

SCHEDULES

SCHEDULE 8

APPEALS IN CRIMINAL CASES

PART 2

AMENDMENTS OF CRIMINAL APPEAL (NORTHERN IRELAND) ACT 1980

- 14 The Criminal Appeal (Northern Ireland) Act 1980 (c. 47) has effect subject to the following amendments.

Time limit on grant of certificates of fitness for appeal

- 15 In section 1 (appeal against conviction), in paragraph (b) after “if” insert “, within 28 days from the date of the conviction,”.
- 16 In section 12 (appeal against finding of not guilty on ground of insanity), in subsection (1)(b) after “if” insert “, within 28 days from the date of the finding,”.
- 17 In section 13A (appeal against finding of unfitness to be tried), in subsection (2)(b) after “if” insert “, within 28 days from the date of the finding that the person did the act or made the omission charged,”.

Powers of Court to substitute different sentence

- 18 (1) Section 4 (alteration of sentence on appeal against conviction) is amended as follows.
- (2) For subsection (1) substitute—
- “(1) Subsection (1A) applies where—
- (a) two or more related sentences are passed,
 - (b) the Court of Appeal allows an appeal against conviction in respect of one or more of the offences for which the sentences were passed (“the related offences”), but
 - (c) the appellant remains convicted of one or more of those offences.
- (1A) The Court may, in respect of any related offence of which the appellant remains convicted, pass such sentence, in substitution for the sentence passed thereon at the trial, as it thinks proper and is authorised by law.”
- (3) After subsection (2) insert—
- “(3) For the purposes of subsection (1)(a), two or more sentences are related if—
- (a) they are passed on the same day,
 - (b) they are passed on different days but the court in passing any one of them states that it is treating that one together with the other or others as substantially one sentence, or

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- (c) they are passed on different days but in respect of counts on the same indictment.
- (4) Where—
 - (a) two or more sentences are related to each other by virtue of subsection (3)(a) or (b), and
 - (b) any one or more of those sentences is related to one or more other sentences by virtue of subsection (3)(c),
 all the sentences are to be treated as related for the purposes of subsection (1)(a).”

Interim hospital orders

- 19 Section 10(6) (effect of interim hospital orders made by Court of Appeal) is omitted.
- 20 (1) For the cross-heading preceding section 30 substitute—

“Supplementary”.

- (2) Before section 30 (but after the cross-heading preceding it) insert—

“29A Effect of interim hospital orders

- (1) This section applies where the Court of Appeal—
 - (a) makes an interim hospital order by virtue of any provision of this Part, or
 - (b) renews an interim hospital order so made.
 - (2) The Crown Court shall be treated for the purposes of Article 45(6) of the Mental Health Order (absconding offenders) as the court that made the order.”
- 21 In section 45 (powers of Court which are exercisable by single judge) after subsection (3) insert—
- “(3ZA) The power of the Court of Appeal to renew an interim hospital order made by it by virtue of any provision of this Act may be exercised by a single judge in the same manner as it may be exercised by the Court.”

Evidence

- 22 (1) Section 25 (evidence) is amended as follows.
- (2) In subsection (1) after “an appeal” insert “, or an application for leave to appeal,”.
- (3) In that subsection, for paragraph (b) substitute—
- “(b) order any witness to attend and be examined before the Court (whether or not he was called at the trial); and”.
- (4) After subsection (1) insert—
- “(1A) The power conferred by subsection (1)(a) may be exercised so as to require the production of any document, exhibit or other thing mentioned in that subsection to—
- (a) the Court;

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- (b) the appellant;
- (c) the respondent.”

(5) After subsection (3) insert—

“(4) In this section, “respondent” includes a person who will be a respondent if leave to appeal is granted.”

23 In section 26 (additional powers of Court), in subsection (1) after “an appeal” insert “, or an application for leave to appeal.”.

Detention of defendant pending appeal to Supreme Court

24 (1) Section 36 (detention of defendant on appeal by Crown) is amended as follows.

(2) In subsection (1) for the words from “may make” to the end substitute “shall make—

- (a) an order providing for his detention, or directing that he shall not be released except on bail (which may be granted by the Court as under section 35 above), so long as the appeal is pending, or
- (b) an order that he be released without bail.”

(3) After subsection (1) insert—

“(1A) The Court may make an order under subsection (1)(b) only if it thinks that it is in the interests of justice that the defendant should not be liable to be detained as a result of the decision of the Supreme Court on the appeal.”

(4) In subsection (2) for “subsection (1)” substitute “subsection (1)(a)”.

(5) In subsection (3) for “this section” (in each place where it occurs) substitute “subsection (1)(a)”.

(6) In subsection (3A) for “this section” (in the first place where it occurs) substitute “subsection (1)(a)”.

(7) For subsection (4) substitute—

“(4) The defendant shall not be liable to be detained again as a result of the decision of the Supreme Court on the appeal if—

- (a) the Court of Appeal has made an order under subsection (1)(b), or
- (b) the Court has made an order under subsection (1)(a) but the order has ceased to have effect by virtue of subsection (2) or the defendant has been released or discharged by virtue of subsection (3) or (3A).”

Powers of single judge

25 (1) Section 45 (powers of Court of Appeal which are exercisable by single judge) is amended as follows.

(2) After subsection (3C) insert—

“(3D) The power of the Court of Appeal to grant leave to appeal under Article 8(11) of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988 may be exercised by a single judge in the same manner as it may be exercised by the Court.”