Changes to Legislation: as of 13 October 2026, this Act is up to date with all changes known to be in force.

Number 40 *of* 1993

CRIMINAL PROCEDURE ACT 1993

REVISED

Updated to 1 August 2023

This Revised Act is an administrative consolidation of the *Criminal Procedure Act 1993*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975* (3/1975) to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including the *Wildlife (Amendment) Act 2023* (25/2023), enacted 20 July 2023, and all statutory instruments up to and including the *Criminal Justice (Miscellaneous Provisions) Act 2023 (Commencement) Order 2023* (S.I. No. 391 of 2023), made 28 July 2023, were considered in the preparation of this Revised Act.

Disclaimer: While every care has been taken in the preparation of this Revised Act, the Law Reform Commission can assume no responsibility for and give no guarantees, undertakings or warranties concerning the accuracy, completeness or up to date nature of the information provided and does not accept any liability whatsoever arising from any errors or omissions. Please notify any errors, omissions and comments by email to revisedacts@lawreform.ie.

Number 40 *of* 1993

CRIMINAL PROCEDURE ACT 1993

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ARRANGEMENT OF SECTIONS

Section

1. Interpretation.
2. Review by Court of Criminal Appeal of alleged miscarriage of justice or excessive sentence.
3. Jurisdiction of Court of Criminal Appeal in relation to appeals.
4. Re-trial.
5. Summary determination.
6. Application to Courts-Martial Appeal Court.
7. Petition for grant of pardon.
8. Committee to inquire into alleged miscarriages of justice.
9. Compensation for miscarriage of justice.
10. Uncorroborated confession.
11. Appeal from Central Criminal Court. *(Repealed)*
12. Expenses.
13. Repeals.
14. Short title.

SCHEDULE

ACTS REFERRED TO

Courts of Justice Act, 1924	1924, No. 10
Courts of Justice Act, 1928	1928, No. 15
Courts-Martial Appeals Act, 1983	1983, No. 19
Criminal Justice (Legal Aid) Act, 1962	1962, No. 12
Criminal Procedure Act, 1967	1967, No. 12
Defence Act, 1954	1954, No. 18
Offences Against the State Act, 1939	1939, No. 13

Tribunals of Inquiry (Evidence) Act, 1921	11 Geo. 5., c. 7
Tribunals of Inquiry (Evidence) (Amendment) Act, 1979	1979, No. 3

Number 40 *of* 1993

CRIMINAL PROCEDURE ACT 1993

REVISED

Updated to 1 August 2023

AN ACT TO PROVIDE FOR JUDICIAL REVIEW OF CERTAIN CONVICTIONS AND SENTENCES, FOR PRESENTATION OF PETITIONS FOR THE GRANT OF PARDON ON THE GROUNDS OF MISCARRIAGE OF JUSTICE, FOR PAYMENT OF COMPENSATION BY THE STATE TO OR IN RESPECT OF PERSONS CONVICTED AS A RESULT OF A MISCARRIAGE OF JUSTICE AND FOR CONNECTED MATTERS. [29*th December*, 1993]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Annotations

Modifications (not altering text):

C1 Application of Act restricted (3.05.2023) by *Criminal Justice (Mutual Recognition of Custodial Sentences) Act 2023* (3/2023), s. 44(4), S.I. No. 213 of 2023.

Effect of committal order

44.— ...

(4) The Criminal Procedure Act 1993 shall not apply to a person in respect of whom an order under section 43(1) has been made, a warrant is issued under section 42(1)(a) or (b) or a committal order is made in so far as the conviction or sentence imposed in the issuing state is concerned.

C2 Application of Act restricted by *Transfer of Sentenced Persons Act 1995* (16/1995), s. 7B(4), as inserted (3.05.2023) by *Criminal Justice (Mutual Recognition of Custodial Sentences) Act 2023* (3/2023), s. 62, S.I. No. 213 of 2023.

Effect of committal order

[7B.— ...

(4) The Criminal Procedure Act 1993 shall not apply to a person in respect of whom a warrant is issued under section 7(2) or a committal order is made in so far as the conviction or sentence imposed in the sentencing state is concerned.**]**

C3 Application of Act restricted (1.02.2007) by *Transfer of Execution of Sentences Act 2005* (28/2005), ss. 10(1), 11, S.I. No. 647 of 2006.

Execution of sentence imposed in sentencing country.

10.—(1) Subject to *subsections (2)* and *(3)*, the High Court may, where a person is—

(*a*) brought before it under *subsection (8)* of *section 8*,

(*b*) brought before it under *subsection (4)* of *section 9* at the same time as the certificate is produced in accordance with the said *subsection (4)*, or

(*c*) before the High Court, by reason of having been remanded under the said subsection (4), at the same time as, or at any time after, the certificate is produced in accordance with the said *subsection (4)*,

make an order committing the person to a prison **[**...**]** for a period equal to—

(i) in the case of a person who fled from the sentencing country before he or she began serving the sentence concerned, the period of the sentence less the deductible period, or

(ii) in the case of a person who served part of the sentence concerned but fled from the sentencing country before he or she completed serving that sentence, the period of the sentence that remains unserved less the deductible period.

...

Criminal Procedure Act 1993 disapplied.

11.—The Criminal Procedure Act 1993 shall not apply to a person to whom an order under *subsection (1)* of *section 10* applies.

C4 Application of Act restricted (17.07.1995) by *Transfer of Sentenced Person Act 1995* (16/1995), s. 7(9), commenced on enactment.

Issue of warrants for bringing of persons into State.

7.— ...

(9) The Criminal Procedure Act, 1993, shall not apply to a person in respect of whom a warrant is issued under this section.

Interpretation.

1.—(1) In this Act—

"the Court" means the Court of Criminal Appeal but, in *sections 2* to *5* and *7*, as modified by *section 6*, also includes the Courts-Martial Appeal Court;

"legal aid certificate" means a certificate granted under the appropriate provision of the Criminal Justice (Legal Aid) Act, 1962.

(2) In this Act—

(*a*) a reference to a section is to a section of this Act, unless it is indicated that reference to some other enactment is intended,

(*b*) a reference to a subsection or paragraph is to the subsection or paragraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended.

(3) A reference in this Act to any enactment shall be construed as a reference to that enactment as amended or adapted by or under any subsequent enactment.

Review by Court of Criminal Appeal of alleged miscarriage of justice or excessive sentence.

2.—(1) A person—

(*a*) who has been convicted of an offence either—

(i) on indictment, or

(ii) after signing a plea of guilty and being sent forward for sentence under section 13 (2) (*b*) of the Criminal Procedure Act, 1967, and

who, after appeal to the Court including an application for leave to appeal, and any subsequent re-trial, stands convicted of an offence to which this paragraph applies, and

(*b*) who alleges that a new or newly-discovered fact shows that there has been a miscarriage of justice in relation to the conviction or that the sentence imposed is excessive,

may, if no further proceedings are pending in relation to the appeal, apply to the Court for an order quashing the conviction or reviewing the sentence.

(2) An application under *subsection (1)* shall be treated for all purposes as an appeal to the Court against the conviction or sentence.

(3) In *subsection (1) (b)* the reference to a new fact is to a fact known to the convicted person at the time of the trial or appeal proceedings the significance of which was appreciated by him, where he alleges that there is a reasonable explanation for his failure to adduce evidence of that fact.

(4) The reference in *subsection (1) (b)* to a newly-discovered fact is to a fact discovered by or coming to the notice of the convicted person after the relevant appeal proceedings have been finally determined or a fact the significance of which was not appreciated by the convicted person or his advisers during the trial or appeal proceedings.

(5) Where—

(*a*) after an application by a convicted person under *subsection (1)* and any subsequent re-trial the person stands convicted of an offence, and

(*b*) the person alleges that a fact discovered by him or coming to his notice after the hearing of the application and any subsequent re-trial or a fact the significance of which was not appreciated by him or his advisers during the hearing of the application and any subsequent re-trial shows that there has been a miscarriage of justice in relation to the conviction, or that the sentence was excessive,

he may apply to the Court for an order quashing the conviction or reviewing the sentence and his application shall be treated as if it were an application under that subsection.

Jurisdiction of Court of Criminal Appeal in relation to appeals.

3.—(1) On the hearing of an appeal against conviction of an offence the Court may—

(*a*) affirm the conviction (and may do so, notwithstanding that it is of opinion that a point raised in the appeal might be decided in favour of the appellant, if it considers that no miscarriage of justice has actually occurred), or

(*b*) quash the conviction and make no further order, or

(*c*) quash the conviction and order the applicant to be re-tried for the offence, or

(*d*) quash the conviction and, if it appears to the Court that the appellant could have been found guilty of some other offence and that the jury must have been satisfied of facts which proved him guilty of the other offence—

(i) substitute for the verdict a verdict of guilty of the other offence, and

(ii) impose such sentence in substitution for the sentence imposed at the trial as may be authorised by law for the other offence, not being a sentence of greater severity.

(2) On the hearing of an appeal against sentence for an offence the Court may quash the sentence and in place of it impose such sentence or make such order as it considers appropriate, being a sentence or order which could have been imposed on the convicted person for the offence at the court of trial.

(3) The Court, on the hearing of an appeal or, as the case may be, of an application for leave to appeal, against a conviction or sentence may—

(*a*) where the appeal is based on new or additional evidence, direct the Commissioner of the Garda Síochána to have such inquiries carried out as

the Court considers necessary or expedient for the purpose of determining whether further evidence ought to be adduced;

(*b*) order the production of any document, exhibit or other thing connected with the proceedings;

(*c*) order any person who would have been a compellable witness in the proceedings from which the appeal lies to attend for examination and be examined before the Court, whether or not he was called in those proceedings;

(*d*) receive the evidence, if tendered, of any witness;

(*e*) generally make such order as may be necessary for the purpose of doing justice in the case before the Court.

(4) For the purposes of this section, the Court may order the examination of any witness whose attendance might be required under this section to be conducted, in a manner provided by rules of court, before any judge or officer of the Court or other person appointed by the Court for the purpose, and allow the admission of any depositions so taken as evidence before the Court.

(5) The reference in *subsection (1) (d)* to a jury shall, where the trial was before a court sitting without a jury, be construed as a reference to that court.

(6) Section 32 of the Courts of Justice Act, 1924, is hereby amended by the addition after "pending the determination of his appeal" of "or application for leave to appeal".

(7) A legal aid certificate which was granted in relation to the trial of an accused person who has been ordered by the Court under this section to be re-tried shall have effect as if it had been granted also in relation to his re-trial.

(8) The references in section 44 (2) of the Offences Against the State Act, 1939, to section 34 of the Criminal Justice Act, 1924, and section 5 of the Criminal Justice Act, 1928, shall be construed as references to this section.

F1**[**(9) For the purposes of *subsection (1)(d)*, where the appellant is a person who—

(*a*) was under the age of 18 years when he was convicted and sentenced at the trial, and

(*b*) has attained the age of 18 years on or before the date on which the appeal is determined by the Court,

the sentence that may be imposed on the person by the Court pursuant to *subparagraph (ii)* of *subsection (1)(d)* for some other offence and in substitution for the sentence imposed at the trial shall not be deemed to be a sentence of greater severity by reason only of the fact that the sentence could not have been imposed on the person at the trial given that the person was under the age of 18 years at the time of sentencing.**]**

F1**[**(10) For the purposes of *subsection (2)*, where the convicted person in relation to whom an appeal against sentence is brought is a person who was under the age of 18 years when the sentence was imposed on them by the court of trial and the person has attained the age of 18 years on or before the date on which the appeal is determined by the Court, the reference in that subsection to a sentence or order which could have been imposed on the convicted person for the offence at the court of trial shall be construed as a reference to a sentence or order which could have been imposed on the convicted person for the offence at the court of trial had he attained that age at the time when the sentence or order was so imposed.**]**

F1**[**(11) Where *subsection (10)* applies and the appeal against sentence is in respect of a sentence imposed on a person convicted of treason or murder before the person

has attained the age of 18 years, the Court may, notwithstanding section 2 of the Criminal Justice Act 1990, impose such sentence or order as it considers appropriate.**]**

Annotations

Amendments:

F1 Inserted (1.08.2023) by *Criminal Justice (Miscellaneous Provisions) Act 2023* (24/2023), s. 62(1), S.I. No. 391 of 2023, subject to transitional provisions in s. 62(2).

Re-trial.

4.—(1) Where a person is ordered under this Act to be re-tried for an offence he may, notwithstanding any rule of law, be again indicted and tried and, if found guilty, sentenced for that offence.

(2) In a case to which *subsection (1)* relates the Court may—

(*a*) where a legal aid certificate does not apply in respect thereof, order that the costs of the appeal and of the new trial, in whole or in part, be paid by the State, unless the Court is of opinion that the necessity for the appeal and the new trial has been contributed to by the defence,

(*b*) order that the accused be detained in custody or be admitted to bail pending the re-trial on such terms as the Court thinks proper,

(*c*) order that any property or money forfeited, restored or paid by virtue of the conviction or of any order made on the conviction be retained pending the re-trial.

Summary determination.

5.—(1) If it appears to the registrar of the Court that a notice of an application for leave to appeal does not show any substantial ground of appeal or, in the case of an application under *section 2*, that the application does not disclose a *prima facie* case that a miscarriage of justice has occurred in relation to the conviction or that the sentence is excessive, he may, without calling for the report of the official stenographer, refer the application to the Court for summary determination; and where the case is so referred the Court may, if it considers that the application is frivolous or vexatious and can be determined without adjourning it for a full hearing, dismiss it summarily, without calling on anyone to attend the hearing or to appear on behalf of the prosecution.

(2) The jurisdiction of the Court under *subsection (1)* may be exercised by a single judge of the Court and an appeal may be made to the Court by the convicted person against the summary determination of an application.

Application to Courts-Martial Appeal Court.

F2**[6.**—(1) *Sections 2* to *5* and *7* shall have effect with the following modifications where the conviction or sentence concerned is a conviction or sentence of a court-martial:

(a) the references in *section 2* to a conviction or sentence shall be construed as references to a conviction or sentence of a court-martial;

(b) the reference in *section 3* to the jury shall be construed as a reference to the court-martial;

(c) the references in *section 3* to the trial shall be construed as references to the court-martial;

(d) the reference in *section 3(3)* to the Commissioner of the Garda Síochána shall be construed as a reference to the Deputy Chief of Staff (Support) of the Defence Forces;

(e) the reference in *section 4(1)* to any rule of law shall include a reference to anything in the Defence Act 1954.

(2) The Superior Courts Rules Committee may, with the concurrence of the Minister for Justice and Equality, make rules of court for the purposes of this section.**]**

Annotations

Amendments:

F2 Substituted (28.10.2014) by *Court of Appeal Act 2014* (18/2014), s. 50, S.I. No. 479 of 2014.

Petition for grant of pardon.

7.—(1) If a person—

(*a*) who has been convicted of an offence,

(*b*) who after appeal against the conviction stands convicted of an offence, and

(*c*) who alleges that a new or newly-discovered fact shows that a miscarriage of justice has occurred in relation to the conviction,

petitions the Minister for Justice with a view to the Government advising the President to grant a pardon under Article 13.6 of the Constitution and no further proceedings are pending in relation to the appeal, the following provisions of this section shall apply.

(2) The Minister for Justice shall make or cause to be made such inquiries as he considers necessary and—

(*a*) if he is of opinion either—

(i) that the matters dealt with in the petition could appropriately be dealt with by way of an application to the Court pursuant to *section 2*, or

(ii) that a case has not been made out that a miscarriage of justice has occurred and that no useful purpose would be served by further investigation,

shall inform the petitioner accordingly and take no further action, and

(*b*) in any other case, shall recommend to the Government either—

(i) that it should advise the President to grant a pardon in respect of the offence of which the applicant was convicted, or

(ii) that it should appoint a committee pursuant to *section 8* to inquire into and report on the case.

(3) In *subsection (1) (c)* the reference to a new fact is to a fact known to the convicted person at the time of the trial or appeal proceedings the significance of which was appreciated by him, where he alleges that there is a reasonable explanation for his failure to adduce evidence of that fact.

(4) The reference in *subsection (1) (c)* to a newly-discovered fact is to a fact discovered by or coming to the notice of the convicted person after the relevant appeal proceedings have been finally determined or a fact the significance of which was not appreciated by the convicted person or his advisers during the trial or appeal proceedings.

(5) References in *subsections (1)* and *(2)* to the Minister for Justice shall, in relation to a conviction by court-martial, be construed as references to the Minister for Defence.

(6) Nothing in this section shall affect any functions of the Minister for Justice in relation to a petition to him from a person other than a person mentioned in *subsection (1)* with a view to the Government advising the President to grant a pardon under Article 13.6 of the Constitution.

Committee to inquire into alleged miscarriages of justice.

8.—(1) The Government, for the purpose of enabling it to decide whether or not to advise the President to exercise the right of pardon conferred by Article 13.6 of the Constitution, may establish a committee to inquire into any or all of the matters dealt with in a petition for the grant of a pardon by the President and to report whether, in the opinion of the committee, the President should be so advised.

(2) The committee shall be a tribunal within the meaning of the Tribunals of Inquiry (Evidence) Acts, 1921 and 1979.

(3) Where a committee consists of more than one member, the Government shall designate one of the members to be its chairman.

(4) The person constituting the committee (or, where the committee consists of more than one member, its chairman) shall be either a judge or former judge or a practising barrister or solicitor of not less than ten years standing.

(5) A committee may receive such evidence and other information as it sees fit, whether or not that evidence or information is or would be admissible in a court of law.

Compensation for miscarriage of justice.

9.—(1) Where a person has been convicted of an offence and either—

(*a*) (i) his conviction has been quashed by the Court on an application under *section 2* or on appeal, or he has been acquitted in any re-trial, and

(ii) the Court or the court of re-trial, as the case may be, has certified that a newly-discovered fact shows that there has been a miscarriage of justice,

or

(*b*) (i) he has been pardoned as a result of a petition under *section 7*, and

(ii) the Minister for Justice is of opinion that a newly-discovered fact shows that there has been a miscarriage of justice,

the Minister shall, subject to *subsections (2)* and *(3)*, pay compensation to the convicted person or, if he is dead, to his legal personal representatives unless the non-disclosure of the fact in time is wholly or partly attributable to the convicted person.

(2) A person to whom *subsection (1)* relates shall have the option of applying for compensation or of instituting an action for damages arising out of the conviction.

(3) No payment of compensation under this section shall be made unless an application for such compensation has been made to the Minister for Justice.

(4) The compensation shall be of such amount as may be determined by the Minister for Justice.

(5) Any person who is dissatisfied with the amount of compensation determined by the Minister may apply to the High Court to determine the amount which the Minister shall pay under this section and the award of the High Court shall be final.

(6) In *subsection (1)* "newly-discovered fact" means—

(*a*) where a conviction was quashed by the Court on an application under *section 2* or a convicted person was pardoned as a result of a petition under *section 7*, or has been acquitted in any re-trial, a fact which was discovered by him

or came to his notice after the relevant appeal proceedings had been finally determined or a fact the significance of which was not appreciated by the convicted person or his advisers during the trial or appeal proceedings, and

(*b*) where a conviction was quashed by that Court on appeal, a fact which was discovered by the convicted person or came to his notice after the conviction to which the appeal relates or a fact the significance of which was not appreciated by the convicted person or his advisers during the trial.

Uncorroborated confession.

10.—(1) Where at a trial of a person on indictment evidence is given of a confession made by that person and that evidence is not corroborated, the judge shall advise the jury to have due regard to the absence of corroboration.

(2) It shall not be necessary for a judge to use any particular form of words under this section.

Appeal from Central Criminal Court.

11.—F3**[**...**]**

Annotations

Amendments:

F3 Repealed (28.10.2014) by *Court of Appeal Act 2014* (18/2014), s. 73 and sch. 1 item 8, S.I. No. 479 of 2014.

Editorial Notes:

E1 Previous affecting provision: section repealed by *Courts and Court Officers Act 1995* (31/1995), s. 3 and sch. 1 part 2, not commenced; superseded (28.10.2014) as per F-note above.

Expenses.

12.—The expenses incurred in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

Repeals.

13.—The enactments referred to in *column (2)* of the *Schedule* to this Act are hereby repealed to the extent mentioned in *column (3)* of the *Schedule*.

Short title.

14.—This Act may be cited as the Criminal Procedure Act, 1993.

Section 13.

SCHEDULE

Enactments Repealed

No. and Year (1)	Short Title (2)	Extent of Repeal (3)
No. 10 of 1924	Courts of Justice Act, 1924	Section 34
No. 15 of 1928	Courts of Justice Act, 1928	Section 5
No. 19 of 1983	Courts-Martial Appeals Act, 1983	Section 18

Number 40 *of* 1993

CRIMINAL PROCEDURE ACT 1993

REVISED

Updated to 1 August 2023

About this Revised Act

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

Related legislation

This Act is not collectively cited with any other Act.

Annotations

This Revised Act is annotated and includes textual and non-textual amendments, statutory instruments made pursuant to the Act and previous affecting provisions.

An explanation of how to read annotations is available at www.lawreform.ie/annotations.

Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available.

Where legislation or a fragment of legislation is referred to in annotations, changes to this legislation or fragment may not be reflected in this revision but will be reflected in a revision of the legislation referred to if one is available.

A list of legislative changes to any Act, and to statutory instruments from 1972, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.

Acts which affect or previously affected this revision

- *Criminal Justice (Miscellaneous Provisions) Act 2023* (24/2023)
- *Criminal Justice (Mutual Recognition of Custodial Sentences) Act 2023* (3/2023)
- *Court of Appeal Act 2014* (18/2004)
- *Transfer of Execution of Sentences Act 2005* (28/2005)
- *Courts and Court Officers Act 1995* (31/1995)

All Acts up to and including *Wildlife (Amendment) Act 2023* (25/2023), enacted 20 July 2023, were considered in the preparation of this revision.

Statutory instruments which affect or previously affected this revision

None.

All statutory instruments up to and including *Criminal Justice (Miscellaneous Provisions) Act 2023 (Commencement) Order 2023* (S.I. No. 391 of 2023), made 28 July 2023, were considered in the preparation of this revision.