

COURTS ACT 2003

EXPLANATORY NOTES

COMMENTARY

Provisions relating to criminal procedure and appeals

Section 86: Alteration of place fixed for Crown Court trial

229. This section provides that an application for variation of a place fixed for Crown Court trial no longer needs to be heard by a High Court judge or in open court.

Section 87: Appeals to Court of Appeal: Procedural directions

230. **Section 87** extends the powers of a single judge in the Court of Appeal Criminal Division and the Registrar of the Court of Appeal Criminal Division when making procedural directions that need not bother the full court. It amends sections 31 and 31A of the CAA 1968 by allowing a single judge and the Registrar respectively to make orders under section 23(1)(a) of the CAA 1968. This will allow them to order the production of any document, exhibit or anything else connected with the appeal proceedings which they consider to be necessary for the determination of the case.
231. **Section 87** inserts two new sections into the CAA 1968. This first section, section 31B, further extends the specific powers of both a single judge in the Court of Appeal Criminal Division and the Registrar of Criminal Appeals as detailed in sections 31 and 31A respectively of the CAA 1968, by allowing them a general power to make procedural directions.
232. The second new section, section 31C, allows for (a) the decision of the single judge, upon application by either the appellant or the prosecution to be reviewed by the full appeal court and (b) the decision of the Registrar to be reviewed by a single judge, again upon application.

Section 88: Prosecution Appeals from Court of Appeal

233. **Section 88** makes several small amendments to the Administration of Justice Act 1960 and the CAA 1968 which extend the time within which both the defence and prosecution may make an application for leave to appeal to the House of Lords from 14 days to 28 days.

Section 89: Retirement of Registrar of Criminal Appeals

234. This section brings the retirement age of the Registrar of Criminal Appeals into line with that for other judicial office holders (i.e. a normal compulsory retirement age of 70 for those appointed after the implementation of the JPRA 1993 in March 1995). Currently, by virtue of section 92 (2D) and (2E) of the SCA 1981, the registrar must retire at the age of 62.

Section 90: Appeals to Courts-Martial Appeal Court: procedural directions

235. **Section 90** extends the powers of both a single judge in the Courts-Martial Court of Appeal and the Registrar of the Courts-Martial Appeal Court when making procedural directions that need not bother the full court. It amends sections 36 and 36A of the Courts-Martial (Appeals) Act 1968 (CM(A)A 1968) by allowing a single judge and the Registrar respectively to make orders under section 28(1)(a) of the CM(A)A 1968. This will allow them to order the production of any document, exhibit or anything else connected with the appeal proceedings which they consider to be necessary for the determination of the case.
236. The section also inserts two new sections into the CM(A)A 1968. Firstly, new section 36B further extends the specific powers of (a) a single judge in the Courts-Martial Appeal Court as detailed in section 36 of the CM(A)A 1968 and (b) the registrar as detailed in section 36A, by allowing them to make further binding procedural directions in a wider range of circumstances than at present
237. Secondly, new section 36C allows for (a) the decision of the single judge, upon application by either the accused or the Defence Council to be reviewed by the full appeal court and (b) the decision of the registrar to be reviewed by a single judge, again upon application. This is to maintain consistency with the procedure in the Court of Appeal (section 87).

Section 91: Extension of time for appeals from Courts-Martial Appeal Court

238. **Section 91** makes several small amendments to the Courts-Martial (Appeals) Act 1968 which extend the time within which both the accused and the Defence Council may make an application for leave to appeal to the House of Lords to 28 days. This is to maintain consistency with appeals from the Court of Appeal (section 88).