



# Criminal Appeal (Northern Ireland) Act 1980

## 1980 CHAPTER 47

### PART I

#### APPEAL TO COURT OF APPEAL FROM CROWN COURT

##### *Appeal against conviction on indictment*

#### **1 Right of appeal against conviction on indictment.**

A person convicted on indictment may appeal to the Court of Appeal against his conviction—

- (a) on any ground which involves a question of law alone; and
- (b) with the leave of the Court, on any ground which involves a question of fact alone, or a question of mixed law and fact, or on any other ground which appears to the Court to be a sufficient ground of appeal;

but if the judge of the court of trial grants a certificate that the case is fit for appeal on a ground which involves a question of fact, or of mixed law and fact, an appeal lies under this section without the leave of the Court.

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

C1 S. 1 excluded (27.8.1991) (Emergency Provisions) Act 1991 (c. 24, SIF 39:1), ss. 10(6), 69(1)

#### **2 Grounds for allowing appeal against conviction.**

(1) Except as provided by this Act, the Court of Appeal shall allow an appeal against conviction where the Court is of opinion—

- (a) that the conviction should be set aside on the ground that under all the circumstances of the case it is unsafe or unsatisfactory; or

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- (b) that the judgment of the court of trial should be set aside on the ground of a wrong decision of any question of law; or
  - (c) that there was a material irregularity in the course of the trial,
- and in any other case shall dismiss the appeal:

Provided that the Court may, notwithstanding that it is of opinion that the point raised in the appeal might be decided in favour of the appellant, dismiss the appeal if it considers that no miscarriage of justice has actually occurred.

- (2) If the Court allows an appeal against conviction it shall quash the conviction.
- (3) An order of the Court quashing a conviction shall, except when under section 6 of this Act the appellant is ordered to be retried, operate as a direction to the chief clerk acting for the court of trial to enter, instead of the record of conviction, a judgment and verdict of acquittal.

### 3 Power to substitute conviction of alternative offence.

- (1) This section applies where an appellant has been convicted of an offence and the jury could on the indictment have found him guilty of some other offence, and on the finding of the jury it appears to the Court of Appeal that the jury must have been satisfied of facts which proved him guilty of that other offence.
- (2) The Court may, instead of allowing or dismissing the appeal, substitute for the verdict found by the jury a verdict of guilty of that other offence and pass such sentence in substitution for the sentence passed at the trial as may be warranted in law by the verdict so substituted.

VALID FROM 01/09/2004

#### [<sup>F1</sup>3A Power to substitute conviction of alternative offence after guilty plea

- (1) This section applies where—
  - (a) an appellant has been convicted of an offence to which he pleaded guilty,
  - (b) if he had not so pleaded, he could on the indictment have pleaded, or been found, guilty of some other offence, and
  - (c) it appears to the Court of Appeal that the plea of guilty indicates an admission by the appellant of facts which prove him guilty of that other offence.
- (2) The Court may, instead of allowing or dismissing the appeal, substitute for the appellant's plea of guilty a plea of guilty of that other offence and pass such sentence in substitution for the sentence passed at the trial as may be warranted in law by the plea so substituted.]

#### Textual Amendments

- F1** S. 3A inserted (N.I.) (1.9.2004) by [Criminal Justice Act 2003 \(c. 44\), s. 317\(3\)](#); [S.I. 2004/1629, art. 3\(2\)\(d\)](#) (subject to [art. 3\(3\)\(4\)](#))

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#### **4 Alteration of sentence on appeal against conviction.**

- (1) Where a person appeals against conviction on an indictment containing two or more counts and the Court of Appeal allows the appeal in respect of part of the indictment, it may in respect of any count on which he remains convicted pass such sentence, in substitution for the sentence passed thereon at the trial, as it thinks proper and is authorised by law for the offence of which he remains convicted on that count.
- (2) On an appeal to the Court against conviction the Court shall, if it thinks that a different sentence should have been passed, quash the sentence passed at the trial and pass such other sentence authorised by law (whether more or less severe) in substitution therefor as it thinks ought to have been passed; but in no case shall any sentence be increased by reason or in consideration of any evidence that was not given at the trial.

#### **5 Appeal against conviction on special verdict.**

- (1) This section applies on an appeal against conviction where the jury have found a special verdict.
- (2) If the Court of Appeal considers that a wrong conclusion has been arrived at by the court of trial as to the effect of the jury's verdict the Court may, instead of allowing the appeal, order such conclusion to be recorded as appears to it to be in law required by the verdict, and pass such sentence in substitution for the sentence passed at the trial as may be warranted in law by the verdict so substituted.

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