

ACCESS TO JUSTICE ACT 1999

EXPLANATORY NOTES

C.

APPEALS, COURTS, ETC. (PART IV - SECTIONS 54-73)

Commentary

High Court

223. **Section 61: Cases stated by Crown Court.** The Supreme Court Act 1981 gives the High Court specific powers to deal with appeals by way of case stated coming from a magistrates' court. However it does not do the same for cases coming from the Crown Court. This section provides a statutory footing for the powers of the High Court to deal with appeals by way of case stated coming from the Crown Court. It enacts a recommendation made by the Law Commission in its 1994 Report *Administrative Law: Judicial Review and Statutory Appeals*.
224. **Section 62: Power to vary committal in default.** This section closes a loophole in section 43 of the Supreme Court Act 1981, which came to light in the recent case of *Regina v St Helens Justices ex parte Marlene Ann Jones and others*. Section 43 of the 1981 Act provides that the High Court may, instead of quashing a conviction that has wrongfully been imposed by a lower court, amend it by substituting any sentence which the lower court had power to impose. In the St Helens case, the Court of Appeal found that this power, to substitute a sentence, did not apply when the Court quashed a decision to commit a fine defaulter to prison, because the committal was not the sentence originally imposed on conviction. This had the effect of leaving the original sentences (the fines) outstanding.
225. **Section 62** therefore inserts a new section 43ZA into the 1981 Act to cover this situation. The new section provides that, where the High Court quashes a decision of a lower court to commit a fine defaulter to prison, the High Court may deal with the person in any way that the lower court could have. The effect is that the High Court can quash the incorrect committal and reconsider the case in the light of the present circumstances of the wrongfully committed offender.
226. **Sections 63-65: Criminal causes and matters; contempt of court; habeas corpus.** These sections will allow certain cases to be routinely heard by a single judge of the High Court. The route of appeal for these cases is to the House of Lords, but the Administration of Justice Act 1960 provides that the House of Lords will only hear appeals from a Divisional Court of the High Court. Sections 63-65 amend the 1960 Act, so that the House of Lords can hear appeals from a single High Court judge. It will then be possible to make rules of court to provide for these cases to be heard by a single judge, while enabling the judge to refer particularly complex cases to a Divisional Court.
227. The cases in question are:
- judicial reviews and appeals by way of case stated in criminal causes and matters (section 63);

*These notes refer to the Access to Justice Act 1999
(c.22) which received Royal Assent on 27th July 1999*

- appeals from inferior (civil and criminal) courts and tribunals in contempt of court cases (section 64); and
- applications for *habeas corpus* in criminal cases (section 65).

A *Divisional Court* is composed of two or more High Court judges.