

Status: Point in time view as at 25/08/1996.

Changes to legislation: Criminal Appeal (Northern Ireland) Act 1980, SCHEDULE 1 is up to date with all changes known to be in force on or before 19 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

SCHEDULE 1

Section 7(4).

PROVISIONS APPLICABLE ON RETRIAL

Legal Aid

- 1 [F1Article 29 of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981] (grant of certificate to person returned for trial on indictment) shall apply in the case of an appellant who is to be retried by virtue of an order under section 6 of this Act as if he had been committed for trial for the offence or the offences in question, and as if references in [F1paragraph (2) of the said Article 29] to a magistrates' court included references to the Court of Appeal.

Textual Amendments

F1 Words substituted by S.I. 1981/228 (N.I. 8), Sch. 3

Depositions

- 2 On a retrial ordered under section 6 of this Act, [F2Article 42(1) of the Magistrates' Courts (Northern Ireland) Order 1981] (reading of depositions) shall not apply to the depositions of any person who gave evidence at the original trial, but a transcript of the shorthand notes 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
 - (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

F2 Words substituted by S.I. 1981/1675 (N.I. 26), art. 170(2), Sch. 6 para. 60

- [F3F42A Subject to paragraph 2 above, evidence given orally at the original trial must be given orally at the retrial.]

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Textual Amendments

- F3** [Schedule 1 para. 2A](#) inserted by [S.I. 1988/1847 \(N.I. 17\)](#), [art. 16\(1\)](#), [Sch. 2 para. 2](#)
- F4** [Sch. 1 para. 2](#) and preceding cross-heading substituted (N.I.) (18.4.2005) for [Sch. 1 para. 2, 2A](#) and preceding cross-heading by [The Criminal Justice \(Evidence\) \(Northern Ireland\) Order 2004 \(S.I. 2004/1501 \(N.I. 10\)\)](#), [arts. 1, 34](#) (with savings in [art. 43](#)); [S.R. 2005/242](#), [art. 2](#)

Conviction and sentence

- 3 Notwithstanding any rule of law to the contrary, a person ordered to be retried under section 6 of this Act may, if found guilty, be convicted on the retrial and the court before whom he is so convicted may pass in respect of the offence of which he is so convicted any sentence authorised by law to be imposed upon a conviction for that offence.
- 4 Without prejudice to the power of the court to impose any other sentence, the court before whom a person is convicted on retrial may pass in respect of the offence any sentence lawfully passed in respect of the offence charged on the original conviction notwithstanding that, on the date of the conviction on retrial, that person has ceased to be of an age at which such a sentence could otherwise be passed.
- 5 Where the person convicted on retrial is sentenced to imprisonment or other detention, the sentence shall begin to run from the time when such a 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 if the sentence had been passed at the original trial and the original conviction had not been quashed; or
 - (b) any time during which he was at large after being admitted to bail under section 17 of this Act.

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