

*Status: Point in time view as at 24/02/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Contempt of Court Act 1981, SCHEDULE 1. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 1

Section 2.

#### TIMES WHEN PROCEEDINGS ARE ACTIVE FOR PURPOSES OF SECTION 2

##### *Preliminary*

1 In this Schedule “criminal proceedings” means proceedings against a person in respect of an offence, not being appellate proceedings or proceedings commenced by motion for committal or attachment in England and Wales or Northern Ireland; and “appellate proceedings” means proceedings on appeal from or for the review of the decision of a court in any proceedings.

[<sup>F1</sup>1ZA Proceedings under the Double Jeopardy (Scotland) Act 2011 (asp 16) are criminal proceedings for the purposes of this Schedule.]

##### **Textual Amendments**

**F1** Sch. 1 para. 1ZA inserted (S.) (28.11.2011) by [Double Jeopardy \(Scotland\) Act 2011 \(asp 16\), s. 17\(3\), Sch. para. 2; S.S.I. 2011/365, art. 3](#)

[<sup>F2</sup>1A In paragraph 1 the reference to an offence includes a service offence within the meaning of the Armed Forces Act 2006.]

##### **Textual Amendments**

**F2** Sch. 1 para. 1A inserted (28.3.2009 for specified purposes otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\), s. 383\(2\), Sch. 16 para. 92; S.I. 2009/812, art. 3\(a\)\(b\) \(with S.I. 2009/1059\); S.I. 2009/1167, art. 4](#)

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

**C1** Sch. 1 para. 1A modified (24.4.2009 for specified purposes otherwise 31.10.2009) by [The Armed Forces Act 2006 \(Transitional Provisions etc\) Order 2009 \(S.I. 2009/1059\), arts. 1\(3\), 205, Sch. 1 para. 20](#)

2 Criminal, appellate and other proceedings are active within the meaning of section 2 at the times respectively prescribed by the following paragraphs of this Schedule; and in relation to proceedings in which more than one of the steps described in any of those paragraphs is taken, the reference in that paragraph is a reference to the first of those steps.

##### *Criminal proceedings*

3 Subject to the following provisions of this Schedule, criminal proceedings are active from the relevant initial step specified in paragraph 4 [<sup>F3</sup>or 4A] until concluded as described in paragraph 5.

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#### Textual Amendments

- F3** Words in [Sch. 1 para. 3](#) inserted (E.W.,N.I.) (4.7.1996 with effect as mentioned in [s. 54\(4\)\(7\)\(8\)](#) of the amending Act) by [1996 c. 25, ss. 54\(4\)\(7\)\(8\), 57\(4\)](#) (with [s. 78\(1\)](#)); [S.I. 1997/1019, art. 2](#); [S.I. 1997/1504, art. 2](#)

- 4 The initial steps of criminal proceedings are:—
- (a) arrest without warrant;
  - (b) the issue, or in Scotland the grant, of a warrant for arrest;
  - (c) the issue of a summons to appear, or in Scotland the grant of a warrant to cite;
  - (d) the service of an indictment or other document specifying the charge;
  - (e) except in Scotland, oral charge;
  - [<sup>F4</sup>(f) the making of an application under section 2(2) (tainted acquittals), 3(3) (b) (admission made or becoming known after acquittal), 4(3)(b) (new evidence), 11(3) (eventual death of injured person) or 12(3) (nullity of previous proceedings) of the Double Jeopardy (Scotland) Act 2011 (asp 16).]

#### Textual Amendments

- F4** [Sch. 1 para. 4\(f\)](#) inserted (S.) (28.11.2011) by [Double Jeopardy \(Scotland\) Act 2011 \(asp 16\), s. 17\(3\), Sch. para. 3; S.S.I. 2011/365, art. 3](#)

- [<sup>F5</sup>4A Where as a result of an order under section 54 of the Criminal Procedure and Investigations Act 1996 (acquittal tainted by an administration of justice offence) proceedings are brought against a person for an offence of which he has previously been acquitted, the initial step of the proceedings is a certification under subsection (2) of that section; and paragraph 4 has effect subject to this.]

#### Textual Amendments

- F5** [Sch. 1 para. 4A](#) inserted (E.W.,N.I.) (4.7.1996 with effect as mentioned in [s. 54\(4\)\(7\)\(8\)](#) of the amending Act) by [1996 c. 25, ss. 54\(4\)\(7\)\(8\), 57\(4\)](#) (with [s. 78\(1\)](#)); [S.I. 1997/1019, art. 2](#); [S.I. 1997/1504, art. 2](#)

- 5 Criminal proceedings are concluded—
- (a) by acquittal or, as the case may be, by sentence;
  - (b) by any other verdict, finding, order or decision which puts an end to the proceedings;
  - (c) by discontinuance or by operation of law;
  - [<sup>F6</sup>(d) where the initial steps of the proceedings are as mentioned in paragraph 4(f)—
    - (i) by refusal of the application;
    - (ii) if the application is granted and within the period of 2 months mentioned in section 6(3) of the Double Jeopardy (Scotland) Act 2011 (asp 16) a new prosecution is brought, by acquittal or, as the case may be, by sentence in the new prosecution.]

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#### Textual Amendments

- F6** Sch. 1 para. 5(d) inserted (S.) (28.11.2011) by [Double Jeopardy \(Scotland\) Act 2011 \(asp 16\), s. 17\(3\), Sch. para. 4; S.S.I. 2011/365, art. 3](#)

- 6 The reference in paragraph 5(a) to sentence includes any order or decision consequent on conviction or finding of guilt which disposes of the case, either absolutely or subject to future events, and a deferment of sentence under [F7 section 1 of the Powers of Criminal Courts (Sentencing) Act 2000], section 219 or 432 of the M1 Criminal Procedure (Scotland) Act 1975 or Article 14 of the M2 Treatment of Offenders (Northern Ireland) Order 1976.

#### Textual Amendments

- F7** Words in Sch. 1 para. 6 substituted (25.8.2000) by [2000 c. 6, ss. 165\(1\), 168\(1\), Sch. 9 para. 86](#)

#### Marginal Citations

- M1** 1975 c. 21.  
**M2** S.I. 1976/226 (N.I. 4).

- 7 Proceedings are discontinued within the meaning of paragraph 5(c)—
- (a) in England and Wales or Northern Ireland, if the charge or summons is withdrawn or a *nolle prosequi* entered;
  - [F8(aa) in England and Wales, if they are discontinued by virtue of section 23 of the Prosecution of Offences Act 1985;]
  - [F9(ab) in England and Wales, if they are discontinued by virtue of paragraph 11 of Schedule 17 to the Crime and Courts Act 2013 (deferred prosecution agreements);]
  - (b) in Scotland, if the proceedings are expressly abandoned by the prosecutor or are deserted *simpliciter*;
  - (c) in the case of proceedings in England and Wales or Northern Ireland commenced by arrest without warrant, if the person arrested is released, otherwise than on bail, without having been charged;
  - [F10(d) where the initial steps of the proceedings are as mentioned in paragraph 4(f) and the application is granted, if no new prosecution is brought within the period of 2 months mentioned in section 6(3) of the Double Jeopardy (Scotland) Act 2011 (asp 16).]

#### Textual Amendments

- F8** Sch. 1 para. 7(aa) inserted (E.W.) by [Prosecution of Offences Act 1985 \(c. 23, SIF 39:1\), s. 31\(5\), Sch. 1 Pt. 1 para. 4](#)
- F9** Sch. 1 para. 7(ab) inserted (24.2.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(2\), Sch. 17 para. 34 \(with Sch. 17 para. 39\); S.I. 2014/258, art. 2\(b\)](#)
- F10** Sch. 1 para. 7(d) inserted (S.) (28.11.2011) by [Double Jeopardy \(Scotland\) Act 2011 \(asp 16\), s. 17\(3\), Sch. para. 5; S.S.I. 2011/365, art. 3](#)

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**Textual Amendments**

**F11** Sch. 1 para. 8 repealed (28.3.2009 for specified purposes otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 17](#); [S.I. 2009/812](#), [art. 3\(a\)\(b\)](#) (with [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#)

9 Criminal proceedings in England and Wales or Northern Ireland cease to be active if an order is made for the charge to lie on the file, but become active again if leave is later given for the proceedings to continue.

[<sup>F12</sup>9A Where proceedings in England and Wales have been discontinued by virtue of section 23 of the Prosecution of Offences Act 1985, but notice is given by the accused under subsection (7) of that section to the effect that he wants the proceedings to continue, they become active again with the giving of that notice.]

**Textual Amendments**

**F12** Sch. 1 para. 9A inserted (E.W.) by [Prosecution of Offences Act 1985 \(c. 23, SIF 39:1\)](#), s. 31(5), [Sch. 1 Pt. I para. 5](#)

10 Without prejudice to paragraph 5(b) above, criminal proceedings against a person cease to be active—

- (a) if the accused is found to be under a disability such as to render him unfit to be tried or unfit to plead or, in Scotland, is found to be insane in bar of trial; or
- (b) if a hospital order is made in his case under [<sup>F13</sup>section 51(5) of the Mental Health Act 1983] or [<sup>F14</sup>Article 57(5) of the Mental Health (Northern Ireland) Order 1986] or, in Scotland, where [<sup>F15</sup>an assessment order or a treatment order ceases to have effect by virtue of sections 52H or 52R respectively of the Criminal Procedure (Scotland) Act 1995],

but become active again if they are later resumed.

**Textual Amendments**

**F13** Words substituted by [Mental Health Act 1983 \(c. 20\)](#), [Sch. 4 para. 57\(c\)](#)

**F14** Words substituted by [S.I. 1986/595 \(N.I. 4\)](#), art. 136(1), [Sch. 5 Pt. II](#)

**F15** Words in [Sch. 1 para. 10\(b\)](#) substituted (S.) (27.9.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Modification of Enactments\) Order 2005 \(S.S.I. 2005/465\)](#), [Sch. 1 para. 11\(2\)](#)

11 Criminal proceedings against a person which become active on the issue or the grant of a warrant for his arrest cease to be active at the end of the period of twelve months beginning with the date of the warrant unless he has been arrested within that period, but become active again if he is subsequently arrested.

*Other proceedings at first instance*

12 Proceedings other than criminal proceedings and appellate proceedings are active from the time when arrangements for the hearing are made or, if no such arrangements are previously made, from the time the hearing begins, until the proceedings are disposed of or discontinued or withdrawn; and for the purposes of this paragraph any motion or application made in or for the purposes of any

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proceedings, and any pre-trial review in the county court, is to be treated as a distinct proceeding.

- 13 In England and Wales or Northern Ireland arrangements for the hearing of proceedings to which paragraph 12 applies are made within the meaning of that paragraph—
- (a) in the case of proceedings in the High Court for which provision is made by rules of court for setting down for trial, when the case is set down;
  - (b) in the case of any proceedings, when a date for the trial or hearing is fixed.
- 14 In Scotland arrangements for the hearing of proceedings to which paragraph 12 applies are made within the meaning of that paragraph—
- (a) in the case of an ordinary action in the Court of Session or in the sheriff court, when the Record is closed;
  - (b) in the case of a motion or application, when it is enrolled or made;
  - (c) in any other case, when the date for a hearing is fixed or a hearing is allowed.

#### *Appellate proceedings*

- 15 Appellate proceedings are active from the time when they are commenced—
- (a) by application for leave to appeal or apply for review, or by notice of such an application;
  - (b) by notice of appeal or of application for review;
  - (c) by other originating process, until disposed of or abandoned, discontinued or withdrawn.

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

**C2** Sch. 1 para. 15 excluded (25.4.2000) by 1999 c. 17, ss. 3(4), 4(6), 5(12), Sch. 3, Pt. IV, para. 23(3); S.I. 2000/880, art. 2, Sch. 2

- 16 Where, in appellate proceedings relating to criminal proceedings, the court—
- (a) remits the case to the court below; or
  - (b) orders a new trial or *avenire de novo*, or in Scotland grants authority to bring a new prosecution,
- any further or new proceedings which result shall be treated as active from the conclusion of the appellate proceedings.

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