



# Administration of Justice Act 1960

## 1960 CHAPTER 65

*Contempt of court, habeas corpus and certiorari*

### **11 Innocent publication and distribution**

- (1) A person shall not be guilty of contempt of court on the ground that he has published any matter calculated to interfere with the course of justice in connection with any proceedings pending or imminent at the time of publication if at that time (having taken all reasonable care) he did not know and had no reason to suspect that the proceedings were pending, or that such proceedings were imminent, as the case may be.
- (2) A person shall not be guilty of contempt of court on the ground that he has distributed a publication containing such matter as is mentioned in subsection (1) of this section if at the time of distribution (having taken all reasonable care) he did not know that it contained any such matter as aforesaid and had no reason to suspect that it was likely to do so.
- (3) The proof of any fact tending to establish a defence afforded by this section to any person in proceedings for contempt of court shall lie upon that person.

### **12 Publication of information relating to proceedings in private**

- (1) The publication of information relating to proceedings before any court sitting in private shall not of itself be contempt of court except in the following cases, that is to say—
  - (a) where the proceedings relate to the wardship or adoption of an infant or wholly or mainly to the guardianship, custody, maintenance or upbringing of an infant, or rights of access to an infant;
  - (b) where the proceedings are brought under Part VIII of the Mental Health Act, 1959, or under any provision of that Act authorising an application or reference to be made to a Mental Health Review Tribunal or to a county court;
  - (c) where the court sits in private for reasons of national security during that part of the proceedings about which the information in question is published;

- (d) where the information relates to a secret process, discovery or invention which is in issue in the proceedings;
  - (e) where the court (having power to do so) expressly prohibits the publication of all information relating to the proceedings or of information of the description which is published.
- (2) Without prejudice to the foregoing subsection, the publication of the text or a summary of the whole or part of an order made by a court sitting in private shall not of itself be contempt of court except where the court (having power to do so) expressly prohibits the publication.
- (3) In this section references to a court include references to a judge and to a tribunal and to any person exercising the functions of a court, a judge or a tribunal; and references to a court sitting in private include references to a court sitting in camera or in chambers.
- (4) Nothing in this section shall be construed as implying that any publication is punishable as contempt of court which would not be so punishable apart from this section.

### **13 Appeal in cases of contempt of court**

- (1) Subject to the provisions of this section, an appeal shall lie under this section from any order or decision of a court in the exercise of jurisdiction to punish for contempt of court (including criminal contempt); and in relation to any such order or -decision the provisions of this section shall have effect in substitution for any other enactment relating to appeals in civil or criminal proceedings.
- (2) An appeal under this section shall lie in any case at the instance of the defendant and, in the case of an application for committal or attachment, at the instance of the applicant; and the appeal shall lie—
- (a) from an order or decision of any inferior court not referred to in the next following paragraph, to a Divisional Court of the High Court;
  - (b) from an order or decision of a county court or any other inferior court from which appeals generally lie to the Court of Appeal, and from an order or decision of the Chancery Court of a County Palatine, of a single judge of the High Court, or of any court having the powers of the High Court or of a judge of that court, to the Court of Appeal;
  - (c) from an order or decision of a Divisional Court or the Court of Appeal (including a decision of either of those courts on an appeal under this section), and from an order or decision of the Court of Criminal Appeal or the Courts-Martial Appeal Court, to the House of Lords.
- (3) The court to which an appeal is brought under this section may reverse or vary the order or decision of the court below, and make such other order as may be just; and without prejudice to the inherent powers of any court referred to in subsection (2) of this section, provision may be made by rules of court for authorising the release on bail of an appellant under this section.
- (4) Subsections (2) to (4) of section one and section two of this Act shall apply to an appeal to the House of Lords under this section as they apply to an appeal to that House under the said section one, except that so much of the said subsection (2) as restricts the grant of leave to appeal shall apply only where the decision of the court below is a decision on appeal to that court under this section.

- (5) In this section " court" includes any tribunal or person having power to punish for contempt; and references in this section to an order or decision of a court in the exercise of jurisdiction to punish for contempt of court include references—
- (a) to an order or decision of the High Court or a county court under any enactment enabling that court to deal with an offence as if it were contempt of court;
  - (b) to an order or decision of a county court, or of any court having the powers of a county court, under section thirty, section one hundred and twenty-seven or section one hundred and fifty-seven of the County Courts Act, 1959;
  - (c) to an order or decision of a magistrates' court under subsection (3) of section fifty-four of the Magistrates' Courts Act, 1952,
- but do not include references to orders under section five of the Debtors Act, 1869, or under any provision of the Magistrates' Courts Act, 1952, or the County Courts Act, 1959, except those referred to in paragraphs (b) and (c) of this subsection and except sections seventy-four and one hundred and ninety-five of the last mentioned Act so far as those sections confer jurisdiction in respect of contempt of court.
- (6) This section does not apply to a conviction or sentence in respect of which an appeal lies under the Criminal Appeal Act, 1907, or to a decision of the Court of Criminal Appeal under that Act; and for the purposes of that Act and of this subsection an order for the punishment of any person for contempt of court in proceedings in which he has a right of appeal against his sentence shall be treated as part of that sentence.

#### **14 Procedure on application for habeas corpus**

- (1) On a criminal application for habeas corpus an order for the release of the person restrained shall be refused only by a Divisional Court of the Queen's Bench Division, whether the application is made in the first instance to such a court or to a single judge in accordance with rules of court.
- (2) Notwithstanding anything in any enactment or rule of law, where a criminal or civil application for habeas corpus has been made by or in respect of any person, no such application shall again be made by or in respect of that person on the same grounds, whether to the same court or judge or to any other court or judge, unless fresh evidence is adduced in support of the application; and no such application shall in any case be made to the Lord Chancellor.
- (3) In every case where the person by or in respect of whom an application for habeas corpus is made is restrained as a person liable, or treated by virtue of any enactment as liable, to be detained in pursuance of an order or direction under Part V of the Mental Health Act, 1959 (otherwise than by virtue of paragraph (e) or paragraph (f) of subsection (2) of section seventy-three of that Act), the application shall be deemed for the purposes of this section and of any appeal in the proceedings to constitute a criminal cause or matter.

#### **15 Appeal in habeas corpus proceedings**

- (1) Subject to the provisions of this section, an appeal shall lie, in any proceedings upon application for habeas corpus, whether civil or criminal, against an order for the release of the person restrained as well as against the refusal of such an order.

- (2) No appeal shall lie by virtue of this section from an order made by a single judge on a criminal application for habeas corpus.
- (3) In relation to a decision of a Divisional Court on a criminal application for habeas corpus, section one of this Act shall have effect as if so much of subsection (2) as restricts the grant of leave to appeal were omitted.
- (4) Except as provided by section five of this Act in the case of an appeal against an order of a Divisional Court on a criminal application, an appeal brought by virtue of this section shall not affect the right of the person restrained to be discharged in pursuance of the order under appeal and (unless an order under subsection (1) of that section is in force at the determination of the appeal) to remain at large regardless of the decision on appeal.

## **16 Power of High Court to vary sentence on certiorari**

- (1) Where a person who has been sentenced for an offence by a magistrates' court or, on appeal against conviction or sentence, by quarter sessions applies to the High Court for an order of certiorari to remove the proceedings of the magistrates' court or the court of quarter sessions into the High Court, and the High Court determines that the magistrates' court or court of quarter sessions had no power to pass the sentence, the High Court may, instead of quashing the conviction, amend it by substituting for the sentence passed any sentence which the magistrates' court had power to impose.
- (2) Any sentence passed by the High Court by virtue of this section in substitution for the sentence passed in the proceedings of the magistrates' court or quarter sessions shall, unless the High Court otherwise directs, begin to run from the time when it would have begun to run if passed in those proceedings; but in computing the term of the sentence any time during which the offender was at large after being admitted to bail in pursuance of paragraph (d) of subsection (1) of section thirty-seven of the Criminal Justice Act, 1948, shall be disregarded.
- (3) The foregoing provisions of this section shall apply, with the necessary modifications, in relation to any order of a magistrates' court or court of quarter sessions which is made on, but does not form part of, the conviction of an offender as they apply in relation to a conviction and sentence.