



Criminal Justice Act 2003

2003 CHAPTER 44

PART 9

PROSECUTION APPEALS

General right of appeal in respect of rulings

58 General right of appeal in respect of rulings

- (1) This section applies where a judge makes a ruling in relation to a trial on indictment at an applicable time and the ruling relates to one or more offences included in the indictment.
- (2) The prosecution may appeal in respect of the ruling in accordance with this section.
- (3) The ruling is to have no effect whilst the prosecution is able to take any steps under subsection (4).
- (4) The prosecution may not appeal in respect of the ruling unless—
 - (a) following the making of the ruling, it—
 - (i) informs the court that it intends to appeal, or
 - (ii) requests an adjournment to consider whether to appeal, and
 - (b) if such an adjournment is granted, it informs the court following the adjournment that it intends to appeal.
- (5) If the prosecution requests an adjournment under subsection (4)(a)(ii), the judge may grant such an adjournment.
- (6) Where the ruling relates to two or more offences—
 - (a) any one or more of those offences may be the subject of the appeal, and
 - (b) if the prosecution informs the court in accordance with subsection (4) that it intends to appeal, it must at the same time inform the court of the offence or offences which are the subject of the appeal.
- (7) Where—

Status: Point in time view as at 01/05/2013.

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- (a) the ruling is a ruling that there is no case to answer, and
 - (b) the prosecution, at the same time that it informs the court in accordance with subsection (4) that it intends to appeal, nominates one or more other rulings which have been made by a judge in relation to the trial on indictment at an applicable time and which relate to the offence or offences which are the subject of the appeal,
- that other ruling, or those other rulings, are also to be treated as the subject of the appeal.
- (8) The prosecution may not inform the court in accordance with subsection (4) that it intends to appeal, unless, at or before that time, it informs the court that it agrees that, in respect of the offence or each offence which is the subject of the appeal, the defendant in relation to that offence should be acquitted of that offence if either of the conditions mentioned in subsection (9) is fulfilled.
- (9) Those conditions are—
- (a) that leave to appeal to the Court of Appeal is not obtained, and
 - (b) that the appeal is abandoned before it is determined by the Court of Appeal.
- (10) If the prosecution informs the court in accordance with subsection (4) that it intends to appeal, the ruling mentioned in subsection (1) is to continue to have no effect in relation to the offence or offences which are the subject of the appeal whilst the appeal is pursued.
- (11) If and to the extent that a ruling has no effect in accordance with this section—
- (a) any consequences of the ruling are also to have no effect,
 - (b) the judge may not take any steps in consequence of the ruling, and
 - (c) if he does so, any such steps are also to have no effect.
- (12) Where the prosecution has informed the court of its agreement under subsection (8) and either of the conditions mentioned in subsection (9) is fulfilled, the judge or the Court of Appeal must order that the defendant in relation to the offence or each offence concerned be acquitted of that offence.
- (13) In this section “applicable time”, in relation to a trial on indictment, means any time (whether before or after the commencement of the trial) before the [^{F1}time when the judge starts his] summing-up to the jury.
- [^{F2}(14) The reference in subsection (13) to the time when the judge starts his summing-up to the jury includes the time when the judge would start his summing-up to the jury but for the making of an order under Part 7.]

Textual Amendments

- F1** Words in s. 58(13) substituted (8.1.2007) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), [ss. 30\(1\)](#), 60; [S.I. 2006/3423](#), [art. 2](#) (subject to [art. 3](#))
- F2** S. 58(14) inserted (8.1.2007) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), [ss. 30\(2\)](#), 60; [S.I. 2006/3423](#), [art. 2](#) (subject to [art. 3](#))

Commencement Information

- I1** S. 58 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 4](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

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59 Expedited and non-expedited appeals

- (1) Where the prosecution informs the court in accordance with section 58(4) that it intends to appeal, the judge must decide whether or not the appeal should be expedited.
- (2) If the judge decides that the appeal should be expedited, he may order an adjournment.
- (3) If the judge decides that the appeal should not be expedited, he may—
 - (a) order an adjournment, or
 - (b) discharge the jury (if one has been sworn).
- (4) If he decides that the appeal should be expedited, he or the Court of Appeal may subsequently reverse that decision and, if it is reversed, the judge may act as mentioned in subsection (3)(a) or (b).

Commencement Information

- I2** S. 59 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 4](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

60 Continuation of proceedings for offences not affected by ruling

- (1) This section applies where the prosecution informs the court in accordance with section 58(4) that it intends to appeal.
- (2) Proceedings may be continued in respect of any offence which is not the subject of the appeal.

Commencement Information

- I3** S. 60 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 4](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

61 Determination of appeal by Court of Appeal

- (1) On an appeal under section 58, the Court of Appeal may confirm, reverse or vary any ruling to which the appeal relates.
- (2) Subsections (3) to (5) apply where the appeal relates to a single ruling.
- (3) Where the Court of Appeal confirms the ruling, it must, in respect of the offence or each offence which is the subject of the appeal, order that the defendant in relation to that offence be acquitted of that offence.
- (4) Where the Court of Appeal reverses or varies the ruling, it must, in respect of the offence or each offence which is the subject of the appeal, do any of the following—
 - (a) order that proceedings for that offence may be resumed in the Crown Court,
 - (b) order that a fresh trial may take place in the Crown Court for that offence,
 - (c) order that the defendant in relation to that offence be acquitted of that offence.
- ^{F3}(5) But the Court of Appeal may not make an order under subsection (4)(c) in respect of an offence unless it considers that the defendant could not receive a fair trial if an order were made under subsection (4)(a) or (b).]

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- (6) Subsections (7) and (8) apply where the appeal relates to a ruling that there is no case to answer and one or more other rulings.
- (7) Where the Court of Appeal confirms the ruling that there is no case to answer, it must, in respect of the offence or each offence which is the subject of the appeal, order that the defendant in relation to that offence be acquitted of that offence.
- (8) Where the Court of Appeal reverses or varies the ruling that there is no case to answer, it must in respect of the offence or each offence which is the subject of the appeal, make any of the orders mentioned in subsection (4)(a) to (c) (but subject to subsection (5)).

Textual Amendments

- F3** S. 61(5) substituted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 44](#), 153 (with [Sch. 27 para. 16](#)); [S.I. 2008/1586](#), [art. 2\(1\)](#), [Sch. 1 para. 23](#)

Commencement Information

- I4** S. 61 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 4](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

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