

CRIMINAL JUSTICE AND IMMIGRATION ACT 2008

EXPLANATORY NOTES

SUMMARY

Part 3: Appeals

27. [Section 42](#) inserts a new section, section 16C, into the Criminal Appeal Act 1968 (the 1968 Act). New section 16C applies only in cases where the Court of Appeal is determining an appeal referred to it by the Criminal Cases Review Commission and the only ground for allowing the appeal is that there has been a development in the law since the date of conviction. In such cases it is open to the Court to dismiss the appeal if they would have refused an extension of time in which to seek leave to appeal (had the Court been considering an out of time application by the appellant rather than a reference by the CCRC). Section 43 makes equivalent provision for Northern Ireland.
28. [Section 44](#) alters the test for ordering a retrial in England and Wales (or that the trial should resume) where the Court of Appeal allow a prosecution appeal against a terminating ruling. Section 45 makes similar provision for Northern Ireland.
29. [Section 46](#) amends section 36 of the Criminal Justice Act 1998 to provide that where a life sentence or indeterminate sentence is referred to the Court of Appeal by the Attorney General on the grounds that it is unduly lenient, the Court may not, on re-sentencing, give the offender a discount in the new sentence to reflect the fact that he is going through the sentencing process for the second time. This is an extension of the prohibition which already applies to mandatory life sentences for murder.
30. [Section 47](#) and Schedule 8 make alterations to eight aspects of the procedure governing criminal appeals in England and Wales and to seven aspects of the procedure in Northern Ireland. The changes are mainly amendments to the 1968 Act with corresponding amendments to the Criminal Appeal (Northern Ireland) Act 1980. The changes relate to the functioning of the Court of Appeal Criminal Division to resolve anomalies and minor difficulties in the existing provisions.