
STATUTORY INSTRUMENTS

2005 No. 384

The Criminal Procedure Rules 2005

PART 63

APPEAL TO THE CROWN COURT AGAINST CONVICTION OR SENTENCE

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Application of this Part

63.1. This Part shall apply to any appeal under section 108(1) of the Magistrates' Courts Act 1980⁽¹⁾ (conviction and sentence), section 45(1) of the Mental Health Act 1983⁽²⁾ (hospital or guardianship order in the absence of conviction) and paragraph 11 of Schedule 3 to the Powers of Criminal Courts (Sentencing) Act 2000⁽³⁾ (re-sentencing on failure to comply with supervision order).

[Note. Formerly rule 6 of the Crown Court Rules 1982⁽⁴⁾. See also direction V.52 of the Practice Direction.]

⁽¹⁾ 1980 c. 43.

⁽²⁾ 1983 c. 20; section 45 was amended by the Crime (Sentences) Act 1997 (c. 43), section 46.

⁽³⁾ 2000 c. 6; Schedule 3, paragraph 11 was amended by the Criminal Justice and Court Services Act 2000 (c. 43), Schedule 7, Part II, paragraphs 160, 199(1) and (14), and is further amended by the Criminal Justice Act 2003 (c. 44), Schedule 32, paragraphs 90 and 125, with effect from a date to be appointed.

⁽⁴⁾ S.I. 1982/1109; modified by Criminal Justice Act 1991 (c. 53), section 70; amending instruments relevant to this Part are S.I. 1988/952, 1988/1322, 1988/1635, 1994/1480, 1999/2838.

Notice of appeal

63.2.—(1) An appeal shall be commenced by the appellant's giving notice of appeal in accordance with the following provisions of this rule.

(2) The notice required by the preceding paragraph shall be in writing and shall be given to a court officer for the magistrates' court and to any other party to the appeal.

(3) Notice of appeal shall be given not later than 21 days after the day on which the decision appealed against is given and, for this purpose, where the court has adjourned the trial of an information after conviction, that day shall be the day on which the court sentences or otherwise deals with the offender:

Provided that, where a court exercises its power to defer sentence under section 1(1) of the Powers of Criminal Courts (Sentencing) Act 2000⁽⁵⁾, that day shall, for the purposes of an appeal against conviction, be the day on which the court exercises that power.

(4) A notice of appeal shall state the grounds of appeal.

(5) The time for giving notice of appeal may be extended, either before or after it expires, by the Crown Court, on an application made in accordance with paragraph (6).

(6) An application for an extension of time shall be made in writing, specifying the grounds of the application and sent to a Crown Court officer.

(7) Where the Crown Court extends the time for giving notice of appeal, the Crown Court officer shall give notice of the extension to—

- (a) the appellant; and
- (b) the magistrates' court officer,

and the appellant shall give notice of the extension to any other party to the appeal.

[Note. Formerly rule 7 of the Crown Court Rules 1982.]

Documents to be sent to Crown Court

63.3.—(1) The magistrates' court officer shall as soon as practicable send to the Crown Court officer any notice of appeal to the Crown Court given to the magistrates' court officer.

(2) The magistrates' court officer shall send to the Crown Court officer, with the notice of appeal, a copy of the extract of the magistrates' court register relating to that decision and of the last known or usual place of abode of the parties to the appeal.

(3) Where any person, having given notice of appeal to the Crown Court, has been granted bail for the purposes of the appeal the magistrates' court officer for the court from whose decision the appeal is brought shall before the day fixed for the hearing of the appeal send to the Crown Court officer a copy of the record made in pursuance of section 5 of the Bail Act 1976⁽⁶⁾.

(4) Where a notice of appeal is given in respect of a hospital order or guardianship order made under section 37 of the Mental Health Act 1983⁽⁷⁾ (powers of courts to order hospital admission or guardianship), a magistrates' court officer for the court from which the appeal is brought shall

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- (5) Section 1(1) is amended by the Criminal Justice Act 2003 (c. 44), Schedule 23, paragraph 1, with effect from a date to be appointed.
 - (6) 1976 c. 63; section 5 was amended by the Criminal Justice and Public Order Act 1994 (c. 33), section 27 and Schedule 3, paragraph 1(a), and by the Criminal Justice and Police Act 2001, section 129(1) and is further amended by the Criminal Justice Act 2003 (c. 44), Schedule 37, Part 12 with effect from a date to be appointed.
 - (7) Section 37 was amended by the Crime (Sentences) Act 1997 (c. 43), section 55 and Schedule 4, paragraph 12, by the Youth Justice and Criminal Evidence Act 1999 (c. 23), section 67 and Schedule 4, paragraph 11, and by the Powers of Criminal Courts (Sentencing) Act 2000, section 165(1) and Schedule 9, paragraph 90, it was modified by the Criminal Justice and Court Services Act 2000 (c. 43), section 43 and is further amended by the Criminal Justice Act 2003 (c. 44), Schedule 32, Part 1, paragraphs 37 and 38, with effect from a date to be appointed.

send with the notice to the Crown Court officer any written evidence considered by the court under section 37(2) of the 1983 Act.

(5) Where a notice of appeal is given in respect of an appeal against conviction by a magistrates' court the magistrates' court officer shall send with the notice to the Crown Court officer any admission of facts made for the purposes of the summary trial under section 10 of the Criminal Justice Act 1967⁽⁸⁾ (proof by formal admission).

(6) Where a notice of appeal is given in respect of an appeal against sentence by a magistrates' court, and where that sentence was a custodial sentence, the magistrates' court officer shall send with the notice to the Crown Court officer a statement of whether the magistrates' court obtained and considered a pre-sentence report before passing such sentence.

[Note. Formerly rule 74 of the Magistrates' Courts Rules 1981(9).]

Entry of appeal and notice of hearing

63.4. On receiving notice of appeal, the Crown Court officer shall enter the appeal and give notice of the time and place of the hearing to—

- (a) the appellant;
- (b) any other party to the appeal; and
- (c) the magistrates' court officer.

[Note. Formerly rule 8 of the Crown Court Rules 1982.]

Abandonment of appeal—notice

63.5.—(1) Without prejudice to the power of the Crown Court to give leave for an appeal to be abandoned, an appellant may abandon an appeal by giving notice in writing, in accordance with the following provisions of this rule, not later than the third day before the day fixed for hearing the appeal.

(2) The notice required by the preceding paragraph shall be given—

- (a) to the magistrates' court officer;
- (b) to the Crown Court officer; and
- (c) to any other party to the appeal.

(3) For the purposes of determining whether notice of abandonment was given in time there shall be disregarded any Saturday, Sunday and any day which is specified to be a bank holiday in England and Wales under section 1(1) of the Banking and Financial Dealings Act 1971⁽¹⁰⁾.

[Note. Formerly rule 11 of the Crown Court Rules 1982.]

Abandonment of appeal—bail

63.6. Where notice to abandon an appeal has been given by the appellant, any recognizance conditioned for the appearance of the appellant at the hearing of the appeal shall have effect as if conditioned for the appearance of the appellant before the court from whose decision the appeal was brought at a time and place to be notified to the appellant by the court officer for that court.

[Note. Formerly rule 75 of the Magistrates' Courts Rules 1981.]

⁽⁸⁾ 1967 c. 80; section 10 was modified by S.I. 1991/2684.

⁽⁹⁾ S.I. 1981/552; amending instruments relevant to this Part are S.I. 1992/2072, 1993/1183, 2001/610.

⁽¹⁰⁾ 1971 c. 80.

Number and qualification of justices—appeals from youth courts

63.7. Subject to the provisions of rule 63.8 and to any directions under section 74(4) of the Supreme Court Act 1981⁽¹¹⁾ (directions disapplying the set out number and qualifications of justices), on the hearing of an appeal from a youth court the Crown Court shall consist of a judge sitting with two justices each of whom is a member of a youth court panel and who are chosen so that the Court shall include a man and a woman.

[Note. Formerly rule 3 of the Crown Court Rules 1982.]

Number and qualification of justices—dispensation for special circumstances

63.8.—(1) The Crown Court may enter on any appeal notwithstanding that the Court is not constituted as required by section 74(1) of the Supreme Court Act 1981 or rule 63.7 if it appears to the judge that the Court could not be constituted without unreasonable delay and the Court includes one justice who is a member of a youth court panel.

(2) The Crown Court may at any stage continue with any proceedings with a Court from which any one or more of the justices initially comprising the Court has withdrawn, or is absent for any reason.

[Note. Formerly rule 4 of the Crown Court Rules 1982.]

Disqualifications

63.9. A justice of the peace shall not sit in the Crown Court on the hearing of an appeal in a matter on which he adjudicated.

[Note. Formerly rule 5 of the Crown Court Rules 1982.]

(11) 1981 c. 54.