



# Criminal Appeal (Northern Ireland) Act 1980

## 1980 CHAPTER 47

### PART III

#### MISCELLANEOUS AND SUPPLEMENTARY

##### *Exercise of jurisdiction under this Act by Court of Appeal*

#### **43 Jurisdiction of Court of Appeal under this Act.**

- (1) The Court of Appeal shall have full power to determine, in accordance with this Act, any question necessary to be determined for the purpose of doing justice in the case before the Court.
- (2) Except as provided by Part II of this Act, the determination by the Court of any appeal or other matter under Part I of this Act shall be final and no appeal shall lie from any such determination to any other court.

#### **44 Composition of Court of Appeal sitting under this Act.**

- (1) Subject to the provisions of this and the next following section, every appeal or reference to the Court of Appeal under this Act [<sup>F1</sup>or section 36 of the Criminal Justice Act 1988] and every matter preliminary or incidental to such appeal or reference shall be heard before three judges of the Court and shall, where necessary, be determined according to the opinion of the majority.
- (2) Where the Lord Chief Justice so directs, any such appeal, reference or matter may be heard before two judges.
- (3) Where in accordance with subsection (2) above an appeal, reference or matter is heard before two judges and those judges differ in opinion it shall be re-heard and determined by three judges.

*Status: Point in time view as at 31/03/1997.*

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- (4) No judge of the Court shall sit as a judge on the hearing of, or shall determine any application in proceedings incidental or preliminary to—
- (a) an appeal against a conviction before him or a sentence passed by him; or
  - (b) a reference to the Court under section <sup>F2</sup>. . . 15 of this Act [<sup>F3</sup> or section 36 of the Criminal Justice Act 1988] of any case or any point arising in any case tried before him.

#### Textual Amendments

- F1** Words inserted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\), s. 170, Sch. 15 para. 76\(1\)](#)  
**F2** Words in s. 44(4) repealed (31.3.1997) by [1995 c. 35, s. 29\(2\), Sch. 3; S.I. 1997/402, art. 3\(f\)](#)  
**F3** Words inserted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\), s. 170, Sch. 15 para. 76\(2\)](#)

#### 45 Powers of Court which are exercisable by single judge.

- (1) Subject to section 44(4) above, the powers of the Court of Appeal under Part I of this Act which are specified in subsection (2) below and the powers of the Court under Part II of this Act which are specified in subsection (3) below may be exercised by a single judge of the Court.
- (2) The said powers under Part I of this Act are the following, namely—
- (a) to give leave to appeal;
  - (b) to make orders under section 7(2) of this Act and discharge or vary such orders;
  - (c) to extend the time for giving notice of appeal or of application for leave to appeal;
  - [<sup>F4</sup>(d) to exercise the powers conferred by section 17 of the Act;]
  - (e) to grant legal aid;
  - (f) to give leave for an appellant to be present at any proceedings;
  - (g) to order a witness to attend for examination;
  - (h) to give directions under section 29(2) of this Act;
  - (i) to hear and determine such other matters preliminary or incidental to an appeal as may be prescribed.
- (3) The said powers under Part II of this Act are the following, namely—
- (a) to extend the time for applying for leave to appeal;
  - (b) to make an order for or in relation to bail;
  - (c) to grant legal aid;
  - (d) to give leave for a defendant to be present at the hearing of any proceedings preliminary or incidental to an appeal;
  - (e) to make an order under section 41(1) of this Act.
- [<sup>F5</sup>(3A) The power of the Court of Appeal to grant leave to appeal under section 159 of the Criminal Justice Act 1988 may be exercised by a single judge in the same manner as it may be exercised by the Court.]
- [<sup>F6</sup>(3B) Subject to section 44(4) above, the power of the Court of Appeal to approve a person under section 47A of this Act may be exercised by a single judge of the Court.]

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- (4) An appellant who is aggrieved by the decision of a single judge on any matter under this section shall be entitled to have the matter re-heard and determined by the Court as constituted under section 44 of this Act.

#### Textual Amendments

- F4** S. 45(2)(d) substituted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 170, [Sch. 15 para. 77](#)  
**F5** S. 45(3A) inserted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 170, [Sch. 15 para. 78](#)  
**F6** S. 45(3B) inserted (1.1.1996) by [1995 c. 35, s. 29\(1\)](#), [Sch. 2 para. 12\(6\)](#); [S.I. 1995/3061](#), [art. 3\(h\)](#)

#### 46 Judgment.

Unless the Court of Appeal directs to the contrary in a case where it considers the question to be one of law on which it would be convenient that separate judgments should be pronounced by the members of the Court, on an appeal under this Act—

- (a) the judgment of the Court shall be pronounced by the president of the Court or such other member of the Court hearing the case as the president directs; and
- (b) no judgment with respect to the determination of any question shall be separately pronounced by any other member of the Court.

#### *Supplementary*

#### 47 Rules of court.

- (1) The officers of the Crown Court, the governor and other officers of any prison, any other officer having the custody of an appellant and all other persons shall comply with any rules of court so far as affecting those officers or persons; and compliance with such rules may be enforced by order of the Court of Appeal.
- (2) No rule of court affecting the governor or any other officer of a prison or any officer having the custody of an appellant shall be made except after consultation with the Secretary of State.

#### [<sup>F7</sup>47A Appeals in cases of death.

- (1) Where a person has died—
  - (a) any relevant appeal which might have been begun by him had he remained alive may be begun by a person approved by the Court of Appeal; and
  - (b) where any relevant appeal was begun by him while he was alive or is begun in relation to his case by virtue of paragraph (a) above or by a reference by the Criminal Cases Review Commission, any further step which might have been taken by him in connection with the appeal if he were alive may be taken by a person so approved.
- (2) In this section “relevant appeal” means—
  - (a) an appeal under section 1, 8, 9, 12 or 13A of this Act; or
  - (b) an appeal under section 31 of this Act from any decision of the Court of Appeal on an appeal under any of those sections.
- (3) Approval for the purposes of this section may only be given to—

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- (a) the widow or widower of the dead person;
  - (b) a person who is the personal representative (within the meaning of the Wills and Administration Proceedings (Northern Ireland) Order 1994) of the dead person; or
  - (c) any other person appearing to the Court of Appeal to have, by reason of a family or similar relationship with the dead person, a substantial financial or other interest in the determination of a relevant appeal relating to him.
- (4) Except in the case of an appeal begun by a reference by the Criminal Cases Review Commission, an application for such approval may not be made after the end of the period of one year beginning with the date of death.
- (5) Where this section applies, any reference in this Act to the appellant shall, where appropriate, be construed as being or including a reference to the person approved under this section.]

#### Textual Amendments

- F7** S. 47A added (31.3.1997 to the extent that s. 47A relates to references by the Criminal Cases Review Commission and 1.1.1996 otherwise) by 1995 c. 35, s. 7(2); S.I. 1995/3061, art. 3(b); S.I. 1997/402, art. 3(b)

#### 48 Appeal in capital cases.

Schedule 3 to this Act shall have effect so as to modify and supplement certain provisions in Parts I and II of this Act in relation to cases involving sentence of death.

#### 49 Saving for prerogative of mercy.

Nothing in this Act is to be taken as affecting the prerogative of mercy.

#### 50 Interpretation.

(1) In this Act—

- “the Court” means the Court of Appeal;
- “the Master” means the Master (Queen’s Bench and Appeals);
- “Northern Ireland legislation” has the meaning assigned to that expression by section 24(5) of the <sup>M1</sup>Interpretation Act 1978;
- “prescribed” means prescribed by rules of court;
- “rules of court” means rules made or having effect as if made under section 55 of the <sup>M2</sup>Judicature (Northern Ireland) Act 1978.

[<sup>F8</sup>(1A) In this Act “the Mental Health Order” means the Mental Health (Northern Ireland) Order 1986 and words or expressions used in this Act and in that Order have the same meaning in this Act as in that Order.]

- (2) Any reference in this Act to a provision contained in Northern Ireland legislation shall be construed as including a reference to a provision corresponding thereto and for the time being in force in Northern Ireland.

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#### Textual Amendments

**F8** S. 50(1A) inserted by [S.I. 1986/595 \(N.I. 4\)](#), [arts. 51\(6\), 136\(1\)](#), [Sch. 5 Pt. I](#)

#### Marginal Citations

**M1** [1978 c. 30.](#)

**M2** [1978 c. 23.](#)

## 51 Consequential amendments, repeals and transitional provisions.

- (1) The enactments specified in Schedule 4 to this Act shall be amended as shown in that Schedule.
- (2) The enactments specified in the first and second columns of Schedule 5 to this Act are hereby repealed to the extent specified in the third column of that Schedule.
- (3) Any right of appeal subsisting immediately before the commencement of this Act by virtue of an enactment repealed thereby shall after that commencement be treated as subsisting by virtue of the corresponding provision of this Act.
- (4) Any appeal or application pending before the said commencement under an enactment so repealed may be prosecuted and disposed of in accordance with the provisions of this Act corresponding to those in force immediately before the said commencement and applicable to the appeal or application.

#### Modifications etc. (not altering text)

**C1** The text of s. 51(1)(2) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

## 52 Short title and commencement.

- (1) This Act may be cited as the Criminal Appeal (Northern Ireland) Act 1980.
- (2) This Act shall come into operation on the expiry of the period of one month beginning with the date on which it is passed.

**Status:**

Point in time view as at 31/03/1997.

**Changes to legislation:**

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