

Status: Point in time view as at 03/12/2012.

Changes to legislation: Criminal Appeal Act 1968, SCHEDULE 2 is up to date with all changes known to be in force on or before 11 August 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)

SCHEDULES

SCHEDULE 2

Section 8.

PROCEDURAL AND OTHER PROVISIONS APPLICABLE ON ORDER FOR RETRIAL

[^{F1}Evidence]

Textual Amendments

- F1** Sch. 2 para. 1 and cross-heading substituted (4.4.2005) for Sch. 2 paras. 1, 1A by [Criminal Justice Act 2003 \(c. 44\)](#), [ss. 131, 336\(3\)\(4\)](#) (with [s. 141](#)); [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 6](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), [art. 2](#); and as amended: (14.7.2008) by [2008 c. 4](#), [Sch. 26 para. 78](#), [Sch. 28 Pt. 2](#); [S.I. 2008/1586](#), [Sch. 1 paras. 48\(s\), 50\(2\)\(d\)](#); (30.11.2009) by [S.I. 2009/3111](#), [art. 2](#); (3.12.2012) by [S.I. 2012/2905](#), [art. 4](#); (3.12.2012) by [2012 c. 10](#), [Sch. 14 para. 17](#); [S.I. 2012/2906](#), [art. 2\(1\)](#))

- 1 On a retrial, [^{F2}paragraphs 1 and 2 of Schedule 2 to the Criminal Procedure and Investigations Act 1996 (use of written statements and depositions) shall not apply to any written statement or deposition read as evidence at the original trial]; but a transcript of the record of the evidence given by any witness at the original trial may, with the leave of the judge, be read as evidence—
- (a) by agreement between the prosecution and the defence; or
 - (b) if the judge is satisfied that the witness is dead or unfit to give evidence or to attend for that purpose, or that all reasonable efforts to find him or to secure his attendance have been made without success,
- and in either case may be so read without further proof, if verified in accordance with rules of court.

Textual Amendments

- F2** Words in [Sch. 2 para. 1](#) substituted (4.7.1996 but with effect as mentioned in [Sch. 2 para. 7](#) of the amending Act) by [1996 c. 25, s. 68](#), [Sch. 2 paras. 5, 7](#); [S.I. 1997/683](#), [art. 1\(2\)](#)

Sentence on conviction at retrial

- 2 (1) Where a person ordered to be retried is again convicted on retrial, the court before which he is convicted may pass in respect of the offence any sentence authorised by law, not being a sentence of greater severity than that passed on the original conviction.
- (2) Without prejudice to its power to impose any other sentence, the court before which an offender is convicted on retrial may pass in respect of the offence any sentence passed in respect of that offence on the original conviction notwithstanding that, on the date of the conviction on retrial, the offender has ceased to be of an age at which such a sentence could otherwise be passed.

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- (3) Where the person convicted on retrial is sentenced to imprisonment or other detention, the sentence shall begin to run from the time when a like sentence passed at the original trial would have begun to run; but in computing the term of his sentence or the period for which he may be detained thereunder, as the case may be, there shall be disregarded—
 - (a) any time before his conviction on retrial which would have been disregarded in computing that term or period if the sentence had been passed at the original trial and the original conviction had not been quashed; and
 - (b) any time during which he was [^{F3}released on bail] under section 8(2) of this Act.

- (4) [^{F4}[^{F5}[^{F6}Sections 240ZA] and 240A of the Criminal Justice Act 2003 (crediting of periods of remand in custody or on bail subject to certain types of condition:)] terms of imprisonment and detention) shall apply] to any sentence imposed on conviction on retrial as if it had been imposed on the original conviction.

Textual Amendments

F3 Words substituted by [Bail Act 1976 \(c. 63\), Sch. 2 para. 45](#)

F4 Words in Sch. 2 para. 2(4) substituted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 32 para. 10](#); [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 42\(6\)](#) (with Sch. 2) (as explained (29.7.2005) by [S.I. 2005/2122, art. 2](#); and as amended: (14.7.2008) by [2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2](#); [S.I. 2008/1586, Sch. 1 paras. 48\(s\), 50\(2\)\(d\)](#); (30.11.2009) by [S.I. 2009/3111, art. 2](#); (3.12.2012) by [S.I. 2012/2905, art. 4](#); (3.12.2012) by [2012 c. 10, Sch. 14 para. 17](#); [S.I. 2012/2906, art. 2\(l\)](#))

F5 Words in Sch. 2 para. 2(4) substituted (3.11.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 22\(4\), 153\(7\)](#); [S.I. 2008/2712, art. 2, Sch. para. 2](#)

F6 Words in Sch. 2 para. 2(4) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 13 para. 6](#); [S.I. 2012/2906, art. 2\(k\)](#)

Modifications etc. (not altering text)

C1 Sch. 2 para. 2(4) modified (1.10.1997 for specified purposes, otherwise 1.12.1999) by [1997 c. 43, ss. 55\(2\), 57\(2\), Sch. 4 para. 6\(2\)](#); [S.I. 1997/2200, art. 2\(1\)\(m\)](#) and [S.I. 1999/3096, art. 2\(d\)](#)

^{F73}

Textual Amendments

F7 Sch. 2 para. 3 repealed by [Prosecution of Offences Act 1985 \(c. 23, SIF 39:1\), s. 31\(6\), Sch. 2](#)

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