



# Criminal Justice Act 1988

## 1988 CHAPTER 33

### PART XI

#### MISCELLANEOUS

##### *Reports of criminal proceedings*

#### **158 Anonymity in rape etc. cases.**

- (1) The <sup>M1</sup>Sexual Offences (Amendment) Act 1976 shall be amended as follows.
- (2) The following subsections shall be substituted for subsection (1) of section 4 (anonymity of complainants in rape etc. cases)—
  - “(1) Except as authorised by a direction given in pursuance of this section—
    - (a) after an allegation that a woman has been the victim of a rape offence has been made by the woman or by any other person, neither the woman’s name nor her address nor a still or moving picture of her shall during her lifetime—
      - (i) be published in England and Wales in a written publication available to the public; or
      - (ii) be broadcast or included in a cable programme in England and Wales,if that is likely to lead members of the public to identify her as an alleged victim of such an offence; and
    - (b) after a person is accused of a rape offence, no matter likely to lead members of the public to identify a woman as the complainant in relation to that accusation shall during her lifetime—
      - (i) be published in England and Wales in a written publication available to the public; or
      - (ii) be broadcast or included in a cable programme in England and Wales;

*Status: Point in time view as at 01/12/2020.*

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but nothing in this subsection prohibits the publication or broadcasting or inclusion in a cable programme of matter consisting only of a report of criminal proceedings other than proceedings at, or intended to lead to, or on an appeal arising out of, a trial at which the accused is charged with the offence.

(1A) In subsection (1) above “picture” includes a likeness however produced.”.

(3) The following subsections shall be inserted after subsection (5) of that section—

“(5A) Where a person is charged with an offence under subsection (5) of this section in respect of the publication or broadcast of any matter or the inclusion of any matter in a cable programme, it shall be a defence, subject to subsection (5B) below, to prove that the publication, broadcast or cable programme in which the matter appeared was one in respect of which the woman had given written consent to the appearance of matter of that description.

(5B) Written consent is not a defence if it is proved that any person interfered unreasonably with the woman’s peace or comfort with intent to obtain the consent.”.

(4) In subsection (3) of that section—

- (a) the words “before the Crown Court at which a person is charged with a rape offence” and “relating to the complainant” shall cease to have effect; and
- (b) for the words “an acquittal of a defendant at” there shall be substituted the words “the outcome of”.

(5) Section 6 (anonymity of defendants in rape etc. cases) shall cease to have effect.

(6) In section 7(2), in the definition of a “rape offence” , for the words “and incitement to rape” there shall be substituted the words, “incitement to rape, conspiracy to rape and burglary with intent to rape”.

#### Marginal Citations

M1 1976 c. 82.

### 159 Crown Court proceedings— orders restricting or preventing reports or restricting public access.

(1) A person aggrieved may appeal to the Court of Appeal, if that court grants leave, against—

(a) an order under section 4 or 11 of the <sup>M2</sup>Contempt of Court Act 1981 made in relation to a trial on indictment;

<sup>F1</sup>[(aa) an order made by the Crown Court under [<sup>F2</sup>section 39(7) or (8) of the Sentencing Code or] section 58(7) or (8) of the <sup>M3</sup>Criminal Procedure and Investigations Act 1996 in a case where the Court has convicted a person on a trial on indictment;]

(b) any order restricting the access of the public to the whole or any part of a trial on indictment or to any proceedings ancillary to such a trial; and

(c) any order restricting the publication of any report of the whole or any part of a trial on indictment or any such ancillary proceedings;

and the decision of the Court of Appeal shall be final.

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- (2) Subject to Rules of Court, the jurisdiction of the Court of Appeal under this section shall be exercised by the criminal division of the Court, and references to the Court of Appeal in this section shall be construed as references to that division.
- (3) On an application for leave to appeal under this section a judge shall have power to give such directions as appear to him to be appropriate and, without prejudice to the generality of this subsection, power—
- (a) to order the production in court of any transcript or note of proceedings or other document;
  - (b) to give directions as to persons who are to be parties to the appeal or who may be parties to it if they wish and as to service of documents on any person;
- and the Court of Appeal shall have the same powers as the single judge.
- (4) Subject to Rules of Court made by virtue of subsection (6) below, any party to an appeal under this section may give evidence before the Court of Appeal orally or in writing.
- (5) On the hearing of an appeal under this section the Court of Appeal shall have power—
- (a) to stay any proceedings in any other court until after the appeal is disposed of;
  - (b) to confirm, reverse or vary the order complained of; and
  - (c) to make such order as to costs as it thinks fit.
- (6)<sup>F3</sup> . . . Rules of Court may make in relation to trials satisfying specified conditions special provision as to the practice and procedure to be followed in relation to hearings in camera and appeals from orders for such hearings and may in particular, but without prejudice to the generality of this subsection, provide that subsection (4) above shall not have effect.
- (7) In the application of this section to Northern Ireland—
- (a) subsection (2) shall be omitted; and
  - [<sup>F4</sup>(b) in subsection (6), before “Rules of Court” there shall be inserted Without prejudice to the generality of sections 52 and 55 of the Judicature (Northern Ireland) Act 1978.]

#### Textual Amendments

- F1** S. 159(1)(aa) inserted (1.4.1997) by 1996 c. 25, s. 61(6) (with s. 78(1)); SI. 1997/682, art. 2(1)(b)
- F2** Words in s. 159(1)(aa) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 24 para. 93 (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2
- F3** Words in s. 159(6) omitted (1.9.2004) by virtue of The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, Sch. para. 27(2) (with art. 2(2))
- F4** S. 159(7)(b) substituted (1.9.2004) by The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, Sch. para. 27(3) (with art. 2(2))

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

- C1** S. 159(4) excluded by S.R.&O. 1968/218, rule 22B(9) (as inserted by S.R. 1989/295, rule 4)

#### Marginal Citations

- M2** 1981 c. 49.
- M3** 1996 c. 25.

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