STATUTORY INSTRUMENTS

2005 No. 679

SUPREME COURT OF ENGLAND AND WALES

The Criminal Justice Act 2003 (Retrial for Serious Offences) Order 2005

Made - - - -	*10th March 2005*
Laid before Parliament	*14th March 2005*
Coming into force - -	*4th April 2005*

The Secretary of State, in exercise of the powers conferred upon him by section 97 of the Criminal Justice Act 2003(**a**) hereby makes the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Criminal Justice Act (Retrial for Serious Offences) Order 2005 and shall come into force on 4th April 2005.

(2) In this Order–

(a) "the 2003 Act" means the Criminal Justice Act 2003;

(b) "the Registrar" means the registrar of criminal appeals.

(3) References to the Court of Appeal are to the criminal division of the Court of Appeal;

(4) References to a single judge are to any judge of the Court of Appeal.

Powers of Court of Appeal which are exercisable by single judge

2.—(1) There may be exercised by a single judge in the same manner as by the Court of Appeal, and subject to the same provisions the powers–

(a) to order the production of any document, exhibit or other thing under section 80(6)(a) of the 2003 Act; and

(b) to order any witness who would be a compellable witness in proceedings pursuant to an order or declaration made on the application to attend for examination and be examined before the Court of Appeal under section 80(6)(b) of the 2003 Act.

(2) If the single judge refuses an application on the part of a party to exercise in his favour the power specified in paragraph (1), the party shall be entitled to have his application determined by the Court of Appeal.

Powers of Court of Appeal which are exercisable by Registrar

3.—(1) The following powers of the Court of Appeal may be exercised by the Registrar–

(**a**) 2003 c.44.

(a) the power to order the production of any document, exhibit or other thing under section 80(6)(a) of the 2003 Act; and

(b) the power to order any witness who would be a compellable witness in proceedings pursuant to an order or declaration made on the application to attend for examination and be examined before the Court of Appeal under section 80(6)(b) of the 2003 Act.

(2) If the Registrar refuses an application on the part of a party to exercise in his favour any of the powers specified in paragraph (1), the party shall be entitled to have his application determined by a single judge.

Procedural directions: powers of single judge and Registrar

4.—(1) The power of the Court of Appeal to determine an application for procedural directions may be exercised by–

(a) a single judge; or

(b) the Registrar.

(2) "Procedural directions" means directions for the efficient and effective preparation of an application by a prosecutor under section 76(1) or (2) of the 2003 Act.

(3) A single judge may give such procedural directions as he thinks fit–

(a) when acting under paragraph (1);

(b) on a reference from the Registrar;

(c) of his own motion, when he is exercising, or considering whether to exercise, any power of his in relation to the application or appeal.

(4) The Registrar may give such procedural directions as he thinks fit–

(a) when acting under paragraph (1);

(b) of his own motion.

Appeals against procedural directions

5.—(1) Paragraph (2) applies if a single judge gives, or refuses to give, procedural directions.

(2) The Court of Appeal may, on an application to it under paragraph (5)–

(a) confirm, set aside or vary any procedural directions given by the single judge, and

(b) give such procedural directions as he thinks fit.

(3) Paragraph (4) applies if the Registrar gives, or refuses to give, procedural directions.

(4) A single judge may, on an application to him under paragraph (5)–

(a) confirm, set aside or vary any procedural directions given by the Registrar; and

(b) give such procedural directions as it thinks fit.

(5) An application under this article may be made by either a prosecutor or an acquitted person.

Home Office
10th March 2005

Scotland of Asthal, Q.C
Minister of State

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision corresponding to provisions in the Criminal Appeal Act 1968 ("the 1968 Act") with modifications for the purposes of applications for retrial under section 76(1) and (2) of the Criminal Justice Act 2003.

Article 2 makes provision corresponding to section 31 of the 1968 and sets out which of the Court of Appeal's powers may be exercised by a single judge.

Article 3 makes provision corresponding to section 31A of the 1968 Act (as inserted by section 6 of the Criminal Appeal Act 1995 c.35) and sets out which of the Court of Appeal's powers may be exercised by the Registrar.

Article 4 makes provision corresponding to section 31B of the 1968 Act (as inserted by section 87(3) of the Courts Act 2003 c.39) and sets out that the powers of the Court of Appeal to make procedural directions, in relation to section 76 applications, may be exercised by a single judge or the Registrar.

Article 5 makes provision corresponding to section 31C of the 1968 Act (as inserted by section 87(3) of the Courts Act 2003 c.39) and sets out that procedural directions in relation to section 76 applications, made by the Registrar or a single judge, may be appealed to a single judge or the Court of Appeal respectively.

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The Criminal Justice Act 2003 (Retrial for Serious Offences) Order 2005

£3.00

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Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, Controller of Her Majesty's
Stationery Office and Queen's Printer of Acts of Parliament.
E0512 3/2005 150512T 19585

ISBN 0-11-072521-2

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