Access to Justice Act 1999

1999 CHAPTER 22

PART IV

APPEALS, COURTS, JUDGES AND COURT PROCEEDINGS

Appeals

54 Permission to appeal

(1) Rules of court may provide that any right of appeal to—

(a) a county court,

(b) the High Court, or

(c) the Court of Appeal,

may be exercised only with permission.

(2) This section does not apply to a right of appeal in a criminal cause or matter.

(3) For the purposes of subsection (1) rules of court may make provision as to—

(a) the classes of case in which a right of appeal may be exercised only with permission,

(b) the court or courts which may give permission for the purposes of this section,

(c) any considerations to be taken into account in deciding whether permission should be given, and

(d) any requirements to be satisfied before permission may be given,

and may make different provision for different circumstances.

(4) No appeal may be made against a decision of a court under this section to give or refuse permission (but this subsection does not affect any right under rules of court to make a further application for permission to the same or another court).

(5) For the purposes of this section a right to make an application to have a case stated for the opinion of the High Court constitutes a right of appeal.

(6) For the purposes of this section a right of appeal to the Court of Appeal includes—

(a) the right to make an application for a new trial, and
(b) the right to make an application to set aside a verdict, finding or judgment in any cause or matter in the High Court which has been tried, or in which any issue has been tried, by a jury.

55 Second appeals

(1) Where an appeal is made to a county court or the High Court in relation to any matter, and on hearing the appeal the court makes a decision in relation to that matter, no appeal may be made to the Court of Appeal from that decision unless the Court of Appeal considers that—
(a) the appeal would raise an important point of principle or practice, or
(b) there is some other compelling reason for the Court of Appeal to hear it.

(2) This section does not apply in relation to an appeal in a criminal cause or matter.

56 Power to prescribe alternative destination of appeals

(1) The Lord Chancellor may by order provide that appeals which would otherwise lie to—
(a) a county court,
(b) the High Court, or
(c) the Court of Appeal,
shall lie instead to another of those courts, as specified in the order.

(2) This section does not apply to an appeal in a criminal cause or matter.

(3) An order under subsection (1)—
(a) may make different provision for different classes of proceedings or appeals, and
(b) may contain consequential amendments or repeals of enactments.

(4) Before making an order under subsection (1) the Lord Chancellor shall consult—
(a) the Lord Chief Justice,
(b) the Master of the Rolls,
(c) the President of the Family Division, and
(d) the Vice-Chancellor.

(5) An order under subsection (1) shall be made by statutory instrument.

(6) No such order may be made unless a draft of it has been laid before and approved by resolution of each House of Parliament.

(7) For the purposes of this section an application to have a case stated for the opinion of the High Court constitutes an appeal.

57 Assignment of appeals to Court of Appeal

(1) Where in any proceedings in a county court or the High Court a person appeals, or seeks permission to appeal, to a court other than the Court of Appeal or the House of Lords—
(a) the Master of the Rolls, or

(b) the court from which or to which the appeal is made, or from which permission to appeal is sought,

may direct that the appeal shall be heard instead by the Court of Appeal.

(2) The power conferred by subsection (1)(b) shall be subject to rules of court.

58 Criminal appeals: minor amendments

(1) In section 40(6) of the Criminal Justice Act 1991 (order returning offender to prison for unserved portion of sentence to be treated for purposes of appeal provisions as sentence passed for original offence), for the words from "any enactment" to "made" substitute "sections 9 and 10 of the Criminal Appeal Act 1968, any order made by the Crown Court under subsection (2) above, or made under subsection (3A) above,".

(2) In section 8(1B)(b) of the Criminal Appeal Act 1968 (power of Court to direct entry of judgment and verdict of acquittal on applications relating to order for retrial), after "to" insert "set aside the order for retrial and".

(3) In section 9(2) of that Act (right of appeal against sentence for summary offence), insert at the end "or sub-paragraph (4) of that paragraph."

(4) Section 10 of that Act (appeal to Court of Appeal by person dealt with by Crown Court for offence of which he was not convicted on indictment) is amended in accordance with subsections (5) to (7).

(5) In subsection (2) (proceedings from which an appeal lies), insert at the end "; or

(c) having been released under Part II of the Criminal Justice Act 1991 after serving part of a sentence of imprisonment or detention imposed for the offence, is ordered by the Crown Court to be returned to prison or detention."

(6) In subsection (3) (cases where person may appeal), in paragraph (cc) (order under section 40(3A)), for "40(3A)" substitute "40(2) or (3A)".

(7) In subsection (4) (calculation of length of term of imprisonment), after "imprisonment" insert "or detention".

Civil division of Court of Appeal

59 Composition

In section 54 of the Supreme Court Act 1981 (composition of court of civil division of Court of Appeal), for subsections (2) to (4) (number of judges) substitute—

"(2) Subject as follows, a court shall be duly constituted for the purpose of exercising any of its jurisdiction if it consists of one or more judges.

(3) The Master of the Rolls may, with the concurrence of the Lord Chancellor, give (or vary or revoke) directions about the minimum number of judges of which a court must consist if it is to be duly constituted for the purpose of any description of proceedings.

(4) The Master of the Rolls, or any Lord Justice of Appeal designated by him, may (subject to any directions under subsection (3)) determine the number of judges of which a court is to consist for the purpose of any particular proceedings.

(4A) The Master of the Rolls may give directions as to what is to happen in any particular case where one or more members of a court which has partly heard proceedings are unable to continue."

60 Calling into question of incidental decisions

For section 58 of the Supreme Court Act 1981 (exercise of incidental jurisdiction in civil division of Court of Appeal) substitute—

"**58 Calling into question of incidental decisions in civil division**

(1) Rules of court may provide that decisions of the Court of Appeal which—
  (a) are taken by a single judge or any officer or member of staff of that court in proceedings incidental to any cause or matter pending before the civil division of that court; and
  (b) do not involve the determination of an appeal or of an application for permission to appeal,

may be called into question in such manner as may be prescribed.

(2) No appeal shall lie to the House of Lords from a decision which may be called into question pursuant to rules under subsection (1)."

High Court

61 Cases stated by Crown Court

For section 28A of the Supreme Court Act 1981 (proceedings on case stated by magistrates' court) substitute—

"**28A Proceedings on case stated by magistrates' court or Crown Court**

(1) This section applies where a case is stated for the opinion of the High Court—
  (a) by a magistrates' court under section 111 of the Magistrates' Courts Act 1980; or
  (b) by the Crown Court under section 28(1) of this Act.

(2) The High Court may, if it thinks fit, cause the case to be sent back for amendment and, where it does so, the case shall be amended accordingly.

(3) The High Court shall hear and determine the question arising on the case (or the case as amended) and shall—
  (a) reverse, affirm or amend the determination in respect of which the case has been stated; or
  (b) remit the matter to the magistrates' court, or the Crown Court, with the opinion of the High Court,

and may make such other order in relation to the matter (including as to costs) as it thinks fit.

(4) Except as provided by the Administration of Justice Act 1960 (right of appeal to House of Lords in criminal cases), a decision of the High Court under this section is final."

62 Power to vary committal in default

In the Supreme Court Act 1981, after section 43 insert—

"**43ZA Power of High Court to vary committal in default**

(1) Where the High Court quashes the committal of a person to prison or detention by a magistrates' court or the Crown Court for—

(a) a default in paying a sum adjudged to be paid by a conviction; or

(b) want of sufficient distress to satisfy such a sum,

the High Court may deal with the person for the default or want of sufficient distress in any way in which the magistrates' court or Crown Court would have power to deal with him if it were dealing with him at the time when the committal is quashed.

(2) If the High Court commits him to prison or detention, the period of imprisonment or detention shall, unless the High Court otherwise directs, be treated as having begun when the person was committed by the magistrates' court or the Crown Court (except that any time during which he was released on bail shall not be counted as part of the period)."

63 Criminal causes and matters

(1) In section 1(1)(a) of the Administration of Justice Act 1960 (appeal to House of Lords from decision of Divisional Court of the Queen's Bench Division in a criminal cause or matter), for "a Divisional Court of the Queen's Bench Division" substitute "the High Court".

(2) In sections 4(2) and (3) and 9(2) of that Act (bail pending appeal), for "a Divisional Court" substitute "the High Court".

64 Contempt of court

(1) Section 13(2) of the Administration of Justice Act 1960 (appeals in cases of contempt of court) is amended as follows.

(2) In paragraph (a) (appeal from inferior courts from which appeal does not lie to Court of Appeal to lie to a Divisional Court of the High Court), omit "a Divisional Court of".

(3) In paragraph (b) (appeal to Court of Appeal from county court or single judge of High Court), for "decision, of a single" substitute "decision (other than a decision on an appeal under this section) of a single".

(4) In paragraph (c) (appeal from Divisional Court or Court of Appeal to House of Lords), insert at the beginning "from a decision of a single judge of the High Court on an appeal under this section,".

65 Habeas corpus

(1) In the Administration of Justice Act 1960, omit—

(a) section 14(1) (order for release on criminal application for habeas corpus to be refused only by Divisional Court of Queen's Bench Division), and

(b) section 15(2) (no appeal to House of Lords from order made by single judge on criminal application for habeas corpus).

(2) In section 15 of that Act (appeals in habeas corpus cases)—

(a) in subsection (3) (no restriction on grant of leave to appeal to House of Lords against decision of Divisional Court on a criminal application for habeas corpus), and

(b) in subsection (4) (exceptions to right to be discharged in case of appeal to House of Lords against order of Divisional Court on such an application),

for "a Divisional Court" substitute "the High Court".

Crown Court

66 Enforcement of community orders

Schedule 9 (which makes provision about the enforcement of community orders by the Crown Court) has effect.

67 Time limits where accused sent for trial

(1) In paragraph 1 of Schedule 3 to the Crime and Disorder Act 1998 (regulations about service of evidence where a person is sent without committal proceedings to Crown Court)—

(a) in sub-paragraph (1) (regulations to provide that evidence be served on or before the relevant date) omit the words "on or before the relevant date" and after paragraph (b) insert "before the expiry of the period prescribed by the regulations; but the judge may at his discretion extend or further extend that period.", and

(b) for sub-paragraph (2) substitute—

"(2) The regulations may make provision as to the procedure to be followed on an application for the extension or further extension of a period under sub-paragraph (1) above."

(2) In section 13(1) of the Criminal Procedure and Investigations Act 1996 (transitional time limits relating to service of unused material), after paragraph (c) insert—

"(ca) copies of the documents containing the evidence on which the charge or charges are based are served on the accused (where this Part applies by virtue of section 1(2)(cc)),".

(3) In section 22 of the Prosecution of Offences Act 1985 (time limits in preliminary stages of criminal proceedings), in paragraph (a) of the definition of "appropriate court" in subsection (11) (which has effect so as to allow the Crown Court to extend time limits where the accused is committed for trial or indicted), after "trial" insert ", sent for trial under section 51 of the Crime and Disorder Act 1998".

Judges etc.

68 Judges holding office in European or international courts

(1) A holder of a United Kingdom judicial office may hold office in a relevant international court without being required to relinquish the United Kingdom judicial office.

(2) In this section—

"United Kingdom judicial office" means the office of—

(a) Lord Justice of Appeal, Justice of the High Court or Circuit judge, in England and Wales,

(b) judge of the Court of Session or sheriff, in Scotland, or

(c) Lord Justice of Appeal, judge of the High Court or county court judge, in Northern Ireland, and

"relevant international court" means—

(a) any court established for any purposes of the European Communities, or

(b) any international court (apart from the European Court of Human Rights) which is designated for the purposes of this section by the Lord Chancellor or the Secretary of State.

(3) A holder of a United Kingdom judicial office who also holds office in a relevant international court is not required to perform any duties as the holder of the United Kingdom judicial office but does not count as holding the United Kingdom judicial office—

(a) for the purposes of section 12(1) to (6) of the Supreme Court Act 1981, section 9(1)(c) or (d) of the Administration of Justice Act 1973, section 18 of the Courts Act 1971, section 14 of the Sheriff Courts (Scotland) Act 1907 or section 106 of the County Courts Act (Northern Ireland) 1959 (judicial salaries),

(b) for the purposes of, or of any scheme established by and in accordance with, the Judicial Pensions and Retirement Act 1993, the Judicial Pensions Act 1981, the Sheriffs' Pensions (Scotland) Act 1961 or the County Courts Act (Northern Ireland) 1959 (judicial pensions), or

(c) for the purposes of section 2(1) or 4(1) of the Supreme Court Act 1981, section 1(1) of the Court of Session Act 1988 or section 2(1) or 3(1) of the Judicature (Northern Ireland) Act 1978 (judicial numbers).

(4) If the sheriff principal of any sheriffdom also holds office in a relevant international court, section 11(1) of the Sheriff Courts (Scotland) Act 1971 (temporary appointment of sheriff principal) applies as if the office of sheriff principal of that sheriffdom were vacant.

(5) The appropriate Minister may by order made by statutory instrument make in relation to a holder of a United Kingdom judicial office who has ceased to hold office in a relevant international court such transitional provision (including, in particular, provision for a temporary increase in the maximum number of judges) as he considers appropriate.

(6) In subsection (5) "the appropriate Minister" means—

(a) in relation to any United Kingdom judicial office specified in paragraph (a) or (c) of the definition in subsection (2), the Lord Chancellor, and

(b) in relation to any United Kingdom judicial office specified in paragraph (b) of that definition, the Secretary of State.

(7) A statutory instrument containing an order made under subsection (5) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

69 Vice-president of Queen's Bench Division

(1) The Lord Chancellor may appoint one of the ordinary judges of the Court of Appeal as vice-president of the Queen's Bench Division; and any person so appointed shall hold that office in accordance with the terms of his appointment.

(2) In section 4 of the Supreme Court Act 1981 (composition of High Court)—

(a) in subsection (1) (membership), after the words "the Senior Presiding Judge;" insert—

"(ddd) the vice-president of the Queen's Bench Division;", and

(b) in subsection (6) (vacancy in offices not to affect constitution), at the end insert "and whether or not an appointment has been made to the office of vice-president of the Queen's Bench Division."

(3) In section 5 of that Act (divisions of High Court), in subsection (1)(b) (Queen's Bench Division), after "thereof," insert "the vice-president of the Queen's Bench Division".

70 Registrar of civil appeals

The office of registrar of civil appeals is abolished.

Court proceedings

71 Adjournment of inquest in event of judicial inquiry

(1) In the Coroners Act 1988, after section 17 insert—

"**17A Adjournment of inquest in event of judicial inquiry**

(1) If on an inquest into a death the coroner is informed by the Lord Chancellor before the conclusion of the inquest that—

(a) a public inquiry conducted or chaired by a judge is being, or is to be, held into the events surrounding the death; and

(b) the Lord Chancellor considers that the cause of death is likely to be adequately investigated by the inquiry,

the coroner shall, in the absence of any exceptional reason to the contrary, adjourn the inquest and, if a jury has been summoned, may, if he thinks fit, discharge them.

(2) Where a coroner adjourns an inquest in compliance with subsection (1) above, he shall send to the registrar of deaths a certificate under his hand stating, so far as they have been ascertained at the date of the certificate, the particulars which under the 1953 Act are required to be registered concerning the death.

(3) Where a coroner has adjourned an inquest in compliance with subsection (1) above, the Lord Chancellor shall send him the findings of the public inquiry as soon as reasonably practicable after their publication.

(4) A coroner may only resume an inquest which has been adjourned in compliance with subsection (1) above if in his opinion there is exceptional reason for doing so; and he shall not do so—

(a) before the end of the period of 28 days beginning with the day on which the findings of the public inquiry are published; or

(b) if the Lord Chancellor notifies the coroner that this paragraph applies, before the end of the period of 28 days beginning with the day on which the public inquiry is concluded.

(5) Where a coroner resumes an inquest which has been adjourned in compliance with subsection (1) above—

(a) the provisions of section 8(3) above shall not apply in relation to that inquest; and

(b) if he summons a jury (but not where he resumes without a jury, or with the same jury as before the adjournment), he shall proceed in all respects as if the inquest had not previously begun and the provisions of this Act shall apply accordingly as if the resumed inquest were a fresh inquest.

(6) Where a coroner does not resume an inquest which he has adjourned in compliance with subsection (1) above, he shall (without prejudice to subsection (2) above) send to the registrar of deaths a certificate under his hand stating any findings of the public inquiry in relation to the death."

(2) In section 8(4) of that Act (power to summon jury), for "either before he proceeds to hold an inquest" substitute "before he proceeds to hold an inquest, on resuming an inquest begun with a jury after the inquest has been adjourned and the jury discharged".

(3) In the sidenote to section 16 of that Act (adjournment of inquest in certain cases), for "certain cases" substitute "event of criminal proceedings".

72 Reporting of proceedings relating to children

In section 97 of the Children Act 1989 (privacy for children involved in certain proceedings)—

(a) in subsection (2) (which prohibits the publication of material intended or likely to identify a child as being involved in proceedings before a magistrates' court in which powers under that Act may be exercised), after "before" insert "the High Court, a county court or", and

(b) in subsection (8) (which makes provision about the application of certain provisions of the Magistrates' Courts Act 1980 in relation to proceedings to which section 97 applies), after "any proceedings" insert "(before a magistrates' court)".

73 Power to allow children to attend criminal proceedings

(1) In section 36 of the Children and Young Persons Act 1933 (child not to be present at criminal trial except where required as witness or otherwise for the purposes of justice), after "justice" insert "or while the court consents to his presence".

(2) In section 50(1) of the Criminal Procedure (Scotland) Act 1995 (child not to be present at criminal proceedings unless required as witness or otherwise for the purposes of justice), after "justice" insert "or the court consents to his presence".