



# Administration of Justice Act 1960

1960 CHAPTER 65 8 and 9 Eliz 2

*Appeal to House of Lords in Criminal Cases*

## [<sup>F1</sup>1 **Right of appeal.**

- (1) Subject to the provisions of this section, an appeal shall lie to the [<sup>F2</sup>Supreme Court], at the instance of the defendant or the prosecutor,—
  - (a) from any decision of [<sup>F3</sup>the High Court] in a criminal cause or matter;
  - <sup>F4</sup>(b) .....
- (2) No appeal shall lie under this section except with the leave of the court below or of [<sup>F5</sup>the Supreme Court]; and such leave shall not be granted unless it is certified by the court below that a point of law of general public importance is involved in the decision and it appears to that court or to [<sup>F5</sup>the Supreme Court], as the case may be, that the point is one which ought to be considered by [<sup>F5</sup>the Supreme Court].
- <sup>F6</sup>(3) .....
- (4) For the purpose of disposing of an appeal under this section the [<sup>F7</sup>Supreme Court ] may exercise any powers of the court below or may remit the case to that court.
- (5) In this Act, unless the context otherwise requires, “leave to appeal” means leave to appeal to the [<sup>F7</sup>Supreme Court ] under this section. ]

### Textual Amendments

- F1** Ss. 1–5 repealed (N.I.) (with saving) by *Judicature (Northern Ireland) Act 1978* (c. 23), **Sch. 6 para. 13**
- F2** Words in s. 1(1) substituted (1.10.2009) by *Constitutional Reform Act 2005* (c. 4), s. 148(1), **Sch. 9 para. 13(2)(a)**; S.I. 2009/1604, art. 2(d)
- F3** Words in s. 1(1)(a) substituted (27.9.1999) by 1999 c. 22, **ss. 63(1), 108(3)** (with s. 107 and Sch. 14 para. 7(2))
- F4** S. 1(1)(b) repealed by (E.W.) *Criminal Appeal Act 1968* (c. 19), **Sch. 7** and (N.I.) *Criminal Appeal (Northern Ireland) Act 1968* (c. 21), **Sch. 5**

*Changes to legislation: There are currently no known outstanding effects for the Administration of Justice Act 1960, Cross Heading: Appeal to House of Lords in Criminal Cases. (See end of Document for details)*

- F5** Words in s. 1(2) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), s. 148(1), **Sch. 9 para. 13(2)(b)**; S.I. 2009/1604, art. 2(d)
- F6** S. 1(3) repealed (1.10.2009) by Constitutional Reform Act 2005 (c. 4), s. 148(1), Sch. 9 para. 13(2)(c), **Sch. 18 Pt. 5**; S.I. 2009/1604, art. 2(d)(f)
- F7** Words in s. 1(4)(5) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), s. 148(1), **Sch. 9 para. 13(2)(d)**; S.I. 2009/1604, art. 2(d)

#### Modifications etc. (not altering text)

- C1** S. 1 applied (with modifications) (15.3.1996) by S.I. 1996/716, **art. 7(5)**  
S. 1 applied (17.5.1996) by S.I. 1996/1296, **art. 7(5)**  
S. 1 applied (with modifications) (1.9.2001) by 2001 c. 17, s. 9(3) (with ss. 16(5), 78); S.I. 2001/2161, **art. 2** (subject to art. 3)
- C2** S. 1 applied (8.3.2018) by The United Nations (International Residual Mechanism for Criminal Tribunals) Order 2018 (S.I. 2018/187), arts. 1(1), 7, 8 (with art. 3)
- C3** S. 1(1) excluded (E.W.) (18.12.2003) by Criminal Justice Act 2003 (c. 44), **ss. 274(4)**, 336(2)
- C4** S. 1(1) excluded (E.W.) (18.12.2003) by Criminal Justice Act 2003 (c. 44), s. 336(2), **Sch. 22 para. 14(2)**

## <sup>F8</sup>2 Application for leave to appeal.

- (1) Subject to the provisions of this section, an application to the court below for leave to appeal shall be made within the period of [<sup>F9</sup>fourteen][<sup>F9</sup>28] days beginning with the [<sup>F10</sup>date of the decision of that court][<sup>F10</sup>relevant date]; and an application to the [<sup>F11</sup>Supreme Court] for such leave shall be made within the period of [<sup>F12</sup>fourteen][<sup>F12</sup>28] days beginning with the date on which the application is refused by the court below.

[ In subsection (1), “the relevant date” means—

- <sup>F13</sup>(1A) (a) the date of the decision of the court below, or  
(b) if later, the date on which that court gives reasons for its decision.]

<sup>F14</sup>(2) .....

- (3) <sup>F15</sup>... The [<sup>F11</sup>Supreme Court] or the court below may, upon application made at any time by the defendant, extend the time within which an application may be made by him to [<sup>F16</sup>the Supreme Court or the court below] under subsection (1) of this section.]

#### Textual Amendments

- F8** Ss. 1–5 repealed (N.I.) (with saving) by Judicature (Northern Ireland) Act 1978 (c. 23), **Sch. 6 para. 13**
- F9** Words in s. 2(1) substituted (E.W.) (1.4.2005) by Courts Act 2003 (c. 39), ss. 88(1)(2)(a), 110(1); S.I. 2005/910, art. 3(v)
- F10** Words in s. 2(1) substituted (E.W.) (1.4.2005) by Courts Act 2003 (c. 39), ss. 88(1)(2)(b), 110(1); S.I. 2005/910, art. 3(v)
- F11** Words in s. 2 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), s. 148(1), **Sch. 9 para. 13(3)(a)**; S.I. 2009/1604, art. 2(d)
- F12** Words in s. 2(1) substituted (E.W.) (1.4.2005) by Courts Act 2003 (c. 39), ss. 88(1)(2)(a), 110(1); S.I. 2005/910, art. 3(v)
- F13** S. 1(1A) inserted (E.W.) (1.4.2005) by Courts Act 2003 (c. 39), **ss. 88(3)**, 110(1); S.I. 2005/910, art. 3(v)
- F14** S. 2(2) repealed by Criminal Appeal Act 1968 (c. 19), s. 55(3), **Sch. 7**

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- F15** Words in s. 2(3) repealed (1.4.2005) by Courts Act 2003 (c. 39), s. 110(1), Sch. 8 para. 111, **Sch. 10**; S.I. 2005/910, art. 3(y)
- F16** Words in s. 2 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), s. 148(1), **Sch. 9 para. 13(3)(b)**; S.I. 2009/1604, art. 2(d)

**F173 Special provisions as to capital cases.**

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**Textual Amendments**

- F17** S. 3 repealed (1.4.2005) by Courts Act 2003 (c. 39), s. 110(1), Sch. 8 para. 112, **Sch. 10**; S.I. 2005/910, art. 3(y)

**[F184 Admission of appellant to bail.**

- (1) ..... **F19**
- (2) The power of the High Court under any enactment or rule of law to grant bail in connection with proceedings pending before [**F20** the High Court ] shall [**F21**, subject to section 25 of the Criminal Justice and Public Order Act 1994, ] include power to grant bail to [**F22** an appellant under section 1 of this Act, or a person applying for leave to appeal thereunder, pending the appeal ] ; and in relation to [**F23** the time and place of appearance appointed and ] any recognizance to be entered into [**F23** by any surety ] under section thirty-seven of the <sup>M1</sup> Criminal Justice Act 1948 as applied by this subsection, any reference in that section to the judgment of the High Court shall be construed as a reference to the judgment of [**F24** the Supreme Court ] or, if the case is remitted by [**F24** the Supreme Court ] to the court below, to the judgment of that court on the case as so remitted.
- (3) Where application is made to [**F20** the High Court ] for leave to appeal, that court may give such directions as it thinks fit for discharging or enlarging any recognizances entered into by . . . **F25** any surety, under any enactment or otherwise, with reference to the proceedings of that court. ]

**Textual Amendments**

- F18** Ss. 1–5 repealed (N.I.) with saving by Judicature (Northern Ireland) Act 1978 (c. 23), **Sch. 6 para. 13**
- F19** Ss. 3(2), 4(1), 9(4) repealed by (E.W.) Criminal Appeal Act 1968 (c. 19), **Sch. 7** and (N.I.) Criminal Appeal (Northern Ireland) Act 1968 (c. 21), **Sch. 5**
- F20** Words in s. 4(2) and (3) substituted (27.9.1999) by 1999 c. 22, **ss. 63(2)**, 108(3) (with s. 107 and S Ch. 14 para. 7(2)).
- F21** Words in s. 4(2) substituted (10.4.1995) by 1994 c. 33, s. 168(2), **Sch. 10 para. 10**; S.I. 1995/721, art. 2, **Sch.**
- F22** Words substituted by Criminal Justice Act 1967 (c. 80), **Sch. 4 para. 24**
- F23** Words inserted by Bail Act 1976 (c. 63), **Sch. 2 para. 30**
- F24** Words in s. 4(2) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), s. 148(1), **Sch. 9 para. 13(4)**; S.I. 2009/1604, art. 2(d)
- F25** Words repealed by Bail Act 1976 (c. 63), **Sch. 3**

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### Marginal Citations

M1 1948 c. 58 .

## [<sup>F26</sup> 5 Power to order detention or admission to bail of defendant.

- (1) Where the defendant in any proceedings from which an appeal lies under section one of this Act would, but for the decision of the court below, be liable to be detained, and immediately after that decision the prosecutor is granted, or gives notice that he intends to apply for, leave to appeal, the court [<sup>F27</sup> shall make—
- (a) an order providing for the detention of the defendant, or directing that he shall not be released except on bail (which may be granted by the court as under section 4 above), so long as the appeal is pending, or
  - (b) an order that the defendant be released without bail.]

[ The court may make an order under subsection (1)(b) only if it thinks that it is in the  
<sup>F28</sup>(1A) 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.]

(2) ..... <sup>F29</sup>

(3) An order under [<sup>F30</sup> subsection (1)(a)] of this section shall (unless the appeal has previously been disposed of) cease to have effect at the expiration of the period for which the defendant would have been liable to be detained but for the decision of the court below.

(4) Any order made under [<sup>F31</sup> the said subsection (1)(a)] for the detention of a defendant who, but for the decision of the court below, would be liable to be detained in pursuance of an order or direction under [<sup>F32</sup> Part III of the Mental Health Act 1983 (other than under section 35, 36, or 38)] , shall be an order authorising his continued detention in pursuance of the order or direction under [<sup>F32</sup> the said Part III] , and the provisions of the said Act with respect to persons so liable (including provisions as to the renewal of authority for detention and the removal or discharge of patients) shall apply accordingly.

[ Where an order is made under [<sup>F34</sup> the said subsection (1)(a)] in the case of a defendant  
<sup>F33</sup>(4A) who, but for the decision of the court below, would be liable to be detained in pursuance of an interim hospital order under [<sup>F35</sup> section 38 of the Mental Health Act 1983], the order may, if the court thinks fit, be one authorising his continued detention in a hospital or mental nursing home and in that event—

- (a) subsection (3) of this section shall not apply to the order;
- (b) [<sup>F35</sup> Part III of the said Act of 1983] shall apply as if he had been ordered under this section to be detained in custody so long as any appeal under section 1 of this Act is pending and were detained in pursuance of a transfer direction together with a restriction direction; and
- (c) if the defendant is detained by virtue of this subsection and the appeal by the prosecutor succeeds, subsection (2) of [<sup>F35</sup> the said section 38] (power of court to make hospital order in the absence of an offender who is subject to an interim hospital order) shall apply as if the defendant were still subject to an interim hospital order.]

[<sup>F36</sup>(5) 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 has made an order under subsection (1)(b), or

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- (b) the court has made an order under subsection (1)(a) but the order has ceased to have effect by virtue of subsection (3) or the defendant has been released or discharged by virtue of subsection (4) or (4A).]

#### Textual Amendments

- F26** Ss. 1–5 repealed (N.I.) with saving by [Judicature \(Northern Ireland\) Act 1978 \(c. 23\)](#) , [Sch. 6 para. 13](#)
- F27** Words in s. 5(1) substituted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#) , s. 153(7) , [Sch. 8 para. 26\(2\)](#) ; S.I. 2008/1586 , art. 2(1) , Sch. 1 para. 26 (with Sch. 2 para. 1114 )
- F28** S. 5(1A) inserted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#) , s. 153(7) , [Sch. 8 para. 26\(3\)](#) ; S.I. 2008/1586 , art. 2(1) , Sch. 1 para. 26 (with Sch. 2 para. 1114 )
- F29** Ss. 5(2) , 6(2) repealed by [Criminal Justice Act 1967 \(c. 80\)](#) , Sch. 7 Pts. I , **III**
- F30** Words in s. 5(3) substituted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#) , s. 153(7) , [Sch. 8 para. 26\(4\)](#) ; S.I. 2008/1586 , art. 2(1) , Sch. 1 para. 26 (with Sch. 2 para. 1114 )
- F31** Words in s. 5(4) substituted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#) , s. 153(7) , [Sch. 8 para. 26\(5\)](#) ; S.I. 2008/1586 , art. 2(1) , Sch. 1 para. 26 (with Sch. 2 para. 1114 )
- F32** Words substituted by [Mental Health Act 1983 \(c. 20\)](#) , [Sch. 4 para. 17 \( a \)](#)
- F33** S.5(4A) inserted by [Mental Health \(Amendment\) Act 1982 \(c. 51\)](#) , [Sch. 3 para. 32](#)
- F34** Words in s. 5(4A) substituted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#) , s. 153(7) , [Sch. 8 para. 26\(6\)](#) ; S.I. 2008/1586 , art. 2(1) , Sch. 1 para. 26 (with Sch. 2 para. 1114 )
- F35** Words substituted by [Mental Health Act 1983 \(c. 20\)](#) , [Sch. 4 para. 17 \( b \)](#)
- F36** S. 5(5) substituted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#) , s. 153(7) , [Sch. 8 para. 26\(7\)](#) ; S.I. 2008/1586 , art. 2(1) , Sch. 1 para. 26 (with Sch. 2 para. 1114 )

#### Modifications etc. (not altering text)

- C5** S. 5 modified (temp.) (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(Transitory Provisions\) Order 2008 \(S.I. 2008/1587\)](#) , arts. 1(1) , 4

#### <sup>I</sup><sub>F37</sub> **5A Power to order continuation of community treatment order**

- (1) Where the defendant in any proceedings from which an appeal lies under section 1 of this Act would, but for the decision of the court below, be liable to recall, and immediately after that decision the prosecutor is granted, or gives notice that he intends to apply for, leave to appeal, the court may make an order under this section.
- (2) For the purposes of this section, a person is liable to recall if he is subject to a community treatment order (within the meaning of the Mental Health Act 1983) and, when that order was made, he was liable to be detained in pursuance of an order or direction under Part 3 of that Act.
- (3) An order under this section is an order providing for the continuation of the community treatment order and the order or direction under Part 3 of that Act so long as any appeal under section 1 of this Act is pending.
- (4) Where the court makes an order under this section, the provisions of the Mental Health Act 1983 with respect to persons liable to recall (including provisions as to the extension of the community treatment period, the removal or discharge of community patients, the revocation of community treatment orders and the re-detention of patients following revocation) shall apply accordingly.
- (5) An order under this section shall (unless the appeal has previously been disposed of) cease to have effect at the expiration of the period for which the defendant would, but for the decision of the court below, have been—

*Changes to legislation: There are currently no known outstanding effects for the Administration of Justice Act 1960, Cross Heading: Appeal to House of Lords in Criminal Cases. (See end of Document for details)*

- (a) liable to recall; or
  - (b) where the community treatment order is revoked, liable to be detained in pursuance of the order or direction under Part 3 of the Mental Health Act 1983.
- (6) Where the court below has power to make an order under this section, and either no such order is made or the defendant is discharged by virtue of subsection (4) or (5) of this section before the appeal is disposed of, the defendant shall not be liable to be again detained as the result of the decision of the Supreme Court on the appeal.]

**Textual Amendments**

- F26** Ss. 1–5 repealed (N.I.) with saving by [Judicature \(Northern Ireland\) Act 1978 \(c. 23\)](#) , [Sch. 6 para. 13](#)
- F37** S. 5A inserted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#) , s. 56(1), [Sch. 4 para. 1](#); S.I. 2008/1900, [art. 2\(i\)](#) (with [art. 3Sch.](#))

**[<sup>F38</sup>6] Computation of sentence where bail granted.**

- (1) Where a person subject to a sentence is [<sup>F39</sup>admitted to][<sup>F39</sup>granted] bail pending an appeal under section one of this Act, the time during which he is [<sup>F39</sup>at large after being so admitted][<sup>F39</sup>released on bail] shall be disregarded in computing the term of his sentence.
- (2) ..... <sup>F40</sup>
- (3) Subject to the foregoing provisions of this section, any sentence passed on an appeal under section one of this Act in substitution for another sentence shall, unless the [<sup>F41</sup>Supreme Court ] or the court below otherwise directs, begin to run from the time when that other sentence would have begun to run.]

**Textual Amendments**

- F26** Ss. 1–5 repealed (N.I.) with saving by [Judicature \(Northern Ireland\) Act 1978 \(c. 23\)](#) , [Sch. 6 para. 13](#)
- F38** Ss. 6 , 9 , 13 , 15 , 17(1)(3)(4) , 18(3) repealed (N.I.) with saving by [Judicature \(Northern Ireland\) Act 1978 \(c. 23, SIF 38\)](#) , [Sch. 6 para. 13](#) , [Sch. 7 Pt. I](#)
- F39** Word “granted” substituted (E.W.) for words “admitted to” and words “released on bail” substituted (E.W.) for words “at large after being so admitted” by [Bail Act 1976 \(c. 63\)](#) , [Sch. 2 para. 31](#)
- F40** Ss. 5(2) , 6(2) repealed by [Criminal Justice Act 1967 \(c. 80\)](#) , [Sch. 7 Pts. I , III](#)
- F41** Words in s. 6(3) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#) , s. 148(1), [Sch. 9 para. 13\(5\)](#); S.I. 2009/1604, [art. 2\(d\)](#)

**7, 8. .... <sup>F42</sup>**

**Textual Amendments**

- F26** Ss. 1–5 repealed (N.I.) with saving by [Judicature \(Northern Ireland\) Act 1978 \(c. 23\)](#) , [Sch. 6 para. 13](#)
- F42** Ss. 7, 8 repealed (E.W.) by 1968 (c. 19) s. 54 Sch. 7 and (N.I.) by 1968 (c. 21) s. 54 Sch. 5

*Changes to legislation:* There are currently no known outstanding effects for the Administration of Justice Act 1960, Cross Heading: Appeal to House of Lords in Criminal Cases. (See end of Document for details)

**1**  
F43

**Procedure.**

- (1) ..... F44
- (2) Subsection (4) of section thirty-seven of the Criminal Justice Act 1948 (which enables rules of court to be made with respect to the security given for the purposes of that section and the recommittal of persons admitted to bail thereunder) shall have effect as if references to that section included references to sections four and five of this Act so far as they relate to <sup>F45</sup>the High Court].
- (3) A defendant who is detained pending an appeal under section one of this Act shall not be entitled to be present on the hearing of the appeal or of any proceedings preliminary or incidental thereto except where an order of <sup>F46</sup>the Supreme Court] <sup>F47</sup>authorises] <sup>F47</sup>or rules of court, as the case may be, authorise] him to be present or where <sup>F46</sup>that House] or the court below, as the case may be, gives him leave to be present.
- (4) ..... ] <sup>F48</sup>

**Textual Amendments**

- F26** Ss. 1–5 repealed (N.I.) with saving by Judicature (Northern Ireland) Act 1978 (c. 23) , **Sch. 6 para. 13**
- F43** Ss. 6 , 9 , 13 , 15 , 17(1)(3)(4) , 18(3) repealed (N.I.) with saving by Judicature (Northern Ireland) Act 1978 (c. 23, SIF 38) , **Sch. 6 para. 13** , **Sch. 7 Pt. I**
- F44** S. 9(1) repealed by (E.W.) Criminal Justice Act 1967 (c. 80) , **Sch. 7 Pt. I** and (N.I.) Criminal Appeal (Northern Ireland) Act 1968 (c. 21) , **Sch. 5**
- F45** Words in s. 9(2) substituted (27.9.1999) by 1999 C. 22, Ss. 63(2), 108(3) (with s. 107 and Sch. 14 para. 7(2)).
- F46** Words in s. 9(3) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), s. 148(1), **Sch. 9 para. 13(6)**; S.I. 2009/1604, art. 2(d)
- F47** Word “authorises” substituted (E.W.) for words “or rules of court, as the case may be, authorise” by Criminal Justice Act 1967 (c. 80) , **Sch. 4 para. 30**
- F48** Ss. 3(2) , 4(1) , 9(4) repealed by (E.W.) Criminal Appeal Act 1968 (c. 19) , **Sch. 7** and (N.I.) Criminal Appeal (Northern Ireland) Act 1968 (c. 21) , **Sch. 5**

**10]**

..... F49

**Textual Amendments**

- F26** Ss. 1–5 repealed (N.I.) with saving by Judicature (Northern Ireland) Act 1978 (c. 23) , **Sch. 6 para. 13**
- F49** S. 10 repealed by Courts- Martial (Appeals) Act 1968 (c. 20) , s. 60 , **Sch. 6**



**Changes to legislation:**

There are currently no known outstanding effects for the Administration of Justice Act 1960,  
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