



Criminal Appeal Act 1995

1995 CHAPTER 35

PART III

OTHER PROVISIONS

Powers of magistrates' courts to rectify mistakes

26 Extension of power of courts in England and Wales

- (1) Section 142 of the Magistrates' Courts Act 1980 (power of magistrates' courts to re-open cases to rectify mistakes etc.) shall be amended as follows.
- (2) In subsection (1) (power, subject to subsection (4), to vary or rescind a sentence or other order), for the words from the beginning to "offender;" substitute "A magistrates' court may vary or rescind a sentence or other order imposed or made by it when dealing with an offender if it appears to the court to be in the interests of justice to do so;".
- (3) After that subsection insert—
 - "(1A) The power conferred on a magistrates' court by subsection (1) above shall not be exercisable in relation to any sentence or order imposed or made by it when dealing with an offender if—
 - (a) the Crown Court has determined an appeal against—
 - (i) that sentence or order;
 - (ii) the conviction in respect of which that sentence or order was imposed or made; or
 - (iii) any other sentence or order imposed or made by the magistrates' court when dealing with the offender in respect of that conviction (including a sentence or order replaced by that sentence or order); or
 - (b) the High Court has determined a case stated for the opinion of that court on any question arising in any proceeding leading to or resulting from the imposition or making of the sentence or order."

Status: This is the original version (as it was originally enacted).

- (4) In subsection (2) (power, subject to subsection (4), to direct that a person’s case be re-heard by different justices where he pleaded not guilty or the court proceeded in his absence)—
- (a) for the words from “found guilty” to “section 11(1) above,” substitute “convicted by a magistrates’ court”, and
 - (b) omit “, subject to subsection (4) below,”.
- (5) After that subsection insert—
- “(2A) The power conferred on a magistrates’ court by subsection (2) above shall not be exercisable in relation to a conviction if—
- (a) the Crown Court has determined an appeal against—
 - (i) the conviction; or
 - (ii) any sentence or order imposed or made by the magistrates’ court when dealing with the offender in respect of the conviction; or
 - (b) the High Court has determined a case stated for the opinion of that court on any question arising in any proceeding leading to or resulting from the conviction.”
- (6) In subsection (3) (effect of directions under subsection (2)), for “finding of guilty” substitute “conviction”.
- (7) Omit subsection (4) (powers in subsections (1) and (2) to be exercisable only within 28 days of making of sentence or order or finding of guilty and only by a similarly constituted court).