



Police, Crime, Sentencing and Courts Act 2022

2022 CHAPTER 32

PART 13

PROCEDURES IN COURTS AND TRIBUNALS

Transmission and recording of court and tribunal proceedings

198 Remote observation and recording of court and tribunal proceedings

(1) In the Courts Act 2003, after section 85 insert—

“PART 7ZA

TRANSMISSION AND RECORDING OF COURT AND TRIBUNAL PROCEEDINGS

Remote observation and recording

85A Remote observation and recording of proceedings by direction of a court or tribunal

- (1) This section applies (subject to subsections (12) and (13)) to proceedings in any court; and in this section “court” has the same meaning as in the Contempt of Court Act 1981 (see section 19 of that Act).
- (2) If the proceedings are specified under subsection (8)(a), the court may direct that images or sounds of the proceedings are to be transmitted electronically for the purpose of enabling persons not taking part in the proceedings to watch or listen to the proceedings.

Status: This is the original version (as it was originally enacted).

- (3) A direction under subsection (2) may authorise only the following types of transmission—
 - (a) transmission to designated live-streaming premises, or
 - (b) transmission to which individuals are given access only having first identified themselves to the court (or to a person acting on behalf of the court).
- (4) In subsection (3)(a), “designated live-streaming premises” means premises that are designated by the Lord Chancellor as premises that are made available for members of the public to watch or listen to proceedings in accordance with directions under subsection (2).
- (5) A direction under subsection (2) may include further provision about—
 - (a) the manner of transmission, or
 - (b) the persons who are to be able to watch or listen to the transmission (including provision making that ability subject to conditions, or aimed at preventing persons who are not meant to watch or listen from being able to do so).
- (6) If images or sounds of the proceedings are transmitted electronically (whether under a direction under subsection (2) or any other power), the court may direct that a recording of the transmission is to be made, in the manner specified in the direction, for the purpose of enabling the court to keep a record of the proceedings.
- (7) A direction under subsection (2) or (6)—
 - (a) may relate to the whole, or to part, of the proceedings concerned, and
 - (b) may be varied or revoked.
- (8) The Lord Chancellor may by regulations—
 - (a) specify proceedings (by reference to their type, the court in which they take place, or any other circumstance) in relation to which directions under subsection (2) may be made;
 - (b) specify matters of which the court must be satisfied before deciding to make such a direction;
 - (c) specify matters that the court must take into account when deciding whether, and on what terms, to make such a direction;
 - (d) require directions under subsection (2) to include certain provision under subsection (5).
- (9) Before making regulations under subsection (8), the Lord Chancellor must determine whether the function of giving or withholding concurrence to the regulations would most appropriately be exercised by—
 - (a) the Lord Chief Justice of England and Wales,
 - (b) the Senior President of Tribunals, or
 - (c) both of them.
- (10) Regulations under subsection (8) may be made only with the concurrence of the Lord Chief Justice of England and Wales, the Senior President of Tribunals, or both of them, as determined under subsection (9).
- (11) Regulations under subsection (8) may make different provision for different purposes.

- (12) This section does not apply to proceedings in the Supreme Court.
- (13) This section does not apply to proceedings if provision regulating the procedure to be followed in those proceedings could be made by—
- (a) an Act of the Scottish Parliament,
 - (b) an Act of Senedd Cymru (including one passed with the consent of a Minister of the Crown within the meaning of section 158(1) of the Government of Wales Act 2006), or
 - (c) an Act of the Northern Ireland Assembly passed without the consent of the Secretary of State.”
- (2) In section 41 of the Criminal Justice Act 1925 (prohibition of photography etc in court) —
- (a) after subsection (1) insert—
“(1ZA) Subsection (1) does not apply to anything done in accordance with a direction under section 85A of the Courts Act 2003 (remote observation and recording of court and tribunal proceedings).”;
 - (b) in subsection (1A), after “provide for” insert “further”.
- (3) In section 29 of the [Criminal Justice Act \(Northern Ireland\) 1945 \(c. 15 \(N.I.\)\)](#) (prohibition of photography etc in court), after subsection (1) insert—
“(1A) Subsection (1) does not apply to anything done in accordance with a direction under section 85A of the Courts Act 2003 (remote observation and recording of court and tribunal proceedings).”
- (4) In section 9 of the Contempt of Court Act 1981 (prohibition of tape recording etc), after subsection (4) insert—
“(4A) This section does not apply to anything done in accordance with a direction under section 85A of the Courts Act 2003 (remote observation and recording of court and tribunal proceedings).”
- (5) In section 108(3) of the Courts Act 2003 (regulations and orders under that Act subject to affirmative procedure), after paragraph (c) insert—
“(ca) regulations under section 85A(8) (provision about directions for remote observation of court and tribunal proceedings);”.

199 Offence of recording or transmission in relation to remote proceedings

In the Courts Act 2003, after section 85A (inserted by section 198) insert—

“Offence of recording or transmission

85B Offence of recording or transmission in relation to remote proceedings

- (1) It is an offence for a person to make, or attempt to make—
- (a) an unauthorised recording, or
 - (b) an unauthorised transmission,
- of an image or sound within subsection (2) or (3).

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

- (2) An image or sound is within this subsection if it is an image or sound of court proceedings that is being transmitted to the place where the recording or transmission referred to in subsection (1) is made or attempted to be made.
- (3) An image or sound is within this subsection if it is an image or sound of a person while that person is remotely attending court proceedings.
- (4) A person is remotely attending court proceedings at any time when the person—
 - (a) is not in the same place as any member of the court, and
 - (b) is taking part in, watching or listening to the proceedings by way of a transmission.
- (5) For the purposes of this section a recording or transmission is “unauthorised” unless it is—
 - (a) authorised (generally or specifically) by the court in which the proceedings concerned are being conducted, or
 - (b) authorised (generally or specifically) by the Lord Chancellor.
- (6) It is a defence for a person charged with an offence under subsection (1) to prove that, at the time of the actual or attempted recording or transmission, the person—
 - (a) was not in designated live-streaming premises, and
 - (b) did not know that the image or sound concerned was of a sort within subsection (2) or (3).
- (7) In subsection (6)(a), “designated live-streaming premises” has the meaning given by section 85A(4).
- (8) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (9) Conduct that amounts to an offence under subsection (1) is also a contempt of court.

But a person cannot, in respect of the same conduct, be both convicted of the offence and punished for the contempt.
- (10) For the purposes of this section it does not matter whether a person making, or attempting to make, a recording or transmission intends the recording or transmission, or anything comprised in it, to be seen or heard by any other person.
- (11) This section does not apply to proceedings in the Supreme Court.
- (12) This section does not apply to court proceedings if provision regulating the procedure to be followed in those proceedings could be made by—
 - (a) an Act of the Scottish Parliament,
 - (b) an Act of Senedd Cymru (including one passed with the consent of a Minister of the Crown within the meaning of section 158(1) of the Government of Wales Act 2006), or
 - (c) an Act of the Northern Ireland Assembly passed without the consent of the Secretary of State.
- (13) In this section—

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

“court” has the same meaning as in the Contempt of Court Act 1981 (see section 19 of that Act);

“court proceedings” means proceedings in any court;

“recording” means a recording on any medium—

- (a) of a single image, a moving image or any sound, or
- (b) from which a single image, a moving image or any sound may be produced or reproduced;

“transmission” means any transmission by electronic means of a single image, a moving image or any sound (and “transmitted” is to be construed accordingly).”

200 Expansion of use of video and audio links in criminal proceedings

- (1) In the Criminal Justice Act 2003, for section 51 substitute—

“51 Directions for live links in criminal proceedings

- (1) The court may, by a direction, require or permit a person to take part in eligible criminal proceedings through—
 - (a) a live audio link, or
 - (b) a live video link.
- (2) A direction under this section may be given in relation to a member of a jury only if the direction requires all members of the jury to take part through a live video link while present at the same place.
- (3) In this Part “eligible criminal proceedings” means—
 - (a) a preliminary hearing (see section 56(1)),
 - (b) a summary trial,
 - (c) a criminal appeal to the Crown Court and any proceedings that are preliminary or incidental to such an appeal,
 - (d) a trial on indictment or any other trial in the Crown Court for an offence,
 - (e) proceedings under section 4A or 5 of the Criminal Procedure (Insanity) Act 1964,
 - (f) proceedings under Part 3 of the Mental Health Act 1983,
 - (g) proceedings under—
 - (i) section 11 of the Powers of Criminal Courts (Sentencing) Act 2000, or
 - (ii) section 81(1)(g) of the Senior Courts Act 1981 or section 16 of this Act in respect of a person who has been remanded by a magistrates’ court on adjourning a case under that section of the 2000 Act,
 - (h) an appeal to the criminal division of the Court of Appeal and any proceedings that are preliminary or incidental to such an appeal,
 - (i) a reference to the Court of Appeal by the Attorney General under Part 4 of the Criminal Justice Act 1988 and any proceedings that are preliminary or incidental to such a reference,

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

- (j) the hearing of a reference under section 9 or 11 of the Criminal Appeal Act 1995 and any proceedings that are preliminary or incidental to such a hearing,
 - (k) a hearing before a magistrates' court or the Crown Court which is held after the defendant has entered a plea of guilty,
 - (l) a hearing under section 142(1) or (2) of the Magistrates' Courts Act 1980,
 - (m) a hearing before the Court of Appeal under section 80 of this Act and any proceedings that are preliminary or incidental to such a hearing,
 - (n) any hearing following conviction held for the purpose of making a decision about bail in respect of the person convicted,
 - (o) a sentencing hearing (see section 56(1)), or
 - (p) an enforcement hearing (see section 56(1)).
- (4) The court may not give a direction under this section unless—
 - (a) the court is satisfied that it is in the interests of justice for the person to whom the direction relates to take part in the proceedings in accordance with the direction through the live audio link or live video link,
 - (b) the parties to the proceedings have been given the opportunity to make representations, and
 - (c) if so required by section 52(9), the relevant youth offending team has been given the opportunity to make representations.
- (5) In deciding whether to give a direction under this section, the court must consider—
 - (a) any guidance given by the Lord Chief Justice, and
 - (b) all the circumstances of the case.
- (6) Those circumstances include in particular—
 - (a) the availability of the person to whom the direction would relate,
 - (b) any need for that person to attend in person,
 - (c) the views of that person,
 - (d) the suitability of the facilities at the place where that person would take part in the proceedings in accordance with the direction,
 - (e) whether that person would be able to take part in the proceedings effectively if the person took part in accordance with the direction,
 - (f) in the case of a direction relating to a witness—
 - (i) the importance of the witness's evidence to the proceedings, and
 - (ii) whether the direction might tend to inhibit any party to the proceedings from effectively testing the witness's evidence, and
 - (g) the arrangements that would or could be put in place for members of the public to see or hear the proceedings as conducted in accordance with the direction.”
- (2) In the Crime and Disorder Act 1998, omit Part 3A (live links in preliminary, sentencing and enforcement hearings).

- (3) Schedule 20 makes further provision in connection with the provision made by subsections (1) and (2).

201 Repeal of temporary provision

- (1) In the Coronavirus Act 2020, sections 53 and 54 and Schedules 23 and 24 (which make temporary modifications that are superseded by the provision made by section 200) are repealed.
- (2) In the Coronavirus Act 2020, section 55 and Schedule 25 (which make temporary modifications that are superseded by the provision made by sections 198 and 199) are repealed.

202 Expedited procedure for initial regulations about remote observation of proceedings

- (1) This section applies in relation to the first regulations made under section 85A(8) of the Courts Act 2003 (as inserted by section 198(1)).
- (2) The regulations may be made without a draft of the instrument containing them having been laid before and approved by a resolution of each House of Parliament (notwithstanding section 108(3) of the Courts Act 2003).
- (3) If regulations are made in reliance on subsection (2), the statutory instrument containing them must be laid before Parliament after being made.
- (4) Regulations contained in a statutory instrument laid before Parliament under subsection (3) cease to have effect at the end of the period of 28 days beginning with the day on which the instrument is made unless, during that period, the instrument is approved by a resolution of each House of Parliament.
- (5) In calculating the period of 28 days, no account is to be taken of any whole days that fall within a period during which—
- (a) Parliament is dissolved or prorogued, or
 - (b) either House of Parliament is adjourned for more than four days.
- (6) If regulations cease to have effect as a result of subsection (4), that does not—
- (a) affect the validity of anything previously done under or by virtue of the regulations, or
 - (b) prevent the making of new regulations.