



# Criminal Appeal Act 1968

## 1968 CHAPTER 19

### PART II

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

##### *The appeal*

### 33 Right of appeal to House of Lords.

- (1) An appeal lies to the House of Lords, at the instance of the defendant or the prosecutor, from any decision of the Court of Appeal on an appeal to that court under Part I of this Act [<sup>F1</sup>or Part 9 of the Criminal Justice Act 2003][<sup>F2</sup>or section 9 (preparatory hearings) of the Criminal Justice Act 1987][<sup>F3</sup>or section 35 of the Criminal Procedure and Investigations Act 1996][<sup>F4</sup>or section 47 of the Criminal Justice Act 2003].

<sup>F5</sup>(1A) .....

- <sup>F6</sup>(1B) An appeal lies to the House of Lords, at the instance of the acquitted person or the prosecutor, from any decision of the Court of Appeal on an application under section 76(1) or (2) of the Criminal Justice Act 2003 (retrial for serious offences).]

- (2) The appeal lies only with the leave of the Court of Appeal or the House of Lords; and leave shall not be granted unless it is certified by the Court of Appeal that a point of law of general public importance is involved in the decision and it appears to the Court of Appeal or the House of Lords (as the case may be) that the point is one which ought to be considered by that House.

- <sup>F7</sup>(3) Except as provided by this Part of this Act and section 13 of the Administration of Justice Act 1960 (appeal in cases of contempt of court), no appeal shall lie from any decision of the criminal division of the Court of Appeal.]

- <sup>F8</sup>(4) In relation to an appeal under subsection (1B), references in this Part to a defendant are references to the acquitted person.]

*Status: Point in time view as at 06/04/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Criminal Appeal Act 1968, Cross Heading: The appeal. (See end of Document for details)*

### Textual Amendments

- F1** Words in s. 33(1) inserted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), **ss. 68(1)**, 336(3), (4); [S.I. 2005/950](#), **art. 2(1)**, **Sch. 1 para. 4** (with **Sch. 2**) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; [S.I. 2012/2906](#), art. 2(l))
- F2** Words added by [Criminal Justice Act 1987 \(c. 38, SIF 39:1\)](#), s. 15, **Sch. 2 para. 3**
- F3** Words in s. 33(1) inserted (4.7.1996 but with effect on 15.4.1997 as mentioned in s. 28) by [1996 c. 25](#), **ss. 28, 36** (with s. 76(1)); [S.I. 1997/1019](#), **art. 4**
- F4** Words in s. 33(1) inserted (24.7.2006) by [Criminal Justice Act 2003 \(c. 44\)](#), **ss. 47(6)**, 336(3)(4) (with s. 48(4)); [S.I. 2006/1835](#), art. 2(e)
- F5** S. 33(1A) repealed (1.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), Sch. 8 para. 144, **Sch. 14**; [S.I. 2008/755](#), art. 2(1)(a)(d) (with arts. 3-14)
- F6** S. 33(1B) inserted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), **ss. 81(2)**, 336(3)(4); [S.I. 2005/950](#), **art. 2(1)**, **Sch. 1 para. 5** (with **Sch. 2**) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; [S.I. 2012/2906](#), art. 2(l))
- F7** S. 33(3) inserted by [Supreme Court Act 1981 \(c. 54, SIF 37\)](#), **Sch. 5 para. 1**
- F8** S. 33(4) inserted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), **ss. 81(3)**, 336(3)(4); [S.I. 2005/950](#), **art. 2(1)**, **Sch. 1 para. 5** (with **Sch. 2**) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; [S.I. 2012/2906](#), art. 2(l))

### Modifications etc. (not altering text)

- C1** S. 33(3) restricted (30.12.2002 for certain purposes, 24.3.2003 otherwise) by [Proceeds of Crime Act 2002 \(c. 29\)](#), **ss. 90(1)**, 458(1); [S.I. 2002/3015](#), art. 2, **Sch.**; [S.I. 2003/333](#), art. 2, **Sch.**
- C2** S. 33(3) restricted (18.12.2003) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(2), **Sch. 22 para. 14(4)**
- C3** S. 33(3) restricted (18.12.2003) by [Criminal Justice Act 2003 \(c. 44\)](#), **ss. 274(6)**, 336(2)
- C4** S. 33(3) restricted (31.12.2005) by [The Criminal Justice \(International Co-operation\) Act 1990 \(Enforcement of Overseas Forfeiture Orders\) Order 2005 \(S.I. 2005/3180\)](#), arts. 1(1), **34(1)**
- C5** S. 33(3) restricted (1.1.2006) by [The Proceeds of Crime Act 2002 \(External Requests and Orders\) Order 2005 \(S.I. 2005/3181\)](#), arts. 1, **48(1)**
- C6** S. 33(3) restricted (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), **ss. 74(9)**, 178(8); [S.I. 2006/378](#), art. 5(1) (with art. 5(2))
- C7** S. 33(3) restricted (6.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), **ss. 24(12)**, 94(1); [S.I. 2008/755](#), art. 15(1)(e) (with art. 15(2)(3))

## 34 Application for leave to appeal.

- (1) An application to the Court of Appeal for leave to appeal to the House of Lords shall be made within the period of [<sup>F9</sup>28] days beginning with the [<sup>F10</sup>relevant date]; and an application to the House of Lords for leave shall be made within the period of [<sup>F9</sup>28] days beginning with the date on which the application for leave is refused by the Court of Appeal.

[<sup>F11</sup>(1A) In subsection (1), “the relevant date” means—

- (a) the date of the Court of Appeal’s decision, or
- (b) if later, the date on which the Court gives reasons for its decision.]

*Status: Point in time view as at 06/04/2008.*

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- (2) The House of Lords or the Court of Appeal may, upon application made at any time by the defendant [F12 or, in the case of an appeal under section 33(1B), by the prosecutor], extend the time within which an application may be made by him to that House or the Court under subsection (1) above.
- (3) An appeal to the House of Lords shall be treated as pending until any application for leave to appeal is disposed of and, if leave to appeal is granted, until the appeal is disposed of; and for purposes of this Part of this Act an application for leave to appeal shall be treated as disposed of at the expiration of the time within which it may be made, if it is not made within that time.

#### Textual Amendments

- F9** Words in s. 34(1) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 88(4)(5)(a), 110(1); S.I. 2005/910, art. 3(v)
- F10** Words in s. 34(1) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 88(4)(5)(b), 110(1); S.I. 2005/910, art. 3(v)
- F11** S. 34(1A) inserted (1.4.2005) by Courts Act 2003 (c. 39), ss. 88(6), 110(1); S.I. 2005/910, art. 3(v)
- F12** Words in s. 34(2) inserted (4.4.2005) by Criminal Justice Act 2003 (c. 44), ss. 81(4), 336(3)(4); S.I. 2005/950, art. 2(1), Sch. 1 para. 5 (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))

### 35 Hearing and disposal of appeal.

- (1) An appeal under this Part of this Act shall not be heard and determined by the House of Lords unless there are present at least three of the persons designated Lords of Appeal by section 5 of the M1 Appellate Jurisdiction Act 1876.
- (2) Any order of the House of Lords which provides for the hearing of applications for leave to appeal by a committee constituted in accordance with section 5 of the said Act of 1876 may direct that the decision of that committee shall be taken on behalf of the House.
- (3) For the purpose of disposing of an appeal, the House of Lords may exercise any powers of the Court of Appeal or may remit the case to the Court.

#### Modifications etc. (not altering text)

- C8** S. 35(1) applied by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 36(5)
- C9** S. 35(1) extended by Criminal Justice Act 1972 (c. 71), s. 36(4)

#### Marginal Citations

- M1** 1876 c. 59.

**Status:**

Point in time view as at 06/04/2008.

**Changes to legislation:**

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