

Status: Point in time view as at 15/12/2011.

Changes to legislation: Criminal Appeal (Northern Ireland) Act 1980, Cross Heading: Appeal against conviction on indictment is up to date with all changes known to be in force on or before 04 July 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)



Criminal Appeal (Northern Ireland) Act 1980

1980 CHAPTER 47

PART I

APPEAL TO COURT OF APPEAL FROM CROWN COURT

Appeal against conviction on indictment

1 Right of appeal against conviction on indictment.

A person convicted on indictment may appeal to the Court of Appeal against his ^{F1}conviction—

- (a) with the leave of the Court; or
- (b) if ^{F2}, within 28 days from the date of the conviction,] the judge of the court of trial grants a certificate that the case is fit for appeal.]

Textual Amendments

- F1** Words in s. 1 substituted (1.1.1996) by 1995 c. 35, s. 1(2); S.I. 1995/3061, art. 3(a)
- F2** Words in s. 1(b) inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 47, 153(7)(8), Sch. 8 para. 15; S.I. 2008/1586, art. 2(1)(3), Sch. 1 para. 26 (subject to Sch. 2)

Modifications etc. (not altering text)

- C1** S. 1 excluded (27.8.1991) (Emergency Provisions) Act 1991 (c. 24, SIF 39:1), ss. 10(6), 69(1)
- C2** S. 1 excluded (N.I.) (25.8.1996) by 1996 c. 22, ss. 11(6), 62(1) (with s. 62(2))
S. 1 excluded (N.I.) (19.2.2001) by 2000 c. 11, ss. 75(8), 128 (with s. 113(1)); S.I. 2001/421, art. 2
- C3** S. 1 extended (11.3.2005) by Prevention of Terrorism Act 2005 (c. 2), s. 12(4)(c)
- C4** S. 1 excluded (N.I.) (1.8.2007) by Justice and Security (Northern Ireland) Act 2007 (c. 6), ss. 5(7), 53(4) (with s. 8(1)(3)); S.I. 2007/2045, art. 2(2)(3) (with art. 3)
- C5** S. 1 extended (15.12.2011) by Terrorism Prevention and Investigation Measures Act 2011 (c. 23), s. 31(2), Sch. 3 para. 4(2)(c) (with Sch. 8)

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2 Grounds for allowing appeal against conviction.

- [^{F3}(1) Subject to the provisions of this Act, the Court of Appeal—
- (a) shall allow an appeal against conviction if it thinks that the conviction is unsafe; and
 - (b) shall dismiss such an appeal in any other case.]
- (2) If the Court allows an appeal against conviction it shall quash the conviction.
- (3) An order of the Court quashing a conviction shall, except when under section 6 of this Act the appellant is ordered to be retried, operate as a direction to the chief clerk acting for the court of trial to enter, instead of the record of conviction, a judgment and verdict of acquittal.

Textual Amendments

F3 S. 2(1) substituted (1.1.1996) by [1995 c. 35, s. 2\(2\)](#); [S.I. 1995/3061, art. 3](#)

Modifications etc. (not altering text)

C6 S. 2(1) modified (4.5.2010) by [The Criminal Evidence \(Northern Ireland\) Order 1999 \(S.I. 1999/2789 \(N.I. 8\)\)](#), [arts. 1\(2\), 34\(5\)](#); [S.R. 2010/142, art. 2](#), [Sch. para. 1](#)

3 Power to substitute conviction of alternative offence.

- (1) This section applies where an appellant has been convicted of an offence [^{F4}to which he did not plead guilty] and the jury could on the indictment have found him guilty of some other offence, and on the finding of the jury it appears to the Court of Appeal that the jury must have been satisfied of facts which proved him guilty of that other offence.
- (2) The Court may, instead of allowing or dismissing the appeal, substitute for the verdict found by the jury a verdict of guilty of that other offence and pass such sentence in substitution for the sentence passed at the trial as may be warranted in law by the verdict so substituted.

Textual Amendments

F4 Words in s. 3(1) inserted (N.I.) (1.9.2004) by [Criminal Justice Act 2003 \(c. 44\), s. 317\(2\)](#); [S.I. 2004/1629, art. 3\(2\)\(d\)](#) (subject to [art. 3\(3\)\(4\)](#))

[^{F5}3A Power to substitute conviction of alternative offence after guilty plea

- (1) This section applies where—
- (a) an appellant has been convicted of an offence to which he pleaded guilty,
 - (b) if he had not so pleaded, he could on the indictment have pleaded, or been found, guilty of some other offence, and
 - (c) it appears to the Court of Appeal that the plea of guilty indicates an admission by the appellant of facts which prove him guilty of that other offence.
- (2) The Court may, instead of allowing or dismissing the appeal, substitute for the appellant's plea of guilty a plea of guilty of that other offence and pass such sentence

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in substitution for the sentence passed at the trial as may be warranted in law by the plea so substituted.]

Textual Amendments

F5 S. 3A inserted (N.I.) (1.9.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 317(3); S.I. 2004/1629, art. 3(2)(d) (subject to art. 3(3)(4))

4 Alteration of sentence on appeal against conviction.

[^{F6}(1) Subsection (1A) applies where—

- (a) two or more related sentences are passed,
- (b) the Court of Appeal allows an appeal against conviction in respect of one or more of the offences for which the sentences were passed (“the related offences”), but
- (c) the appellant remains convicted of one or more of those offences.

(1A) The Court may, in respect of any related offence of which the appellant remains convicted, pass such sentence, in substitution for the sentence passed thereon at the trial, as it thinks proper and is authorised by law.]

(2) On an appeal to the Court against conviction the Court shall, if it thinks that a different sentence should have been passed, quash the sentence passed at the trial and pass such other sentence authorised by law (whether more or less severe) in substitution therefor as it thinks ought to have been passed; but in no case shall any sentence be increased by reason or in consideration of any evidence that was not given at the trial.

[^{F7}(3) For the purposes of subsection (1)(a), two or more sentences are related if—

- (a) they are passed on the same day,
- (b) they are passed on different days but the court in passing any one of them states that it is treating that one together with the other or others as substantially one sentence, or
- (c) they are passed on different days but in respect of counts on the same indictment.

(4) Where—

- (a) two or more sentences are related to each other by virtue of subsection (3) (a) or (b), and
- (b) any one or more of those sentences is related to one or more other sentences by virtue of subsection (3)(c),

all the sentences are to be treated as related for the purposes of subsection (1)(a).]

Textual Amendments

F6 S. 4(1)(1A) substituted (14.7.2008) for s. 4(1) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 47, 153(7)(8), [Sch. 8 para. 18\(2\)](#); S.I. 2008/1586, art. 2(1)(3), Sch. 1 para. 26 (subject to Sch. 2)

F7 S. 4(3)(4) inserted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 47, 153(7)(8), [Sch. 8 para. 18\(3\)](#); S.I. 2008/1586, art. 2(1)(3), Sch. 1 para. 26 (subject to Sch. 2)

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5 Appeal against conviction on special verdict.

- (1) This section applies on an appeal against conviction where the jury have found a special verdict.
- (2) If the Court of Appeal considers that a wrong conclusion has been arrived at by the court of trial as to the effect of the jury's verdict the Court may, instead of allowing the appeal, order such conclusion to be recorded as appears to it to be in law required by the verdict, and pass such sentence in substitution for the sentence passed at the trial as may be warranted in law by the verdict so substituted.

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