

*Draft Order laid before Parliament under section 58(4) of the Crime and Courts Act 2013, for
approval by resolution of each House of Parliament.*

DRAFT STATUTORY INSTRUMENTS

2020 No. XXXX

SENIOR COURTS OF ENGLAND AND WALES

The Crown Court (Recording and Broadcasting) Order 2020

Made - - - - XXrd MONTH 2020

Coming into force in accordance with article 1

The Lord Chancellor makes the following Order, with the concurrence of the Lord Chief Justice, in exercise of the powers conferred by section 32(1) of the Crime and Courts Act 2013⁽¹⁾.

In accordance with section 58(4) of that Act, a draft of this Order has been laid before and approved by a resolution of each House of Parliament.

Citation and commencement

1. This Order may be cited as the Crown Court (Recording and Broadcasting) Order 2020 and comes into force on the day after the day on which it is made.

Interpretation

2. In this Order—

“broadcast” means the transmission to members of the public of a recording of sentencing remarks to which this Order applies;

“court” means the Crown Court;

“judge” means a judge who is—

(a) a High Court Judge;

(b) a Senior Circuit Judge who is also the Resident Judge of a Crown Court centre; or

(c) a Senior Circuit Judge whose base court is the Central Criminal Court;

“recording” means a visual or sound recording on any medium from which a single image, a moving image or any sound may be produced or reproduced, or the making of any such recording; and “record” and “recorded” are to be construed accordingly.

Crown Court sentencing

3. This Order applies to the recording and broadcasting of sentencing remarks in the Crown Court made by the judge in open court.

Recording and broadcasting sentencing remarks

4. Section 41 of the Criminal Justice Act 1925(2) and section 9 of the Contempt of Court Act 1981(3) do not apply where (and only where) sentencing remarks are—

- (a) recorded in accordance with the conditions in articles 5 to 7; or
- (b) broadcast in accordance with the conditions in articles 8 to 10.

Recording – proceedings

5. Recording is only of the judge when making sentencing remarks in open court.

Recording – person recording

6. Recording is by a person who—

- (a) is permitted in writing by the Lord Chancellor to record sentencing remarks in court; and
- (b) assigns any copyright in the recording of sentencing remarks to the Lord Chancellor, for and on behalf of the Crown.

Recording – only with permission of the judge

7. Recording takes place only with the permission in writing of the judge and in accordance with any conditions imposed by the judge.

Broadcast – broadcast of permitted recordings only

8. Only recordings made in accordance with articles 5 to 7 are broadcast.

Broadcast – reporting restrictions

9. A broadcast must not breach any applicable reporting restriction.

Broadcast – general conditions of use

10.—(1) A report or presentation of proceedings that includes a broadcast of sentencing remarks must be fair and accurate having regard to—

- (a) the overall content of the report or presentation; and
 - (b) the context in which the broadcast is presented.
- (2) A broadcast must not be for the purposes of—
- (a) a party political broadcast;
 - (b) advertisement or promotion, except where such advertisement or promotion relates to a report or presentation of proceedings that includes a broadcast;
 - (c) light entertainment; or

(2) 1925 c. 86. Section 41 was amended by section 56(4) of and Schedule 11 to the Courts Act 1971 (c. 23), sections 37, 38 and 46 of the Criminal Justice Act 1982 (c. 48) and by section 47(1) of the Constitutional Reform Act 2005 (c. 4).

(3) 1981 c. 49.

(d) satire.

Date

Name
Parliamentary Under Secretary of State
Ministry of Justice

I concur

Date

Name
Lord Chief Justice

EXPLANATORY NOTE

(This note is not part of the Order)

This Order prescribes the conditions to be satisfied for the recording and broadcast of sentencing remarks in the Crown Court. When the conditions are satisfied, section 41 of the Criminal Justice Act 1925 (c. 86) (which makes it an offence to film in court) and section 9 of the Contempt of Court Act 1981 (c. 49) (which provides that it is a contempt of court to record sound in court except with the permission of the court) do not apply.

Articles 1 to 4 set out when the Order comes into force, the definitions of terms used in the Order, that the Order applies to sentencing remarks in the Crown Court made by the judge in open court and that section 41 and section 9 do not apply where the conditions in the Order have been satisfied.

Articles 5 to 7 set out what can be recorded and who may record it.

Articles 8 to 10 set out when the recording of sentencing remarks can be broadcast and what content is permitted in a broadcast.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.