



# Criminal Justice Act 1988

## 1988 CHAPTER 33

### PART V

#### JURISDICTION, IMPRISONMENT, FINES, ETC.

##### *Power of Court of Appeal to order retrial*

#### **43 Power of Court of Appeal to order retrial**

- (1) The Criminal Appeal Act 1968 shall be amended as follows.
- (2) In section 7(1), the words “and do so only by reason of evidence received or available to be received by them under section 23 of this Act” shall cease to have effect.
- (3) At the end of subsection (1) of section 8 there shall be added the words “but after the end of two months from the date of the order for his retrial he may not be arraigned on an indictment preferred in pursuance of such a direction unless the Court of Appeal give leave.”
- (4) The following subsections shall be inserted after that subsection—
  - “(1A) Where a person has been ordered to be retried but may not be arraigned without leave, he may apply to the Court of Appeal to set aside the order for retrial and to direct the court of trial to enter a judgment and verdict of acquittal of the offence for which he was ordered to be retried.
  - (1B) On an application under subsection (1) or (1A) above the Court of Appeal shall have power—
    - (a) to grant leave to arraign; or
    - (b) to direct the entry of a judgment and verdict of acquittal, but shall not give leave to arraign unless they are satisfied—
      - (i) that the prosecution has acted with all due expedition; and
      - (ii) that there is a good and sufficient cause for a retrial in spite of the lapse of time since the order under section 7 of this Act was made.”

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*Status: This is the original version (as it was originally enacted).*

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- (5) Nothing in this section applies where notice of appeal or of application for leave to appeal was given before the commencement of this section.