a ruling that there is no case to answer, and
  - (b) the prosecution, at the same time that it informs the court in accordance with subsection (4) that it intends to appeal, nominates one or more other rulings which have been made by a judge in relation to the trial on indictment at an applicable time and which relate to the offence or offences which are the subject of the appeal,
- that other ruling, or those other rulings, are also to be treated as the subject of the appeal.
- (8) The prosecution may not inform the court in accordance with subsection (4) that it intends to appeal, unless, at or before that time, it informs the court that it agrees that, in respect of the offence or each offence which is the subject of the appeal, the defendant in relation to that offence should be acquitted of that offence if either of the conditions mentioned in subsection (9) is fulfilled.
- (9) Those conditions are—
- (a) that leave to appeal to the Court of Appeal is not obtained, and
  - (b) that the appeal is abandoned before it is determined by the Court of Appeal.
- (10) If the prosecution informs the court in accordance with subsection (4) that it intends to appeal, the ruling mentioned in subsection (1) is to continue to have no effect in relation to the offence or offences which are the subject of the appeal whilst the appeal is pursued.
- (11) If and to the extent that a ruling has no effect in accordance with this section—
- (a) any consequences of the ruling are also to have no effect,
  - (b) the judge may not take any steps in consequence of the ruling, and
  - (c) if he does so, any such steps are also to have no effect.
- (12) Where the prosecution has informed the court of its agreement under subsection (8) and either of the conditions mentioned in subsection (9) is fulfilled, the judge or the Court of Appeal must order that the defendant in relation to the offence or each offence concerned be acquitted of that offence.
- (13) In this section “applicable time”, in relation to a trial on indictment, means any time (whether before or after the commencement of the trial) before the [<sup>F1</sup>time when the judge starts his] summing-up to the jury.
- [<sup>F2</sup>(14) The reference in subsection (13) to the time when the judge starts his summing-up to the jury includes the time when the judge would start his summing-up to the jury but for the making of an order under Part 7.]

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#### Textual Amendments

- F1** Words in s. 58(13) substituted (8.1.2007) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), [ss. 30\(1\)](#), 60; [S.I. 2006/3423](#), [art. 2](#) (subject to [art. 3](#))
- F2** S. 58(14) inserted (8.1.2007) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), [ss. 30\(2\)](#), 60; [S.I. 2006/3423](#), [art. 2](#) (subject to [art. 3](#))
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#### Commencement Information

- I1** S. 58 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 4](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

**Changes to legislation:**

Criminal Justice Act 2003, Section 58 is up to date with all changes known to be in force on or before 22 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 :**

- specified provision(s) amendment to earlier commencing SI 2012/2574, Sch. by [S.I. 2012/2761 art. 2](#)

**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. 150(aa) inserted by [2012 c. 10 Sch. 26 para. 19\(2\)](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 26 para. 19 omitted (11.12.2013) by virtue of 2013 c. 22, Sch. 16 para. 23(2); S.I. 2013/2981, art. 2(d))
- s. 150(ba) inserted by [2012 c. 10 Sch. 26 para. 19\(3\)](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 26 para. 19 omitted (11.12.2013) by virtue of 2013 c. 22, Sch. 16 para. 23(2); S.I. 2013/2981, art. 2(d))
- s. 151(A1) inserted by [2008 c. 4 s. 11\(3\)](#)
- s. 151(1A) inserted by [2008 c. 4 s. 11\(5\)](#)
- s. 151(1A)(b) word substituted by [2008 c. 4 Sch. 4 para. 76\(3\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 151(1A) is still only prospectively inserted by 2008 c. 4, s. 11(5))
- s. 151(1A)(c) substituted by [2009 c. 25 Sch. 17 para. 8\(3\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 151(1A) is still only prospectively inserted by 2008 c. 4, s. 11(5))
- s. 151(2A)(b) substituted by [2009 c. 25 Sch. 17 para. 8\(4\)](#)
- s. 151(4A) inserted by [2009 c. 25 Sch. 17 para. 8\(5\)](#)
- s. 151(8)(a) words substituted by [2009 c. 25 Sch. 17 para. 8\(6\)\(a\)](#)
- s. 151(8)(b) words inserted by [2009 c. 25 Sch. 17 para. 8\(6\)\(b\)\(i\)](#)
- s. 151(8)(b) words substituted by [2009 c. 25 Sch. 17 para. 8\(6\)\(b\)\(ii\)](#)
- s. 151(8)(c)-(f) inserted by [2009 c. 25 Sch. 17 para. 8\(6\)\(c\)](#)
- s. 165(5) inserted by [2014 c. 12 s. 179\(3\)](#)
- s. 237(1A) inserted by [2006 c. 48 s. 34\(3\)](#)
- s. 237(1B)(f)(g) inserted by [2021 c. 11 Sch. 13 para. 40\(b\)](#)
- s. 239A inserted by [2015 c. 2 s. 8\(1\)](#)
- s. 239A cross-heading inserted by [2015 c. 2 Sch. 3 para. 5](#)
- s. 250(5C) inserted by [2015 c. 2 Sch. 3 para. 7\(4\)](#)
- s. 255A(4A) inserted by [2015 c. 2 s. 9\(2\)](#)
- s. 255B(3A) inserted by [2015 c. 2 s. 9\(3\)\(b\)](#)
- s. 255B(4A)-(4C) inserted by [2015 c. 2 s. 9\(3\)\(d\)](#)
- s. 255C(3A) inserted by [2015 c. 2 s. 9\(4\)\(b\)](#)
- s. 255C(4A)-(4C) inserted by [2015 c. 2 s. 9\(4\)\(d\)](#)
- s. 256A(1)-(1B) substituted for s. 256A(1) by [2015 c. 2 s. 9\(6\)\(a\)](#)
- s. 256A(4A)(4B) inserted by [2015 c. 2 s. 9\(6\)\(f\)](#)
- s. 256A(5)(6) substituted for s. 256A(5) by [2015 c. 2 s. 9\(6\)\(g\)](#)
- s. 256AZA inserted by [2015 c. 2 s. 10\(1\)](#)
- s. 257(3) inserted by [2006 c. 48 s. 34\(4\)](#)
- s. 258(1A) inserted by [2006 c. 48 s. 34\(5\)](#)
- s. 260(4)(aa) substituted for word by [2008 c. 4 s. 34\(7\)\(b\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 34(2)(4)(b)(7)(10) omitted (3.12.2012) by virtue of 2012 c. 10, s. 118(4)(b); S.I. 2012/2906, art. 2(d))

- Sch. 15B para. 49A omitted by [S.I. 2019/780 reg. 26\(4\)\(c\)](#) (This amendment not applied to [legislation.gov.uk](#). Regs. 21, 25, 26, 27, 30 revoked (1.12.2020) by 2020 c. 17, Sch. 28; S.I. 2020/1236, reg. 2)
- Sch. 15B para. 49B omitted by [S.I. 2019/780 reg. 26\(4\)\(d\)](#) (This amendment not applied to [legislation.gov.uk](#). Regs. 21, 25, 26, 27, 30 revoked (1.12.2020) by 2020 c. 17, Sch. 28; S.I. 2020/1236, reg. 2)
- Sch. 20B para. 34(6)(7) substituted for Sch. 20B para. 34(6) by [2015 c. 2 Sch. 3 para. 10](#)