



Criminal Justice Act 1972

1972 CHAPTER 71

PART III

MISCELLANEOUS PROVISIONS

36 Reference to Court of Appeal of point of law following acquittal on indictment.

- (1) Where a person tried on indictment has been acquitted (whether in respect of the whole or part of the indictment) the Attorney General may, if he desires the opinion of the Court of Appeal on a point of law which has arisen in the case, refer that point to the court, and the court shall, in accordance with this section, consider the point and give their opinion on it.
- (2) For the purpose of their consideration of a point referred to them under this section the Court of Appeal shall hear argument—
 - (a) by, or by counsel on behalf of, the Attorney General; and
 - (b) if the acquitted person desires to present any argument to the court, by counsel on his behalf or, with the leave of the court, by the acquitted person himself.
- (3) Where the Court of Appeal have given their opinion on a point referred to them under this section, the court may, of their own motion or in pursuance of an application in that behalf, refer the point to [^{F1}Supreme Court] if it appears to the [^{F1}Court of Appeal that] the point ought to be considered by [^{F1}Supreme Court].
- (4) If a point is referred to [^{F2}the Supreme Court] under subsection (3) of this section, [^{F3}the Supreme Court shall consider the point and give its opinion on it accordingly.]
- (5) Where, in a point being referred to the Court of Appeal under this section or further referred to the [^{F4}Supreme Court], the acquitted person appears by counsel for the purpose of presenting any argument to [^{F4}the Court of Appeal or the Supreme Court], he shall be entitled ^{F5}... to the payment out of central funds of such sums as are reasonably sufficient to compensate him for expenses properly incurred by him for the purpose of being represented on the reference or further reference; and any amount recoverable under this subsection shall be ascertained, as soon as practicable, by the

Changes to legislation: There are currently no known outstanding effects for the Criminal Justice Act 1972, Section 36. (See end of Document for details)

registrar of criminal appeals or, as the case may be, such officer as may be prescribed by order of the House of Lords.

^{F6}[^{F7}(5A) Subsection (5) has effect subject to—

- (a) subsection (5B), and
- (b) regulations under section 20(1A)(d) of the Prosecution of Offences Act 1985 (as applied by this section).

(5B) A person is not entitled under subsection (5) to the payment of sums in respect of legal costs (as defined in section 16A of the Prosecution of Offences Act 1985) incurred in proceedings in the Court of Appeal.

(5C) Subsections (1A) to (1C) and (3) of section 20 of the Prosecution of Offences Act 1985 (regulations as to amounts ordered to be paid out of central funds) apply in relation to amounts payable out of central funds under subsection (5) as they apply in relation to amounts payable out of central funds in pursuance of costs orders made under section 16 of that Act.]

(6) Subject to rules of court made under section 1(5) of the ^{M1}Criminal Appeal Act 1966 (power by rules to distribute business of Court of Appeal between its civil and criminal divisions), the jurisdiction of the Court of Appeal under this section shall be exercised by the criminal division of the court; and references in this section to the Court of Appeal shall be construed accordingly as references to that division of the court.

(7) A reference under this section shall not affect the trial in relation to which the reference is made or any acquittal in that trial.

Textual Amendments

- F1** Words in s. 36(3) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), s. 148\(1\), Sch. 9 para. 23\(a\)](#); S.I. 2009/1604, art. 2(d)
- F2** Words in s. 36(4) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), s. 148\(1\), Sch. 9 para. 23\(b\)\(i\)](#); S.I. 2009/1604, art. 2(d)
- F3** Words in s. 36(4) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), s. 148\(1\), Sch. 9 para. 23\(b\)\(ii\)](#); S.I. 2009/1604, art. 2(d)
- F4** Words in s. 36(5) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), s. 148\(1\), Sch. 9 para. 23\(c\)](#); S.I. 2009/1604, art. 2(d)
- F5** Words in s. 36(5) omitted (1.10.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 7 para. 9\(2\)](#) (with Sch. 7 Pt. 4); S.I. 2012/2412, art. 2(g)
- F6** S. 36(5A) omitted (1.10.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 7 para. 9\(3\)](#) (with Sch. 7 Pt. 4); S.I. 2012/2412, art. 2(g)
- F7** S. 36(5A)-(5C) inserted (1.10.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 7 para. 9\(4\)](#) (with Sch. 7 Pt. 4); S.I. 2012/2412, art. 2(g)

Marginal Citations

- M1** 1966 c. 31.

Changes to legislation:

There are currently no known outstanding effects for the Criminal Justice Act 1972, Section 36.