

COURTS ACT 2003

EXPLANATORY NOTES

BACKGROUND

Provisions relating to criminal procedure and appeals

Appeals to Court of Appeal: procedural directions

204. This section inserts new sections into the Criminal Appeal Act 1968 (CAA 1968) to extend the powers of (a) a single judge in the Court of Appeal Criminal Division and (b) the Registrar of the Court of Appeal Criminal Division prior to determination by the full court of an appeal or application for leave to appeal. New section 31B will enable either a single judge or the Registrar to give procedural directions that need not trouble the full court, thus reducing delay. Section 31C provides, in the case of a decision of a single judge, for the appellant, or under specified circumstances, the prosecution, to apply to the full court to review such a direction. Section 31C also provides for the decision by the Registrar to be reviewed by a single judge in the first instance, or if the defence or prosecution so wish, further reviewed by the full court.
205. In the Court of Appeal Criminal Division, single judges consider applications for leave to appeal and act as a 'filter' by carrying out certain specified functions of the full Court of Appeal. Section 31 of the CAA 1968 lists the powers of the Court of Appeal which may be exercised by a single judge. However, the inability of the single judge to make a broader range of procedural directions for the conduct and progress of an appeal can lead to delay and unnecessary complication.
206. The Auld Review recommended that a judge of the Court of Appeal should be empowered, when considering applications for leave to appeal, to give procedural directions for the hearing of the application or of the appeal that need not trouble the full court, subject to a right on the part of the applicant or the prosecution, as the case may be, to renew the application to the full court.
207. The role of the Registrar of Criminal Appeals, who is also the Registrar of the Courts-Martial Appeal Court, currently combines both judicial and administrative functions. The Registrar has ultimate responsibility for the management and running of the Criminal Appeal Office, which has a staff of 150. The Registrar also provides a key reference point for the judiciary in the criminal justice system. He undertakes the judicial responsibilities listed in section 31A of the Criminal Appeal Act 1968. In the future, the judicial and administrative functions of the posts of Registrar of Criminal Appeals and Registrar of the Courts-Martial Appeal Court will be separated so that they become more clearly judicial offices. The Registrar's administrative duties will fall to appropriate Court Service staff. These changes will come into effect upon the appointment of the next office holder.
208. The aim is to enable the Registrar to give procedural directions for the preparation or hearing of the application or of the appeal, subject to a right on the part of the applicant or the prosecution, as the case may be, to submit the matter to a single judge for review. However, the intention is also to enable the Lord Chief Justice to further define by practice direction the use and operation of the Registrar's power to make procedural

*These notes refer to the Courts Act 2003 (c.39)
which received Royal Assent on 20 November 2003*

directions. This would allow maximum flexibility in responding to the changing needs of the Court of Appeal Criminal Division.