

Status: Point in time view as at 31/03/2005.

Changes to legislation: Criminal Appeal Act 1968 is up to date with all changes known to be in force on or before 12 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

^{F1}SCHEDULE 1

Textual Amendments

- F1** Sch. 1 repealed (1.1.1992) by Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 (c. 25, SIF 39:1), s. 8(2)(3), **Sch. 4**; S.I. 1991/2488, **art. 2**

^{F2}1

Textual Amendments

- F2** Sch. 1, para. 1 repealed (1.1.1992) by Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 (c. 25, SIF 39:1), s. 8(2)(3), **Sch.4**; S.I. 1991/2488, **art.2**

^{F3}2

Textual Amendments

- F3** Sch. 1, para. 2 repealed (01.01.1992) by Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 (c. 25, SIF 39:1), ss. 8(2)(3), 9(2), **Sch.4**; S.I. 1991/2488, **art.2..**

^{F4}3

Textual Amendments

- F4** Sch. 1, para. 3 repealed (01.01.1992) by Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 (c. 25, SIF 39:1), **s. 8(2)(3) Sch.4**; S.I. 1991/2488, **art. 2.**

SCHEDULE 2

Section 8.

PROCEDURAL AND OTHER PROVISIONS APPLICABLE ON ORDER FOR RETRIAL

Depositions

1 On a retrial, [^{F5}paragraphs 1 and 2 of Schedule 2 to the Criminal Procedure and Investigations Act 1996 (use of written statements and depositions) shall not apply to any written statement or deposition read as evidence at the original trial]; but a transcript of the record of the evidence given by any witness at the original trial may, with the leave of the judge, be read as evidence—

- (a) by agreement between the prosecution and the defence; or

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- (b) if the judge is satisfied that the witness is dead or unfit to give evidence or to attend for that purpose, or that all reasonable efforts to find him or to secure his attendance have been made without success, and in either case may be so read without further proof, if verified in accordance with rules of court.

Textual Amendments

F5 Words in [Sch. 2 para. 1](#) substituted (4.7.1996 but with effect as mentioned in [Sch. 2 para. 7](#) of the amending Act) by [1996 c. 25, s. 68, Sch. 2 paras. 5, 7; S.I. 1997/683, art. 1\(2\)](#)

[^{F6}1A Subject to paragraph 1 above, evidence given orally at the original trial must be given orally at the retrial.]

Textual Amendments

F6 [Sch. 2 para. 1A](#) inserted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\), s. 170, Sch. 8 para. 16, Sch. 15 para. 32](#)

Sentence on conviction at retrial

- 2 (1) Where a person ordered to be retried is again convicted on retrial, the court before which he is convicted may pass in respect of the offence any sentence authorised by law, not being a sentence of greater severity than that passed on the original conviction.
- (2) Without prejudice to its power to impose any other sentence, the court before which an offender is convicted on retrial may pass in respect of the offence any sentence passed in respect of that offence on the original conviction notwithstanding that, on the date of the conviction on retrial, the offender has ceased to be of an age at which such a sentence could otherwise be passed.
- (3) Where the person convicted on retrial is sentenced to imprisonment or other detention, the sentence shall begin to run from the time when a like sentence passed at the original trial would have begun to run; but in computing the term of his sentence or the period for which he may be detained thereunder, as the case may be, there shall be disregarded—
- (a) any time before his conviction on retrial which would have been disregarded in computing that term or period if the sentence had been passed at the original trial and the original conviction had not been quashed; and
- (b) any time during which he was [^{F7}released on bail] under section 8(2) of this Act.
- (4) [^{F8}Section 67 of the Criminal Justice Act 1967] (deduction from certain sentences of time spent in custody before sentence) shall apply to any sentence imposed on conviction on retrial as if it had been imposed on the original conviction.

Textual Amendments

F7 Words substituted by [Bail Act 1976 \(c. 63\), Sch. 2 para. 45](#)

F8 Words substituted (*retrospectively*) by [Supreme Court Act 1981 \(c. 54, SIF 37\), Sch. 5 para. 3](#)

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Modifications etc. (not altering text)

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

F93

Textual Amendments

F9 Sch. 2 para. 3 repealed by **Prosecution of Offences Act 1985** (c. 23, SIF 39:1), s. 31(6), **Sch. 2**

SCHEDULE 3

Section 16.

M1 APPLICATION OF PROVISIONS IN [**F10** PART III OF MENTAL HEALTH ACT 1983] WHERE ORDER MADE UNDER SECTION 16(3) OF THIS ACT

Textual Amendments

F10 Words substituted by **Mental Health Act 1983** (c. 20, SIF 85), **Sch. 4 para. 23(n)(i)**

Marginal Citations

M1 1959 c. 72.

1 **F11**

Textual Amendments

F11 Sch. 3 para. 1 repealed by **Mental Health (Amendment) Act 1982** (c. 51, SIF 85), **Sch. 4**

*[**F12** Order for continued detention under Act of 1983*

Textual Amendments

F12 Sch. 3 para. 2 substituted by **Mental Health Act 1983** (c. 20, SIF 85), **Sch. 4 para. 23(n)(ii)**

2 Where an order is made by the Court of Appeal under section 16(3) of this Act for a person’s continued detention under the Mental Health Act 1983, Part III of that Act (patients concerned in criminal proceedings or under sentence) shall apply to him as if he had been ordered under the said section 16(3) to be kept in custody pending trial and were detained in pursuance of a transfer direction together with a restriction direction.]

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SCHEDULE 4

Section 48.

PROCEDURAL AND OTHER MODIFICATIONS FOR CAPITAL CASES

Appeal to Court of Appeal

- 1 In the case of a conviction involving sentence of death the power of the criminal division of the Court of Appeal under section 18(3) of this Act to extend the time for giving notice of appeal, or notice of application for leave to appeal, shall not be exercisable.
- 2 In the case of a conviction involving sentence of death—
- (a) the sentence shall not in any case be executed until after the expiration of the time within which notice of appeal or of application for leave to appeal under Part I of this Act may be given; and
 - (b) if notice is so given, the appeal or application shall be heard and determined with as much expedition as is practicable, and the sentence shall not be executed until after the determination of the appeal or, in cases where an application for leave to appeal is finally refused, of the application.

Appeal to House of Lords

- 3 In a case involving sentence of death, the power of the criminal division of the Court of Appeal or the House of Lords under section 34(2) of this Act to extend the time within which an application by the defendant may be made to that division or the House for leave to appeal under Part II of this Act shall not be exercisable.
- 4 (1) Any application for leave to appeal under Part II of this Act in a case involving sentence of death, and any appeal for which leave is granted on such an application, shall be heard and determined with as much expedition as practicable.
- (2) Where an appeal to the criminal division of the Court of Appeal is dismissed in a case involving sentence of death, the sentence shall not in any case be executed until after the expiration of the time within which an application for leave to appeal to the House of Lords may be made; and if such an application is duly made the sentence shall not be executed while that application, and any appeal for which leave is granted thereon, is pending.
- (3) Section 34(3) of this Act applies for the construction of this paragraph.

SCHEDULE 5

Section 52.

AMENDMENT OF ENACTMENTS

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.

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PART I

MISCELLANEOUS CONSEQUENTIAL AMENDMENTS

... *F13*

Textual Amendments

F13 Sch. 5 Pt. I: entries relating to Prosecution of Offences Act 1879 (c. 22), repealed by Prosecution of Offences Act 1979 (c. 31), **Sch. 2 Pt. II**

... *F14*

Textual Amendments

F14 Sch. 5 Pt. I: entries relating to Supreme Court of Judicature (Consolidation) Act 1925 (c. 49), repealed by Supreme Court Act 1981 (c. 54, SIF 37), **Sch. 7**

The Sentence of Death (Expectant Mothers) Act 1931 (c. 24)

Section 2(4)

For the words “under the Criminal Appeal Act 1907 to the Court of Criminal Appeal” there shall be substituted the words “under Part I of the Criminal Appeal Act 1968 to the criminal division of the Court of Appeal”.

The Children and Young Persons Act (c. 12)

Section 55(5)

In paragraph (b), for the words “to the Court of Criminal Appeal in accordance with the Criminal Appeal Act 1907” there shall be substituted the words “to the criminal division of the Court of Appeal in accordance with Part I of the Criminal Appeal Act 1968”.

The Costs in Criminal Cases Act 1952 (c. 48)

Section 7

After the word “Act” there shall be inserted the words “or the Criminal Appeal Act 1968”.

Section 8

In subsection (1) (as amended by paragraph 22 of Schedule 4 to the ^{M2}Criminal Justice Act 1967), for the words “under section 3(2) of this Act” there shall be substituted the words “under section 24 of the Criminal Appeal Act 1968”.

Marginal Citations

M2 1967 c. 80.

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Section 10

For subsection (2) there shall be substituted the following subsection:—

“(2) Where the criminal division of the Court of Appeal order the payment of costs by the appellant under section 25 of the Criminal Appeal Act 1968, or that division or the House of Lords order the payment of costs by the defendant under section 40 of that Act, the payment shall be enforceable in the same manner as an order for payment of costs made by the High Court in a civil case.”

In subsection (5), after the word “Act” there shall be inserted the words “or the Criminal Appeal Act 1968”.

Section 11(1)

After the word “Act” there shall be inserted the words “or the Criminal Appeal Act 1968”.

Section 12

For this section there shall be substituted the following:—

Regulations.

“12 (1) The Secretary of State may by statutory instrument make regulations generally for carrying this Act and the associated provisions of the Criminal Appeal Act 1968 into effect and in particular may by regulations so made prescribe—

- (a) rates or scales of payment of any costs payable out of local funds under this Act or the said associated provisions and the conditions under which such costs may be allowed;
- (b) the manner in which an officer of the court making a payment to any person in respect of his attendance to give evidence is to be repaid out of local funds;
- (c) the form of orders, certificates and notices under the Act or the said associated provisions, and the giving of information when certificates are sent under this Act by the officer of any magistrates’ court;

and any provision of this Act or the said Act of 1968 enabling any sum to be paid out of local funds shall have effect subject to the regulations.

(2) In subsection (1) of this section “the associated provisions of the Criminal Appeal Act 1968” means the following provisions of that Act, namely, sections 24 to 28 and 39 to 41.”

Section 17(2)

After the words “the Act” there shall be inserted the words “or the Criminal Appeal Act 1968”.

Marginal Citations

M2 1967 c. 80.

The Prison Act 1952 (c. 52)

Section 22(1)

For the words “the Criminal Appeal Act 1907” there shall be substituted the words “Part I of the Criminal Appeal Act 1968”.

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Section 47(4)

In paragraph (c), for the words “the Criminal Appeal Act 1907” there shall be substituted the words “Part I of the Criminal Appeal Act 1968”.

The Geneva Conventions Act 1957 (c. 52)

Section 4

For subsection (1) there shall be substituted the following subsections —

“(1) Where a protected prisoner of war or protected internee has been sentenced to death or to imprisonment for a term of two years or more, the time within which he must give notice of appeal or notice of his application for leave to appeal to the criminal division of the Court of Appeal, the High Court of Justiciary or the Court of Criminal Appeal in Northern Ireland, as the case may be, shall, notwithstanding anything in the enactment relating to such appeals, be the period from the date of his conviction or, in the case of an appeal against sentence, of his sentence to the expiration of twenty-eight days after the date on which he received notice given—

- (a) in the case of a protected prisoner of war, by an officer of Her Majesty’s forces;
- (b) in the case of a protected internee, by or on behalf of the governor of the prison in which he is confined,

that the protecting power has been notified of his conviction and sentence; and, in a case to which the foregoing provisions of this subsection apply, a reference to the period aforesaid shall be substituted for the reference in section 30(1)(a) of the Criminal Appeal Act 1968 and section 31(1)(a) of the Criminal Appeal (Northern Ireland) Act 1968 (revesting and restitution of property) to the period of twenty-eight days from the date of conviction.

(1A) In the case of an appeal to the House of Lords under any of the Acts specified in the left-hand column of the following Table by a protected prisoner of war or protected internee, the period specified in the provision of that Act specified in relation thereto in the right-hand column (the provisions there listed being those which lay down the time for applying for leave to appeal) shall be extended until fourteen days after the date on which the applicant receives notice, given as mentioned in subsection (1)(a) or (b) of this section, that the protecting power has been notified of the decision of the court from which the appeal lies, or of the refusal of that court of the application for leave to appeal, as the case may be.

Table

The Administration of Justice Act 1960	Section 2(1)
The Criminal Appeal Act 1968	Section 34(1)
The Criminal Appeal (Northern Ireland) Act 1968	Section 37(1)
The Courts-Martial (Appeals) Act 1968	Section 40(1)”

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. . . F15

Textual Amendments

F15 Sch. 5 Pt. I: entries relating to [Mental Health Act 1959 \(c. 72\)](#), repealed by [Supreme Court Act 1981 \(c. 54, SIF 37\)](#), [Sch. 7](#)

. . . F16

Textual Amendments

F16 Sch. 5 Pt. I: entries relating to [Administration of Justice Act 1960 \(c. 65\)](#), repealed in part by [Supreme Court Act 1981 \(c. 54, SIF 37\)](#), [Sch. 7](#)

The Criminal Justice Administration Act 1962 (c. 15)

Section 18(1)

For the words “section 2(1) of the Criminal Appeal Act 1964” there shall be substituted the words “section 8(1) of the Criminal Appeal Act 1968”.

. . . F17

Textual Amendments

F17 Entry in Sch. 5, Pt. I repealed (1.1.1992) by [Criminal Procedure \(Insanity and Unfitness to Plead\) Act 1991 \(c. 25, SIF 39:1\)](#), ss. 8(2)(3), [Sch.4](#); S.I. 1991/2488, [art. 2](#)

. . . F18

Textual Amendments

F18 Sch. 5 Pt. I: entries relating to [Criminal Appeal Act 1966 \(c. 31\)](#), repealed by [Supreme Court Act 1981 \(c. 54, SIF 37\)](#), [Sch. 7](#)

PART II

. . . F19

Textual Amendments

F19 Sch. 5. Pt. II repealed by [Statute Law \(Repeals\) Act 1973 \(c. 39\)](#), [Sch. 1 Pt. V](#)

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SCHEDULE 6

Section 53.

TRANSITIONAL PROVISIONS

- 1 (1) Any right of appeal subsisting immediately before the commencement of this Act by virtue of an enactment repealed thereby shall after that commencement be treated as subsisting by virtue of the corresponding enactment in this Act.
(2) Any appeal or application pending before the said commencement under an enactment so repealed may be prosecuted and disposed of in accordance with the provisions of this Act corresponding to those in force immediately before the said commencement and applicable to the appeal or application.
- 2 (1) In so far as any order made, direction given or other thing done under an enactment repealed by this Act could have been made, given or done under a corresponding provision of this Act, it shall not be invalidated by the repeal of that enactment but shall have effect as if made, given or done under that corresponding provision.
(2) Any document referring to an enactment repealed by this Act shall, so far as may be necessary for preserving its effect, be construed as referring, or as including a reference, to the corresponding enactment in this Act.
- 3 (1) The mention of particular matters in this Schedule shall not be taken to affect the general application of section 38 of the ^{M3}Interpretation Act 1889 with regard to the effect of repeals.
(2) References in this Schedule to enactments repealed by this Act shall be construed as including references to enactments which are reproduced in this Act in relation to matters for which provision is made by this Act while remaining unrepealed in relation to matters for which provision is made by another Act; and section 38 of the ^{M4}Interpretation Act 1889 shall apply with respect to any such enactment as if it had been repealed by this Act in relation to matters for which provision is made by this Act.

Marginal Citations

M3 1889 c. 63.

M4 1889 c. 63.

SCHEDULE 7

Section 54.

REPEALS

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.

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Chapter	Short Title	Extent of Repeal
7 Edw. 7. c. 23. 11 & 12 Geo. 6. c. 58. 15 & 16 Geo. 6. & 1 Eliz. 2. c. 48.	The Criminal Appeal Act 1907. The Criminal Justice Act 1948. The Costs in Criminal Cases Act 1952.	The whole Act. Section 38(1). Section 3. In section 4(1), the words "or in the prosecution of his appeal to the Court of Criminal Appeal". In section 17(3), the words "subsection (2) of section three".
8 & 9 Eliz. 2. c. 65.	The Administration of Justice Act 1960.	In section 1, subsection (1)(b). Section 2(2). Section 4(1). Sections 7 and 8. Section 8(4). Schedule 3, so far as it amends the Criminal Appeal Act 1907, the Supreme Court of Judicature (Consolidation) Act 1925 and section 19 of the Costs in Criminal Cases Act 1952.
1964 c. 43.	The Criminal Appeal Act 1964.	Sections 1 to 3 and 6(2). Schedule 2, so far as it amends the Criminal Appeal Act 1907 and the Criminal Justice Administration Act 1962.
1964 c. 84.	The Criminal Procedure (Insanity) Act 1964.	Sections 2 and 3. In section 4, subsection (6) and in subsection (7) the words from the beginning to "restricting discharge; and". In section 5, subsection (1)(i) and (j) and subsections (2) and (5).
1966 c. 31.	The Criminal Appeal Act 1966.	In section 1, subsections (1) and (8). Sections 4 to 8. In section 12, the definitions in subsection (1) of "the 1907 Act" and "the 1952 Act", and subsection (3). In Schedule 2, paragraphs 1 to 3 and 6 to 8.
1967 c. 80.	The Criminal Justice Act 1967.	Section 32(3). Section 97. Section 98(1) to (5) and (7). In section 106(2)(f), the words "the Geneva Conventions Act 1957", and in section 106(3)(c), the words "the Geneva Conventions Act 1957 and".

Chapter	Short Title	Extent of Repeal
1967 c. 80 —cont.	The Criminal Justice Act 1967—cont.	In Schedule 4, paragraphs 1 to 8, 20, 23, 24(e), 28, and 33 to 40. In Schedule 6, paragraphs 4, 22 and 27.

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