



Criminal Appeal Act 1968

1968 CHAPTER 19

PART I

APPEAL TO COURT OF APPEAL IN CRIMINAL CASES

The hearing

23 Evidence.

- (1) For [^{F1}the purposes of an appeal [^{F2}, or an application for leave to appeal,] under] 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;
 - [^{F3}(b) order any witness to attend for examination and be examined before the Court (whether or not he was called in the proceedings from which the appeal lies); and]
 - [^{F4}(c) receive any evidence which was not adduced in the proceedings from which the appeal lies.]
- [^{F5}(1A) The power conferred by subsection (1)(a) may be exercised so as to require the production of any document, exhibit or other thing mentioned in that subsection to—
- (a) the Court;
 - (b) the appellant;
 - (c) the respondent.]
- [^{F6}(2) The Court of Appeal shall, in considering whether to receive any evidence, have regard in particular to—
- (a) whether the evidence appears to the Court to be capable of belief;
 - (b) whether it appears to the Court that the evidence may afford any ground for allowing the appeal;

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- (c) whether the evidence would have been admissible in the proceedings from which the appeal lies on an issue which is the subject of the appeal; and
 - (d) whether there is a reasonable explanation for the failure to adduce the evidence in those proceedings.]
- (3) Subsection (1)(c) above applies to any [^{F7}evidence of a] witness (including the appellant) who is competent but not compellable^{F8}
- (4) For [^{F1}the purposes of an appeal [^{F9}, or an application for leave to appeal,] under] 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.

^{F10}(5)

[^{F11}(6) In this section, “respondent” includes a person who will be a respondent if leave to appeal is granted.]

Textual Amendments

- F1** Words in s. 23(1)(4) substituted (1.1.1996) by 1995 c. 35, s. 29(1), **Sch. 2 para. 4(3)**; S.I. 1995/3061, **art. 3(d)(h)** (with **art. 4**)
- F2** Words in s. 23(1) inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 8 para. 10(2)**; S.I. 2008/1586, art. 2(1), Sch. 1 para. 26
- F3** S. 23(1)(b) substituted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 8 para. 10(3)**; S.I. 2008/1586, art. 2(1), Sch. 1 para. 26
- F4** S. 23(1)(c) substituted (1.1.1996) by 1995 c. 35, s. 4(1)(a); S.I. 1995/3061, **art. 3(a)** (with **art. 4**)
- F5** S. 23(1A) inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 8 para. 10(4)**; S.I. 2008/1586, art. 2(1), Sch. 1 para. 26
- F6** S. 23(2) substituted (1.1.1996) by 1995 c. 35, s. 4(1)(b); S.I. 1995/3061, **art. 3(a)** (with **art. 4**)
- F7** Words in s. 23(3) inserted (1.1.1996) by 1995 c. 35, s. 4(1)(c); S.I. 1995/3061, **art. 3(a)** (with **art. 4**)
- F8** Words in s. 23(3) repealed (1.1.1996) by 1995 c. 35, s. 29(2), **Sch. 3**; S.I. 1995/3061, **art. 3(d)(i)(i)** (with **art. 4**)
- F9** Words in s. 23(4) inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 8 para. 10(5)**; S.I. 2008/1586, art. 2(1), Sch. 1 para. 26
- F10** S. 23(5) omitted (28.6.2022) by virtue of Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(5)(y), **Sch. 20 para. 3(3)**
- F11** S. 23(6) inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 8 para. 10(6)**; S.I. 2008/1586, art. 2(1), Sch. 1 para. 26

Changes to legislation:

There are currently no known outstanding effects for the Criminal Appeal Act 1968, Section 23.