
Status: Point in time view as at 27/06/2011.

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Criminal Justice Act 2003

2003 CHAPTER 44

PART 13

MISCELLANEOUS

Miscellaneous provisions about criminal proceedings

308 Non-appearance of defendant: plea of guilty

In section 12 of the Magistrates' Courts Act 1980 (c. 43) (non-appearance of accused: plea of guilty) subsection (1)(a)(i) (which excludes offences punishable with imprisonment for term exceeding 3 months) is omitted.

Commencement Information

- II** S. 308 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, art. 2(1), Sch. 1 para. 25 (subject to art. 2(2), Sch. 2)

309 Preparatory hearings for serious offences not involving fraud

In section 29 of the Criminal Procedure and Investigations Act 1996 (c. 25) (power to order preparatory hearings) in subsection (1) (preparatory hearing may be held in complex or lengthy trial) after “complexity” there is inserted “ a case of such seriousness ”.

Commencement Information

- II** S. 309 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, art. 2(1), Sch. 1 para. 25 (subject to art. 2(2), Sch. 2)

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310 Preparatory hearings to deal with severance and joinder of charges

- (1) In section 7(1) of the Criminal Justice Act 1987 (c. 38) (which sets out the purposes of preparatory hearings in fraud cases) after paragraph (d) there is inserted “or
 - (e) considering questions as to the severance or joinder of charges.”
- (2) In section 9(3) of that Act (determinations as to the admissibility of evidence etc) after paragraph (c) there is inserted “and
 - (d) any question as to the severance or joinder of charges.”
- (3) In section 9(11) of that Act (appeals against orders or rulings under section 9(3)(b) or (c)) for “or (c)” there is substituted “(c) or (d) ”.
- (4) In section 29(2) of the Criminal Procedure and Investigations Act 1996 (purposes of preparatory hearings in non-fraud cases) after paragraph (d) there is inserted—
 - “(e) considering questions as to the severance or joinder of charges.”.
- (5) In section 31(3) of that Act (rulings as to the admissibility of evidence etc) after paragraph (b) there is inserted—
 - “(c) any question as to the severance or joinder of charges.”

Commencement Information

- I3** [S. 310](#) wholly in force at 4.4.2005, see [s. 336\(3\)](#) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 25](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

311 Reporting restrictions for preparatory hearings

- (1) The Criminal Justice Act 1987 is amended as follows.
- (2) In paragraphs (a) and (b) of section 11(1) (restrictions on reporting) for “Great Britain” there is substituted “ the United Kingdom ”.
- (3) In section 11A (offences in connection with reporting) after subsection (3) there is inserted—
 - “(3A) Proceedings for an offence under this section shall not be instituted in Northern Ireland otherwise than by or with the consent of the Attorney General for Northern Ireland.”
- (4) In section 17(3) (extent) after “sections 2 and 3;” there is inserted “ sections 11 and 11A; ”.
- (5) The Criminal Procedure and Investigations Act 1996 (c. 25) is amended as follows.
- (6) In paragraphs (a) and (b) of section 37(1) (restrictions on reporting) for “Great Britain” there is substituted “ the United Kingdom ”.
- (7) In section 38 (offences in connection with reporting) after subsection (3) there is inserted—
 - “(3A) Proceedings for an offence under this section shall not be instituted in Northern Ireland otherwise than by or with the consent of the Attorney General for Northern Ireland.”

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- (8) In paragraphs (a) and (b) of section 41(1) (restrictions on reporting) for “Great Britain” there is substituted “ the United Kingdom ”.
- (9) In section 79(3) (extent) after “Parts III” there is inserted “ (other than sections 37 and 38) ”.
- (10) In Schedule 4 (modifications for Northern Ireland) paragraph 16 is omitted.

Commencement Information

- I4** S. 311 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 25 (subject to art. 2(2), Sch. 2)

312 Awards of costs

- (1) The Prosecution of Offences Act 1985 (c. 23) is amended as follows.
- (2) In section 16(4A) (defence costs on an appeal under section 9(11) of Criminal Justice Act 1987 (c. 38) may be met out of central funds) after “1987” there is inserted “ or section 35(1) of the Criminal Procedure and Investigations Act 1996 ”.
- (3) In section 18(2) (award of costs against accused in case of dismissal of appeal under section 9(11) of the Criminal Justice Act 1987 etc) after paragraph (c) there is inserted “or
 - (d) an appeal or application for leave to appeal under section 35(1) of the Criminal Procedure and Investigations Act 1996.”

Commencement Information

- I5** S. 312 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 25 (subject to art. 2(2), Sch. 2)

313 Extension of investigations by Criminal Cases Review Commission in England and Wales

- (1) Section 23A of the Criminal Appeal Act 1968 (c. 19) (power to order investigations by Criminal Cases Review Commission) is amended as follows.
- (2) In subsection (1) after “conviction” there is inserted “ or an application for leave to appeal against conviction, ”.
- (3) In paragraph (a) of that subsection—
 - (a) at the beginning there is inserted “ in the case of an appeal, ”, and
 - (b) for “case”, in both places where it occurs, there is substituted “ appeal ”.
- (4) After paragraph (a) of that subsection there is inserted—
 - “(aa) in the case of an application for leave to appeal, the matter is relevant to the determination of the application and ought, if possible, to be resolved before the application is determined;”.
- (5) After that subsection there is inserted—

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“(1A) A direction under subsection (1) above may not be given by a single judge, notwithstanding that, in the case of an application for leave to appeal, the application may be determined by a single judge as provided for by section 31 of this Act.”

(6) After subsection (4) there is inserted—

“(5) In this section “respondent” includes a person who will be a respondent if leave to appeal is granted.”

Commencement Information

I6 S. 313 wholly in force at 1.9.2004, see s. 336(3) and S.I. 2004/1629, art. 3(1)(2) (subject to art. 3(3)(4))

314 Extension of investigations by Criminal Cases Review Commission in Northern Ireland

(1) Section 25A of the Criminal Appeal (Northern Ireland) Act 1980 (c. 47) (power to order investigations by Criminal Cases Review Commission) is amended as follows.

(2) In subsection (1) after “conviction” there is inserted “ or an application for leave to appeal against conviction, ”.

(3) In paragraph (a) of that subsection—

(a) at the beginning there is inserted “ in the case of an appeal, ”, and

(b) for “case”, in both places where it occurs, there is substituted “ appeal ”.

(4) After paragraph (a) of that subsection there is inserted—

“(aa) in the case of an application for leave to appeal, the matter is relevant to the determination of the application and ought, if possible, to be resolved before the application is determined;”.

(5) After that subsection there is inserted—

“(1A) A direction under subsection (1) above may not be given by a single judge, notwithstanding that, in the case of an application for leave to appeal, the application may be determined by a single judge as provided for by section 45 below.”

(6) After subsection (4) there is inserted—

“(5) In this section “respondent” includes a person who will be a respondent if leave to appeal is granted.”

Commencement Information

I7 S. 314 wholly in force at 1.9.2004, see s. 336(3) and S.I. 2004/1629, art. 3(1)(2) (subject to art. 3(3)(4))

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315 Appeals following reference by Criminal Cases Review Commission

- (1) Section 14 of the Criminal Appeal Act 1995 (c. 35) (further provision about references by Criminal Cases Review Commission) is amended as follows.
- (2) After subsection (4) there is inserted—
 - “(4A) Subject to subsection (4B), where a reference under section 9 or 10 is treated as an appeal against any conviction, verdict, finding or sentence, the appeal may not be on any ground which is not related to any reason given by the Commission for making the reference.
 - (4B) The Court of Appeal may give leave for an appeal mentioned in subsection (4A) to be on a ground relating to the conviction, verdict, finding or sentence which is not related to any reason given by the Commission for making the reference.”
- (3) In subsection (5) for “any of sections 9 to” there is substituted “ section 11 or ”.

Commencement Information

- 18** S. 315 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, art. 2(1), Sch. 1 para. 25 (subject to art. 2(2), Sch. 2)

316 Power to substitute conviction of alternative offence on appeal in England and Wales

- (1) The Criminal Appeal Act 1968 (c. 19) is amended as follows.
- (2) In section 3 (power to substitute conviction of alternative offence) in subsection (1) after “an offence” there is inserted “ to which he did not plead guilty ”.
- (3) After section 3 there is inserted—

“3A Power to substitute conviction of alternative offence after guilty plea

- (1) This section applies on an appeal against conviction where—
 - (a) an appellant has been convicted of an offence to which he pleaded guilty,
 - (b) if he had not so pleaded, he could on the indictment have pleaded, or been found, guilty of some other offence, and
 - (c) it appears to the Court of Appeal that the plea of guilty indicates an admission by the appellant of facts which prove him guilty of the other offence.
- (2) The Court of Appeal may, instead of allowing or dismissing the appeal, substitute for the appellant’s plea of guilty a plea of guilty of the other offence and pass such sentence in substitution for the sentence passed at the trial as may be authorised by law for the other offence, not being a sentence of greater severity.”

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Commencement Information

I9 S. 316 wholly in force at 1.9.2004, see s. 336(3) and S.I. 2004/1629, **art. 3(1)(2)** (subject to **art. 3(3)(4)**)

317 Power to substitute conviction of alternative offence on appeal in Northern Ireland

- (1) The Criminal Appeal (Northern Ireland) Act 1980 (c. 47) is amended as follows.
- (2) In section 3 (power to substitute conviction of alternative offence) in subsection (1) after “an offence” there is inserted “ to which he did not plead guilty ”.
- (3) After section 3 there is inserted—

“3A Power to substitute conviction of alternative offence after guilty plea

- (1) This section applies where—
 - (a) an appellant has been convicted of an offence to which he pleaded guilty,
 - (b) if he had not so pleaded, he could on the indictment have pleaded, or been found, guilty of some other offence, and
 - (c) it appears to the Court of Appeal that the plea of guilty indicates an admission by the appellant of facts which prove him guilty of that other offence.
- (2) The Court may, instead of allowing or dismissing the appeal, substitute for the appellant’s plea of guilty a plea of guilty of that other offence and pass such sentence in substitution for the sentence passed at the trial as may be warranted in law by the plea so substituted.”

Commencement Information

I10 S. 317 wholly in force at 1.9.2004, see s. 336(3) and S.I. 2004/1629, **art. 3(1)(2)** (subject to **art. 3(3)(4)**)

318 Substitution of conviction on different charge on appeal from court-martial

- (1) The Courts-Martial (Appeals) Act 1968 (c. 20) is amended as follows.
- (2) In section 14 (substitution of conviction on different charge) in subsection (1) after “an offence” there is inserted “ to which he did not plead guilty ”.
- (3) After section 14 there is inserted—

“14A Substitution of conviction on different charge after guilty plea

- (1) This section applies where—
 - (a) an appellant has been convicted of an offence to which he pleaded guilty,

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- (b) if he had not so pleaded, he could lawfully have pleaded, or been found, guilty of some other offence, and
 - (c) it appears to the Appeal Court on an appeal against conviction that the plea of guilty indicates an admission by the appellant of facts which prove him guilty of that other offence.
- (2) The Appeal Court may, instead of allowing or dismissing the appeal, substitute for the appellant's plea of guilty a plea of guilty of the other offence, and may pass on the appellant, in substitution for the sentence passed on him by the court-martial, such sentence as they think proper, being a sentence warranted by the relevant Service Act for that other offence, but not a sentence of greater severity."

Commencement Information

III S. 318 wholly in force at 1.9.2004, see s. 336(3) and S.I. 2004/1629, **art. 3(1)(2)** (subject to **art. 3(3)(4)**)

319 Appeals against sentences in England and Wales

- (1) The Criminal Appeal Act 1968 (c. 19) is amended as follows.
- (2) In section 10 (appeal against sentence in certain cases) for subsection (3) there is substituted—
- “(3) An offender dealt with for an offence before the Crown Court in a proceeding to which subsection (2) of this section applies may appeal to the Court of Appeal against any sentence passed on him for the offence by the Crown Court.”
- (3) In section 11 (supplementary provisions as to appeal against sentence) after subsection (6) there is inserted—
- “(7) For the purposes of this section, any two or more sentences are to be treated as passed in the same proceeding if—
- (a) they are passed on the same day; or
 - (b) they are passed on different days but the court in passing any one of them states that it is treating that one together with the other or others as substantially one sentence.”

Commencement Information

III S. 319 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 25 (subject to **art. 2(2)**, Sch. 2)

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