Senior Courts Act 1981

1981 CHAPTER 54

PART II

JURISDICTION

THE CROWN COURT

45 General jurisdiction of Crown Court.

(1) The Crown Court shall be a superior court of record.

(2) Subject to the provisions of this Act, there shall be exercisable by the Crown Court—

(a) all such appellate and other jurisdiction as is conferred on it by or under this or any other Act; and

(b) all such other jurisdiction as was exercisable by it immediately before the commencement of this Act.

(3) Without prejudice to subsection (2), the jurisdiction of the Crown Court shall include all such powers and duties as were exercisable or fell to be performed by it immediately before the commencement of this Act.

(4) Subject to section 8 of the [M1]Criminal Procedure (Attendance of Witnesses) Act 1965 (substitution in criminal cases of procedure in that Act for procedure by way of subpoena) and to any provision contained in or having effect under this Act, the Crown Court shall, in relation to the attendance and examination of witnesses, any contempt of court, the enforcement of its orders and all other matters incidental to its jurisdiction, have the like powers, rights, privileges and authority as the High Court.

(5) The specific mention elsewhere in this Act of any jurisdiction covered by subsections (2) and (3) shall not derogate from the generality of those subsections.

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Marginal Citations

M1 1965 c. 69.

46 Exclusive jurisdiction of Crown Court in trial on indictment.

(1) All proceedings on indictment shall be brought before the Crown Court.

(2) The jurisdiction of the Crown Court with respect to proceedings on indictment shall include jurisdiction in proceedings on indictment for offences wherever committed, and in particular proceedings on indictment for offences within the jurisdiction of the Admiralty of England.

[F1 46ZA Remitting proceedings to magistrates' courts for trial

(1) In a case where a person has been sent by a magistrates' court to the Crown Court for trial for an offence, the Crown Court may send the person back to a magistrates' court for trial.

(2) The Crown Court may not exercise the power in subsection (1)—
  (a) in respect of a person who has attained the age of 18, or is not an individual, if the offence in question is triable only on indictment;
  (b) in respect of a person who has not attained the age of 18, if the offence in question falls within section 51A(12) of the Crime and Disorder Act 1998.

(3) In the case of an offence that is triable either way, the Crown Court may not exercise the power in subsection (1)—
  (a) unless the person appears in court or consents to the power being exercised in the person's absence, and
  (b) in the case of a person who has attained the age of 18, or is not an individual, unless the person consents to the power being exercised.

(4) If a person under the age of 18 appears before the Crown Court having been sent to it as mentioned in subsection (1), the Crown Court—
  (a) must consider whether to send the person back to a magistrates' court under subsection (1), and
  (b) if it decides not to send the person back, must give reasons for not doing so.

(5) In deciding whether to exercise the power in subsection (1), the Crown Court must—
  (a) take into account any other offence before the Crown Court that appears to the court to be related to that offence (whether the same, or a different, person is accused or has been convicted of the other offence), and
  (b) have regard to any allocation guidelines (or revised allocation guidelines) issued as definitive guidelines under section 122 of the Coroners and Justice Act 2009.

(6) Where the Crown Court exercises the power in subsection (1) it may, subject to section 25 of the Criminal Justice and Public Order Act 1994 (restrictions on granting bail), give such directions as appear to be necessary—
  (a) with respect to the custody of the accused, or
  (b) for the accused's release on bail,

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until the accused can appear or be brought before the magistrates' court.

(7) There is no right of appeal against an order under subsection (1).**]**

Textual Amendments

F1 S. 46ZA inserted (28.4.2022) by Judicial Review and Courts Act 2022 (c. 35), **ss. 11(1)**, 51(1)

[[F2]46A Offences committed on ships and abroad.

(1) Sections 280, 281 and 282 of the Merchant Shipping Act 1995 (offences on ships and abroad by British citizens and others) apply in relation to other offences under the law of England and Wales as they apply in relation to offences under that Act or instruments under that Act.**]**

Textual Amendments

F2 S. 46A inserted (1.1.1996) by 1995 c. 21, ss. 314(2), 316(2), **Sch. 13 para. 59(4)** (with s. 312(1))

[F3]47 . . . . . .

Textual Amendments

F3 S. 47 repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

48 Appeals to Crown Court.

(1) The Crown Court may, in the course of hearing any appeal, correct any error or mistake in the order or judgment incorporating the decision which is the subject of the appeal.

(2) On the termination of the hearing of an appeal the Crown Court—

(a) may confirm, reverse or vary **[**[F4]any part of the decision appealed against, including a determination not to impose a separate penalty in respect of an offence**]**; or

(b) may remit the matter with its opinion thereon to the authority whose decision is appealed against; or

(c) may make such other order in the matter as the court thinks just, and by such order exercise any power which the said authority might have exercised.

(3) Subsection (2) has effect subject to any enactment relating to any such appeal which expressly limits or restricts the powers of the court on the appeal.

(4) **[**[F5]Subject to section 11(6) of the Criminal Appeal Act 1995, if**]**the appeal is against a conviction or a sentence, the preceding provisions of this section shall be construed as including power to award any punishment, whether more or less severe than that awarded by the magistrates' court whose decision is appealed against, if that is a punishment which that magistrates' court might have awarded.

(5) This section applies whether or not the appeal is against the whole of the decision.

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(6) In this section "sentence" includes any order made by a court when dealing with an offender, including—

(a) a hospital order under **[**[F6]Part III of the Mental Health Act 1983**]**, with or without **[**[F7]a restriction order, and an interim hospital order under **[**[F6]that Act**]]**; and

(b) a recommendation for deportation made when dealing with an offender.

[[F8](7) The fact that an appeal is pending against an interim hospital order under **[**[F9]the said Act of 1983**]** shall not affect the power of the magistrates' court that made it to renew or terminate the order or to deal with the appellant on its termination; and where the Crown Court quashes such an order but does not pass any sentence or make any other order in its place the Court may direct the appellant to be kept in custody or released on bail pending his being dealt with by that magistrates' court.

(8) Where the Crown Court makes an interim hospital order by virtue of subsection (2)—

(a) the power of renewing or terminating the order and of dealing with the appellant on its termination shall be exercisable by the magistrates' court whose decision is appealed against and not by the Crown Court; and

(b) that magistrates' court shall be treated for the purposes of **[**[F10]section 38(7) of the said Act of 1983**]** (absconding offenders) as the court that made the order.**]**

Textual Amendments

F4 Words substituted by Criminal Justice Act 1988 (c. 33, SIF 39:1), ss. 123(6), 156, **Sch. 8 para. 16**

F5 Words in s. 48(4) substituted (31.3.1997) by 1995 c. 35, s. 29(1), **Sch. 2 para.14**; S.I. 1997/402. art.3(d)

F6 Words substituted by Mental Health Act 1983 (c. 20, SIF 85), s. 43, **Sch. 4 para. 58**(*a*)

F7 Words substituted by Mental Health (Amendment) Act 1982 (c. 51, SIF 85), s. 65(1), **Sch. 3 para. 61**(*a*)

F8 S. 48(7)(8) inserted by Mental Health (Amendment) Act 1982 (c. 51, SIF 85), **Sch. 3 para. 61**(*b*)

F9 Words substituted by Mental Health Act 1983 (c. 20, SIF 85), s. 43, **Sch. 4 para. 58**(*b*)

F10 Words substituted by Mental Health Act 1983 (c. 20, SIF 85), s. 43, **Sch. 4 para. 58**(*c*)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 31(3)(a) word inserted by 2015 c. 2 s. 85(1)(a)
- s. 31(3)(a) word inserted by 2015 c. 2 s. 85(1)(a)
- s. 31(3)(b) and word inserted by 2015 c. 2 s. 85(1)(b)
- s. 31(3)(b) and word inserted by 2015 c. 2 s. 85(1)(b)
- s. 31(3A)(3B) inserted by 2015 c. 2 s. 85(2)
- s. 31(3A)(3B) inserted by 2015 c. 2 s. 85(2)