



Criminal Appeal Act 1968

1968 CHAPTER 19

PART I

APPEAL TO COURT OF APPEAL IN CRIMINAL CASES

Appeal against sentence

9 Appeal against sentence following conviction on indictment

A person who has been convicted of an offence on indictment may appeal to the Court of Appeal against any sentence (not being a sentence fixed by law) passed on him for the offence, whether passed on his conviction or in subsequent proceedings.

10 Appeal against sentence in other cases dealt with 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 dealt with for an offence at assizes or quarter sessions in a proceeding to which subsection (2) of this section applies may appeal to the Court of 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

Status: This is the original version (as it was originally enacted).

- (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
 - (iii) an order under section 40 of the Criminal Justice Act 1967 (orders as to existing suspended sentence when person subject to the sentence is again convicted).
- (4) For purposes of subsection (3)(a) of this section, any two or more sentences are to 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;
- and consecutive terms of imprisonment and terms which are wholly or partly concurrent are to be treated as a single term.

11 Supplementary provisions as to appeal against sentence

- (1) An appeal against sentence, whether under section 9 or under section 10 of this Act, lies only with the leave of the Court of Appeal.
- (2) 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 section 10(2) of this Act applies, has passed on him two or more sentences in the same proceeding (which expression has the same meaning in this subsection as it has for the purposes of section 10), being sentences against which an appeal lies under section 9 or section 10, 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.
- (3) On an appeal against sentence the Court of Appeal, if they consider that the appellant should be sentenced differently for an 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 they think 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 their 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.
- (4) The power of the Court of Appeal under subsection (3) of this section 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 the Criminal Justice Act 1967 (power of court on conviction of further offence to deal with suspended sentence) 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—

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

- (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 subsection (3)(a) of this section ; or
- (b) did so deal with him in accordance with paragraph (d) of the said section 40(1) (power of Court of Appeal to make no order with respect to suspended sentence).