



Criminal Appeal Act 1995

1995 CHAPTER 35

PART III

OTHER PROVISIONS

Powers of magistrates' courts to rectify mistakes

26 Extension of power of courts in England and Wales.

- (1) Section 142 of the ^{M1}Magistrates' Courts Act 1980 (power of magistrates' courts to re-open cases to rectify mistakes etc.) shall be amended as follows.
- (2) In subsection (1) (power, subject to subsection (4), to vary or rescind a sentence or other order), for the words from the beginning to "offender;" substitute " A magistrates' court may vary or rescind a sentence or other order imposed or made by it when dealing with an offender if it appears to the court to be in the interests of justice to do so; ”.
- (3) After that subsection insert—
 - “(1A) The power conferred on a magistrates' court by subsection (1) above shall not be exercisable in relation to any sentence or order imposed or made by it when dealing with an offender if—
 - (a) the Crown Court has determined an appeal against—
 - (i) that sentence or order;
 - (ii) the conviction in respect of which that sentence or order was imposed or made; or
 - (iii) any other sentence or order imposed or made by the magistrates' court when dealing with the offender in respect of that conviction (including a sentence or order replaced by that sentence or order); or
 - (b) the High Court has determined a case stated for the opinion of that court on any question arising in any proceeding leading to or resulting from the imposition or making of the sentence or order.”

Changes to legislation: There are currently no known outstanding effects for the Criminal Appeal Act 1995, Cross Heading: Powers of magistrates' courts to rectify mistakes. (See end of Document for details)

- (4) In subsection (2) (power, subject to subsection (4), to direct that a person's case be re-heard by different justices where he pleaded not guilty or the court proceeded in his absence)—
- (a) for the words from “found guilty” to “section 11(1) above,” substitute “convicted by a magistrates' court”, and
 - (b) omit “, subject to subsection (4) below,”.
- (5) After that subsection insert—
- “(2A) The power conferred on a magistrates' court by subsection (2) above shall not be exercisable in relation to a conviction if—
- (a) the Crown Court has determined an appeal against—
 - (i) the conviction; or
 - (ii) any sentence or order imposed or made by the magistrates' court when dealing with the offender in respect of the conviction; or
 - (b) the High Court has determined a case stated for the opinion of that court on any question arising in any proceeding leading to or resulting from the conviction.”
- (6) In subsection (3) (effect of directions under subsection (2)), for “finding of guilty” substitute “conviction”.
- (7) Omit subsection (4) (powers in subsections (1) and (2) to be exercisable only within 28 days of making of sentence or order or finding of guilty and only by a similarly constituted court).

Marginal Citations

M1 1980 c. 43.

27 Introduction of power in Northern Ireland.

After Article 158 of the ^{M2}Magistrates' Courts (Northern Ireland) Order 1981 insert—

“ Power to rectify mistakes etc.

158A Power of magistrates' court to re-open cases to rectify mistakes etc.

- (1) A magistrates' court may vary or rescind a sentence or other order imposed or made by it when dealing with an offender if it appears to the court to be in the interests of justice to do so; and it is hereby declared that this power extends to replacing a sentence or order which for any reason appears to be invalid by another which the court has power to impose or make.
- (2) The power conferred on a magistrates' court by paragraph (1) shall not be exercisable in relation to any sentence or order imposed or made by it when dealing with an offender if—
 - (a) the county court has determined an appeal against—
 - (i) that sentence or order;

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- (ii) the conviction in respect of which that sentence or order was imposed or made; or
 - (iii) any other sentence or order imposed or made by the magistrates' court when dealing with the offender in respect of that conviction (including a sentence or order replaced by that sentence or order); or
 - (b) the Court of Appeal has determined a case stated for the opinion of that court on any question arising in any proceeding leading to or resulting from the imposition or making of the sentence or order.
- (3) Where a person is convicted by a magistrates' court and it subsequently appears to the court that it would be in the interests of justice that the case should be heard again by another resident magistrate or another justice of the peace (as the case may be), the court may so direct.
- (4) The power conferred on a magistrates' court by paragraph (3) shall not be exercisable in relation to a conviction if—
 - (a) the county court has determined an appeal against—
 - (i) the conviction; or
 - (ii) any sentence or order imposed or made by the magistrates' court when dealing with the offender in respect of the conviction; or
 - (b) the Court of Appeal has determined a case stated for the opinion of that court on any question arising in any proceeding leading to or resulting from the conviction.
- (5) Where a court gives a direction under paragraph (3)—
 - (a) the conviction and any sentence or other order imposed or made in consequence of it shall be of no effect; and
 - (b) Article 47 shall apply as if the trial of the person in question had been adjourned.
- (6) Where a sentence or order is varied under paragraph (1), 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.”

Marginal Citations

M2 [S.I. 1981/1675 \(N.I.26\)](#).

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