

*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.*

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DRAFT STATUTORY INSTRUMENTS

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**2016 No.**

**SENIOR COURTS OF ENGLAND AND WALES**

**The Crown Court (Recording) Order 2016**

*Made* - - - - *\*\*\**

*Coming into force in accordance with article 1*

The Lord Chancellor, with the concurrence of the Lord Chief Justice, makes the following Order under section 32(1) of the Crime and Courts Act 2013(a).

In accordance with section 58(4) of that Act, a draft of this Order was 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) Order 2016 and comes into force on the day after the day on which it is made.

**Definitions**

2. In this Order, “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 “recorded” shall be construed accordingly.

**Crown Court**

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

**Recording sentencing remarks**

4. Section 41 of the Criminal Justice Act 1925(b) and section 9 of the Contempt of Court Act 1981(c) do not apply where sentencing remarks are recorded in accordance with the conditions in articles 5 to 7.

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(a) 2013 c. 22.

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

(c) 1981 c. 49.

## Conditions

5. Recording is only for the purposes of a not-for-broadcast test.

6.—(1) Recording is only with the permission of the qualifying judge who will make the sentencing remarks.

(2) In this article “qualifying judge” means a judge who—

- (a) is a High Court judge or the Recorder of London or the Common Sergeant of London and is sitting at the Central Criminal Court; or
- (b) is a High Court judge or a Senior Circuit judge and is sitting at one of the following places—
  - (i) Southwark;
  - (ii) Manchester (Crown Square);
  - (iii) Birmingham;
  - (iv) Bristol;
  - (v) Liverpool;
  - (vi) Leeds;
  - (vii) Cardiff.

7. Recording is by a person who—

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

Signed by the Lord Chancellor

Lord Chancellor

I concur

Lord Chief Justice

### EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order makes provision for the recording of sentencing remarks in Crown Court cases. Where the conditions specified in articles 5 to 7 are satisfied, section 41 of the Criminal Justice Act 1925 (c. 86) and section 9 of the Contempt of Court Act 1981 (c. 49) do not have effect. Section 41 makes it an offence to film in court. Section 9 provides that it is a contempt of court to record sound in court except with the permission of the court.

The Order limits the permissible recording of Crown Court cases to testing the recording on a not for broadcast basis of certain specified judges’ sentencing remarks at specified locations of the Crown Court.

A full impact assessment of the effect this Order will have on the costs of business, the voluntary sector and the public sector is available at <http://legislation.gov.uk>.

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