



# Criminal Appeal Act 1968

## 1968 CHAPTER 19

### PART III

#### MISCELLANEOUS AND GENERAL

#### 45 <sup>[F1]</sup>Construction of references in Parts I and II to Court of Appeal and a single judge.]

<sup>[F1]</sup>(1) References in Parts I and II<sup>[F2]</sup> and <sup>[F3]</sup>sections 44A and 51 of this Act to the Court of Appeal shall be construed as references to the criminal division of the Court.]

(2) The references in sections <sup>[F4]</sup>23A, <sup>[F5]</sup>31 to 31C<sup>[F6]</sup>, 44 and 44A of this Act to a single judge are to any judge of the Court of Appeal or <sup>F7</sup>... the High Court.

#### Textual Amendments

- F1** S. 45(1) and sidenote substituted by [Supreme Court Act 1981 \(c. 54\), Sch. 5 para. 2](#)
- F2** Words in s. 45(1) inserted (1.1.1996) by [1995 c. 35, s. 29\(1\), Sch. 2 para. 4\(5\)\(a\)](#); S.I. 1995/3061, [art. 3\(d\)\(h\)](#) (with [art. 4](#))
- F3** Words in s. 45(1) substituted (1.9.2004) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 36 para. 89\(a\)](#); S.I. 2004/1629, [art. 3\(1\)\(2\)\(g\)](#)
- F4** Word in s. 45(2) inserted (1.9.2004) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 36 para. 89\(b\)](#); S.I. 2004/1629, [art. 3\(1\)\(2\)\(g\)](#)
- F5** Words in s. 45 substituted (1.4.2005) by [Courts Act 2003 \(c. 39\), s. 110\(1\), Sch. 8 para. 128](#); S.I. 2005/910, [art. 3\(y\)](#)
- F6** Words in s. 45(2) substituted (1.1.1996) by [1995 c. 35, s. 29\(1\), Sch. 2 para. 4\(5\)\(b\)](#); S.I. 1995/3061, [art. 3\(d\)\(h\)](#) (with [art. 4](#))
- F7** Words repealed by [Administration of Justice Act 1970 \(c. 31\), Sch. 11](#)

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#### Textual Amendments

**F8** S. 46 repealed by [Supreme Court Act 1981 \(c. 54, SIF 37\)](#), [Sch. 7](#)

**47** ..... **F9**

#### Textual Amendments

**F9** S. 47 repealed by s. 47(7) of this Act and [S.I. 1967/1234](#), [Sch. 5](#)

**F10** **48** Appeal in capital cases.

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#### Textual Amendments

**F10** S. 48 repealed (1.4.2005) by [Courts Act 2003 \(c. 39\)](#), s. 110(1), Sch. 8 para. 129, [Sch. 10](#); [S.I. 2005/910](#), art. 3(y)

**49** Saving for prerogative of mercy.

Nothing in this Act is to be taken as affecting Her Majesty's prerogative of mercy.

**50** Meaning of “sentence”.

[<sup>F11</sup>(1) In this Act “sentence”, in relation to an offence, includes any order made by a court when dealing with an offender including, in particular—

- (a) a hospital order under Part III of the <sup>M1</sup>Mental Health Act 1983, with or without a restriction order;
- (b) an interim hospital order under that Part;
- [ a hospital direction and a limitation direction under that Part;]
- <sup>F12</sup>(bb)
- (c) a recommendation for deportation;
- [ a confiscation order under Part 2 of the Proceeds of Crime Act 2002 [<sup>F14</sup>(but not a determination under section 10A of that Act)];
- <sup>F13</sup>(ca)
- (cb) an order which varies a confiscation order made under Part 2 of the Proceeds of Crime Act 2002 if the varying order is made under section 21, 22 or 29 of that Act (but not otherwise);]
- (d) a confiscation order under the [<sup>F15</sup>Drug Trafficking Act 1994] other than one made by the High Court;
- (e) a confiscation order under Part VI of the <sup>M2</sup>Criminal Justice Act 1988;
- (f) an order varying a confiscation order of a kind which is included by virtue of paragraph (d) or (e) above;
- (g) an order made by the Crown Court varying a confiscation order which was made by the High Court by virtue of [<sup>F16</sup>section 19 of the Act of 1994]; and

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- (h) a [<sup>F17</sup>declaration of relevance, within the meaning of section 23 of] the <sup>M3</sup>Football Spectators Act 1989<sup>[F18]</sup>; and
- (i) an order under section 129(2) of the Licensing Act 2003 (forfeiture or suspension of personal licence).]]

[<sup>F19</sup>(1A) [<sup>F20</sup>Section 82 of the Sentencing Code] (under which a conviction of an offence for which <sup>F21</sup>... an order for a conditional or absolute discharge is made is deemed not to be a conviction except for certain purposes) shall not prevent an appeal under this Act, whether against conviction or otherwise.]

(2) Any power of the criminal division of the Court of Appeal to pass a sentence includes a power to make a recommendation for deportation in cases where the court from which the appeal lies had power to make such a recommendation.

[<sup>F22</sup>(3) An order [<sup>F23</sup>relating to a requirement to make a payment under regulations under section 23 or 24 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012] is not a sentence for the purposes of this Act.]

#### Textual Amendments

- F11** S. 50(1) substituted (14.8.1995) by 1993 c. 36, s. 78(3), **Sch. 5 Pt. 1 para. 1**; S.I. 1995/1958, **art. 2**
- F12** S. 50(1)(bb) inserted (1.10.1997) by 1997 c. 43, s. 55(1), **Sch. 4 para. 6(1)(a)**; S.I. 1997/2200, **art. 2(1)(l)(2)(c)**
- F13** S. 50(1)(ca)(cb) inserted (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), **Sch. 11 para. 4(3)**; S.I. 2003/333, **art. 2, Sch.**
- F14** Words in s. 50(1)(ca) inserted (1.6.2015) by Serious Crime Act 2015 (c. 9), s. 88(1), **Sch. 4 para. 3**; S.I. 2015/820, **reg. 3(q)(i)**
- F15** Words in s. 50(1)(d) substituted (3.2.1995) by 1994 c. 37, ss. 65(1), 69(2), **Sch. 1 para. 2**
- F16** Words in s. 50(1)(g) substituted (3.2.1995) by 1994 c. 37, ss. 65(1), 69(2), **Sch. 1 para. 2(b)**
- F17** Words in s. 50(1)(h) substituted (6.4.2007) by Violent Crime Reduction Act 2006 (c. 38), s. 66(2), **Sch. 3 para. 14(2)(a)** (with **Sch. 3 para. 14(3)**); S.I. 2007/858, **art. 2(k)**
- F18** S. 50(1)(i) and preceding word inserted (24.11.2005) by Licensing Act 2003 (c. 17), s. 201(2), **Sch. 6 para. 42** (with ss. 2(3), 15(2), 195); S.I. 2005/3056, **art. 2(2)**
- F19** S. 50(1A) inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 66(1)**
- F20** Words in s. 50(1A) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 12** (with **Sch. 24 para. 447, Sch. 27**); S.I. 2020/1236, **reg. 2**
- F21** Words in s. 50(1A) repealed (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 100, 101(2), **Sch. 11 para. 4, Sch. 13**; S.I. 1992/333, **art. 2(2), Sch. 2**
- F22** S. 50(3) inserted (2.4.2001) by 1999 c. 22, s. 24, **Sch. 4 para. 3** (with s. 107, **Sch. 14 para. 7(2)**); S.I. 2001/916, **art. 3(a)(ii)**
- F23** Words in s. 50(3) substituted (1.4.2013) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 5 para. 3**; S.I. 2013/453, **art. 3(h)** (with savings and transitional provisions in S.I. 2013/534, **art. 6**)

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

- C1** S. 50(1) modified (1.10.1997 for specified purposes otherwise 1.12.1999) by 1997 c. 43, ss. 55(2), 57(2), **Sch. 4 para. 6(1)**; S.I. 1997/2200, **art. 2(1)(m)** and S.I. 1999/3096, **art. 2(d)**

#### Marginal Citations

- M1** 1983 c. 20.
- M2** 1988 c. 33.
- M3** 1989 c. 37.

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## 51 Interpretation.

(1) In this Act, except where the context otherwise requires—

“appeal”, where used in Part I or II of this Act, means appeal under that Part, and “appellant” has a corresponding meaning and in Part I includes a person who has given notice of application for leave to appeal;

“the court of trial”, in relation to an appeal, means the court from which the appeal lies;

<sup>F24</sup> .....

[<sup>F25</sup>“duly approved”, in relation to a registered medical practitioner, means approved for the purposes of section 12 of the Mental Health Act 1983 by the Secretary of State<sup>F26</sup>, or by another person by virtue of section 12ZA or 12ZB of that Act,] as having special experience in the diagnosis or treatment of mental disorder;]

[<sup>F27</sup>“the judge of the court of trial” means, where the Crown Court comprises justices of the peace, the judge presiding;]

[<sup>F28</sup>“registered medical practitioner” means a fully registered person within the meaning of the Medical Act 1983 [<sup>F29</sup>who holds a licence to practise];]

“under disability” has the meaning assigned to it by section 4 of the <sup>M4</sup>Criminal Procedure (Insanity) Act 1964 (unfitness to plead); and

<sup>F30</sup> .....

[<sup>F31</sup>(1A) In Part 2 of this Act “the defendant”—

- (a) in relation to an appeal under section 33(1) of this Act against a decision of the Court of Appeal on an appeal under Part 1 of this Act, means the person who was the appellant before the Court of Appeal,
- (b) in relation to an appeal under section 33(1) of this Act against any other decision, means a defendant in the proceedings before the Crown Court who was a party to the proceedings before the Court of Appeal, and
- (c) in relation to an appeal under section 33(1B) of this Act, shall be construed in accordance with section 33(4) of this Act;

and<sup>F32</sup> ... “prosecutor” shall be construed accordingly.]

(2) Any expression used in this Act which is defined in [<sup>F33</sup>section 145(1) [<sup>F34</sup>and (1AA)] of the Mental Health Act 1983] has the same meaning in this Act as in that Act.

[<sup>F35</sup>(2A) Subsections (2) and (3) of section 54 of the Mental Health Act 1983 shall have effect with respect to proof of the appellant’s mental condition for the purposes of section [<sup>F36</sup>6 or 14] of this Act as they have effect with respect to proof of an offender’s mental condition for the purposes of section 37(2)(a) of that Act.]

<sup>F37</sup>(3) .....

### Textual Amendments

**F24** Words in s. 51(1) repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), Sch. 36 para. 90(2), [Sch. 37 Pt. 12](#); [S.I. 2005/950](#), art. 2(1), Sch. 1 para. 43(c) (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))

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- F25** Definition in s. 51(1) inserted (1.1.1992) by Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 (c. 25, SIF 39:1), ss. 7, 8, **Sch. 3 para. 5(1)(a)**; S.I. 1991/2488, **art. 2**
- F26** Words in s. 51(1) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), **ss. 38(5)(b)**, 306(4); S.I. 2013/160, **art. 2(2)** (with arts. 7-9)
- F27** Definition substituted by Courts Act 1971 (c. 23), **Sch. 8 para. 57(3)**
- F28** Definition in s. 51(1) inserted (1.1.1992) by Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 (c. 25, SIF 39:1), ss. 7, 8, **Sch. 3 para. 5(1)(b)**; S.I. 1991/2488, **art. 2**
- F29** Words in s. 51(1) inserted (16.11.2009 as notified in the Gazettes) by The Medical Act 1983 (Amendment) Order 2002 (S.I. 2002/3135), **art. 1(2)(3)**, **Sch. 1 para. 6** (with Sch. 2)
- F30** Definition of "recommendation for deportation" repealed by Immigration Act 1971 (c. 77), **Sch. 6**
- F31** S. 51(1A) inserted (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 36 para. 90(3)**; S.I. 2005/950, **art. 2(1)**, **Sch. 1 para. 43(c)** (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)**)
- F32** Words in s. 51(1A) repealed (1.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), Sch. 8 para. 145, **Sch. 14**; S.I. 2008/755, **art. 2(1)(a)(d)** (with arts. 3-14)
- F33** Words substituted by Mental Health Act 1983 (c. 20, SIF 85), **Sch. 4 para. 23(j)**
- F34** Words in s. 51(2) inserted (1.4.2000) S.I. 2000/90, **art. 3(2)**, **Sch. 2 Pt. I para. 1** (with **art. 2(5)**)
- F35** S. 51(2A) inserted (1.1.1992) by Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 (c. 25, SIF 39:1), ss. 7, 8, **Sch. 3 para. 5(2)**; S.I. 1991/2488, **art. 2**
- F36** Words in s. 51(2A) substituted (31.3.2005) by Domestic Violence, Crime and Victims Act 2004 (c. 28), s. 60, **Sch. 10 para. 6** (with Sch. 12 para. 8); S.I. 2005/579, **art. 3(g)**
- F37** S. 51(3) repealed by Supreme Court Act 1981 (c. 54, SIF 37), **Sch. 7**

#### Marginal Citations

**M4** 1964 c. 84.

## 52 Consequential amendment of enactments.

- (1) The enactments specified in Part I of Schedule 5 to this Act shall be amended as shown in that Schedule.
- (2) ..... **F38**

#### Textual Amendments

**F38** S. 52(2) repealed by Statute Law (Repeals) Act 1973 (c. 39), **Sch. 1 Pt. V**

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

- C2** The text of s. 52, Sch. 5, is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

## 53 Transitional provisions.

The transitional provisions contained in Schedule 6 to this Act shall have effect.

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## 54 Repeals.

The enactments specified in the second column of Schedule 7 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

### Modifications etc. (not altering text)

- C3** The text of s. 54, Sch. 7 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

## 55 Short title, commencement and extent.

- (1) This Act may be cited as the Criminal Appeal Act 1968.
- (2) This Act shall come into force on the day appointed under section 106(5) of the <sup>M5</sup>Criminal Justice Act 1967 for the coming into force of section 98 of that Act.
- (3) So much of Schedule 5 to this Act as amends the <sup>M6</sup>Geneva Conventions Act 1957 shall extend to Scotland and Northern Ireland and the repeal by this Act of section 2(2) of the <sup>M7</sup>Administration of Justice Act 1960 shall extend to Northern Ireland; but except as aforesaid this Act shall not extend to Scotland or Northern Ireland.

### Modifications etc. (not altering text)

- C4** 1.9.1968 appointed by [S.I. 1968/325](#), [art. 1](#)

### Marginal Citations

- M5** [1967 c. 80.](#)  
**M6** [1957 c. 52.](#)  
**M7** [1960 c. 65.](#)

**Changes to legislation:**

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