



# Criminal Appeal Act 1968

## 1968 CHAPTER 19

### PART I

#### APPEAL TO COURT OF APPEAL IN CRIMINAL CASES

##### *Appeal against conviction on indictment*

#### **1 Right of appeal**

- (1) A person convicted of an offence on indictment may appeal to the Court of Appeal against his conviction.
- (2) The appeal may be—
  - (a) on any ground which involves a question of law alone ; and
  - (b) with the leave of the Court of Appeal, on any ground which involves a question of fact alone, or a question of mixed law and fact, or on any other ground which appears to the Court of Appeal to be a sufficient ground of appeal;

but if the judge of the court of trial grants a certificate that the case is fit for appeal on a ground which involves a question of fact, or a question of mixed law and fact, an appeal lies under this section without the leave of the Court of Appeal.

#### **2 Grounds for allowing appeal under s. 1**

- (1) Except as provided by this Act, the Court of Appeal shall allow an appeal against conviction if they think—
  - (a) that the verdict of the jury should be set aside on the ground that under all the circumstances of the case it is unsafe or unsatisfactory ; or
  - (b) that the judgment of the court of trial should be set aside on the ground of a wrong decision of any question of law; or
  - (c) that there was a material irregularity in the course of the trial,and in any other case shall dismiss the appeal:

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Provided that the Court may, notwithstanding that they are of opinion that the point raised in the appeal might be decided in favour of the appellant, dismiss the appeal if they consider that no miscarriage of justice has actually occurred.

- (2) In the case of an appeal against conviction the Court shall, if they allow the appeal, quash the conviction.
- (3) An order of the Court of Appeal quashing a conviction shall, except when under section 7 below the appellant is ordered to be retried, operate as a direction to the court of trial to enter, instead of the record of conviction, a judgment and verdict of acquittal.

### **3 Power to substitute conviction of alternative offence**

- (1) This section applies on an appeal against conviction, where the appellant has been convicted of an offence and the jury could on the indictment have found him guilty of some other offence, and on the finding of the jury it appears to the Court of Appeal that the jury must have been satisfied of facts which proved him guilty of the other offence.
- (2) The Court may, instead of allowing or dismissing the appeal, substitute for the verdict found by the jury a verdict of guilty of the other offence, and pass such sentence in substitution for the sentence passed at the trial as may be authorised by law for the other offence, not being a sentence of greater severity.

### **4 Sentence when appeal allowed on part of an indictment**

- (1) This section applies where, on an appeal against conviction on an indictment containing two or more counts, the Court of Appeal allow the appeal in respect of part of the indictment.
- (2) Except as provided by subsection (3) below, the Court may in respect of any count on which the appellant remains convicted pass such sentence, in substitution for any sentence passed thereon at the trial, as they think proper and is authorised by law for the offence of which he remains convicted on that count.
- (3) The Court shall not under this section pass any sentence such that the appellant's sentence on the indictment as a whole will, in consequence of the appeal, be of greater severity than the sentence (taken as a whole) which was passed at the trial for all offences of which he was convicted on the indictment.

### **5 Disposal of appeal against conviction on special verdict**

- (1) This section applies on an appeal against conviction by a person in whose case the jury have found a special verdict.
- (2) If the Court of Appeal consider that a wrong conclusion has been arrived at by the court of trial on the effect of the jury's verdict they may, instead of allowing the appeal, order such conclusion to be recorded as appears to them to be in law required by the verdict, and pass such sentence in substitution for the sentence passed at the trial as may be authorised by law.

### **6 Substitution of finding of insanity or unfitness to plead**

- (1) Where, on an appeal against conviction, the Court of Appeal are of opinion—

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- (a) that the proper verdict would have been one of not guilty by reason of insanity ;  
or
  - (b) that the case is not one where there should have been a verdict of acquittal, but that there should have been a finding that the accused was under disability,
- the Court shall make an order that the appellant be admitted to such hospital as may be specified by the Secretary of State.
- (2) Schedule 1 to this Act applies with respect to the consequences and effect of an order made by the Court of Appeal under this section.
  - (3) On making an order under this section in the case of any person, the Court of Appeal may give such directions as they think fit for his conveyance to a place of safety and his detention there pending his admission to hospital within the relevant period specified by Schedule 1 to this Act.
  - (4) In section 72 of the Mental Health Act 1959 (which relates to the removal to hospital of persons serving sentences of imprisonment and is applied by subsection (6) of the section to persons in other forms of detention) references to a person serving a sentence of imprisonment shall be construed as not including references to a person subject to an order of the Court of Appeal under this section.

### *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.
- (2) The Court of Appeal may, on ordering a retrial, make such orders as appear to them to be necessary or expedient—

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- (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.

#### *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
  - (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

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- (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—
- (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).

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*Appeal in cases of insanity*

**12 Appeal against verdict of not guilty by reason of insanity**

A person in whose case there is returned a verdict of not guilty by reason of insanity may appeal to the Court of Appeal against the verdict—

- (a) on any ground of appeal which involves a question of law alone; and
- (b) with the leave of the Court of Appeal, on any ground which involves a question of fact alone, or a question of mixed law and fact, or on any other ground which appears to the Court of Appeal to be a sufficient ground of appeal;

but if the judge of the court of trial grants a certificate that the case is fit for appeal on a ground which involves a question of fact, or a question of mixed law and fact, an appeal lies under this section without the leave of the Court of Appeal.

**13 Disposal of appeal under s. 12**

- (1) Subject to the provisions of this section, the Court of Appeal shall allow an appeal under section 12 of this Act if they are of opinion—
  - (a) that the verdict should be set aside on the ground that under all the circumstances of the case it is unsafe or unsatisfactory; or
  - (b) that the order of the court giving effect to the verdict should be set aside on the ground of a wrong decision of any question of law; or
  - (c) that there was a material irregularity in the course of the trial,
 and in any other case shall dismiss the appeal.
- (2) The Court of Appeal may dismiss an appeal under section 12 of this Act, if of opinion that, notwithstanding that the point raised in the appeal might be decided in favour of the appellant, no miscarriage of justice has actually occurred.
- (3) Where apart from this subsection—
  - (a) an appeal under section 12 of this Act would fall to be allowed; and
  - (b) none of the grounds for allowing it relates to the question of the insanity of the accused,
 the Court of Appeal may dismiss the appeal if they are of opinion that, but for the insanity of the accused, the proper verdict would have been that he was guilty of an offence other than the offence charged.
- (4) Where an appeal under section 12 of this Act is allowed, the following provisions apply:—
  - (a) if the ground, or one of the grounds, for allowing the appeal is that the finding of the jury as to the insanity of the accused ought not to stand and the Court of Appeal are of opinion that the proper verdict would have been that he was guilty of an offence (whether the offence charged or any other offence of which the jury could have found him guilty), the Court—
    - (i) shall substitute for the verdict of not guilty by reason of insanity a verdict of guilty of that offence; and
    - (ii) shall, subject to subsection (5) below, have the like powers of punishing or otherwise dealing with the appellant, and other powers, as the court of trial would have had if the jury had come to the substituted verdict; and

- (b) in any other case, the Court of Appeal shall substitute for the verdict of the jury a verdict of acquittal.
- (5) The Court of Appeal shall not by virtue of subsection (4)(a) above sentence any person to death ; but where under that paragraph they substitute a verdict of guilty of an offence for which apart from this subsection they would be required to sentence the appellant to death, their sentence shall (whatever the circumstances) be one of imprisonment for life.
- (6) An order of the Court of Appeal allowing an appeal in accordance with this section shall operate as a direction to the court of trial to amend the record to conform with the order.

#### **14 Hospital order on disposal of appeal**

- (1) Where, on an appeal under section 12 of this Act, the Court of Appeal are of opinion that the case is not one where there should have been a verdict of acquittal but that there should have been a finding that the accused was under disability, the Court shall make an order that the appellant be admitted to such hospital as may be specified by the Secretary of State.
- (2) Where in accordance with section 13(4)(b) of this Act the Court of Appeal substitute a verdict of acquittal, and they are of opinion—
  - (a) that the appellant is suffering from mental disorder of a nature or degree which warrants his detention in a hospital under observation (with or without other medical treatment) for at least a limited period ; and
  - (b) that he ought to be so detained in the interests of his own health or safety or with a view to the protection of other persons,the Court shall make an order that the appellant be admitted for observation to such hospital as may be specified by the Secretary of State.
- (3) Schedule 1 to this Act applies with respect to the consequences and effect of an order made by the Court of Appeal under this section.
- (4) On making an order under this section in the case of any person, the Court of Appeal may give such directions as they think fit for his conveyance to a place of safety and his detention there pending his admission to hospital within the relevant period specified in Schedule 1 to this Act.
- (5) In section 72 of the Mental Health Act 1959 (which relates to the removal to hospital of persons serving sentences of imprisonment and is applied by subsection (6) of the section also to persons in other forms of detention) references to a person serving a sentence of imprisonment shall be construed as not including references to a person subject to an order of the Court of Appeal under subsection (1) of this section.

#### *Unfitness to stand trial*

#### **15 Right of appeal against finding of disability 16. Disposal of appeal under s. 15**

- (1) Where there has been a determination under section 4 of the Criminal Procedure (Insanity) Act 1964 of the question of a person's fitness to be tried, and the jury has returned a finding that he is under disability, the person may appeal to the Court of Appeal against the finding.

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- (2) An appeal under this section may be—
- (a) on any ground of appeal which involves a question of law alone; and
  - (b) with the leave of the Court of Appeal, on any ground which involves a question of fact alone, or a question of mixed law and fact, or on any other ground which appears to the Court of Appeal to be a sufficient ground of appeal;

but if the judge of the court of trial grants a certificate that the case is fit for appeal on a ground which involves a question of fact, or a question of mixed law and fact, an appeal lies under this section without the leave of the Court of Appeal.

## 16 Disposal of appeal under s. 15.

- (1) The Court of Appeal shall allow an appeal under section 15 of this Act if they are of opinion—
- (a) that the finding of the jury should be set aside on the ground that under all the circumstances of the case it is unsafe or unsatisfactory; or
  - (b) that the order of the court giving effect to the finding should be set aside on the ground of a wrong decision of any question of law ; or
  - (c) that there was a material irregularity in the course of the determination of the question of fitness to be tried ;

and in any other case (except one to which subsection (2) below applies) shall dismiss the appeal; but they may dismiss the appeal if of opinion that, notwithstanding that the point raised in the appeal might be decided in favour of the appellant, no miscarriage of justice has actually occurred.

- (2) An appeal under section 15 of this Act may, in a case where the question of fitness to be tried was determined later than on arraignment, be allowed by the Court of Appeal (notwithstanding that the finding was properly come to) if the Court are of opinion that the case is one in which the accused should have been acquitted before the question of fitness to be tried was considered; and, if an appeal is allowed under this subsection, the Court of Appeal shall, in addition to quashing the finding, direct a verdict of acquittal to be recorded (but not a verdict of not guilty by reason of insanity).
- (3) Subject to subsection (2) above, where an appeal under section 15 of this Act is allowed, the appellant may be tried accordingly for the offence with which he was charged, and the Court of Appeal may make such orders as appear to them to be necessary or expedient pending any such trial for his custody, admission to bail or continued detention under the Mental Health Act 1959; and Schedule 3 to this Act has effect for applying provisions in Part V of that Act to persons in whose case an order is made by the Court of Appeal under this subsection.

*Review by Court of Appeal of cases tried on indictment*

## 17 Reference by Home Secretary

- (1) Where a person has been convicted on indictment, or been tried on indictment and found not guilty by reason of insanity, or been found by a jury to be under disability, the Secretary of State may, if he thinks fit, at any time either—
- (a) refer the whole case to the Court of Appeal and the case shall then be treated for all purposes as an appeal to the Court by that person; or



- (b) if he desires the assistance of the Court on any point arising in the case, refer that point to the Court for their opinion thereon, and the Court shall consider the point so referred and furnish the Secretary of State with their opinion thereon accordingly.
- (2) A reference by the Secretary of State under this section may be made by him either on an application by the person referred to in subsection (1), or without any such application.

*Procedure from notice of appeal to hearing*

**18 Initiating procedure**

- (1) A person who wishes to appeal under this Part of this Act to the Court of Appeal, or to obtain the leave of that court to appeal, shall give notice of appeal or, as the case may be, notice of application for leave to appeal, in such manner as may be directed by rules of court.
- (2) Notice of appeal, or of application for leave to appeal, shall be given within twenty-eight days from the date of the conviction, verdict or finding appealed against, or in the case of appeal against sentence, from the date on which sentence was passed or, in the case of an order made or treated as made on conviction, from the date of the making of the order.
- (3) The time for giving notice under this section may be extended, either before or after it expires, by the Court of Appeal.

**19 Bail**

The Court of Appeal may, if they think fit, on the application of an appellant, admit him to bail pending the determination of his appeal.

**20 Disposal of groundless appeal**

If it appears to the registrar of criminal appeals of the Court of Appeal (hereafter referred to as "the registrar") that a notice of an appeal purporting to be on a ground of appeal which involves a question of law alone does not show any substantial ground of appeal, he may refer the appeal to the Court for summary determination; and where the case is so referred the Court may, if they consider that the appeal is frivolous or vexatious, and can be determined without adjourning it for a full hearing, dismiss the appeal summarily, without calling on any one to attend the hearing or to appear for the Crown thereon.

**21 Preparation of case for hearing**

- (1) The registrar shall—
  - (a) take all necessary steps for obtaining a hearing of any appeal or application of which notice is given to him and which is not referred and dismissed summarily under the foregoing section ; and
  - (b) obtain and lay before the Court of Appeal in proper form all documents, exhibits and other things which appear necessary for the proper determination of the appeal or application.

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- (2) Rules of court may enable an appellant to obtain from the registrar any documents or things, including copies or reproductions of documents, required for his appeal and may authorise the registrar to make charges for them in accordance with scales and rates fixed from time to time by the Treasury.

*The hearing*

**22 Right of appellant to be present**

- (1) Except as provided by this section, an appellant shall be entitled to be present, if he wishes it, on the hearing of his appeal, although he may be in custody.
- (2) A person in custody shall not be entitled to be present—
- (a) where his appeal is on some ground involving a question of law alone ; or
  - (b) on an application by him for leave to appeal; or
  - (c) on any proceedings preliminary or incidental to an appeal; or
  - (d) where he is in custody in consequence of a verdict of not guilty by reason of insanity or of a finding of disability,
- unless the Court of Appeal give him leave to be present.
- (3) The power of the Court of Appeal to pass sentence on a person may be exercised although he is for any reason not present.

**23 Evidence**

- (1) For purposes of this Part of this Act the Court of Appeal may, if they think it necessary or expedient in the interests of justice—
- (a) order the production of any document, exhibit or other thing connected with the proceedings, the production of which appears to them necessary for the determination of the case;
  - (b) order any witness who would have been a compellable witness in the proceedings from which the appeal lies to attend for examination and be examined before the Court, whether or not he was called in those proceedings; and
  - (c) subject to subsection (3) below, receive the evidence, if tendered, of any witness.
- (2) Without prejudice to subsection (1) above, where evidence is tendered to the Court of Appeal thereunder the Court shall, unless they are satisfied that the evidence, if received, would not afford any ground for allowing the appeal, exercise their power of receiving it if—
- (a) it appears to them that the evidence is likely to be credible and would have been admissible in the proceedings from which the appeal lies on an issue which is the subject of the appeal; and
  - (b) they are satisfied that it was not adduced in those proceedings but there is a reasonable explanation for the failure to adduce it.
- (3) Subsection (1)(c) above applies to any witness (including the appellant) who is competent but not compellable, and applies also to the appellant's husband or wife where the appellant makes an application for that purpose and the evidence of the

husband or wife could not have been given in the proceedings from which the appeal lies except on such an application.

- (4) For purposes of this Part of this Act, the Court of Appeal may, if they think it necessary or expedient in the interests of justice, order the examination of any witness whose attendance might be required under subsection (1)(b) above to be conducted, in manner provided by rules of court, before any judge or officer of the Court or other person appointed by the Court for the purpose, and allow the admission of any depositions so taken as evidence before the Court.

*Costs, etc.*

#### **24 Award of costs to successful appellant**

- (1) The Court of Appeal may, when they allow an appeal against conviction or against a verdict of not guilty by reason of insanity or against a finding of disability, make an order for costs in favour of the appellant.
- (2) An order for costs under this section is for the payment out of local funds of such sums as appear to the Court of Appeal reasonably sufficient to compensate the appellant for any expenses properly incurred by him in the case, that is to say—
- (a) in the prosecution of his appeal, including any proceedings preliminary or incidental thereto ; or
  - (b) in carrying on his defence at assizes or quarter sessions, or before the examining justices who committed him for trial;

and the reference above to the appellant's defence at assizes or quarter sessions includes a reference to his defence before any court of assize or quarter sessions before which proceedings for the offence for which he was committed were begun but not concluded.

#### **25 Costs on dismissal of appeal**

- (1) The Court of Appeal may, when they dismiss an appeal or an application for leave to appeal, order the appellant to pay to such person as may be named in the order the whole or any part of the costs of the appeal or application.
- (2) Costs ordered to be paid under this section may include the cost of any transcript of a record of proceedings made in accordance with rules of court made for the purposes of section 32 of this Act.

#### **26 Witnesses' expenses**

The Court of Appeal may order the payment out of local funds of such sums as appear to the Court reasonably sufficient to compensate a person properly attending to give evidence on an appeal, or any proceedings preliminary or incidental thereto, whether or not he gives evidence, for the expense, trouble or loss of time properly incurred in or incidental to his attendance.

#### **27 Expenses of appellant's appearance**

Where an appellant who is not in custody appears before the Court of Appeal, either on the hearing of his appeal or in any proceedings preliminary or incidental thereto,

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the Court may direct that there be paid to him out of local funds the expenses of his appearance.

## **28 Provisions supplementary to ss. 24 to 27**

- (1) Except as provided by the foregoing sections, no costs shall be allowed on the hearing or determination of an appeal, or of any proceedings preliminary or incidental to an appeal.
- (2) Any amount ordered to be paid under section 24, 25 or 26 of this Act, except where it is a specific amount ordered under section 24 to be paid towards the appellant's expenses as a whole, or under section 25 to be paid towards the costs of an appeal or application as a whole, and any amount ordered to be paid to an appellant under section 27 of this Act, shall be ascertained as soon as practicable by the registrar.
- (3) References in sections 24, 26 and 27 of this Act to payment out of local funds shall be construed as if they were contained in the Costs in Criminal Cases Act 1952.

*Other matters depending on result of appeal*

## **29 Effect of appeal on sentence**

- (1) The time during which an appellant is in custody pending the determination of his appeal shall, subject to any direction which the Court of Appeal may give to the contrary, be reckoned as part of the term of any sentence to which he is for the time being subject.
- (2) Where the Court of Appeal give a contrary direction under subsection (1) above, they shall state their reasons for doing so; and they shall not give any such direction where—
  - (a) leave to appeal has been granted ; or
  - (b) a certificate has been given by the judge of the court of trial under section 1 of this Act; or
  - (c) the case has been referred to them by the Secretary of State under section 17 of this Act.
- (3) When an appellant is admitted to bail under section 19 of this Act, the time during which he is at large after being so admitted shall be disregarded in computing the term of any sentence to which he is for the time being subject.
- (4) The term of any sentence passed by the Court of Appeal under section 3, 4, 5, 11 or 13(4) of this Act shall, unless the Court otherwise direct, begin to run from the time when it would have begun to run if passed in the proceedings from which the appeal lies.

## **30 Restitution of property on conviction**

- (1) The operation of an order for the restitution of property to a person made on a conviction on indictment and the operation in case of any such conviction of section 24(1) of the Sale of Goods Act 1893 as to the revesting of the property in stolen goods on conviction shall (unless the court of trial direct to the contrary in any case in which, in their opinion, the title to the property is not in dispute) be suspended—

- (a) in any case until the expiration of twenty-eight days from the date of conviction ; and
  - (b) where notice of appeal or of application for leave to appeal is given within twenty-eight days from the date of conviction, until the determination of the appeal.
- (2) In cases where the operation of such an order, or of section 24(1) of the Sale of Goods Act 1893, is suspended until the determination of the appeal, the order or that subsection, as the case may be, shall not take effect as to the property in question if the conviction is quashed on appeal.
- (3) Provision may be made by rules of court for securing the safe custody of any property, pending the suspension of the operation of any such order or of the said section 24(1).
- (4) The Court of Appeal may by order annul or vary any order made by the court of trial for the restitution of property to any person, although the conviction is not quashed; and the order, if annulled, shall not take effect and, if varied, shall take effect as so varied.

### *Supplementary*

## **31 Powers of Court under Part I which are exercisable by single judge**

- (1) The powers of the Court of Appeal under this Part of this Act which are specified in subsection (2) below may be exercised by a single judge in the same manner as they may be exercised by the Court and subject to the same provisions.
- (2) The said powers are the following:—
- (a) to give leave to appeal;
  - (b) to extend the time within which notice of appeal or of application for leave to appeal may be given;
  - (c) to allow an appellant to be present at any proceedings;
  - (d) to order a witness to attend for examination ;
  - (e) to admit an appellant to bail;
  - (f) to make orders under section 8(2) of this Act and discharge or vary such orders ;
  - (g) to make orders for the payment of costs under section 25 of this Act;
  - (h) to give directions under section 29(1) of this Act.
- (3) If the single judge refuses an application on the part of an appellant to exercise in his favour any of the powers above specified, the appellant shall be entitled to have the application determined by the Court of Appeal.

## **32 Transcripts**

- (1) Rules of court may provide—
- (a) for the making of a record (whether by means of shorthand notes, by mechanical means or otherwise) of any proceedings in respect of which an appeal lies (with or without leave) to the Court of Appeal; and
  - (b) for the making and verification of a transcript of any such record and for supplying the transcript (on payment of such charge, if any, as may be fixed for the time being by the Treasury) to the registrar for the use of the Court of

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

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Appeal or any judge exercising the powers of a judge of the Court, and to such other persons and in such circumstances as may be prescribed by the rules.

(2) Without prejudice to subsection (1) above, the Secretary of State may, if he thinks fit, in any case direct that a transcript shall be made of any such record made in pursuance of the rules and be supplied to him.

(3) The cost—

- (a) of making any such record in pursuance of the rules; and
- (b) of making and supplying in pursuance of this section any transcript ordered to be supplied to the registrar or the Secretary of State,

shall be defrayed, in accordance with scales of payment fixed for the time being by the Treasury, out of moneys provided by Parliament; and the cost of providing and installing at a court any equipment required for the purpose of making such a record or transcript shall also be defrayed out of moneys so provided.