



Criminal Appeal Act 1968

1968 CHAPTER 19

PART I

APPEAL TO COURT OF APPEAL IN CRIMINAL CASES

The hearing

22 Right of appellant to be present.

- (1) Except as provided by this section, an appellant shall be entitled to be present, if he wishes it, on the hearing of his appeal, although he may be in custody.
- (2) A person in custody shall not be entitled to be present—
 - (a) where his appeal is on some ground involving a question of law alone; or
 - (b) on an application by him for leave to appeal; or
 - (c) on any proceedings preliminary or incidental to an appeal; or
 - (d) where he is in custody in consequence of a verdict of not guilty by reason of insanity or of a finding of disability,unless the Court of Appeal give him leave to be present.
- (3) The power of the Court of Appeal to pass sentence on a person may be exercised although he is for any reason not present.

23 Evidence.

- (1) For purposes of this Part of this Act the Court of Appeal may, if they think it necessary or expedient in the interests of justice—
 - (a) order the production of any document, exhibit or other thing connected with the proceedings, the production of which appears to them necessary for the determination of the case;
 - (b) order any witness who would have been a compellable witness in the proceedings from which the appeal lies to attend for examination and be

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- examined before the Court, whether or not he was called in those proceedings;
 and
- (c) subject to subsection (3) below, receive the evidence, if tendered, of any witness.
- (2) Without prejudice to subsection (1) above, where evidence is tendered to the Court of Appeal thereunder the Court shall, unless they are satisfied that the evidence, if received, would not afford any ground for allowing the appeal, exercise their power of receiving it if—
- (a) it appears to them that the evidence is likely to be credible and would have been admissible in the proceedings from which the appeal lies on an issue which is the subject of the appeal; and
- (b) they are satisfied that it was not adduced in those proceedings but there is a reasonable explanation for the failure to adduce it.
- (3) Subsection (1)(c) above applies to any witness (including the appellant) who is competent but not compellable, and applies also to the appellant's husband or wife where the appellant makes an application for that purpose and the evidence of the husband or wife could not have been given in the proceedings from which the appeal lies except on such an application.
- (4) For purposes of this Part of this Act, the Court of Appeal may, if they think it necessary or expedient in the interests of justice, order the examination of any witness whose attendance might be required under subsection (1)(b) above to be conducted, in manner provided by rules of court, before any judge or officer of the Court or other person appointed by the Court for the purpose, and allow the admission of any depositions so taken as evidence before the Court.

VALID FROM 31/03/1997

[^{F1}23A Power to order investigations.

- (1) On an appeal against conviction the Court of Appeal may direct the Criminal Cases Review Commission to investigate and report to the Court on any matter if it appears to the Court that—
- (a) the matter is relevant to the determination of the case and ought, if possible, to be resolved before the case is determined;
- (b) an investigation of the matter by the Commission is likely to result in the Court being able to resolve it; and
- (c) the matter cannot be resolved by the Court without an investigation by the Commission.
- (2) A direction by the Court of Appeal under subsection (1) above shall be given in writing and shall specify the matter to be investigated.
- (3) Copies of such a direction shall be made available to the appellant and the respondent.
- (4) Where the Commission have reported to the Court of Appeal on any matter which they have been directed under subsection (1) above to investigate, the Court—
- (a) shall notify the appellant and the respondent that the Commission have reported; and

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(b) may make available to the appellant and the respondent the report of the Commission and any statements, opinions and reports which accompanied it.]

Textual Amendments

F1 S. 23A inserted (31.3.1997) by 1995 c. 35, s. 5(1); S.I. 1997/402, art. 3(a) (with art. 4)

24— F2
28.

Textual Amendments

F2 Ss. 24–28, 39–41 repealed by Costs in Criminal Cases Act 1973 (c. 14), Sch. 2

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