

SCHEDULES

SCHEDULE 15

MINOR AND CONSEQUENTIAL AMENDMENTS

Criminal Appeal Act 1968 (c. 19)

- 20 The Criminal Appeal Act 1968 shall be amended as follows.
- 21 Section 9 shall be renumbered so as to become section 9(1); and at the end of the resulting subsection (1) there shall be added the following subsection—
- “(2) A person who on conviction on indictment has also been convicted of a summary offence under section 41 of the Criminal Justice Act 1988 (power of Crown Court to deal with summary offence where person committed for either way offence) may appeal to the Court of Appeal against any sentence passed on him for the summary offence (whether on his conviction or in subsequent proceedings) under subsection (7) of that section.”
- 22 (1) In subsection (2)(b) of section 10 (proceedings from which an appeal against sentence lies to Court of Appeal)—
- (a) after the words “probation order” there shall be inserted the words “, a community service order”; and
- (b) before the words “suspended sentence” there shall be inserted the words “wholly or partly”.
- (2) In subsection (4) of that section, after the word “section” there shall be inserted the words “and section 11 of this Act”.
- 23 (1) In subsection (2) of section 11 (supplementary provisions as to appeal against sentence) after “9” there shall be inserted “(1)”.
- (2) The following subsections shall be inserted after that subsection—
- “(2A) Where following conviction on indictment a person has been convicted under section 41 of the Criminal Justice Act 1988 of a summary offence an appeal or application for leave to appeal against any sentence for the offence triable either way shall be treated also as an appeal or application in respect of any sentence for the summary offence and an appeal or application for leave to appeal against any sentence for the summary offence shall be treated also as an appeal or application in respect of the offence triable either way.
- (2B) If the appellant or applicant was convicted on indictment of two or more offences triable either way, the references to the offence triable either way in subsection (2A) above are to be construed, in relation to any summary offence of which he was convicted under section 41 of the Criminal Justice Act 1988 following the conviction on indictment, as references to the offence triable either way specified in the notice relating to that summary offence which was given under subsection (2) of that section.”

Status: This is the original version (as it was originally enacted).

24 The following subsection shall be substituted for subsection (4) of that section—

“(4) The power of the Court of Appeal under subsection (3) of this section to pass a sentence which the court below had power to pass for an offence shall, notwithstanding that the court below made no order under section 23(1) of the Powers of Criminal Courts Act 1973 or section 47(4) of the Criminal Law Act 1977 in respect of a suspended or partly suspended sentence previously passed on the appellant for another offence, include power to deal with him in respect of that sentence where the court below made no order in respect of it.”.

25 The following section shall be inserted after section 18—

“18A Appeals in cases of contempt of court

(1) A person who wishes to appeal under section 13 of the Administration of Justice Act 1960 from any order or decision of the Crown Court in the exercise of jurisdiction to punish for contempt of court shall give notice of appeal in such manner as may be directed by rules of court.

(2) Notice of appeal shall be given within twenty-eight days from the date of the order or decision appealed against.

(3) The time for giving notice under this section may be extended, either before or after its expiry, by the Court of Appeal.”.

26 In subsection (1) of section 19 (bail)—

(a) in paragraph (b), the words “or paragraph (a) above” shall be inserted after “1981”; and

(b) in paragraph (c), the words “either of those paragraphs” shall be substituted for the words “that paragraph”.

27 In section 29(2)(b) (circumstances in which there may not be a direction that time spent in custody is not to be reckoned as part of any sentence) for the words “under section 1 of this Act” there shall be substituted the words “under—

(i) section 1 or 11(1A) of this Act; or

(ii) section 81(1B) of the Supreme Court Act 1981”.

28 The following section shall be substituted for section 30—

“30 Restitution of property

(1) The operation of an order for the restitution of property to a person made by the Crown Court shall, unless the Court direct to the contrary in any case in which, in their opinion, the title to the property is not in dispute, be suspended until (disregarding any power of a court to grant leave to appeal out of time) there is no further possibility of an appeal on which the order could be varied or set aside, and provision may be made by rules of court for the custody of any property in the meantime.

(2) The Court of Appeal may by order annul or vary any order made by the court of trial for the restitution of property to any person, although the conviction is not quashed; and the order, if annulled, shall not take effect and, if varied, shall take effect as so varied.

Status: This is the original version (as it was originally enacted).

- (3) Where the House of Lords restores a conviction, it may make any order for the restitution of property which the court of trial could have made.”
- 29 The following shall be substituted for the words in section 31 from the beginning of subsection (1) to “powers” in subsection (2)—
- “(1) There may be exercised by a single judge in the same manner as by the Court of Appeal and subject to the same provisions—
- (a) the powers of the Court of Appeal under this Part of this Act specified in subsection (2) below;
 - (b) the power to give directions under section 4(4) of the Sexual Offences (Amendment) Act 1976; and
 - (c) the powers to make orders for the payment of costs under sections 16 to 18 of the Prosecution of Offences Act 1985 in proceedings under this Part of this Act.
- (2) The powers mentioned in subsection (1) (a) above”.
- 30 The following subsection shall be inserted after subsection (2A) of that section—
- “(2B) The power of the Court of Appeal to grant leave to appeal under section 159 of the Criminal Justice Act 1988 may be exercised by a single judge in the same manner as it may be exercised by the Court”.
- 31 The following shall be substituted in the first subsection of section 44 for the words from the beginning to “judge”, in the first place where it occurs—
- “(1) There may be exercised by a single judge—
- (a) the powers of the Court of Appeal under this Part of this Act—
 - (i) to extend the time for making an application for leave to appeal;
 - (ii) to make an order for or in relation to bail; and
 - (iii) to give leave for a person to be present at the hearing of any proceedings preliminary or incidental to an appeal; and
 - (b) their powers to make orders for the payment of costs under sections 16 and 17 of the Prosecution of Offences Act 1985 in proceedings under this Part of this Act.”.
- 32 The following paragraph shall be inserted after paragraph 1 of Schedule 2 (orders for retrial)—
- “1A Subject to paragraph 1 above, evidence given orally at the original trial must be given orally at the retrial.”.