



# Criminal Appeal Act 1968

## 1968 CHAPTER 19

### PART II

#### APPEAL TO HOUSE OF LORDS FROM COURT OF APPEAL (CRIMINAL DIVISION)

##### *Matters preliminary to hearing*

#### **36 Bail on appeal by defendant**

The Court of Appeal may, if it seems fit, on the application of a person appealing or applying for leave to appeal to the House of Lords, admit him to bail pending the determination of his appeal.

#### **37 Detention of defendant on appeal by the Crown**

- (1) The following provisions apply where, immediately after a decision of the Court of Appeal from which an appeal lies to the House of Lords, the prosecutor is granted or gives notice that he intends to apply for, leave to appeal.
- (2) If, but for the decision of the Court of Appeal, the defendant would be liable to be detained, the Court of Appeal may make 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 36 above), so long as an appeal to the House of Lords is pending.
- (3) An order under this section shall (unless the appeal has previously been disposed of) cease to have effect at the expiration of the period for which the defendant would have been liable to be detained but for the decision of the Court of Appeal.
- (4) Where an order is made under this section in the case of a defendant who, but for the decision of the Court of Appeal, would be liable to be detained in pursuance of—
  - (a) an order or direction under Part V of the Mental Health Act 1959 (admission to hospital of persons convicted by criminal courts); or
  - (b) an order under section 5(1) of the Criminal Procedure (Insanity) Act 1964 (admission to hospital following verdict of insanity or unfitness to stand trial),

*Status: This is the original version (as it was originally enacted).*

---

the order under this section shall be one authorising his continued detention in pursuance of the order or direction referred to in paragraph (a) or (b) of this subsection; and the provisions of the Mental Health Act 1959 with respect to persons liable to be detained as mentioned in this subsection (including provisions as to the renewal of authority for detention and the removal or discharge of patients) shall apply accordingly.

- (5) Where the Court of Appeal have power to make an order under this section, and either no such order is made or the defendant is released or discharged, by virtue of subsection (3) or (4) of this section, before the appeal is disposed of, the defendant shall not be liable to be again detained as the result of the decision of the House of Lords on the appeal.

### **38 Presence of defendant at hearing**

A defendant who is detained pending an appeal to the House of Lords shall not be entitled to be present on the hearing of the appeal or of any proceedings preliminary or incidental thereto, except where an order of the House of Lords authorises him to be present, or where the House or the Court of Appeal, as the case may be, give him leave to be present.