

**Changes to legislation:** Criminal Justice and Immigration Act 2008, Part 2 is up to date with all changes known to be in force on or before 15 September 2020. 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) View outstanding changes

## SCHEDULES

### SCHEDULE 8

#### APPEALS IN CRIMINAL CASES

##### PART 2

##### AMENDMENTS OF CRIMINAL APPEAL (NORTHERN IRELAND) ACT 1980

- 14 The Criminal Appeal (Northern Ireland) Act 1980 (c. 47) has effect subject to the following amendments.

##### Commencement Information

- I1** Sch. 8 para. 14 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 26

##### *Time limit on grant of certificates of fitness for appeal*

- 15 In section 1 (appeal against conviction), in paragraph (b) after “if” insert “, within 28 days from the date of the conviction,”.

##### Commencement Information

- I2** Sch. 8 para. 15 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 26

- 16 In section 12 (appeal against finding of not guilty on ground of insanity), in subsection (1)(b) after “if” insert “, within 28 days from the date of the finding,”.

##### Commencement Information

- I3** Sch. 8 para. 16 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 26

- 17 In section 13A (appeal against finding of unfitness to be tried), in subsection (2)(b) after “if” insert “, within 28 days from the date of the finding that the person did the act or made the omission charged,”.

##### Commencement Information

- I4** Sch. 8 para. 17 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 26

##### *Powers of Court to substitute different sentence*

- 18 (1) Section 4 (alteration of sentence on appeal against conviction) is amended as follows.

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(2) For subsection (1) substitute—

“(1) Subsection (1A) applies where—

- (a) two or more related sentences are passed,
- (b) the Court of Appeal allows an appeal against conviction in respect of one or more of the offences for which the sentences were passed (“the related offences”), but
- (c) the appellant remains convicted of one or more of those offences.

(1A) The Court may, in respect of any related offence of which the appellant remains convicted, pass such sentence, in substitution for the sentence passed thereon at the trial, as it thinks proper and is authorised by law.”

(3) After subsection (2) insert—

“(3) For the purposes of subsection (1)(a), two or more sentences are related if—

- (a) they are passed on the same day,
- (b) they are passed on different days but the court in passing any one of them states that it is treating that one together with the other or others as substantially one sentence, or
- (c) they are passed on different days but in respect of counts on the same indictment.

(4) Where—

- (a) two or more sentences are related to each other by virtue of subsection (3)(a) or (b), and
- (b) any one or more of those sentences is related to one or more other sentences by virtue of subsection (3)(c),

all the sentences are to be treated as related for the purposes of subsection (1)(a).”

#### Commencement Information

**I5** Sch. 8 para. 18 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 26 (with Sch. 2 para. 8)

#### *Interim hospital orders*

19 Section 10(6) (effect of interim hospital orders made by Court of Appeal) is omitted.

#### Commencement Information

**I6** Sch. 8 para. 19 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 26 (with Sch. 2 para. 9)

20 (1) For the cross-heading preceding section 30 substitute— “ Supplementary ”.

(2) Before section 30 (but after the cross-heading preceding it) insert—

#### **Effect of interim hospital orders**

“29A **Effect of interim hospital orders**

(1) This section applies where the Court of Appeal—

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- (a) makes an interim hospital order by virtue of any provision of this Part, or
  - (b) renews an interim hospital order so made.
- (2) The Crown Court shall be treated for the purposes of Article 45(6) of the Mental Health Order (absconding offenders) as the court that made the order.”

**Commencement Information**

**I7** Sch. 8 para. 20 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 26 (with Sch. 2 para. 9)

- 21 In section 45 (powers of Court which are exercisable by single judge) after subsection (3) insert—

“(3ZA) The power of the Court of Appeal to renew an interim hospital order made by it by virtue of any provision of this Act may be exercised by a single judge in the same manner as it may be exercised by the Court.”

**Commencement Information**

**I8** Sch. 8 para. 21 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 26 (with Sch. 2 para. 9)

*Evidence*

- 22 (1) Section 25 (evidence) is amended as follows.

(2) In subsection (1) after “an appeal” insert “, or an application for leave to appeal, ”.

(3) In that subsection, for paragraph (b) substitute—

“(b) order any witness to attend and be examined before the Court (whether or not he was called at the trial); and”.

(4) After subsection (1) insert—

“(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.”

(5) After subsection (3) insert—

“(4) In this section, “respondent” includes a person who will be a respondent if leave to appeal is granted.”

**Commencement Information**

**I9** Sch. 8 para. 22 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 26

- 23 In section 26 (additional powers of Court), in subsection (1) after “an appeal” insert “, or an application for leave to appeal, ”.

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**Commencement Information**

**I10** Sch. 8 para. 23 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 26

*Detention of defendant pending appeal to Supreme Court*

- 24 (1) Section 36 (detention of defendant on appeal by Crown) is amended as follows.
- (2) In subsection (1) for the words from “may make” to the end substitute “shall make—
- (a) an order providing for his detention, or directing that he shall not be released except on bail (which may be granted by the Court as under section 35 above), so long as the appeal is pending, or
  - (b) an order that he be released without bail.”
- (3) After subsection (1) insert—
- “(1A) The Court may make an order under subsection (1)(b) only if it thinks that it is in the interests of justice that the defendant should not be liable to be detained as a result of the decision of the Supreme Court on the appeal.”
- (4) In subsection (2) for “subsection (1)” substitute “ subsection (1)(a) ”.
- (5) In subsection (3) for “this section” (in each place where it occurs) substitute “ subsection (1)(a) ”.
- (6) In subsection (3A) for “this section” (in the first place where it occurs) substitute “ subsection (1)(a) ”.
- (7) For subsection (4) substitute—
- “(4) The defendant shall not be liable to be detained again as a result of the decision of the Supreme Court on the appeal if—
- (a) the Court of Appeal has made an order under subsection (1)(b), or
  - (b) the Court has made an order under subsection (1)(a) but the order has ceased to have effect by virtue of subsection (2) or the defendant has been released or discharged by virtue of subsection (3) or (3A).”

**Commencement Information**

**I11** Sch. 8 para. 24 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 26 (with Sch. 2 para. 1014)

*Powers of single judge*

- 25 (1) Section 45 (powers of Court of Appeal which are exercisable by single judge) is amended as follows.
- (2) After subsection (3C) insert—
- “(3D) The power of the Court of Appeal to grant leave to appeal under Article 8(11) of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988 may be exercised by a single judge in the same manner as it may be exercised by the Court.”

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**Commencement Information**

**I12** Sch. 8 para. 25 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 26

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 4(5) inserted by [2020 c. 9 Sch. 2 para. 106\(4\)](#)
- s. 7(1A)(1B) inserted by [2020 c. 9 Sch. 2 para. 108\(3\)](#)
- Sch. 1 para. 27(5) inserted by [2020 c. 9 Sch. 2 para. 110\(15\)](#)
- Sch. 1 para. 34(A1) inserted by [2020 c. 9 Sch. 2 para. 110\(20\)\(a\)](#)
- Sch. 2 para. 25(1) Sch. 2 para. 25 renumbered as Sch. 2 para. 25(1) by [2020 c. 9 Sch. 2 para. 111\(19\)\(a\)](#)
- Sch. 2 para. 12(2A) inserted by [2020 c. 9 Sch. 2 para. 111\(8\)\(b\)](#)
- Sch. 2 para. 16(4A) inserted by [2020 c. 9 Sch. 2 para. 111\(11\)\(b\)](#)
- Sch. 2 para. 19(3A) inserted by [2020 c. 9 Sch. 2 para. 111\(14\)\(b\)](#)
- Sch. 2 para. 20(2)(ba) inserted by [2020 c. 9 Sch. 2 para. 111\(15\)\(a\)\(iii\)](#)
- Sch. 2 para. 20(3) inserted by [2020 c. 9 Sch. 2 para. 111\(15\)\(b\)](#)
- Sch. 2 para. 25(2) inserted by [2020 c. 9 Sch. 2 para. 111\(19\)\(b\)](#)
- Sch. 3 para. 4(1)(za) inserted by [2020 c. 9 Sch. 2 para. 112\(5\)\(a\)](#)
- Sch. 3 para. 17(3) inserted by [2020 c. 9 Sch. 2 para. 112\(12\)](#)
- Sch. 4 para. 73(5) inserted by [2020 c. 9 Sch. 2 para. 113\(3\)](#)
- Sch. 7 para. 5A and cross-heading inserted by [2008 c. 25 Sch. 1 para. 90\(3\)](#)