

Status: Point in time view as at 28/11/2011.

Changes to legislation: There are currently no known outstanding effects for the Contempt of Court Act 1981, Cross Heading: Criminal proceedings. (See end of Document for details)

SCHEDULES

SCHEDULE 1

TIMES WHEN PROCEEDINGS ARE ACTIVE FOR PURPOSES OF SECTION 2

Criminal proceedings

- 3 Subject to the following provisions of this Schedule, criminal proceedings are active from the relevant initial step specified in paragraph 4 [^{F1}or 4A] until concluded as described in paragraph 5.

Textual Amendments

- F1** 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;
 - [^{F2}(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

- F2** [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](#)

- [^{F3}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.]

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Textual Amendments

F3 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;
 - [^{F4}(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.]

Textual Amendments

F4 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 [^{F5}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

F5 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;
 - [^{F6}(aa) in England and Wales, if they are discontinued by virtue of section 23 of the Prosecution of Offences Act 1985;]
 - (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;

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[^{F7}(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

- F6** 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. I para. 4](#)
- F7** 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](#)

8 ^{F8}

Textual Amendments

- F8** 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.

[^{F9}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

- F9** 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 [^{F10}section 51(5) of the Mental Health Act 1983] or [^{F11}Article 57(5) of the Mental Health (Northern Ireland) Order 1986] or, in Scotland, where [^{F12}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

- F10** Words substituted by [Mental Health Act 1983 \(c. 20\)](#), [Sch. 4 para. 57\(c\)](#)
- F11** Words substituted by [S.I. 1986/595 \(N.I. 4\)](#), [art. 136\(1\)](#), [Sch. 5 Pt. II](#)

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F12 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.

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