



Domestic Violence, Crime and Victims Act 2004

2004 CHAPTER 28

PART 2

CRIMINAL JUSTICE

Unfitness to plead and insanity

25 Appeal against order made on finding of insanity or unfitness to plead etc

After section 16 of the Criminal Appeal Act 1968 insert—

“Appeal against order made in cases of insanity or unfitness to plead

16A Right of appeal against hospital order etc.

- (1) A person in whose case the Crown Court—
 - (a) makes a hospital order or interim hospital order by virtue of section 5 or 5A of the Criminal Procedure (Insanity) Act 1964, or
 - (b) makes a supervision order under section 5 of that Act,may appeal to the Court of Appeal against the order.
- (2) An appeal under this section lies only—
 - (a) with the leave of the Court of Appeal; or
 - (b) if the judge of the court of trial grants a certificate that the case is fit for appeal.

Changes to legislation: Domestic Violence, Crime and Victims Act 2004, Section 25 is up to date with all changes known to be in force on or before 08 May 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) View outstanding changes

16B Disposal of appeal under s. 16A

- (1) If on an appeal under section 16A of this Act the Court of Appeal consider that the appellant should be dealt with differently from the way in which the court below dealt with him—
 - (a) they may quash any order which is the subject of the appeal; and
 - (b) they may make such order, whether by substitution for the original order or by variation of or addition to it, as they think appropriate for the case and as the court below had power to make.
- (2) The fact that an appeal is pending against an interim hospital order under the Mental Health Act 1983 shall not affect the power of the court below to renew or terminate the order or deal with the appellant on its termination.
- (3) Where the Court of Appeal make an interim hospital order by virtue of this section—
 - (a) the power of renewing or terminating it and of dealing with the appellant on its termination shall be exercisable by the court below and not by the Court of Appeal; and
 - (b) the court below shall be treated for the purposes of section 38(7) of the said Act of 1983 (absconding offenders) as the court that made the order.
- (4) The fact that an appeal is pending against a supervision order under section 5 of the Criminal Procedure (Insanity) Act 1964 shall not affect the power of the court below to revoke the order, or of a magistrates' court to revoke or amend it.
- (5) Where the Court of Appeal make a supervision order by virtue of this section, the power of revoking or amending it shall be exercisable as if the order had been made by the court below.”

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 9 para. 26A inserted by [2015 c. 2 Sch. 3 para. 12](#)