

## SCHEDULES

### SCHEDULE 4

Section 12

#### TEMPORARY EXCLUSION ORDERS: APPEALS AGAINST CONVICTIONS

##### *Right of appeal*

- 1 (1) An individual who has been convicted of an offence under section 10(1) or (3) may appeal against the conviction if—
  - (a) a temporary exclusion order is quashed, and
  - (b) the individual could not have been convicted had the quashing occurred before the proceedings for the offence were brought.
- (2) An individual who has been convicted of an offence under section 10(3) may appeal against the conviction if—
  - (a) a notice under section 9, or a permitted obligation imposed by such a notice, is quashed, and
  - (b) the individual could not have been convicted had the quashing occurred before the proceedings for the offence were brought.

##### *Court in which appeal to be made*

- 2 An appeal under this Schedule is to be made—
  - (a) in the case of a conviction on indictment in England and Wales or Northern Ireland, to the Court of Appeal;
  - (b) in the case of a conviction on indictment or summary conviction in Scotland, to the High Court of Justiciary;
  - (c) in the case of a summary conviction in England and Wales, to the Crown Court; or
  - (d) in the case of a summary conviction in Northern Ireland, to the county court.

##### *When the right of appeal arises*

- 3 (1) The right of appeal under this Schedule does not arise until there is no further possibility of an appeal against—
  - (a) the decision to quash the temporary exclusion order, notice or permitted obligation (as the case may be), or
  - (b) any decision on an appeal made against that decision.
- (2) In determining whether there is no further possibility of an appeal against a decision of the kind mentioned in sub-paragraph (1), any power to extend the time for giving notice of application for leave to appeal, or for applying for leave to appeal, must be ignored.

### *The appeal*

- 4 (1) On an appeal under this Schedule to any court, that court must allow the appeal and quash the conviction.
- (2) An appeal under this Schedule to the Court of Appeal against a conviction on indictment—
- (a) may be brought irrespective of whether the appellant has previously appealed against the conviction;
  - (b) may not be brought after the end of the period of 28 days beginning with the day on which the right of appeal arises by virtue of paragraph 3; and
  - (c) is to be treated as an appeal under section 1 of the Criminal Appeal Act 1968 or, in Northern Ireland, under section 1 of the Criminal Appeal (Northern Ireland) Act 1980, but does not require leave in either case.
- (3) An appeal under this Schedule to the High Court of Justiciary against a conviction on indictment—
- (a) may be brought irrespective of whether the appellant has previously appealed against the conviction;
  - (b) may not be brought after the end of the period of 28 days beginning with the day on which the right of appeal arises by virtue of paragraph 3; and
  - (c) is to be treated as an appeal under section 106 of the Criminal Procedure (Scotland) Act 1995 for which leave has been granted.
- (4) An appeal under this Schedule to the High Court of Justiciary against a summary conviction—
- (a) may be brought irrespective of whether the appellant pleaded guilty;
  - (b) may be brought irrespective of whether the appellant has previously appealed against the conviction;
  - (c) may not be brought after the end of the period of two weeks beginning with the day on which the right of appeal arises by virtue of paragraph 3;
  - (d) is to be by note of appeal, which shall state the ground of appeal;
  - (e) is to be treated as an appeal for which leave has been granted under Part 10 of the Criminal Procedure (Scotland) Act 1995; and
  - (f) must be in accordance with such procedure as the High Court of Justiciary may, by Act of Adjournal, determine.
- (5) An appeal under this Schedule to the Crown Court or to the county court in Northern Ireland against a summary conviction—
- (a) may be brought irrespective of whether the appellant pleaded guilty;
  - (b) may be brought irrespective of whether the appellant has previously appealed against the conviction or made an application in respect of the conviction under section 111 of the Magistrates' Courts Act 1980 or Article 146 of the Magistrates' Courts (Northern Ireland) Order 1981 ([S.I. 1981/1675 \(N.I. 26\)](#)) (case stated);
  - (c) may not be brought after the end of the period of 21 days beginning with the day on which the right of appeal arises by virtue of paragraph 3; and
  - (d) is to be treated as an appeal under section 108(1)(b) of that Act or, in Northern Ireland, under Article 140(1)(b) of that Order.