



Prosecution of Offences Act 1985

1985 CHAPTER 23

PART I **E+W**

THE CROWN PROSECUTION SERVICE

Constitution and functions of Service

1 **The Crown Prosecution Service.** **E+W**

- (1) There shall be a prosecuting service for England and Wales (to be known as the “Crown Prosecution Service”) consisting of—
 - (a) the Director of Public Prosecutions, who shall be head of the Service;
 - (b) the Chief Crown Prosecutors, designated under subsection (4) below, each of whom shall be the member of the Service responsible to the Director for supervising the operation of the Service in his area; and
 - (c) the other staff appointed by the Director under this section.
- (2) The Director shall appoint such staff for the Service as, with the approval of the Treasury as to numbers, remuneration and other terms and conditions of service, he considers necessary for the discharge of his functions.
- (3) The Director may designate any member of the Service [^{F1}who has a general qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990)] for the purposes of this subsection, and any person so designated shall be known as a Crown Prosecutor.
- (4) The Director shall divide England and Wales into areas and, for each of those areas, designate a Crown Prosecutor for the purposes of this subsection and any person so designated shall be known as a Chief Crown Prosecutor.
- (5) The Director may, from time to time, vary the division of England and Wales made for the purposes of subsection (4) above.
- (6) Without prejudice to any functions which may have been assigned to him in his capacity as a member of the Service, every Crown Prosecutor shall have all the powers

Status: Point in time view as at 01/01/2004.

Changes to legislation: There are currently no known outstanding effects for the Prosecution of Offences Act 1985, Part I. (See end of Document for details)

of the Director as to the institution and conduct of proceedings but shall exercise those powers under the direction of the Director.

- (7) Where any enactment (whenever passed)—
- (a) prevents any step from being taken without the consent of the Director or without his consent or the consent of another; or
 - (b) requires any step to be taken by or in relation to the Director;
- any consent given by or, as the case may be, taken by or in relation to, a Crown Prosecutor shall be treated, for the purposes of that enactment, as given by or, as the case may be, taken by or in relation to the Director.

Textual Amendments

F1 Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 71(2), **Sch. 10 para. 61(1)**

Modifications etc. (not altering text)

C1 S. 1(7) excluded (4.4.2005) by Criminal Justice Act 2003 (c. 44), **ss. 92(1), 336**; S.I. 2005/950, **art. 2(1), Sch. 1 para. 5** (subject to **art. 2(2), Sch. 2**) (as amended by 2005/2122, art. 2 and 2007/391, art. 2)

2 The Director of Public Prosecutions **E+W**

- (1) The Director of Public Prosecutions shall be appointed by the Attorney General.
- (2) The Director must be a [^{F2}person who has a ten year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990].
- (3) There shall be paid to the Director such remuneration as the Attorney General may, with the approval of the Treasury, determine.

Textual Amendments

F2 Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 71(2), **Sch. 10 para. 60**

3 Functions of the Director. **E+W**

- (1) The Director shall discharge his functions under this or any other enactment under the superintendence of the Attorney General.
- (2) It shall be the duty of the Director [^{F3}, subject to any provisions contained in the Criminal Justice Act 1987] —
 - (a) to take over the conduct of all criminal proceedings, other than specified proceedings, instituted on behalf of a police force (whether by a member of that force or by any other person);
 - (b) to institute and have the conduct of criminal proceedings in any case where it appears to him that—
 - (i) the importance or difficulty of the case makes it appropriate that proceedings should be instituted by him; or
 - (ii) it is otherwise appropriate for proceedings to be instituted by him;
 - (c) to take over the conduct of all binding over proceedings instituted on behalf of a police force (whether by a member of that force or by any other person);

Status: Point in time view as at 01/01/2004.

Changes to legislation: There are currently no known outstanding effects for the Prosecution of Offences Act 1985, Part I. (See end of Document for details)

- (d) to take over the conduct of all proceedings begun by summons issued under section 3 of the ^{M1}Obscene Publications Act 1959 (forfeiture of obscene articles);
 - (e) to give, to such extent as he considers appropriate, advice to police forces on all matters relating to criminal offences;
 - [^{F4}(ea) to have the conduct of any extradition proceedings;
 - (eb) to give, to such extent as he considers appropriate, and to such persons as he considers appropriate, advice on any matters relating to extradition proceedings or proposed extradition proceedings;]
 - (f) to appear for the prosecution, when directed by the court to do so, on any appeal under—
 - (i) section 1 of the ^{M2}Administration of Justice Act 1960 (appeal from the High Court in criminal cases);
 - (ii) Part I or Part II of the ^{M3}Criminal Appeal Act 1968 (appeals from the Crown Court to the criminal division of the Court of Appeal and thence to the House of Lords); or
 - (iii) section 108 of the ^{M4}Magistrates’ Courts Act 1980 (right of appeal to Crown Court) as it applies, by virtue of subsection (5) of section 12 of the ^{M5}Contempt of Court Act 1981, to orders made under section 12 (contempt of magistrates’ courts); and
 - (g) to discharge such other functions as may from time to time be assigned to him by the Attorney General in pursuance of this paragraph.
- [^{F5}(2A) Subsection (2)(ea) above does not require the Director to have the conduct of any extradition proceedings in respect of a person if he has received a request not to do so and—
- (a) in a case where the proceedings are under Part 1 of the Extradition Act 2003, the request is made by the authority which issued the Part 1 warrant in respect of the person;
 - (b) in a case where the proceedings are under Part 2 of that Act, the request is made on behalf of the territory to which the person’s extradition has been requested.]
- (3) In this section—
- “the court ” means—
- (a) in the case of an appeal to or from the criminal division of the Court of Appeal, that division;
 - (b) in the case of an appeal from a Divisional Court of the Queen’s Bench Division, the Divisional Court; and
 - (c) in the case of an appeal against an order of a magistrates’ court, the Crown Court;
- “police force ” means any police force maintained by a police authority under [^{F6}the ^{M6}Police Act 1996][^{F7}, the National Crime Squad] and any other body of constables for the time being specified by order made by the Secretary of State for the purposes of this section; and
- “specified proceedings ” means proceedings which fall within any category for the time being specified by order made by the Attorney General for the purposes of this section.

Status: Point in time view as at 01/01/2004.

Changes to legislation: There are currently no known outstanding effects for the Prosecution of Offences Act 1985, Part I. (See end of Document for details)

- (4) The power to make orders under subsection (3) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

- F3** Words inserted by [Criminal Justice Act 1987 \(c. 38, SIF 39:1\)](#), s. 15, **Sch. 2 para. 13**
- F4** S. 3(2)(ea)(eb) inserted (1.1.2004) by [Extradition Act 2003 \(c. 41\)](#), **ss. 190(2)**, 221; S.I. 2003/3103, **art. 2** (subject to savings in Order (as amended by S.I. 2003/3312, art. 2(2) and S.I. 2003/3258, art. 3(2)))
- F5** S. 3(2A) inserted (1.1.2004) by [Extradition Act 2003 \(c. 41\)](#), **ss. 190(3)**, 221; S.I. 2003/3103, **art. 2** (subject to savings in Order (as amended by S.I. 2003/3312, art. 2(2) and S.I. 2003/3258, art. 3(2)))
- F6** Words in the definition of "police force" in s. 3(3) substituted (22.8.1996) by [1996 c. 16](#), ss. 103, 104(1), **Sch. 7 Pt. II para. 39**
- F7** Words in the definition of "police force" in s. 3(3) inserted (1.4.1998) by [1997 c. 50](#), s. 134(1), **Sch. 9 para. 48**; S.I. 1998/354, **art. 2(2)(bb)**.

Modifications etc. (not altering text)

- C2** S. 3(2) excluded by [Criminal Justice Act 1987 \(c. 38, SIF 39:1\)](#), s. 5(1)
- C3** S. 3(2)(a)(d) restricted by S.I. 1986/1029, **art. 5**

Marginal Citations

- M1** [1959 c. 66](#).
- M2** [1960 c. 65](#).
- M3** [1968 c. 19](#).
- M4** [1980 c. 43](#).
- M5** [1981 c. 49](#).
- M6** [1996 c. 16](#).

4 Crown Prosecutors. E+W

- F8(1)**
- F8(2)**
- F8(3)**
- F8(3A)**
- F8(3B)**
- F8(3C)**
- F8(3D)**
- F8(3E)**

- (4) In section 88 of the ^{M7}Solicitors Act 1974 (which, amongst other things, provides that solicitors in public departments are not required to hold practising certificates) the following subsection shall be inserted after subsection (1)—

“(1A) The exemption from the requirement to hold a practising certificate conferred by subsection (1) above shall not apply to solicitors who are Crown Prosecutors.”

Status: Point in time view as at 01/01/2004.

Changes to legislation: There are currently no known outstanding effects for the Prosecution of Offences Act 1985, Part I. (See end of Document for details)

(5) F9

(6) In Schedule 2 to the Act of 1974 (the compensation fund), in paragraph 2, for the words “sub-paragraph (2)” there shall be substituted the words “sub-paragraphs (2) and (2A)” and after sub-paragraph (2) there shall be inserted the following sub-paragraph—

“(2A) Sub-paragraph (1) above shall not apply to any solicitor who is a Crown Prosecutor.”

Textual Amendments

F8 S. 4(1)–(3E) repealed (31.7.2000) by 1999 c. 22, s. 106, **Sch.15 Pt II** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/1920, **art. 2(c)**

F9 S. 4(5) repealed by **Courts and Legal Services Act 1990** (c. 41, SIF 37), s. 125(7), **Sch. 20**

Marginal Citations

M7 1974 c. 47.

5 Conduct of prosecutions on behalf of the Service. **E+W**

- (1) The Director may at any time appoint a person who is not a Crown Prosecutor but [^{F10}who has a general qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990)] to institute or take over the conduct of such criminal proceedings [^{F11}or extradition proceedings] as the Director may assign to him.
- (2) Any person conducting proceedings assigned to him under this section shall have all the powers of a Crown Prosecutor but shall exercise those powers subject to any instructions given to him by a Crown Prosecutor.

Textual Amendments

F10 Words substituted by virtue of **Courts and Legal Services Act 1990** (c. 41, SIF 37), s. 71(2), **Sch. 10 para. 61(2)** [Editorial Note: The amending legislation provides that the new words in s. 5(1) should be substituted for the words from “who is” to “authority”. The words “who is” occur three times in s. 5(1) as enacted. It is thought that the context requires the substitution to begin with the second occurrence of those words.]

F11 Words in s. 5(1) inserted (1.1.2004) by **Extradition Act 2003** (c. 41), **ss. 190(4), 221**; S.I. 2003/3103, **art. 2** (subject to savings in Order (as amended by S.I. 2003/3312, art. 2(2) and S.I. 2003/3258, art. 3(2)))

6 Prosecutions instituted and conducted otherwise than by the Service. **E+W**

- (1) Subject to subsection (2) below, nothing in this Part shall preclude any person from instituting any criminal proceedings or conducting any criminal proceedings to which the Director’s duty to take over the conduct of proceedings does not apply.
- (2) Where criminal proceedings are instituted in circumstances in which the Director is not under a duty to take over their conduct, he may nevertheless do so at any stage.

Status: Point in time view as at 01/01/2004.

Changes to legislation: There are currently no known outstanding effects for the Prosecution of Offences Act 1985, Part I. (See end of Document for details)

7 Delivery of recognizances etc. to Director. **E+W**

- (1) Where the Director or any Crown Prosecutor gives notice to any justice of the peace that he has instituted, or is conducting, any criminal proceedings, the justice shall—
- (a) at the prescribed time and in the prescribed manner; or
 - (b) in a particular case, at the time and in the manner directed by the Attorney General;
- send him every recognizance, information, certificate, deposition, document and thing connected with those proceedings which the justice is required by law to deliver to the appropriate officer of the Crown Court.
- (2) The Attorney General may make regulations for the purpose of supplementing this section; and in subsection (1) above “prescribed” means prescribed by the regulations.
- (3) The Director or, as the case may be, Crown Prosecutor shall—
- (a) subject to the regulations, cause anything which is sent to him under subsection (1) above to be delivered to the appropriate officer of the Crown Court; and
 - (b) be under the same obligation (on the same payment) to deliver to an applicant copies of anything so sent as that officer.
- (4) It shall be the duty of every [^{F12}justices’ chief executive] to send to the Director, in accordance with the regulations, a copy of the information and of any depositions and other documents relating to any case in which—
- (a) a prosecution for an offence before the [^{F13}a magistrates’ court for which he is the justices’ chief executive] is withdrawn or is not proceeded with within a reasonable time;
 - (b) the Director does not have the conduct of the proceedings; and
 - (c) there is some ground for suspecting that there is no satisfactory reason for the withdrawal or failure to proceed.

Textual Amendments

- F12** Words in s. 7(4) substituted (1.4.2001) by 1999 c. 22, s. 90, **Sch. 13 para. 130(a)** (with Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(ii)**
- F13** Words in s. 7(4)(a) substituted (1.4.2001) by 1999 c. 22, s. 90, **Sch. 13 para. 130(b)** (with Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(ii)**

[^{F14}7A Powers of non-legal staff. **E+W**

- (1) The Director may designate, for the purposes of this section, members of the staff of the Crown Prosecution Service who are not Crown Prosecutors.
- (2) Subject to such exceptions (if any) as may be specified in the designation, a person so designated shall have such of the following as may be so specified, namely—
- (a) the powers and rights of audience of a Crown Prosecutor in relation to—
 - (i) applications for, or relating to, bail in criminal proceedings;
 - (ii) the conduct of criminal proceedings in magistrates’ courts other than trials;
 - (b) the powers of such a Prosecutor in relation to the conduct of criminal proceedings not falling within paragraph (a)(ii) above.

Status: Point in time view as at 01/01/2004.

Changes to legislation: There are currently no known outstanding effects for the Prosecution of Offences Act 1985, Part I. (See end of Document for details)

- (3) A person so designated shall exercise any such powers subject to instructions given to him by the Director.
- (4) Any such instructions may be given so as to apply generally.
- (5) For the purposes of this section—
 - (a) “bail in criminal proceedings” has the same meaning as it would have in the ^{M8}Bail Act 1976 by virtue of the definition in section 1 of that Act if in that section “offence” did not include an offence to which subsection (6) below applies;
 - (b) “criminal proceedings” does not include proceedings for an offence to which subsection (6) below applies; and
 - (c) a trial begins with the opening of the prosecution case after the entry of a plea of not guilty and ends with the conviction or acquittal of the accused.
- (6) This subsection applies to an offence if it is triable only on indictment, or is an offence—
 - (a) for which the accused has elected to be tried by a jury;
 - (b) which a magistrates’ court has decided is more suitable to be so tried; or
 - (c) in respect of which a notice of transfer has been given under section 4 of the ^{M9}Criminal Justice Act 1987 or section 53 of the ^{M10}Criminal Justice Act 1991.
- (7) Details of the following for any year, namely—
 - (a) the criteria applied by the Director in determining whether to designate persons under this section;
 - (b) the training undergone by persons so designated; and
 - (c) any general instructions given by the Director under subsection (4) above, shall be set out in the Director’s report under section 9 of this Act for that year.]

Textual Amendments

F14 S. 7A substituted (30.9.1998) by 1998 c. 37, s.53; S.I. 1998/2327, art. 2(1)(n).

Marginal Citations

M8 1976 c.63.

M9 1987 c.38.

M10 1991 c.53.

Reports

8 Reports to Director by chief officers of police. **E+W**

- (1) The Attorney General may make regulations requiring the chief officer of any police force to which the regulations are expressed to apply to give to the Director information with respect to every offence of a kind prescribed by the regulations which is alleged to have been committed in his area and in respect of which it appears to him that there is a prima facie case for proceedings.

Status: Point in time view as at 01/01/2004.

Changes to legislation: There are currently no known outstanding effects for the Prosecution of Offences Act 1985, Part I. (See end of Document for details)

- (2) The regulations may also require every such chief officer to give to the Director such information as the Director may require with respect to such cases or classes of case as he may from time to time specify.

9 Reports by Director to Attorney General. **E+W**

- (1) As soon as practicable after 4th April in any year the Director shall make to the Attorney General a report on the discharge of his functions during the year ending with that date.
- (2) The Attorney General shall lay before Parliament a copy of every report received by him under subsection (1) above and shall cause every such report to be published.
- (3) The Director shall, at the request of the Attorney General, report to him on such matters as the Attorney General may specify.

Guidelines

10 Guidelines for Crown Prosecutors. **E+W**

- (1) The Director shall issue a Code for Crown Prosecutors giving guidance on general principles to be applied by them—
- (a) in determining, in any case—
- (i) whether proceedings for an offence should be instituted or, where proceedings have been instituted, whether they should be discontinued; or
- (ii) what charges should be preferred; and
- (b) in considering, in any case, representations to be made by them to any magistrates' court about the mode of trial suitable for that case.
- (2) The Director may from time to time make alterations in the Code.
- (3) The provisions of the Code shall be set out in the Director's report under section 9 of this Act for the year in which the Code is issued; and any alteration in the Code shall be set out in his report under that section for the year in which the alteration is made.

Modifications etc. (not altering text)

C4 S. 10(2)(3) modified (prosp.) by [Serious Crime Act 2007 \(c. 27\)](#), ss. 37, 94, [Sch. 2 para. 4](#)

C5 S. 10(2)(3) modified (prosp.) by [Serious Crime Act 2007 \(c. 27\)](#), ss. 37, 94, [Sch. 2 para. 4](#)

Transfer of staff, etc.

11 Transfer of staff. **E+W**

- (1) The Attorney General may, with the approval of the Treasury, by regulations make such provision as he considers appropriate in relation to the transfer to the staff of the Director of such persons employed by any authority wholly or mainly in connection with the discharge of prosecution functions as may be specified in the regulations.
- (2) The regulations may, in particular, make provision—

Status: Point in time view as at 01/01/2004.

Changes to legislation: There are currently no known outstanding effects for the Prosecution of Offences Act 1985, Part I. (See end of Document for details)

- (a) as to the method by which any staff or group of staff are transferred;
 - (b) as to the terms and conditions of the transfer; and
 - (c) for the termination of the employment with the authorities concerned of persons to whom the regulations apply (whether or not they are transferred in accordance with the regulations) and as to the consequences of that termination;
- and (without prejudice to section 29(2) of this Act) may make different provision with respect to staff employed in different areas.
- (3) The regulations may include provision for the determination of questions arising under them and may make such modifications in the application of any enactment as the Attorney General considers appropriate in connection with any provision of the regulations of a kind mentioned in subsection (2)(c) above.
 - (4) Staff transferred in accordance with the regulations shall be exempt from any requirement to the effect that before a person is appointed to Her Majesty's Home Civil Service a certificate of qualification must be issued in respect of him by the Civil Service Commissioners.
 - (5) For the purposes of [^{F15}Chapter I of Part XIV of the ^{M11}Employment Rights Act 1996] (as it applies for the purposes of computing an employee's period and continuity of employment for the purposes of that Act and any other enactment) in its application to a person who is transferred to the staff of the Director as a result of this Part—
 - (a) the period of his employment in the employment from which he is transferred shall count as a period of Crown employment; and
 - (b) the change of employment shall not break the continuity of his employment.
 - (6) Where a person ceases to be a member of the staff of an authority—
 - (a) on becoming a member of the staff of the Service in consequence of any regulations made under this section; or
 - (b) having unreasonably refused to be transferred in pursuance of the regulations;he shall not, on ceasing to be a member of the staff of the authority, be treated for the purposes of any regulations or scheme made under the ^{M12}Superannuation Act 1972 as having ceased to hold his employment by reason of redundancy.
 - (7) In this section “authority ” means any police authority or other authority or body mentioned in section 17(6)(c) or (d) of this Act; and “police authority ”, in relation to the metropolitan police district, means the Commissioner of Police of the Metropolis.

Textual Amendments

F15 Words in s. 11(5) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, **Sch. 1 para. 25(2)**

Marginal Citations

M11 1996 c. 18.

M12 1972 c. 11.

12 Staff commission. **E+W**

- (1) The Attorney General, after consulting such bodies representing authorities or persons employed by authorities as appear to him to be concerned, shall not later than three months after the passing of this Act, establish a staff commission for the purpose of—

Status: Point in time view as at 01/01/2004.

Changes to legislation: There are currently no known outstanding effects for the Prosecution of Offences Act 1985, Part I. (See end of Document for details)

- (a) considering the general effect of this Part on staff employed by any authority wholly or mainly in connection with the discharge of prosecution functions; and
 - (b) advising the Attorney General and Director on the arrangements necessary to safeguard the interests of such staff.
- (2) The functions of the staff commission shall not extend to the giving of advice with respect to recruitment to, or the terms and conditions of service in, Her Majesty's Home Civil Service.
- (3) The Attorney General may give directions to the staff commission as to their procedure; and it shall be the duty of the commission to comply with the directions.
- (4) Any expenses incurred by the staff commission under this section shall be paid by the Director.
- (5) The Attorney General may give to any authority employing staff in connection with the discharge of prosecution functions, directions with respect to—
- (a) the furnishing of information to the staff commission;
 - (b) the implementation of any advice given by the commission; or
 - (c) any other matters connected with the employment of such staff;
- and it shall be the duty of the authority to comply with the directions.
- (6) In this section “authority ” means any police authority or other authority or body mentioned in section 17(6)(c) or (d) of this Act; and “police authority ”, in relation to the metropolitan police district, means the Commissioner of Police of the Metropolis.

13 Premises formerly used in connection with Director's new functions. E+W

- (1) This section shall have effect—
- (a) as respects any premises which were, up to the transfer date, being used to any extent in connection with the discharge of prosecution functions; and
 - (b) as respects the local authority or police authority who were providing the premises;
- and shall have effect in particular to ensure that prosecutions, including proceedings in cases in the course of hearing on the transfer date, can be conducted without any interruption or interference in the transition to the arrangements for prosecuting offences established by this Part.
- (2) On and after the transfer date it shall be the duty of the authority, to the extent to which the premises were being used in connection with the discharge of prosecution functions—
- (a) to make the premises available for the Service; or
 - (b) where it is not reasonably practicable to make them so available, to make available for the Service premises which, in the opinion of the Director, are a suitable alternative.
- (3) It shall also be the duty of the authority to—
- (a) make available for the Service—
 - (i) all fittings, furniture, equipment and other chattels previously made available for use in connection with the discharge of prosecution functions; or

Status: Point in time view as at 01/01/2004.

Changes to legislation: There are currently no known outstanding effects for the Prosecution of Offences Act 1985, Part I. (See end of Document for details)

- (ii) in a case falling within subsection (2)(b) above, those items or items which, in the opinion of the Director, are suitable alternatives;
 - (b) provide such services and facilities as were previously provided by them in connection with the discharge of those functions;
 - (c) heat any accommodation made available for the Service;
 - (d) clean, light and maintain the premises and maintain anything else made available for the Service under this section; and
 - (e) pay all outgoings in respect of the premises so made available.
- (4) The Secretary of State shall pay to an authority making premises available under this section—
 - (a) such amounts as is a reasonable payment for the use of the premises;
 - (b) the reasonable and necessary charges for heating, lighting and cleaning the premises; and
 - (c) a fair contribution—
 - (i) to the cost of any services or facilities provided by the authority in accordance with subsection (3)(b) above; and
 - (ii) in respect of the maintenance of the premises and of anything else made available for the Service under this section.
- (5) Where, immediately before the transfer date, the premises were occupied by the authority under a tenancy—
 - (a) the obligations imposed on the authority by this section in relation to those premises shall, if they have not ended by virtue of subsection (6) or (7) below, come to an end—
 - (i) with the termination of the tenancy by the landlord in accordance with the provisions of Part II of the ^{M13}Landlord and Tenant Act 1954; or
 - (ii) where the provisions of sections 24 to 28 of that Act have been excluded in relation to the tenancy, on the date on which the term for which the tenancy is granted is due to expire by effluxion of time; and
 - (b) for the purposes of Part II of the Act of 1954, the authority shall, while complying with those obligations, be taken to be occupying the premises for the purposes of a business carried on by them.
- (6) The obligations imposed by this section on any authority in relation to any premises shall end with—
 - (a) the expiry of the period of five years beginning with the transfer date; or
 - (b) where the Secretary of State is of the opinion, in relation to those premises, that no suitable alternative premises will be available to the Service within that period, the expiry of such longer period (beginning with the transfer date and not exceeding ten years) as he may specify in a written notice given to the authority concerned before the expiry of the period of four years beginning with the transfer date.
- (7) Where the Secretary of State—
 - (a) is of the opinion that the obligations imposed by this section in relation to any premises can be brought to an end on a date earlier than that determined in accordance with subsection (6) above; and
 - (b) has given the authority concerned such notice as he considers reasonable of his intention to bring those obligations to an end on the date specified in the notice;

Status: Point in time view as at 01/01/2004.

Changes to legislation: There are currently no known outstanding effects for the Prosecution of Offences Act 1985, Part I. (See end of Document for details)

they shall end on the date so specified.

- (8) While the obligations imposed by this section are in force in relation to any premises, members of the Service shall, to the extent necessary to enable them to carry out their functions, enjoy the same rights and privileges in relation to the premises as were previously enjoyed by those occupying the premises in connection with the discharge of prosecution functions.
- (9) In a case falling within subsection (2)(b) above, subsection (8) above shall not apply but the premises offered by the authority shall not be regarded as a suitable alternative unless the Director is satisfied that the members of the Service who will occupy the premises will have such rights and privileges in relation to them as will be necessary to enable those members to carry out their functions.
- (10) An authority shall not be taken to have acted in breach of any covenant, condition, term or other provision by reason of their complying with any obligation imposed on them by this section.
- (11) Any question arising under this section shall, in the event of disagreement between the Secretary of State and the authority, be determined by such person as may be appointed for the purpose—
- (a) by the Secretary of State, with the agreement of the authority; or
 - (b) failing that agreement, by the Lord Chancellor.
- (12) Where the premises were provided jointly by two or more authorities, the obligations imposed by this section shall be shared among them in a way corresponding to that in which they provided the premises in connection with the discharge of prosecution functions.
- (13) In this section—
- “police authority”, in relation to the metropolitan police district, means the Receiver for the Metropolitan Police District; and
- “transfer date”, in relation to any prosecution functions, means the date on which the staff in question were transferred to the staff of the Director.

Modifications etc. (not altering text)

C6 S. 13 (except subsection (6)(b)) applied with modifications by S.I. 1986/148, art. 11(7)

Marginal Citations

M13 1954 c. 56.

Miscellaneous

14 Control of certain fees and expenses etc. paid by the Service. E+W

- (1) The Attorney General may, with the approval of the Treasury, by regulations make such provision as he considers appropriate in relation to—
- (a) the fees of [^{F16}any legal representative] briefed to appear on behalf of the Service in any criminal proceedings [^{F17}or extradition proceedings] ; and
 - (b) the costs and expenses of witnesses attending to give evidence at the instance of the Service [^{F18}and, subject to subsection (1A) below, of any other person

Status: Point in time view as at 01/01/2004.

Changes to legislation: There are currently no known outstanding effects for the Prosecution of Offences Act 1985, Part I. (See end of Document for details)

who in the opinion of the Service necessarily attends for the purpose of the case otherwise than to give evidence].

[^{F19}(1A) The power conferred on the Attorney General by subsection (1)(b) above only relates to the costs and expenses of an interpreter if the interpreter is required because of the lack of English of a person attending to give evidence at the instance of the Service.]

[^{F19}(1B) In subsection (1)(b) above “attending ” means attending at the court or elsewhere.]

(2) The regulations may, in particular—

- (a) prescribe scales or rates of fees, costs or expenses; and
- (b) specify conditions for the payment of fees, costs or expenses.

[^{F20}(3) Regulations made under subsection (1)(b) above may provide that scales or rates of costs and expenses shall be determined by the Attorney General with the consent of the Treasury.]

Subordinate Legislation Made

P1 S. 14; power conferred by s. 14 previously exercised by [S.I. 1986/405](#), 842, 1250, 1818, 1987/902, 1636, 1851, 1988/807, 1054, 1862

Textual Amendments

F16 Words in s. 14(1) substituted (1. 4. 1991) by [Courts and Legal Services Act 1990 \(c. 41, SIF 37\)](#), s. 125(3), [Sch. 18 para. 52\(1\)](#); [S.I.1991/608](#), art. 2, [Sch.](#)

F17 Words in s. 14(1)(a) inserted (1.1.2004) by [Extradition Act 2003 \(c. 41\)](#), [ss. 190\(5\)](#), 221; [S.I. 2003/3103](#), [art. 2](#) (subject to savings in Order (as amended by [S.I. 2003/3312](#), art. 2(2) and [S.I. 2003/3258](#), art. 3(2)))

F18 Words added by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 166(a), [Sch. 8 para. 16](#)

F19 S. 14(1A)(1B) inserted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 166(1)(b), [Sch. 8 para. 16](#)

F20 S. 14(3) inserted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 166(1)(c), [Sch. 8 para. 16](#)

Modifications etc. (not altering text)

C7 S. 14 applied (prosp.) by [Serious Crime Act 2007 \(c. 27\)](#), [ss. 37, 94](#), [Sch. 2 para. 5](#)

15 Interpretation of Part I. **E+W**

(1) In this Part—

“binding over proceedings” means any proceedings instituted (whether by way of complaint under section 115 of the ^{M14}Magistrates’ Courts Act 1980 or otherwise) with a view to obtaining from a magistrates’ court an order requiring a person to enter into a recognizance to keep the peace or to be of good behaviour;

“Director” means the Director of Public Prosecutions;

[^{F21}“extradition proceedings” means proceedings under the Extradition Act 2003;]

[^{F22}“legal representative ” means an authorised advocate or authorised litigator, as defined by section 119(1) of the Courts and Legal Services Act 1990.]

“police force ” has the same meaning as in section 3 of this Act;

“prosecution functions ” means functions which by virtue of this Part become functions of the Director;

Status: Point in time view as at 01/01/2004.

Changes to legislation: There are currently no known outstanding effects for the Prosecution of Offences Act 1985, Part I. (See end of Document for details)

“public authority ” has the same meaning as in section 17 of this Act;
 “Service ” means the Crown Prosecution Service; [^{F23} . . .
^{F23} . . .]

- (2) For the purposes of this Part, proceedings in relation to an offence are instituted—
- (a) where a justice of the peace issues a summons under section 1 of the ^{M15}Magistrates’ Courts Act 1980, when the information for the offence is laid before him;
 - (b) where a justice of the peace issues a warrant for the arrest of any person under that section, when the information for the offence is laid before him;
 - (c) where a person is charged with the offence after being taken into custody without a warrant, when he is informed on the particulars of the charge;
 - (d) where a bill of indictment is preferred under section 2 of the ^{M16}Administration of Justice (Miscellaneous Provisions) Act 1933 in a case falling within paragraph (b) of subsection (2) of that section, when the bill of indictment is preferred before the court;

and where the application of this subsection would result in there being more than one time for the institution of the proceedings, they shall be taken to have been instituted at the earliest of those times.

- (3) For the purposes of this Part, references to the conduct of any proceedings include references to the proceedings being discontinued and to the taking of any steps (including the bringing of appeals and making of representations in respect of applications for bail) which may be taken in relation to them.
- (4) For the purposes of sections 3(2)(b), 5, 6 and 7(1) of this Act, binding over proceedings shall be taken to be criminal proceedings.
- (5) For the purposes of section 5 of this Act, proceedings begun by summons issued under section 3 of the ^{M17}Obscene Publications Act 1959 (forfeiture of obscene articles) shall be taken to be criminal proceedings.
- (6) The functions which become functions of the Director by virtue of this Part shall [^{F24}not be treated as transferred functions] for the purposes of paragraph 1(2) of Schedule 3 to the ^{M18}Pensions (Increase) Act 1971 (meaning of “last employing authority ”).
- (7) The person who, immediately before the commencement of section 2 of this Act, holds the office of Director shall be treated on the commencement of that section as holding that office in pursuance of an appointment made by the Attorney General.

Textual Amendments

- F21** Definition in s. 15(1) inserted (1.1.2004) by [Extradition Act 2003 \(c. 41\), ss. 190\(6\), 221; S.I. 2003/3103, art. 2](#) (subject to savings in Order (as amended by [S.I. 2003/3312, art. 2\(2\)](#) and [S.I. 2003/3258, art. 3\(2\)](#)))
- F22** Definition in s. 15(1) inserted (1.4.1991) by [Courts and Legal Services Act 1990 \(c. 41, SIF 37\), s. 125\(3\), Sch. 18 para. 52\(2\); S.I. 1991/608, art. 2, Sch.](#)
- F23** Word and definition in s. 15(1) repealed (1. 4. 1991) by [Courts and Legal Services Act 1990 \(c. 41, SIF 37\), s. 125\(7\), Sch. 20; S.I. 1991/608, art. 2, Sch.](#)
- F24** Words in s. 15(6) substituted (22.8.1996) by [1996 c. 18, ss. 240, 243, Sch. 1 para. 25\(3\)](#)

Marginal Citations

- M14** 1980 c. 43.

Status: Point in time view as at 01/01/2004.

Changes to legislation: There are currently no known outstanding effects for the Prosecution of Offences Act 1985, Part I. (See end of Document for details)

M15 1980 c. 43.

M16 1933 c. 36.

M17 1959 c. 66.

M18 1971 c. 56.

Status:

Point in time view as at 01/01/2004.

Changes to legislation:

There are currently no known outstanding effects for the Prosecution of Offences Act 1985, Part I.