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## STATUTORY INSTRUMENTS

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# 1980 No. 397

## County Courts (Northern Ireland) Order 1980

### PART IV

#### APPEALS AND APPLICATIONS TO COUNTY COURTS

##### Appeals and applications to county courts

**28.**—(1) A county court shall have jurisdiction to hear and determine in accordance with county court rules—

- (a) any appeal from an order of a magistrates' court;
- (b) any appeal from or application in respect of an order or determination of any other tribunal, authority, body or person whatsoever;

duly brought under any statutory provision and the decision of the county court shall, except as provided by Article 61, be final and conclusive.

(2) A county court may refuse to allow any appeal grounded solely on any error or omission in a summons, charge, information or other document or in any order or determination, or grounded solely on any other technical defect, not affecting the merits of the case, and may in any case, upon such terms as to costs or otherwise as it may think proper,—

- (a) amend such summons, charge, information or other document for the purpose of making the order or determination conformable with it or of raising the real question at issue and deciding the matter as justice may require; or
- (b) amend the order or other determination and adjudicate thereon as if the error, omission or defect had not happened.

(3) Without prejudice to the powers conferred by section 22 of the Interpretation Act (Northern Ireland) 1954 [<sup>F1</sup> but subject to section 12(6) of the Criminal Appeal Act 1995], a county court may on an appeal against a conviction or sentence award any punishment, whether more or less severe, than that awarded by the magistrates' court, which that court might have awarded.

[<sup>F2</sup>(3A) The fact that an appeal is pending against an interim hospital order under the Mental Health (Northern Ireland) Order 1986 shall not affect the power of the magistrates' court that made it to renew or terminate the order or to deal with the appellant on its termination; and where the county court quashes such an order but does not pass any sentence or make any other order in its place the county court may direct the appellant to be kept in custody or released on bail pending his being dealt with by that magistrates' court.

(3B) Where the county court makes an interim hospital order under the powers referred to in paragraph (3)—

- (a) the power of renewing or terminating the order and of dealing with the appellant on its termination shall be exercisable by the magistrates' court whose decision is appealed against and not by the county court; and
- (b) that magistrates' court shall be treated for the purposes of Article 45(6) of the said Order of 1986 as the court that made the order.]

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**Changes to legislation:** County Courts (Northern Ireland) Order 1980, Section 28 is up to date with all changes known to be in force on or before 06 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

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(4) In this Article “order” includes any conviction, sentence or other order whatsoever of a magistrates' court.

**F1** [1995 c. 35](#)

**F2** [1986 NI 4](#)

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**Changes and effects yet to be applied to :**

- Instrument am (prosp) by [S.I. 1994/2795 \(N.I.\) art.3\(5\)Sch.1](#)
- art. 28(3A) words substituted by [2016 c. 18 \(N.I.\) Sch. 10 para. 15\(2\)](#)
- art. 28(3B) words substituted by [2016 c. 18 \(N.I.\) Sch. 10 para. 15\(3\)\(a\)](#)
- art. 28(3B) words substituted by [2016 c. 18 \(N.I.\) Sch. 10 para. 15\(3\)\(b\)](#)
- art. 28(4) words inserted by [2016 c. 18 \(N.I.\) Sch. 10 para. 15\(4\)](#)