



Criminal Appeal Act 1968

1968 CHAPTER 19

PART I

APPEAL TO COURT OF APPEAL IN CRIMINAL CASES

Retrial

7 Power to order retrial

- (1) Where the Court of Appeal allow an appeal against conviction and do so only by reason of evidence received or available to be received by them under section 23 of this Act and it appears to the Court that the interests of justice so require, they may order the appellant to be retried.
- (2) A person shall not under this section be ordered to be retried for any offence other than—
 - (a) the offence of which he was convicted at the original trial and in respect of which his appeal is allowed as mentioned in subsection (1) above ;
 - (b) an offence of which he could have been convicted at the original trial on an indictment for the first-mentioned offence; or
 - (c) an offence charged in an alternative count of the indictment in respect of which the jury were discharged from giving a verdict in consequence of convicting him of the first-mentioned offence.

8 Supplementary provisions as to retrial

- (1) A person who is to be retried for an offence in pursuance of an order under section 7 of this Act shall be tried on a fresh indictment preferred by direction of the Court of Appeal, and shall be tried before such court as the Court of Appeal may direct (being a court of assize or, if the offence is within the jurisdiction of a court of quarter sessions, a court of quarter sessions) or, if no such direction is given, before the court by which he was originally tried.

Status: This is the original version (as it was originally enacted).

- (2) The Court of Appeal may, on ordering a retrial, make such orders as appear to them to be necessary or expedient—
 - (a) for the custody or admission to bail of the person ordered to be retried pending his retrial; or
 - (b) for the retention pending the retrial of any property or money forfeited, restored or paid by virtue of the original conviction or any order made on that conviction.
- (3) If the person ordered to be retried was, immediately before the determination of his appeal, liable to be detained in pursuance of an order or direction under Part V of the Mental Health Act 1959.—
 - (a) that order or direction shall continue in force pending the retrial as if the appeal had not been allowed; and
 - (b) any order made by the Court of Appeal under this section for his custody or admission to bail shall have effect subject to the said order or direction.
- (4) Schedule 2 to this Act has effect with respect to the procedure in the case of a person ordered to be retried, the sentence which may be passed if the retrial results in his conviction and the order for costs which may be made if he is acquitted.