



# Magistrates' Courts Act 1980

## 1980 CHAPTER 43

### PART V

#### APPEAL AND CASE STATED

##### *Appeal*

#### **108 Right of appeal to the Crown Court.**

- (1) A person convicted by a magistrates' court may appeal to the Crown Court—
  - (a) if he pleaded guilty, against his sentence;
  - (b) if he did not, against the conviction or sentence.

[<sup>F1</sup>(1A) [<sup>F2</sup>Section 14 of the <sup>M1</sup>Powers of Criminal Courts(Sentencing) Act 2000] (under which a conviction of an offence for which <sup>F3</sup> . . . an order for conditional or absolute discharge is made is deemed not to be a conviction except for certain purposes) shall not prevent an appeal under this Act, whether against conviction or otherwise.]

- (2) A person sentenced by a magistrates' court for an offence in respect of which <sup>F4</sup> . . . an order for conditional discharge has been previously made may appeal to the Crown Court against the sentence.

- (3) In this section "sentence" includes any order made on conviction by a magistrates' court, not being—

- (a) . . . . . <sup>F5</sup>
- (b) an order for the payment of costs;
- (c) an order under <sup>F6</sup> . . . [<sup>F7</sup>section 37(1) of the Animal Welfare Act 2006] (which enables a court to order the destruction of an animal); or
- (d) an order made in pursuance of any enactment under which the court has no discretion as to the making of the order or its terms

[<sup>F8</sup>and also includes a [<sup>F9</sup>declaration of relevance, within the meaning of section 23 of] the Football Spectators Act 1989].

*Status: Point in time view as at 15/12/2011.*

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[<sup>F10</sup>(4) Subsection (3)(d) above does not prevent an appeal against a surcharge imposed under section 161A of the Criminal Justice Act 2003.]

#### Textual Amendments

- F1** S. 108(1A) inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 66(2)
- F2** Words in s. 108(1A) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 71**
- F3** Words in s. 108(1A) repealed (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 101(2), **Sch. 13**; S.I. 1992/333, art. 2(2), **Sch. 2**.
- F4** Words in s. 108(2) repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 43, **Sch. 10**; S.I. 1998/2327, art. 2
- F5** S. 108(3)(a) repealed by Criminal Justice Act 1982 (c. 48, SIF 39:1), **Sch. 16**
- F6** Words in s. 108(3)(c) repealed (28.8.2000) by 2000 c. 25, s. 1, **Sch. 3**; S.I. 2000/2125, art. 2
- F7** Words in s. 108(3)(c) substituted (27.3.2007 for W. and 6.4.2007 for E.) by Animal Welfare Act 2006 (c. 45), ss. 64, 68, **Sch. 3 para. 10** (with ss. 1(2), 58(1), 59, and 60); S.I. 2007/1030 {art. 2}; S.I. 2007/499, art. 2(2)(l)
- F8** Words inserted by Football Spectators Act 1989 (c. 37, SIF 45A), s. 23(3)(c)
- F9** Words in s. 108(3) substituted (6.4.2007) by Violent Crime Reduction Act 2006 (c. 38), ss. 52, 66(2), **Sch. 3 para. 14(2)(b)**; S.I. 2007/858, art. 2(k)
- F10** S. 108(4) inserted (1.4.2007) by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 58(1), 60, **Sch. 10 para. 10**; S.I. 2007/602, art. 2(c)

#### Modifications etc. (not altering text)

- C1** S. 108(1) extended (31.3.1997) by 1995 c. 35, s. 11(2)(3); S.I. 1997/402, art. 3
- C2** S. 108(1)(b) extended (19.2.2001) by 2000 c. 11, s. 7(7)(b); S.I. 2001/421, art. 2  
S. 108(1)(b) extended (11.3.2005) by Prevention of Terrorism Act 2005 (c. 2), s. 12(7)(d)
- C3** S. 108(1)(b) extended (15.12.2011) by Terrorism Prevention and Investigation Measures Act 2011 (c. 23), s. 31(2), **Sch. 3 para. 4(5)(d)** (with Sch. 8)

#### Marginal Citations

- M1** 2000 c. 6.

## 109 Abandonment of appeal.

- (1) Where notice to abandon an appeal has been duly given by the appellant—
- (a) the court against whose decision the appeal was brought may issue process for enforcing that decision, subject to anything already suffered or done under it by the appellant; and
  - (b) the said court may, on the application of the other party to the appeal, order the appellant to pay to that party such costs as appear to the court to be just and reasonable in respect of expenses properly incurred by that party in connection with the appeal before notice of the abandonment was given to that party.
- (2) In this section “appeal” means an appeal from a magistrates’ court to the Crown Court, and the reference to a notice to abandon an appeal is a reference to a notice shown to the satisfaction of the magistrates’ court to have been given in accordance with [<sup>F11</sup>rules of court] .

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### Textual Amendments

- F11** Words in s. 109(2) substituted (1.9.2004) by Courts Act 2003 (c. 39), ss. 109(1), 110, Sch. 8 para. 234; S.I. 2004/2066, art. 2(c)(xi) (subject to art. 3)

## 110 Enforcement of decision of the Crown Court.

After the determination by the Crown Court of an appeal from a magistrates' court the decision appealed against as confirmed or varied by the Crown Court, or any decision of the Crown Court substituted for the decision appealed against, may, without prejudice to the powers of the Crown Court to enforce the decision, be enforced—

- (a) by the issue by the court by which the decision appealed against was given of any process that it could have issued if it had decided the case as the Crown Court decided it;
- (b) so far as the nature of any process already issued to enforce the decision appealed against permits, by that process;

and the decision of the Crown Court shall have effect as if it had been made by the magistrates' court against whose decision the appeal is brought.

*Case stated*

## 111 Statement of case by magistrates' court.

- (1) Any person who was a party to any proceeding before a magistrates' court or is aggrieved by the conviction, order, determination or other proceeding of the court may question the proceeding on the ground that it is wrong in law or is in excess of jurisdiction by applying to the justices composing the court to state a case for the opinion of the High Court on the question of law or jurisdiction involved; but a person shall not make an application under this section in respect of a decision against which he has a right of appeal to the High Court or which by virtue of any enactment passed after 31st December 1879 is final.
- (2) An application under subsection (1) above shall be made within 21 days after the day on which the decision of the magistrates' court was given.
- (3) For the purpose of subsection (2) above, the day on which the decision of the magistrates' court is given shall, where the court has adjourned the trial of an information after conviction, be the day on which the court sentences or otherwise deals with the offender.
- (4) On the making of an application under this section in respect of a decision any right of the applicant to appeal against the decision to the Crown Court shall cease.
- (5) If the justices are of opinion that an application under this section is frivolous, they may refuse to state a case, and, if the applicant so requires, shall give him a certificate stating that the application has been refused; but the justices shall not refuse to state a case if the application is made by or under the direction of the Attorney General.
- (6) Where justices refuse to state a case, the High Court may, on the application of the person who applied for the case to be stated, make an order of mandamus requiring the justices to state a case.

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[<sup>F12</sup>(7) This section does not apply in relation to family proceedings within the meaning of section 111A of this Act]

#### Textual Amendments

**F12** S. 111(7) inserted (6.4.2009) by The Access to Justice Act 1999 (Destination of Appeals) (Family Proceedings) Order 2009 (S.I. 2009/871), **art. 4(2)** (with art. 14)

#### Modifications etc. (not altering text)

**C4** S. 111 applied (1.7.1999) by S.I. 1999/1517, reg. 12(3), **Sch. 4 para. 9(4)**

**C5** S. 111 referred to (11.3.2005) by Prevention of Terrorism Act 2005 (c. 2), **s. 12(7)(b)**

### [<sup>F13</sup>111A Appeals on ground of error of law etc in family proceedings

- (1) This section applies in relation to family proceedings in a magistrates' court.
- (2) Any person who was a party to any proceeding before the court, or is aggrieved by the order, determination or other proceeding of the court, may question the proceeding on the ground that it is wrong in law or is in excess of jurisdiction by appealing to a county court.
- (3) But a person may not appeal under subsection (2) in respect of a decision if-
  - (a) the person has a right of appeal to a county court against the decision otherwise than under this section, or
  - (b) the decision is final by virtue of any enactment passed after 31<sup>st</sup> December 1879.
- (4) A notice of appeal under subsection (2) shall be filed within 21 days after the day on which the decision of the magistrates' court was given.
- (5) In this section “family proceedings” means —
  - (a) proceedings which, by virtue of section 65 of this Act, are or may be treated as family proceedings for the purposes of this Act; and
  - (b) proceedings under the Child Support Act 1991.]

#### Textual Amendments

**F13** S. 111A inserted (6.4.2009) by The Access to Justice Act 1999 (Destination of Appeals) (Family Proceedings) Order 2009 (S.I. 2009/871), **art. 4(3)**

#### Modifications etc. (not altering text)

**C6** S. 111A applied (18.6.2011) by The Civil Jurisdiction and Judgments (Maintenance) Regulations 2011 (S.I. 2011/1484), reg. 1(1), **Sch. 1 para. 7(a)**

### 112 [<sup>F14</sup>Effect of decisions made on case stated or on appeal]

- <sup>F15</sup>(1) Any conviction, order, determination or other proceeding of a magistrates' court varied by the High Court on an appeal by case stated, and any judgment or order of the High Court on such an appeal, may be enforced as if it were a decision of the magistrates' court from which the appeal was brought.

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[<sup>F16</sup>(2) Any order, determination or other proceeding of a magistrates' court varied by a county court on an appeal under section 111A, and any judgment or order of a county court on such an appeal, may be enforced as if it were a decision of the magistrates' court from which the appeal was brought.]

#### Textual Amendments

- F14** S. 112 heading substituted (6.4.2009) by The Access to Justice Act 1999 (Destination of Appeals) (Family Proceedings) Order 2009 (S.I. 2009/871), **art. 4(4)(a)** (with art. 14)
- F15** S. 112 renumbered as s. 112(1) (6.4.2009) by The Access to Justice Act 1999 (Destination of Appeals) (Family Proceedings) Order 2009 (S.I. 2009/871), **art. 4(4)(b)** (with art. 14)
- F16** S. 112(2) inserted (6.4.2009) by The Access to Justice Act 1999 (Destination of Appeals) (Family Proceedings) Order 2009 (S.I. 2009/871), **art. 4(4)(c)** (with art. 14)

#### *Supplemental provisions as to appeal and case stated*

### **113 Bail on appeal or case stated.**

- (1) Where a person has given notice of appeal to the Crown Court against the decision of a magistrates' court or has applied to a magistrates' court to state a case for the opinion of the High Court, then, if he is in custody, the magistrates' court may [<sup>F17</sup>, subject to section 25 of the Criminal Justice and Public Order Act 1994,] grant him bail.
- (2) If a person is granted bail under subsection (1) above, the time and place at which he is to appear (except in the event of the determination in respect of which the case is stated being reversed by the High Court) shall be—
  - (a) if he has given notice of appeal, the Crown Court at the time appointed for the hearing of the appeal;
  - (b) if he has applied for the statement of a case, the magistrates' court at such time within 10 days after the judgment of the High Court has been given as may be specified by the magistrates' court;and any recognizance that may be taken from him or from any surety for him shall be conditioned accordingly.
- (3) Subsection (1) above shall not apply where the accused has been committed to the Crown Court for sentence under section 37 [<sup>F18</sup>section 3 of the Powers of Criminal Courts (Sentencing) Act 2000].
- (4) Section 37(6) of the <sup>M2</sup>Criminal Justice Act 1948 (which relates to the currency of a sentence while a person is released on bail by the High Court) shall apply to a person released on bail by a magistrates' court under this section pending the hearing of a case stated as it applies to a person released on bail by the High Court under section 22 of the <sup>M3</sup>Criminal Justice Act 1967.

#### Textual Amendments

- F17** Words in s. 113(1) inserted (10.4.1995) by 1994 c. 33, s. 168(2), **Sch. 10 para. 44**; S.I. 1995/721, art. 2, **Sch. Appendix A**
- F18** Words in s. 113(3) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 72**

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#### Marginal Citations

- M2** 1948 c. 58.  
**M3** 1967 c. 80.

## 114 Recognizances and fees on case stated.

Justices to whom application has been made to state a case for the opinion of the High Court on any proceeding of a magistrates' court shall not be required to state the case until the applicant has entered into a recognizance, with or without sureties, before the magistrates' court, conditioned to prosecute the appeal without delay and to submit to the judgment of the High Court and pay such costs as that Court may award; and (except in any criminal matter) [<sup>F19</sup>a justices' clerk] shall not be required to deliver the case to the applicant until the applicant has paid [<sup>F20</sup>the fees payable for the case and for the recognizances to the [<sup>F21</sup>designated officer] for the court].

#### Textual Amendments

- F19** Words in s. 114 substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 235(a)**; S.I. 2005/910, {art. 3(y)}
- F20** Words in s. 114 substituted (1.4.2001) by 1999 c. 22, s. 90, Sch. 13 paras. 95, **113** (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(ii)** (with Sch. 2 para. 2)
- F21** Words in s. 114 substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 235(b)**; S.I. 2005/910, {art. 3(y)}

**Status:**

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