



# Administration of Justice Act 1960

1960 CHAPTER 65 8 and 9 Eliz 2

*Appeal to House of Lords in Criminal Cases*

**[<sup>F1</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>F2</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>F3</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>F4</sup>

(3) An order under [<sup>F5</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>F6</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>F7</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>F7</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>F9</sup> the said subsection (1)(a)] in the case of a defendant  
<sup>F8</sup>(4A) who, but for the decision of the court below, would be liable to be detained in

*Changes to legislation: There are currently no known outstanding effects for the Administration of Justice Act 1960, Section 5. (See end of Document for details)*

pursuance of an interim hospital order under [F10section 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) [F10Part 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 [F10the 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.]

[F11(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
- (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

- 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. 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](#) )
- F3** 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](#) )
- F4** Ss. 5(2) , 6(2) repealed by [Criminal Justice Act 1967 \(c. 80\)](#) , [Sch. 7 Pts. I , III](#)
- F5** 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](#) )
- F6** 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](#) )
- F7** Words substituted by [Mental Health Act 1983 \(c. 20\)](#) , [Sch. 4 para. 17 \( a \)](#)
- F8** S.5(4A) inserted by [Mental Health \(Amendment\) Act 1982 \(c. 51\)](#) , [Sch. 3 para. 32](#)
- F9** 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](#) )
- F10** Words substituted by [Mental Health Act 1983 \(c. 20\)](#) , [Sch. 4 para. 17 \( b \)](#)
- F11** 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)

- C1** 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](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Administration of Justice Act 1960, Section 5 .