



Criminal Appeal (Northern Ireland) Act 1980

1980 CHAPTER 47

PART I

APPEAL TO COURT OF APPEAL FROM CROWN COURT

Appeal in cases of insanity

[^{F1}11 Appeal against conviction: substitution of finding of insanity.

(1) If, on an appeal, it appears to the Court of Appeal that, although the appellant did the act or made the omission charged against him, he was an insane person at the time the act was done or the omission made, the Court may—

- (a) quash the conviction and direct that a finding of not guilty on the ground of insanity be entered; and
- (b) quash the sentence passed at the trial and make any such order as may be made under [^{F2}Article 50A(2) of the Mental Health Order (powers to deal with persons found not guilty by reason of insanity)]

[^{F3}(2) If, on an appeal, it appears to the Court of Appeal that the case is not one where there should have been a verdict of acquittal, but that there should have been a [^{F4}findings that the accused was unfit to be tried and that he did the act or made the omission charged against him], the Court may—

- (a) quash the conviction and any sentence passed at the trial; and
- (b) make any such order as may be made under [^{F5}Article 50A(2) of the Mental Health Order (powers to deal with persons found unfit to be tried)]

Textual Amendments

- F1** By S.I. 1986/595 (N.I. 4), arts. 51(6), 136(1), Sch. 5 Pt. I it is provided that section 11 is renumbered as subsection (1) of that section

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- F2** Words in s. 11(1)(b) substituted (1.1.1998) by S.I. 1996/3160 (N.I. 24), art. 58(1), **Sch. 5 para. 5(a)** ; S.R. 1997/523, **art. 2(i)**
- F3** S. 11(2) inserted by S.I. 1986/595 (N.I. 4), arts. 51(6), 136(1), **Sch. 5 Pt. I**
- F4** Words in s. 11(2) substituted (1.1.1998) by S.I. 1996/3160 (N.I. 24), art. 58(1), **Sch. 5 para. 5(b)(i)**; S.R. 1997/523, **art. 2(i)**
- F5** Words in s. 11(2)(b) substituted (1.1.1998) by S.I. 1996/3160 (N.I. 24), art. 58(1), **Sch. 5 para. 5(b)(ii)**; S.R. 1997/523, **art. 2(i)**

12 Appeal against finding of not guilty on ground of insanity.

- (1) A person in whose case a finding is recorded under [^{F6}Article 50(1) of the Mental Health Order] that he was not guilty of the offence charged on the ground of insanity may appeal [^{F7}to the Court of Appeal against the finding-
- (a) with the leave of the court; or
 - (b) if [^{F8}, within 28 days from the date of the finding,] the judge of the court of trial grants a certificate that the case is fit for appeal.]

[^{F9}(2) Subject to subsection (4) below, the Court—

- (a) shall allow an appeal under this section if it thinks that the finding is unsafe; and
- (b) shall dismiss such an appeal in any other case.]

(4) Where but for this subsection—

- (a) an appeal under this section would fall to be allowed; and
- (b) none of the grounds for allowing it relates to the question of the insanity of the appellant,

the Court may dismiss the appeal if of opinion that but for the insanity of the accused the proper verdict would have been that he was guilty of an offence other than the offence charged.

Textual Amendments

- F6** Words substituted by S.I. 1986/595 (N.I. 4), arts. 52(6), 136(1), **Sch. 5 Pt. I**
- F7** Words in s. 12(1) substituted (1.1.1996) by 1995 c. 35, **ss. 1(4), 32(1)**; S.I. 1995/3061, **art. 3(a)**
- F8** Words in s. 12(1)(b) inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 47, 153(7)(8), **Sch. 8 para. 16**; S.I. 2008/1586, **art. 2(1)(3)**, Sch. 1 para. 26 (subject to Sch. 2)
- F9** S. 12(2) substituted (1.1.1996) for s. 12(2)(3) by 1995 c. 35, **ss. 2(4), 32(1)**; S.I. 1995/3061, **art. 3(a)**

Modifications etc. (not altering text)

- C1** S. 12 modified (N.I.) (31.3.1997) by 1995 c. 35, **ss. 10(6), 32(1)**; S.I. 1997/402, **art. 3(c)**
- C2** S. 12 extended (N.I.) (27.7.1999) by 1999 c. 25, **s. 3(1)**
S. 12 modified (N.I.) (27.7.1999) by 1999 c. 25, **s. 3(2)**
- C3** S. 12(2) modified (4.5.2010) by The Criminal Evidence (Northern Ireland) Order 1999 (S.I. 1999/2789 (N.I. 8)), arts. 1(2), **34(5)**; S.R. 2010/142, **art. 2**, Sch. para. 1

13 Disposal of appeal allowed under s. 12.

- (1) The following provisions apply where an appeal under section 12 of this Act is allowed in accordance with that section.

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- (2) If the ground, or one of the grounds, for allowing the appeal is that the finding of the jury as to the insanity of the accused ought not to stand, but the Court of Appeal is of opinion that the proper verdict would have been that he was guilty of an offence (whether the offence charged or any other offence of which the jury could have found him guilty), the Court—
- (a) shall substitute for the finding of not guilty on the ground of insanity a verdict of guilty of that offence; and
 - (b) subject to subsection (3) below, shall have the like powers of punishing or otherwise dealing with the appellant and all other powers as the court of trial would have had if the jury had returned that verdict.
- (3) Where the offence mentioned in subsection (2) above is one for which the sentence fixed by law is one of death or of imprisonment for life, the sentence shall (whatever the circumstances) be one of imprisonment for life.
- (4) In a case where the Court allows an appeal under section 12 above but subsection (2) of this section does not apply, the Court shall substitute for the finding of the jury a verdict of acquittal.
- (5) An order of the Court allowing an appeal under section 12 of this Act shall operate as a direction to the chief clerk acting for the court of trial to amend the record to conform with the order.
- [^{F10}(5A) Where, on an appeal under section 12, the Court is of opinion that the case is not one where there should have been a verdict of acquittal but that there should have been [^{F11}findings that the accused was unfit to be tried and that he did the act or made the omission charged against him, the court may make any such order as may be made under Article 50A(2) of the Mental Health Order (powers to deal with persons found not guilty of insanity)]]
- (6) Where in accordance with subsection (4) of this section the Court substitutes a verdict of acquittal for a finding of not guilty on the ground of insanity, any order previously made in consequence of that finding under [^{F12}Article 50A(2)] of the Mental Health [^{F13}Order] shall cease to have effect, so however that if the Court is of opinion—
- [^{F14}(a) that the appellant is suffering from mental disorder of a nature or degree which warrants his detention in a hospital for assessment (or for assessment followed by medical treatment); and
 - (b) that failure to so detain him would create a substantial likelihood of serious physical harm to himself or to other persons.]
- [^{F15}the Court shall make an order that the appellant be admitted for assessment to such hospital as may be specified by the Department of Health and Social Services]; and Schedule 2 to this Act shall apply as to the consequences and effect of an order made by the Court under this subsection.

Textual Amendments

- F10** S. 13(5A) inserted by S.I. 1986/595 (N.I. 4), arts. 51(6), 136(1), Sch. 5 Pt. I
- F11** Words in s. 13(5A) substituted (1.1.1998) by S.I. 1996/3160 (N.I. 24) art. 58(1), Sch. 5, para. 6(a); S.R. 1997/523, art. 2(i)
- F12** Words in s. 13(6) substituted (1.1.1998) by S.I. 1996/3160 (N.I. 24) art. 58(1), Sch. 5, para. 6(b)(i); S.R. 1997/523, art. 2(i)
- F13** Word substituted by S.I. 1986/595 (N.I. 4), arts. 51(6), 136(1), Sch. 5 Pt. I

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F14 S. 13(6)(a)(b) substituted by S.I. 1986/595 (N.I. 4), arts. 51(6), 136(1), **Sch. 5 Pt. I**

F15 Words in s. 13(6) substituted (1.1.1998) by S.I. 1996/3160 (N.I. 24) art. 58(1), Sch. 5, para. 6(b)(i);
S.R. 1997/523, **art. 2(i)**

Modifications etc. (not altering text)

C4 S. 13 modified (N.I.) (27.7.1999) by 1999 c. 25, **s. 3(2)**

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