



Criminal Appeal Act 1968

1968 CHAPTER 19

PART I

APPEAL TO COURT OF APPEAL IN CRIMINAL CASES

Appeal in cases of insanity

12 Appeal against verdict of not guilty by reason of insanity

A person in whose case there is returned a verdict of not guilty by reason of insanity may appeal to the Court of Appeal against the verdict—

- (a) on any ground of appeal which involves a question of law alone; and
- (b) with the leave of the Court of Appeal, 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 of Appeal 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 a question of mixed law and fact, an appeal lies under this section without the leave of the Court of Appeal.

13 Disposal of appeal under s. 12

(1) Subject to the provisions of this section, the Court of Appeal shall allow an appeal under section 12 of this Act if they are of opinion—

- (a) that the verdict should be set aside on the ground that under all the circumstances of the case it is unsafe or unsatisfactory; or
- (b) that the order of the court giving effect to the verdict 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.

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- (2) The Court of Appeal may dismiss an appeal under section 12 of this Act, if of opinion that, notwithstanding that the point raised in the appeal might be decided in favour of the appellant, no miscarriage of justice has actually occurred.
- (3) Where apart from this subsection—
- (a) an appeal under section 12 of this Act would fall to be allowed; and
 - (b) none of the grounds for allowing it relates to the question of the insanity of the accused,
- the Court of Appeal may dismiss the appeal if they are of opinion that, but for the insanity of the accused, the proper verdict would have been that he was guilty of an offence other than the offence charged.
- (4) Where an appeal under section 12 of this Act is allowed, the following provisions apply:—
- (a) if the ground, or one of the grounds, for allowing the appeal is that the finding of the jury as to the insanity of the accused ought not to stand and the Court of Appeal are of opinion that the proper verdict would have been that he was guilty of an offence (whether the offence charged or any other offence of which the jury could have found him guilty), the Court—
 - (i) shall substitute for the verdict of not guilty by reason of insanity a verdict of guilty of that offence; and
 - (ii) shall, subject to subsection (5) below, have the like powers of punishing or otherwise dealing with the appellant, and other powers, as the court of trial would have had if the jury had come to the substituted verdict; and
 - (b) in any other case, the Court of Appeal shall substitute for the verdict of the jury a verdict of acquittal.
- (5) The Court of Appeal shall not by virtue of subsection (4)(a) above sentence any person to death ; but where under that paragraph they substitute a verdict of guilty of an offence for which apart from this subsection they would be required to sentence the appellant to death, their sentence shall (whatever the circumstances) be one of imprisonment for life.
- (6) An order of the Court of Appeal allowing an appeal in accordance with this section shall operate as a direction to the court of trial to amend the record to conform with the order.

14 Hospital order on disposal of appeal

- (1) Where, on an appeal under section 12 of this Act, the Court of Appeal are of opinion that the case is not one where there should have been a verdict of acquittal but that there should have been a finding that the accused was under disability, the Court shall make an order that the appellant be admitted to such hospital as may be specified by the Secretary of State.
- (2) Where in accordance with section 13(4)(b) of this Act the Court of Appeal substitute a verdict of acquittal, and they are of opinion—
- (a) that the appellant is suffering from mental disorder of a nature or degree which warrants his detention in a hospital under observation (with or without other medical treatment) for at least a limited period ; and

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- (b) that he ought to be so detained in the interests of his own health or safety or with a view to the protection of other persons,
the Court shall make an order that the appellant be admitted for observation to such hospital as may be specified by the Secretary of State.
- (3) Schedule 1 to this Act applies with respect to the consequences and effect of an order made by the Court of Appeal under this section.
- (4) On making an order under this section in the case of any person, the Court of Appeal may give such directions as they think fit for his conveyance to a place of safety and his detention there pending his admission to hospital within the relevant period specified in Schedule 1 to this Act.
- (5) In section 72 of the Mental Health Act 1959 (which relates to the removal to hospital of persons serving sentences of imprisonment and is applied by subsection (6) of the section also to persons in other forms of detention) references to a person serving a sentence of imprisonment shall be construed as not including references to a person subject to an order of the Court of Appeal under subsection (1) of this section.