

DÁIL ÉIREANN

AN BILLE UM NÓS IMEACHTA COIRIÚIL 2009 —ROGHCHOISTE

CRIMINAL PROCEDURE BILL 2009 —SELECT COMMITTEE

*Leasuithe ar Leasuithe
Amendments to Amendments*

SECTION 7

9. In page 11, between lines 13 and 14, to insert the following:

““compelling evidence”, in relation to a person, means evidence which—

(a) is reliable,

(b) is of significant probative value, and

(c) is such that a jury might reasonably be satisfied beyond a reasonable doubt of the person’s guilt in respect of the offence concerned;”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

Amendment to Amendment No. 9

1. In the first line of paragraph (c), after “that”, to insert “, taken together with any other evidence in the proceedings,”.

—Pat Rabbitte.

SECTION 23

24. In page 24, lines 13 to 24, to delete subsection (1) and substitute the following:

“(1) Where on or after the commencement of this section, a person is tried on indictment and acquitted of an offence, the Director, if he or she is the prosecuting authority in the trial, or the Attorney General as may be appropriate, may, subject to *subsection (3)** and *section 24*, appeal the acquittal in respect of the offence concerned on a question of law to the Supreme Court.

(2) Where on or after the commencement of this section, a person’s conviction of an offence on indictment is quashed on appeal by the Court of Criminal Appeal and that Court makes no order for the re-trial of the person in respect of the offence, the Director, if he or she is the prosecuting authority in the trial, or the Attorney General as may be appropriate, may, subject to *subsection (3)** and *section 24*, appeal the decision of the Court of Criminal Appeal not to order a re-trial of the offence concerned on a question of law to the Supreme Court.

(3) An appeal under this section shall lie only where—

[SECTION 23]

- (a) a ruling was made by a court during the course of a trial referred to in *subsection (1)* or the hearing of an appeal referred to in *subsection (2)**, as the case may be, which erroneously excluded compelling evidence, or
- (b) a direction was given by a court during the course of a trial referred to in *subsection (1)*, directing the jury in the trial to find the person not guilty where—
 - (i) the direction was wrong in law, and
 - (ii) the evidence adduced in the proceedings was evidence upon which a jury might reasonably be satisfied beyond a reasonable doubt of the person's guilt in respect of the offence concerned.”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

[* *Note: This is a reference to the subsection proposed to be inserted by this amendment.*]

Amendment to Amendment No. 24

- I.** In line three of the new subsection (3)(a), to delete “erroneously excluded compiling evidence,” and substitute the following:

“substantially weakened the prosecution case,”.

—Pat Rabbitte.

SECTION 31

- 29.** In page 28, before section 31, to insert the following new section:

“Amendment of
Courts of Justice
Act 1924.

31.—The Courts of Justice Act 1924 is amended—

(a) in section 29—

- (i) by the insertion of the following subsections after subsection (2):

“(2A) Subject to subsection (2B), a person who has appealed his or her conviction to the Court of Criminal Appeal and who has been granted a re-trial by that Court, may, without prejudice to the determination by the Court to grant a re-trial, appeal to the Supreme Court in respect of a matter raised by him or her in the Court of Criminal Appeal but upon which that Court did not make a determination.

(2B) A person may only appeal to the Supreme Court where—

- (a) the matter which is the subject of the appeal is one that is relevant to the conduct of his or her defence in the re-trial, and
- (b) the Court of Criminal Appeal or the Attorney General in any case or, if he or she is the prosecuting authority in the matter, the Director of Public Prosecutions, certifies that the matter involves a point of law of exceptional public importance and that it is desirable in the public interest that the person should take an appeal to the Supreme Court.”.

[SECTION 31]

and

(ii) by the substitution, in subsection (5A) of “(2), (2A), (2B) or (3)” for “(2) or (3)”,

(b) by the substitution of the following section for section 31:

“Appeal from 31.—A person convicted on indictment before the Central
Central Criminal Court may appeal under this Act to the Court of
Criminal Court. Criminal Appeal.”,

(c) by the substitution of the following section for section 32:

“Court of 32.—The Court of Criminal Appeal shall have power to
Criminal make any order it may think fit, including an order admitting
Appeal may the appellant to bail, pending the determination of his appeal.”,
make certain
orders pending
determination of
appeal.

and

(d) in section 33, by the substitution of the following subsection for subsection (1):

“(1) The appeal shall be heard and determined by the Court of Criminal Appeal (the court’) on—

(a) a record of the proceedings at the trial and on a transcript thereof verified by the judge before whom the case was tried, and

(b) where the trial judge is of opinion that the record or transcript referred to in paragraph (a) of this subsection does not reflect what took place during the trial, a report by him as to the defects which he considers such record or transcript, as the case may be, contains,

with power to the court to hear new or additional evidence, and to refer any matter for report by the said judge.”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

[Acceptance of this amendment involves the deletion of section 31.]

Amendment to Amendment No. 29

I. In the last line of the new subsection (2A) being inserted, after “determination”, to insert the following:

“or that that Court determined adversely to him or her”.

—Pat Rabbitte.