



Criminal Appeal (Northern Ireland) Act 1980

1980 CHAPTER 47

PART I

APPEAL TO COURT OF APPEAL FROM CROWN COURT

Appeal against sentence

8 Appeal against sentence following conviction on indictment.

A person convicted on indictment may appeal to the Court of Appeal against the sentence passed on his conviction, unless the sentence is one fixed by law.

Modifications etc. (not altering text)

C1 S. 8 amended by [S.I.1986/595 \(N.I. 4\)](#), [art.51\(4\)\(a\)](#)

9 Appeal in other cases dealt with by Crown Court.

- (1) This section has effect for providing rights of appeal to the Court of Appeal against sentence where a person is dealt with by the Crown Court otherwise than on conviction on indictment.
- (2) An offender who—
 - (a) has been made the subject of a [^{F1}community order within the meaning of Article 2(2) of the Criminal Justice (Northern Ireland) Order 1996][^{F2}or a youth conference order] or an order for conditional discharge or an order under section 18(1) [^{F3}or (1A)] of the ^{M1}Treatment of Offenders Act (Northern Ireland) 1968 (suspended sentence); and
 - (b) appears or is brought before the Crown Court in circumstances such that the Crown Court has power to deal with him in respect of the offence for which

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the [^{F4}community order][^{F5}or the youth conference order] or the order for conditional discharge or the order under the said section 18(1) [^{F3}or (1A)] was made; and

(c) is sentenced by the Crown Court for that offence,

shall have the like right of appeal to the Court of Appeal against that sentence as if the Crown Court had immediately before passing it convicted him on indictment for that offence and passed the sentence upon such conviction.

(3) A person—

(a) against whom an order is made by the Crown Court under [^{F6}Article 35 of the Criminal Justice (Children) (Northern Ireland) Order 1998;]

(b) who is ordered by the Crown Court to be returned to prison or a young offenders centre under Article 3(1) or (5) of the ^{M2}Treatment of Offenders (Northern Ireland) Order 1976; or

^{F7}[(c) upon whom a fine is imposed under [^{F8}paragraph (a), or against whom an order is made under paragraph (b) or (c), of paragraph 4(1)] of Schedule 2 to the Criminal Justice (Northern Ireland) Order 1996;

shall have the like right of appeal to the Court of Appeal against that order, ^{F9}. . . or fine as if the Crown Court had immediately before making that order, ^{F10}. . . or imposing that fine (as the case may be) convicted him on indictment and that order, ^{F11}. . . or fine were a sentence passed upon that conviction.

^{F12}(3A) A person may appeal to the Court of Appeal against a decision under paragraph 8 of Schedule 2 to the Criminal Justice (Northern Ireland) Order 1996 (S.I. 1996/3160 (N.I. 24)) not to revoke an order which is in force with respect to him; and on such an appeal the Court of Appeal may do anything which the Crown Court could do under that paragraph.

(3B) A person may appeal to the Court of Appeal against the dismissal of an application to the Crown Court under paragraph 5 of Schedule 1A to the Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I. 9)) to make an order under sub-paragraph (1) of that paragraph.]

^{F13}(3C) A person who—

(a) is convicted of any offence by a magistrates' court, and

(b) is committed by that court to the Crown Court under section 218 of the Proceeds of Crime Act 2002 in respect of that offence,

may appeal to the Court of Appeal against any sentence passed on him for that offence by the Crown Court.]

(4) So much of the following provisions of this Act as have effect in relation to an appeal against sentence passed on conviction on indictment shall, with necessary modifications, have effect in relation to appeals under this section.

Textual Amendments

- F1** S. 9(2)(a) substituted (1.1.1998) by S.I. 1996/3160 (N.I. 24), art. 58(1), **Sch. 5 para. 4(a)(i)**; S.R. 1997/523, **art. 2(i)**
- F2** Words in s. 9(2)(a) inserted (1.12.2003) by 2002 c. 26, ss. 85, 87, **Sch. 12 para. 15(2)(a)**; S.R. 2003/488, **art. 2**, **Sch.**
- F3** Words inserted by S.I.1989/1344 (N.I. 15), art. 14(1), **Sch. 1 para. 28**

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- F4** S. 9(2)(b) substituted (1.1.1998) by S.I. 1996/3160 (N.I. 24), art. 58(1), **Sch. 5 para. 4(a)(ii)**; S.R. 1997/523, **art. 2** (i)
- F5** Words in s. 9(2)(b) inserted (1.12.2003) by 2002 c. 26, ss. 85, 87, Sch. 12 para. 15(2)(b); S.R. 2003/488, **art. 2**, **Sch.**
- F6** Words in s. 9(3)(a) substituted (31.1.1999) by S.I. 1998/1504 (N.I. 9), s. 65(1), **Sch. 5 para. 13**; S.R. 1999/25, **art. 2(c)**
- F7** S. 9(3)(c) substituted (1.1.1998) for s. 9(3)(c)(d) by S.I. 1996/3160 (N.I. 24), art. 58(1)(3), **Sch. 5 para. 4(b)(i)**; S.R. 1997/523, **art. 2(i)**
- F8** Words in s. 9(3)(c) substituted (1.12.2003) by 2002 c. 26, ss. 85, 87, Sch. 12 para. 15(3); S.R. 2003/488, **art. 2**, **Sch.**
- F9** Word in s. 9(3) repealed (1.1.1998) S.I. 1996/3160 (N.I. 24), art. 58(1)(3), Sch. 5 para. 4(b)(ii), **Sch. 7**; S.R. 1997/523, **art. 2(i)**
- F10** Words in s. 9(3) repealed (1.1.1998) S.I. 1996/3160 (N.I. 24), art. 58(1)(3), Sch. 5 para. 4(b)(ii), **Sch. 7**; S.R. 1997/523, **art. 2(i)**
- F11** Word in s. 9(3) repealed (1.1.1998) S.I. 1996/3160 (N.I. 24), art. 58(1)(3), Sch. 5 para. 4(b)(ii), **Sch. 7**; S.R. 1997/523, **art. 2(i)**
- F12** S. 9(3A)(3B) inserted (1.12.2003) by 2002 c. 26, ss. 85, 87, Sch. 12 para. 15(4); S.R. 2003/488, **art. 2**, **Sch.**
- F13** S. 9(3C) inserted (N.I.) (5.7.2011) by Justice Act (Northern Ireland) 2011 (c. 24), **ss. 99**, 111(3); S.R. 2011/224, **art. 2**

Marginal Citations

- M1** 1968 c. 29 (N.I.)
M2 S.I. 1976/226 (N.I. 4).

10 Supplementary provisions as to appeals against sentence.

- (1) An appeal against sentence, whether under section 8 or section 9 of this Act, lies only with the leave of the Court of Appeal.
 - (2) Where the Crown Court has passed on an offender two or more sentences in the same proceedings, being sentences against which an appeal lies under section 8 or 9 of this Act, an appeal or application for leave to appeal against any one of those sentences shall be treated as an application in respect of both or all of them; and for the purpose of this subsection two or more sentences shall be treated as passed in the same proceedings if—
 - (a) they are passed on the same day, or
 - (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.
 - (3) On an appeal to the Court against sentence under section 8 or 9 of this Act the Court shall, if it thinks that a different sentence should have been passed, quash the sentence passed by the Crown Court 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 Crown Court.
- [^{F14}(3A) Where the Court of Appeal exercises its power under subsection (3) to quash a confiscation order, the Court may, instead of passing a sentence in substitution for that order, direct the Crown Court to proceed afresh under the relevant enactment.

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(3B) When proceeding afresh pursuant to subsection (3A), the Crown Court shall comply with any directions the Court of Appeal may make.

(3C) For the purposes of this section—

“confiscation order” means a confiscation order made under—

- (a) Article 4 or 5 of the Criminal Justice (Confiscation) (Northern Ireland) Order 1990,
- (b) Article 8 of the Proceeds of Crime (Northern Ireland) Order 1996, or
- (c) section 156 of the Proceeds of Crime Act 2002;

“relevant enactment”, in relation to a confiscation order quashed under subsection (3), means the enactment under which the order was made.]

[^{F15}(4) The power of the Court under section 4(2) of this Act or subsection (3) above to pass a sentence which the Crown Court has power to pass for an offence shall, notwithstanding that the Crown Court made no order under section 19(1) of the Treatment of Offenders Act (Northern Ireland) 1968 ^{M3}in respect of a suspended sentence or order for detention previously passed or made on or in relation to the appellant for another offence, include power to deal with the appellant in respect of that sentence or order for detention where the Crown Court made no order in respect of it.]

[^{F16}(5) The fact that an appeal is pending against an interim hospital order under Article 45 of the Mental Health Order shall not affect the power of the Crown Court to renew or terminate the order or to deal with the appellant on its termination; and where the Court of Appeal quashes such an order but does not pass any sentence or make any other order in its place the Court may direct the appellant to be kept in custody or admitted to bail pending his being dealt with by the Crown Court.

(6) ^{F17}.....]

Textual Amendments

- F14** S. 10(3A)-(3C) inserted (1.2.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), **ss. 141(2)**, 182(5) (with [s. 180](#), [Sch. 22 para. 39](#)); [S.I. 2010/145](#), [art. 2\(2\)](#), **Sch. para. 11**
- F15** S. 10(4) substituted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), [s. 170](#), **Sch. 15 para. 72**
- F16** S. 10(5)(6) added by [S.I.1986/595 \(N.I. 4\)](#), [art. 51\(6\)](#), 136(1), [Sch. 5 Pt.I](#)
- F17** S. 10(6) repealed (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 47](#), 149, 153(7) (8), [Sch. 8 para. 19](#), **Sch. 28 Pt. 3**; [S.I. 2008/1586](#), **art. 2(1)(3)**, [Sch. 1 para. 50\(3\)\(c\)](#) (subject to [Sch. 2](#))

Modifications etc. (not altering text)

- C2** S. 10(1) excluded (27.8.1991) by [Northern Ireland \(Emergency Provisions\) Act 1991 \(c. 24, SIF 39:1\)](#), **ss. 10(6)**, 69(1)
- S. 10(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. 10(1) excluded (N.I.) (25.8.1996) by [1996 c. 22](#), **ss. 11(6)**, 62(1) (with [s. 62\(2\)](#))
- C4** S. 10(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](#))

Marginal Citations

- M3** 1968 c.29 (N.I.)

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[^{F18}10A Quashing of certain confiscation orders: supplementary

- (1) This section applies where the Court of Appeal—
 - (a) quashes a confiscation order under section 10(3) (“the quashed order”), and
 - (b) under section 10(3A), directs the Crown Court to proceed afresh under the relevant enactment.
- (2) Nothing in this section prevents any sum paid by the appellant pursuant to the quashed order being a sum which is recoverable from the Secretary of State as a debt owing to the appellant, but the Court of Appeal may direct that any sum is not to be repaid until such time as the Crown Court makes a confiscation order, or decides not to make such an order, when proceeding afresh pursuant to section 10(3A).
- (3) Nothing in this section prevents an amount which would otherwise fall to be repaid as a result of the order being quashed being set against an amount which the appellant is required to pay by virtue of a confiscation order made by the Crown Court in those proceedings.
- (4) In this section “confiscation order” and “relevant enactment” have the same meaning as in section 10(3C).]

Textual Amendments

F18 S. 10A inserted (1.2.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), [ss. 141\(3\), 182\(5\)](#) (with [s. 180](#), [Sch. 22 para. 39](#)); [S.I. 2010/145](#), [art. 2\(2\)](#), [Sch. para. 11](#)

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