



Simplifying access to justice

In criminal trials, judges have to make legal rulings. This may happen before the trial starts, during the course of the trial or after the jury has returned its verdict. The Law Commission begins a consultation today on the circumstances in which it ought to be possible to appeal against such rulings as soon as they are made, bearing in mind that the appeal may delay or interrupt a trial.

Professor Jeremy Horder, the Commissioner leading the project, said;

“Delays and interruptions in criminal trials are corrosive in their effect. They add to the stress already experienced by defendants, victims, their families, witnesses and jurors. Reluctant witnesses become even less willing to give evidence. Recalling key events and facts becomes more difficult. Interruptions to trials do not assist jurors to follow and retain the thread of evidence. And delays and interruptions make it much harder to manage and organise court business. We want to find a path through the labyrinth of regulations and help courts develop a more efficient way of handling challenges”

The current law governing which rulings can be challenged and when, is very imprecise, even in relation to rulings made after the jury has reached its verdict where there is no danger of the trial being delayed. It has given rise to frequent and costly litigation including five decisions of the House of Lords in just over twenty years. In addition, a person whose rights under the European Convention of Human Rights (ECHR) have been violated may have no remedy under domestic law.

In “The High Court’s Jurisdiction in Relation to Criminal Proceedings”, the Law Commission sets out proposals designed to sharpen up the law. The Commission’s main aim is to ensure that trials are not delayed or interrupted except when a person’s liberty or rights under the ECHR are at stake, or where the advantages of allowing an appeal outweigh the detrimental effects of delaying or interrupting the trial. The paper also considers the implications for magistrates’ courts and the Court Martial.

The consultation will close on 22 February 2008.

Notes for Editors

1. The Law Commission is a non-political independent body, set up by Parliament in 1965 to keep all the law of England and Wales under review, and to recommend reform where it is needed.
2. For further details on this project visit http://www.lawcom.gov.uk/judicial_review.htm.
3. To respond to the consultation email criminal@lawcommission.gsi.gov.uk

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