



Criminal Justice Act 1967

1967 CHAPTER 80

PART VI

MISCELLANEOUS AND GENERAL

Criminal appeals

- 97 New provision as to appeal against sentence passed at assizes or quarter sessions.**
- (1) This section has effect for providing rights of appeal against sentence when a person is dealt with by a court of assize or quarter sessions (otherwise than on appeal from a magistrates' court) for an offence of which he was not convicted on indictment.
 - (2) The proceedings from which an appeal against sentence lies under this section are those where an offender convicted of an offence by a magistrates' court—
 - (a) is committed by the court to be dealt with for his offence at assizes or quarter sessions ; or
 - (b) having been made the subject of a probation order or an order for conditional discharge or given a suspended sentence, appears or is brought before a court of assize or quarter sessions to be further dealt with for his offence.
 - (3) An offender who, after the commencement of this section, is dealt with for an offence at assizes or quarter sessions in a proceeding to which subsection (2) of this section applies may appeal against sentence in any of the following cases:—
 - (a) where, either for that offence alone or for that offence and other offences for which sentence is passed in the same proceeding, he is sentenced to imprisonment for a term of six months or more ; or
 - (b) where the sentence is one which the court convicting him had not power to pass; or
 - (c) where the court in dealing with him for the offence makes in respect of him—
 - (i) a recommendation for deportation; or
 - (ii) an order disqualifying him for holding or obtaining a licence to drive a motor vehicle under Part II of the Road Traffic Act 1960; or

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- (iii) an order under section 40 of this Act.
- (4) An appeal under this section lies to the criminal division of the Court of Appeal, but only with the leave of that court.
- (5) The following enactments, that is to say—
- (a) sections 7(1), 9, 11, 14(2), 15(1) and 17 of the Criminal Appeal Act 1907 (being provisions as to procedure and other incidental matters arising on an appeal); and
 - (b) sections 5 (evidence) and 6 (computation of sentence) of the Criminal Appeal Act 1966 ;
- shall apply with the necessary modifications in relation to an appeal under this section as they apply in relation to an appeal against sentence passed on conviction on indictment.
- (6) Where a court of assize or quarter sessions, in dealing with an offender either on his conviction on indictment or in a proceeding to which subsection (2) of this section applies, has passed on him two or more sentences in the same proceeding, being sentences against which an appeal lies under section 3 of the Criminal Appeal Act 1907 or this section, an appeal or application for leave to appeal against any one of those sentences shall be treated as an appeal or application in respect of both or all of them ; and for the purposes of this section two or more sentences shall be treated as passed in the same proceeding if—
- (a) they are passed on the same day; or
 - (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.
- (7) On an appeal against sentence under this section or section 3 of the Criminal Appeal Act 1907, the Court of Appeal, if it considers that the appellant should be sentenced differently for any offence for which he was dealt with by the court below, may—
- (a) quash any sentence or order which is the subject of the appeal; and
 - (b) in place of it pass such sentence or make such order as it thinks appropriate for the case and as the court below had power to pass or make when dealing with him for the offence;
- but the court shall so exercise its powers under this subsection that, taking the case as a whole, the appellant is not more severely dealt with on appeal than he was dealt with by the court below.
- (8) The power of the Court of Appeal under the last foregoing subsection to pass a sentence which the court below had power to pass for an offence shall, notwithstanding that the court below made no order under section 40(1) of this Act in respect of a suspended sentence previously passed on the appellant for another offence, include power to deal with him in respect of that suspended sentence, where the court below—
- (a) could have so dealt with him if it had not passed on him a sentence of borstal training quashed by the Court of Appeal under paragraph (a) of the last foregoing subsection; or
 - (b) did so deal with him in accordance with paragraph (d) of the said subsection (1) by making no order in respect of the suspended sentence.
- (9) The term of any sentence passed by the Court of Appeal under this section or under section 5 of the Criminal Appeal Act 1907 (special powers of Court on appeal against

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conviction) shall, unless the court otherwise directs, begin to run from the time when it would have begun to run if passed in the proceedings from which the appeal lies.

- (10) In this section " sentence " has the same meaning as in the Criminal Appeal Act 1907, and " recommendation for deportation " means a recommendation made by a court under Part II of the Commonwealth Immigrants Act 1962 or under an order made under the Aliens Restriction Act 1914.

98 Amendment of enactments relating to criminal appeals.

- (1) The following enactments in the Criminal Appeal Act 1907 (being enactments which are obsolete or not in use, or relate to matters which can be dealt with by rules of court) shall cease to have effect:—
- (a) section 8 (judge's notes to be furnished to Court of Appeal);
 - (b) section 9(d) and (e) (power of Court of Appeal to order new evidence to be taken on commission and to appoint an assessor to sit with them); and
 - (c) section 15(3) (documents and exhibits to be retained in court of trial pending appeal).

- (2) Section 12 of the said Act of 1907 (duty of Director of Public Prosecutions) shall cease to have effect; but, without prejudice to section 2 of the Prosecution of Offences Act 1879 (general duty of Director), it shall be the duty of the Director of Public Prosecutions to appear for the Crown or the prosecutor, when directed by the court to do so, on any appeal under the Criminal Appeal Act 1907 or section 1 of the Administration of Justice Act 1960 or section 97 of this Act.

In this subsection " the court " means, in the case of an appeal to or from the criminal division of the Court of Appeal, that division, and, in the case of an appeal from a divisional court of the Queen's Bench Division, the divisional court.

- (3) Section 18 of the said Act of 1907 (rules of court) shall cease to have effect; but rules made under section 99 of the Supreme Court of Judicature (Consolidation) Act 1925 may make provision with respect to any matter for which provision by rules of court is to be made under the said Act of 1907 or the enactments amending it, and may regulate generally the practice and procedure of the criminal division of the Court of Appeal; and, without prejudice to the generality of the foregoing, rules so made may require courts from which an appeal lies to that division to furnish the said division with any assistance or information which the division may require for the purpose of exercising its jurisdiction.
- (4) The Lord Chancellor may appoint two persons appearing to him to have special experience in criminal procedure, one being a practising barrister and one a practising solicitor, to be members of the Rule Committee of the Supreme Court (that is to say, the authority for the time being empowered to make rules under section 99 of the said Act of 1925) for the purpose of the Committee's power to make rules by virtue of subsection (3) of this section.
- (5) Section 29 of the said Act of 1925 (under which an appeal against conviction for obstruction of a highway, etc., lies to the civil, and not the criminal, division of the Court of Appeal) shall cease to have effect.
- (6) The enactments specified in Schedule 4 to this Act shall have effect subject to the amendments shown in that Schedule (being minor amendments to remove doubts and anomalies, and otherwise to facilitate the consolidation of the enactments relating to

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criminal appeals in England and Wales, the corresponding enactments applying to Northern Ireland and the enactments relating to appeals from courts-martial).

- (7) In the Criminal Appeal (Northern Ireland) Act 1930, sections 13A(5) and 17 of the Courts-Martial (Appeals) Act 1951, the Administration of Justice Act 1960 and Schedule 1 to the Criminal Appeal Act 1964 any reference to an enactment of the Parliament of Northern Ireland shall include a reference to an enactment corresponding thereto and for the time being in force in Northern Ireland.