



# Courts Act 1971

## 1971 CHAPTER 23

### PART II

#### THE CROWN COURT

##### *Trial on indictment and other jurisdiction*

#### **11 Sentences imposed and other decisions made by Crown Court**

- (1) A sentence imposed, or other order made, by the Crown Court when dealing with an offender shall take effect from the beginning of the day on which it is imposed, unless the court otherwise directs.
- (2) Subject to the following provisions of this section, a sentence imposed, or other order made, by the Crown Court when dealing with an offender may be varied or rescinded by the Crown Court within the period of 28 days beginning with the day on which the sentence or other order was imposed or made, or where subsection (3) below applies, within the time allowed by that subsection.
- (3) Where two or more persons are jointly tried on an indictment, then, subject to the following provisions of this section, a sentence imposed, or other order made, by the Crown Court on conviction of any of those persons on the indictment may be varied or rescinded by the Crown Court not later than the expiration of whichever is the shorter of the following periods, that is—
  - (a) the period of 28 days beginning with the date of conclusion of the joint trial,
  - (b) the period of 56 days beginning with the day on which the sentence or other order was imposed or made.

For the purposes of this subsection the joint trial is concluded on the latest of the following dates, that is any date on which any of the persons jointly tried is sentenced, or is acquitted, or on which a special verdict is brought in.

- (4) A sentence or other order shall not be varied or rescinded under this section except by the court constituted as it was when the sentence or other order was imposed or made,

or, where that court comprised one or more justices of the peace, a court so constituted except for the omission of any one or more of those justices.

- (5) Where a sentence or other order is varied under this section, the sentence or other order, as so varied, shall take effect from the beginning of the day on which it was originally imposed or made, unless the court otherwise directs:

Provided that for the purposes of section 18(2) of the Criminal Appeal Act 1968 (time limit for notice of appeal or of application for leave to appeal) the sentence or other order shall be regarded as imposed or made on the day on which it is so varied.

- (6) Crown Court rules—

- (a) may, as respects cases where two or more persons are tried separately on the same or related facts alleged in one or more indictments, provide for extending the period prescribed by subsection (2) above,
- (b) may, subject to the preceding provisions of this section, prescribe the cases and circumstances in which, and the time within which, any order or other decision made by the Crown Court may be varied or rescinded by the Crown Court.

## **12 Right of audience**

- (1) The Lord Chancellor may at any time direct that solicitors may appear in, conduct, defend and address the court in any proceedings in the Crown Court, or in proceedings in the Crown Court of such description as is specified in the direction.
- (2) A direction under this section may have effect as respects all places where the Crown Court sits, or as respects a specified area, region or circuit, or as respects one or more specified places where the Crown Court sits.
- (3) In considering whether to exercise his powers under this section as respects any one or more places where the Crown Court sits the Lord Chancellor shall have regard to any shortage of counsel in the area in question, any rights of audience formerly exercised by solicitors at any court of quarter sessions in the locality in question, and to any other circumstances affecting the public interest.
- (4) Any direction given under this section may be subject to such conditions and restrictions as appear to the Lord Chancellor to be necessary or expedient.

## **13 Process to compel appearance before Crown Court**

- (1) Any condition of a recognizance to appear before the Crown Court, and any summons or order to appear before the Crown Court, may be framed so as to require appearance at such time and place as may be directed by the Crown Court, and if a time or place is specified in the condition, summons or order, it may be varied by any subsequent direction of the Crown Court.
- (2) Where an indictment has been signed although the person charged has not been committed for trial, the Crown Court may issue a summons requiring that person to appear before the Crown Court, or may issue a warrant for his arrest.
- (3) Where any person charged with or convicted of an offence has entered into a recognizance conditioned for his appearance before the Crown Court and in breach of that recognizance fails to appear, the Crown Court may, without prejudice to the enforcement of the recognizance, issue a warrant for his arrest.

- (4) The Crown Court may admit to bail, or direct the admission to bail of, any person—
- (a) who has been committed in custody for appearance before the Crown Court, or
  - (b) who is in custody pursuant to a sentence imposed by a magistrates' court, and who has appealed to the Crown Court against his conviction or sentence, or
  - (c) who is in the custody of the Crown Court pending the disposal of his case by the Crown Court, or
  - (d) who, after the decision of his case by the Crown Court, has applied to the Crown Court for the statement of a case for the High Court on that decision, or
  - (e) who has applied to the High Court for an order of certiorari to remove proceedings in the Crown Court in his case into the High Court, or has applied to the High Court for leave to make such an application,

and the time during which a person is admitted to bail under any provision of this subsection shall not count as part of any term of imprisonment or detention under his sentence.

- (5) Provision may be made by Crown Court rules as respects the powers of the Crown Court relating to bail, including any provision—
- (a) allowing the court, instead of requiring a person to enter into a recognizance, to consent to his giving other security,
  - (b) allowing the court to direct that a recognizance shall be entered into or other security given before a magistrates' court or a justice of the peace, or, if the rules so provide, a person of such other description as is specified in the rules,
  - (c) prescribing the manner in which a recognizance is to be entered into or other security given, and the persons by whom and the manner in which the recognizance or security may be enforced,
  - (d) authorising the committal, in such cases and by such courts or justices as may be prescribed by the rules, of persons released from custody in pursuance of the powers,
  - (e) making provision corresponding to sections 94 and 95 of the Magistrates' Courts Act 1952 (varying or dispensing with requirements as to sureties, and postponement of taking recognizances).

Any reference in any enactment to a recognizance shall include, unless the context otherwise requires, a reference to any other description of security given instead of a recognizance, whether in pursuance of paragraph (a) above or otherwise.

- (6) The Crown Court, on issuing a warrant for the arrest of any person, may endorse the warrant for bail, and in any such case—
- (a) the person arrested under the warrant shall, unless the Crown Court otherwise directs, be taken to a police station, and
  - (b) the officer in charge of the station shall release him from custody if he, and any sureties required by the endorsement and approved by the officer, enter into recognizances of such amount as may be fixed by the endorsement.
- (7) A person in custody in pursuance of a warrant issued by the Crown Court with a view to his appearance before the Crown Court shall be brought forthwith before either the Crown Court or a magistrates' court, and if he is brought before a magistrates' court—
- (a) the court shall commit him in custody or release him on bail until he can be brought or appear before the Crown Court at the time and place appointed by the Crown Court,

- (b) if the warrant is endorsed for bail, but the person in custody is unable to satisfy the conditions endorsed, the magistrates' court may vary those conditions, if satisfied that it is proper to do so.
- (8) Section 4 of the Summary Jurisdiction (Process) Act 1881 (execution of process of English courts in Scotland) shall apply to process issued under this section as it applies to process issued under the Magistrates' Courts Act 1952 by a magistrates' court.
- (9) A magistrates' court shall have jurisdiction, and a justice of the peace may act, under or in pursuance of this section whether or not the offence was committed, or the arrest was made, within the court's area, or the area for which he was appointed.

#### **14 Practice and procedure: power to make rules**

- (1) Crown Court rules may be made for the purpose of regulating and prescribing the procedure and the practice to be followed in the Crown Court.
- (2) Without prejudice to the generality of subsection (1) above, Crown Court rules may provide for the procedure and practice as respects appeals to the Crown Court, and in particular may make provision as respects—
  - (a) the time within which notice of appeal is to be given, and the circumstances in which further time may be allowed,
  - (b) any particulars to be included in the notice of appeal,
  - (c) the persons on whom notice of appeal is to be served, and the particulars, if any, to accompany the notice,
  - (d) the abandonment of an appeal,
  - (e) the circumstances in which a person concerned with the decision appealed against is to be disqualified from hearing the appeal, and the circumstances in which proceedings on the hearing of an appeal are to be valid notwithstanding that any person hearing the appeal is disqualified,
  - (f) the amendment or repeal of any enactment about appeals to the Crown Court so far as it relates to any matter within this subsection.
- (3) No rule which may involve an increase of expenditure out of public funds shall be made under this section except with the concurrence of the Treasury, but the validity of Crown Court rules shall not in any proceedings in any court be called in question either by the court or by any party to the proceedings on the ground only that it was a rule to which the concurrence of the Treasury was necessary and that the Treasury did not concur or are not expressed to have concurred in the making thereof.

#### **15 Crown Court rules**

- (1) In this or any other Act "Crown Court rules" means rules made under this section.
- (2) Crown Court rules shall be made by the Lord Chancellor together with any four or more of the following persons, namely—
  - (a) the Lord Chief Justice,
  - (b) two other judges of the Supreme Court,
  - (c) two Circuit judges,
  - (d) the registrar of criminal appeals,
  - (e) a justice of the peace,
  - (f) two practising barristers, and

(g) two practising solicitors.

The said persons acting under this subsection shall be called " the Crown Court rule committee ".

- (3) The said persons to act under subsection (2) above with the Lord Chancellor (other than the Lord Chief Justice and the registrar of criminal appeals) shall be appointed by the Lord Chancellor for such time as he may think fit.
- (4) Before appointing a person under paragraph (f) or paragraph (g) of subsection (2) above the Lord Chancellor shall consult, if under paragraph (f), the Chairman of the General Council of the Bar, and if under paragraph (g), the President of the Law Society.
- (5) Crown Court rules shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.