
STATUTORY INSTRUMENTS

2020 No. 759

The Criminal Procedure Rules 2020

PART 39

APPEAL TO THE COURT OF APPEAL ABOUT CONVICTION OR SENTENCE

When this Part applies

- 39.1.**—(1) This Part applies where—
- (a) a defendant wants to appeal under—
 - (i) Part 1 of the Criminal Appeal Act 1968⁽¹⁾,
 - (ii) section 274(3) of the Criminal Justice Act 2003⁽²⁾,
 - (iii) paragraph 14 of Schedule 22 to the Criminal Justice Act 2003⁽³⁾, or
 - (iv) section 42 of the Counter Terrorism Act 2008⁽⁴⁾;
 - (b) the Criminal Cases Review Commission refers a case to the Court of Appeal under section 9 of the Criminal Appeal Act 1995⁽⁵⁾;
 - (c) a prosecutor wants to appeal to the Court of Appeal under section 14A(5A) of the Football Spectators Act 1989⁽⁶⁾;
 - (d) a party wants to appeal under [^{F1}section 389 of the Sentencing Act 2020];
 - (e) a person found in contempt of court wants to appeal under section 13 of the Administration of Justice Act 1960⁽⁷⁾ and section 18A of the Criminal Appeal Act 1968⁽⁸⁾; or
 - (f) a person wants to appeal to the Court of Appeal under—
 - (i) section 24 of the Serious Crime Act 2007⁽⁹⁾,
 - (ii) section 28(5)(a) of the Offensive Weapons Act 2019⁽¹⁰⁾, ^{F2}...

⁽¹⁾ 1968 c. 19.

⁽²⁾ 2003 c. 44; section 274 was amended by section 40 of, and paragraph 82 of Schedule 9 to, the Constitutional Reform Act 2005 (c. 4).

⁽³⁾ 2003 c. 44; paragraph 14 of Schedule 22 was amended by section 40 of, and paragraph 82 of Schedule 9 and paragraph 1 of Schedule 11 to, the Constitutional Reform Act 2005 (c. 4).

⁽⁴⁾ 2008 c. 28.

⁽⁵⁾ 1995 c. 35; section 9 was amended by section 58 of, and paragraph 31 of Schedule 10 to, the Domestic Violence, Crime and Victims Act 2004 (c. 28).

⁽⁶⁾ 1989 c. 37; section 14A(5A) was inserted by section 52 of, and paragraphs 1 and 3 of Schedule 3 to, the Violent Crime Reduction Act 2006 (c. 38).

⁽⁷⁾ 1960 c. 65; section 13 was amended paragraph 40 of Schedule 8 to, the Courts Act 1971 (c. 23), Schedule 5 to, the Criminal Appeal Act 1968 (c. 19), paragraph 36 of Schedule 7 to, the Magistrates' Courts Act 1980 (c. 43), Schedule 7 to, the Supreme Court Act 1981 (c. 54), paragraph 25 of Schedule 2 to, the County Courts Act 1984 (c. 28), Schedule 15 to, the Access to Justice Act 1999 (c. 22), paragraph 13 of Schedule 9 to the Constitutional Reform Act 2005 (c. 4) and paragraph 45 of Schedule 16 to, the Armed Forces Act 2006 (c. 52).

⁽⁸⁾ 1968 c. 19; section 18A was inserted by section 170 of, and paragraphs 20 and 25 of Schedule 15 to, the Criminal Justice Act 1988 (c. 33).

⁽⁹⁾ 2007 c. 27.

⁽¹⁰⁾ 2019 c. 17; section 28 comes into force on a date to be appointed.

Status: Point in time view as at 03/10/2022.

*Changes to legislation: There are currently no known outstanding effects for the
The Criminal Procedure Rules 2020, Section 39.1. (See end of Document for details)*

[^{F3}(iii)] section 342I(2) of the 2020 Act,

(iv) section 46(5) of the Domestic Abuse Act 2021, or]

[^{F4}(v)] regulation 3C or 3H of the Costs in Criminal Cases (General) Regulations 1986(11).

(2) A reference to an ‘appellant’ in this Part is a reference to such a party or person.

[Note. Under Part 1 (sections 1 to 32) of the Criminal Appeal Act 1968, a defendant may appeal against—

- (a) *a conviction (section 1 of the 1968 Act(12));*
- (b) *a sentence (sections 9 and 10 of the 1968 Act(13));*
- (c) *a verdict of not guilty by reason of insanity (section 12 of the 1968 Act);*
- (d) *a finding of disability or a finding that the defendant did the act or made the omission charged as an offence (section 15 of the 1968 Act(14));*
- (e) *a hospital order, interim hospital order or supervision order under section 5 or 5A of the Criminal Procedure (Insanity) Act 1964(15) (section 16A of the 1968 Act(16)).*

See section 50 of the 1968 Act(17) for the meaning of ‘sentence’.

Under section 274(3) of the 2003 Act, a defendant sentenced to life imprisonment outside the United Kingdom, and transferred to serve the sentence in England and Wales, may appeal against the minimum term fixed by a High Court judge under [^{F5}section 321 of the 2020 Act].

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- (11) *S.I. 1986/1335; regulation 3C was inserted by regulation 2 of The Costs in Criminal Cases (General) (Amendment) Regulations 1991 (SI 1991/789) and amended by regulation 5 of The Costs in Criminal Cases (General) (Amendment) Regulations 2004 (SI 2004/2408). Regulation 3H was inserted by regulation 7 of The Costs in Criminal Cases (General) (Amendment) Regulations 2004 (SI 2004/2408).*
 - (12) *1968 c. 19; section 1 was amended by section 154 of, and paragraph 71 of Schedule 7 to, the Magistrates’ Courts Act 1980 (c. 43), paragraph 44 of Schedule 3 to the Criminal Justice Act 2003 (c. 44), section 1 of the Criminal Appeal Act 1995 (c. 35) and section 47 of, and paragraphs 1 and 2 of Schedule 8 to, the Criminal Justice and Immigration Act 2008 (c. 4).*
 - (13) *1968 c. 19; section 9 was amended by section 170 of, and paragraph 21 of Schedule 15 to, the Criminal Justice Act 1988 (c. 33), section 119 of, and paragraph 12 of Schedule 8 to, the Crime and Disorder Act 1998 (c. 37), section 58 of the Access to Justice Act 1999 (c. 22) and section 271 of, and paragraph 44 of Schedule 3 and Schedule 37 to, the Criminal Justice Act 2003 (c. 44). Section 10 was amended by section 56 of, and paragraph 57 of Schedule 8 to, the Courts Act 1971 (c. 23), section 77 of, and paragraph 23 of Schedule 14 to, the Criminal Justice Act 1982 (c. 48), section 170 of, and paragraphs 20 and 22 of Schedule 15 and Schedule 16 to, the Criminal Justice Act 1988 (c. 33), section 100 of, and paragraph 3 of Schedule 11 to, the Criminal Justice Act 1991 (c. 53), sections 119 and 120 of, and paragraph 13 of Schedule 8 and Schedule 10 to, the Crime and Disorder Act 1998 (c. 37), section 58 of the Access to Justice Act 1999 (c. 22), section 67 of, and paragraph 4 of Schedule 4 and Schedule 6 to, the Youth Justice and Criminal Evidence Act 1999 (c. 23), sections 304, 319 and 322 of, and paragraphs 7 and 8 of Schedule 32 and Schedule 37 to, the Criminal Justice Act 2003 (c. 44) and section 6(2) of, and paragraph 4 of Schedule 4 to, the Criminal Justice and Immigration Act 2008 (c. 4).*
 - (14) *1968 c. 19; section 15 was amended by section 7 of, and paragraph 2 of Schedule 3 to, the Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 (c. 25), section 1 of the Criminal Appeal Act 1995 (c. 35) and section 58 of, and paragraph 4 of Schedule 10 to, the Domestic Violence, Crime and Victims Act 2004 (c. 28) and section 47 of, and paragraphs 1 and 5 of Schedule 8 to, the Criminal Justice and Immigration Act 2008 (c. 4).*
 - (15) *1964 c. 84; section 5 was substituted, and section 5A inserted, by section 24 of the Domestic Violence, Crime and Victims Act 2004 (c. 28). Section 5A was amended by section 15 of the Mental Health Act 2007 (c. 12).*
 - (16) *1968 c. 19; section 16A was inserted by section 25 of the Domestic Violence, Crime and Victims Act 2004 (c. 28).*
 - (17) *1968 c. 19; section 50 was amended by section 66 of the Criminal Justice Act 1982 (c. 48), sections 100 and 101 of, and paragraph 4 of Schedule 11 and Schedule 13 to, the Criminal Justice Act 1991 (c. 53), section 79 of, and Schedule 5 to, the Criminal Justice Act 1993 (c. 36), section 65 of, and Schedule 1 to, the Drug Trafficking Act 1994 (c. 37), section 7 of the Football (Offences and Disorder) Act 1999 (c. 21), section 24 of, and paragraph 3 of Schedule 4 to, the Access to Justice Act 1999 (c. 22), section 165 of, and paragraph 30 of Schedule 9 to, the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6), section 1 of, and Schedule 3 to, the Football (Disorder) Act 2000 (c. 25), section 456 of, and paragraphs 1 and 4 of Schedule 11 to, the Proceeds of Crime Act 2002 (c. 43), section 198 of, and paragraphs 38 and 42 of Schedule 6 to, the Licensing Act 2003 (c. 17), section 52 of, and paragraph 14 of Schedule 3 to, the Violent Crime Reduction Act 2006 (c. 38), paragraph 3 of Schedule 5 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10) and section 85 of, and paragraph 3 of Schedule 4 to, the Serious Crime Act 2015 (c. 9). It is further amended by section 55 of, and paragraph 6 of Schedule 4 to, the Crime (Sentences) Act 1997 (c. 43), with effect from a date to be appointed.*

Under paragraph 14 of Schedule 22 to the Criminal Justice Act 2003 a defendant sentenced to life imprisonment may appeal against the minimum term fixed on review by a High Court judge in certain cases.

Under section 42 of the Counter Terrorism Act 2008 a defendant may appeal against a decision of the Crown Court that an offence has a terrorist connection.

See section 13 of the Criminal Appeal Act 1995⁽¹⁸⁾ for the circumstances in which the Criminal Cases Review Commission may refer a conviction, sentence, verdict or finding to the Court of Appeal.

Under section 14A(5A) of the Football Spectators Act 1989 a prosecutor may appeal against a failure by the Crown Court to make a football banning order.

Under ^{F6}section 389 of the 2020 Act] a prosecutor or defendant may appeal against a review by a Crown Court judge of a sentence that was reduced because the defendant assisted the investigator or prosecutor.

Under section 13 of the Administration of Justice Act 1960 a person in respect of whom an order or decision is made by the Crown Court in the exercise of its jurisdiction to punish for contempt of court may appeal to the Court of Appeal.

Under section 24 of the Serious Crime Act 2007 a person who is the subject of a serious crime prevention order, or the relevant applicant authority, may appeal to the Court of Appeal against a decision of the Crown Court in relation to that order. In addition, any person who was given an opportunity to make representations in the proceedings by virtue of section 9(4) of the Act may appeal to the Court of Appeal against a decision of the Crown Court to make, vary or not vary a serious crime prevention order.

Under section 28(5)(a) of the Offensive Weapons Act 2019 an applicant to the Crown Court for the variation, renewal or discharge of a knife crime prevention order made by that court, or a respondent to such an application, may appeal to the Court of Appeal against the decision of the Crown Court.

Under regulation 3C of the Costs in Criminal Cases (General) Regulations 1986, a legal representative against whom the Crown Court makes a wasted costs order under section 19A of the Prosecution of Offences Act 1985⁽¹⁹⁾ and regulation 3B may appeal against that order to the Court of Appeal.

^{F7}Under section 342I(2) of the Sentencing Act 2020 an applicant to the Crown Court for the variation, renewal or discharge of a serious violence reduction order made by that court, or a respondent to such an application, may appeal to the Court of Appeal against the decision of the Crown Court.

Under section 46(5), (7) of the Domestic Abuse Act 2021 an applicant to the Crown Court for the variation or discharge of a domestic abuse prevention order made by that court, or a respondent to such an application, may appeal to the Court of Appeal against the decision of the Crown Court.]

Under regulation 3H of the Costs in Criminal Cases (General) Regulations 1986, a third party against whom the Crown Court makes a costs order under section 19B of the Prosecution of Offences Act 1985⁽²⁰⁾ and regulation 3F may appeal against that order to the Court of Appeal.

⁽¹⁸⁾ 1995 c. 35; section 13 was amended by section 321 of, and paragraph 3 of Schedule 11 to, the Armed Forces Act 2006 (c. 52).

⁽¹⁹⁾ 1985 c. 23; section 19A was inserted by section 111 of the Courts and Legal Services Act 1990 (c. 41).

⁽²⁰⁾ 1985 c. 23; section 19B was inserted by section 93 of the Courts Act 2003 (c. 39).

Status: Point in time view as at 03/10/2022.

Changes to legislation: There are currently no known outstanding effects for the
The Criminal Procedure Rules 2020, Section 39.1. (See end of Document for details)

The rules in Part 36 (Appeal to the Court of Appeal: general rules) also apply where this Part applies.]

Textual Amendments

- F1** Words in rule 39.1(1)(d) substituted (8.2.2021) by The Criminal Procedure (Amendment) Rules 2021 (S.I. 2021/40), rules 2, **23(a)(i)**
- F2** Word in rule 39.1(1)(f)(ii) omitted (3.10.2022) by virtue of The Criminal Procedure (Amendment No. 2) Rules 2022 (S.I. 2022/815), rules 2, **21(a)**
- F3** Rule 39.1(1)(f)(iii)(iv) inserted (3.10.2022) by The Criminal Procedure (Amendment No. 2) Rules 2022 (S.I. 2022/815), rules 2, **21(e)**
- F4** Rule 39.1(1)(f)(iii) renumbered as rule 39.1(1)(f)(v) (3.10.2022) by The Criminal Procedure (Amendment No. 2) Rules 2022 (S.I. 2022/815), rules 2, **21(b)**
- F5** Words in rule 39.1 substituted (8.2.2021) by The Criminal Procedure (Amendment) Rules 2021 (S.I. 2021/40), rules 2, **23(a)(ii)**
- F6** Words in rule 39.1 substituted (8.2.2021) by The Criminal Procedure (Amendment) Rules 2021 (S.I. 2021/40), rules 2, **23(a)(iii)**
- F7** Words in rule 39.1 inserted (3.10.2022) by The Criminal Procedure (Amendment No. 2) Rules 2022 (S.I. 2022/815), rules 2, **21(d)**

Commencement Information

- I1** Rule 39.1 in force at 5.10.2020, see Preamble

Status:

Point in time view as at 03/10/2022.

Changes to legislation:

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