



Prosecution of Offences Act 1985

1985 CHAPTER 23

PART III

MISCELLANEOUS

- 22 Power of Secretary of State to set time limits in relation to preliminary stages of criminal proceedings.**
- (1) The Secretary of State may by regulations make provision, with respect to any specified preliminary stage of proceedings for an offence, as to the maximum period—
- (a) to be allowed to the prosecution to complete that stage;
 - (b) during which the accused may, while awaiting completion of that stage, be—
 - (i) in the custody of a magistrates' court; or
 - (ii) in the custody of the Crown Court;in relation to that offence.
- (2) The regulations may, in particular—
- (a) be made so as to apply only in relation to proceedings instituted in specified areas;
 - (b) make different provision with respect to proceedings instituted in different areas;
 - (c) make such provision with respect to the procedure to be followed in criminal proceedings as the Secretary of State considers appropriate in consequence of any other provision of the regulations;
 - (d) provide for the ^{M1}Magistrates' Court Act 1980 and the ^{M2}Bail Act 1976 to apply in relation to cases to which custody or overall time limits apply subject to such modifications as may be specified (being modifications which the Secretary of State considers necessary in consequence of any provision made by the regulations); and
 - (e) make such transitional provision in relation to proceedings instituted before the commencement of any provision of the regulations as the Secretary of State considers appropriate.

Status: Point in time view as at 04/07/1996. This version of this part contains provisions that are not valid for this point in time.

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- (3) The appropriate court may, at any time before the expiry of a time limit imposed by the regulations, extend, or further extend, that limit if it is satisfied—
- (a) that there is good and sufficient cause for doing so; and
 - (b) that the prosecution has acted with all due expedition.
- (4) Where, in relation to any proceedings for an offence, an overall time limit has expired before the completion of the stage of the proceedings to which the limit applies, the accused shall be treated, for all purposes, as having been acquitted of that offence.
- (5) Where—
- (a) a person escapes from the custody of a magistrates' court or the Crown Court before the expiry of a custody time limit which applies in his case; or
 - (b) a person who has been released on bail in consequence of the expiry of a custody time limit—
 - (i) fails to surrender himself into the custody of the court at the appointed time; or
 - (ii) is arrested by a constable on a ground mentioned in section 7(3)(b) of the Bail Act 1976 (breach, or likely breach, of conditions of bail);
 the regulations shall, so far as they provide for any custody time limit in relation to the preliminary stage in question, be disregarded.
- (6) Where—
- (a) a person escapes from the custody of a magistrates' court or the Crown Court; or
 - (b) a person who has been released on bail fails to surrender himself into the custody of the court at the appointed time;
- the overall time limit which applies in his case in relation to the stage which the proceedings have reached at the time of the escape or, as the case may be, at the appointed time shall, so far as the offence in question is concerned, cease to have effect.
- (7) Where a magistrates' court decides to extend, or further extend, a custody or overall time limit, the accused may appeal against the decision to the Crown Court.
- (8) Where a magistrates' court refuses to extend, or further extend, a custody or overall time limit the prosecution may appeal against the refusal to the Crown Court.
- (9) An appeal under subsection (8) above may not be commenced after the expiry of the limit in question; but where such an appeal is commenced before the expiry of the limit the limit shall be deemed not to have expired before the determination or abandonment of the appeal.
- (10) Where a person is convicted of an offence in any proceedings, the exercise, in relation to any preliminary stage of those proceedings, of the power conferred by subsection (3) above shall not be called into question in any appeal against that conviction.
- (11) In this section—
- “appropriate court ” means—
- (a) where the accused has been committed for trial or indicted for the offence, the Crown Court; and
 - (b) in any other case, the magistrates' court specified in the summons or warrant in question or, where the accused has already appeared or been brought before a magistrates' court, a magistrates' court for the same area;

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[^{F1}“custody ” includes local authority accommodation to which a person is remanded or committed by virtue of section 23 of the Children and Young Persons Act 1969, and references to a person being committed to custody shall be construed accordingly;]

“custody of the Crown Court ” includes custody to which a person is committed in pursuance of—

- (a) section 6 of the ^{M3}Magistrates’ Courts Act 1980 (magistrates’ court committing accused for trial); or
- (b) section 43A of that Act (magistrates’ court dealing with a person brought before it following his arrest in pursuance of a warrant issued by the Crown Court); [^{F2}or
- (c) section 5(3)(a) of the Criminal Justice Act 1987 (custody after transfer order in fraud case); [^{F3}, or]]
- [^{F3}(d) paragraph 2(1)(a) of Schedule 6 to the Criminal Justice Act 1991 (custody after transfer order in certain cases involving children).]

“custody of a magistrates’ court ” means custody to which a person is committed in pursuance of section 128 of the ^{M4}Magistrates’ Courts Act 1980 (remand);

“custody time limit ” means a time limit imposed by regulations made under subsection (1)(b) above or, where any such limit has been extended by a court under subsection (3) above, the limit as so extended;

[^{F4}“preliminary stage ”, in relation to any proceedings, does not include any stage after the start of the trial (within the meaning given by subsections (11A) and (11B) below);]

“overall time limit ” means a time limit imposed by regulations made under subsection (1)(a) above or, where any such limit has been extended by a court under subsection (3) above, the limit as so extended; and

“specified ” means specified in the regulations.

[^{F5}(11A) For the purposes of this section, the start of a trial on indictment shall be taken to occur when a jury is sworn to consider the issue of guilt or fitness to plead or, if the court accepts a plea of guilty before a jury is sworn, when that plea is accepted; but this is subject to section 8 of the ^{M5}Criminal Justice Act 1987 and section 30 of the ^{M6}Criminal Procedure and Investigations Act 1996 (preparatory hearings).

[^{F5}(11B) For the purposes of this section, the start of a summary trial shall be taken to occur—

- (a) when the court begins to hear evidence for the prosecution at the trial or to consider whether to exercise its power under section 37(3) of the ^{M7}Mental Health Act 1983 (power to make hospital order without convicting the accused), or
- (b) if the court accepts a plea of guilty without proceeding as mentioned above, when that plea is accepted.]

(12) For the purposes of the application of any custody time limit in relation to a person who is in the custody of a magistrates’ court or the Crown Court—

- (a) all periods during which he is in the custody of a magistrates’ court in respect of the same offence shall be aggregated and treated as a single continuous period; and
- (b) all periods during which he is in the custody of the Crown Court in respect of the same offence shall be aggregated and treated similarly.

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- (13) For the purposes of section 29(3) of the ^{M8}Supreme Court Act 1981 (High Court to have power to make prerogative orders in relation to jurisdiction of Crown Court in matters which do not relate to trial on indictment) the jurisdiction conferred on the Crown Court by this section shall be taken to be part of its jurisdiction in matters other than those relating to trial on indictment.

Subordinate Legislation Made

P1 S. 22: power previously exercised by S.I. 1987/299, 1988/164, 1989/767, 1989/1107.

P2 S. 22(1)(2): s. 22(1)(with ss. 22(2) and 29(2)) power exercised by S.I. 1991/1515.

Textual Amendments

F1 Definition of "custody" in s. 22(11) inserted (14. 10. 1991) by **Criminal Justice Act 1991 (c. 53, SIF 39:1)**, s. 100, **Sch. 11 para. 36**; S.I. 1991/2208, art. 2(1), **Sch. 1**.

F2 S. 22(11)(c) and the word "or" immediately preceding it added by **Criminal Justice Act 1988 (c. 33, SIF 39:1)**, s. 170, **Sch. 8 para. 16, Sch. 15 para. 104**

F3 S. 22(11)(d) and the word ", or" immediately preceding it inserted (3.2.1995) by **1994 c. 33, s. 168(3), Sch. 9 para. 27**; S.I. 1995/127, art. 2(1), **Sch. 1** Appendix A

F4 Definition of "preliminary stage" in s. 22(11) substituted (4.7.1996 with effect as mentioned in s. 71(5)(a)(b)(6) of the substituting Act) by **1996 c. 25, s. 71(2)(5)** (with s. 78(1)); S.I. 1996/2343, **art.2**

F5 S. 22(11A)(11B) inserted (4.7.1996 with effect as mentioned in s. 71(5)(a)(b)(6) of the inserting Act) by **1996 c. 25, s. 71(3)(5)** (with s. 78(1)); S.I. 1996/2343, **art.2**

Marginal Citations

M1 1980 c. 43.

M2 1976 c. 63.

M3 1980 c. 43.

M4 1980 c. 43.

M5 1987 c. 38.

M6 1996 c. 00.

M7 1983 c. 20.

M8 1981 c. 54.

VALID FROM 01/06/1999

[^{F6}22A Additional time limits for persons under 18.

- (1) The Secretary of State may by regulations make provision—
- (a) with respect to a person under the age of 18 at the time of his arrest in connection with an offence, as to the maximum period to be allowed for the completion of the stage beginning with his arrest and ending with the date fixed for his first appearance in court in connection with the offence ("the initial stage");
 - (b) with respect to a person convicted of an offence who was under that age at the time of his arrest for the offence or (where he was not arrested for it) the laying of the information charging him with it, as to the period within which the stage between his conviction and his being sentenced for the offence should be completed.

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- (2) Subsection (2) of section 22 above applies for the purposes of regulations under subsection (1) above as if—
- (a) the reference in paragraph (d) to custody or overall time limits were a reference to time limits imposed by the regulations; and
 - (b) the reference in paragraph (e) to proceedings instituted before the commencement of any provisions of the regulations were a reference to a stage begun before that commencement.
- (3) A magistrates' court may, at any time before the expiry of the time limit imposed by the regulations under subsection (1)(a) above (“the initial stage time limit”), extend, or further extend, that limit; but the court shall not do so unless it is satisfied—
- (a) that the need for the extension is due to some good and sufficient cause; and
 - (b) that the investigation has been conducted, and (where applicable) the prosecution has acted, with all due diligence and expedition.
- (4) Where the initial stage time limit (whether as originally imposed or as extended or further extended under subsection (3) above) expires before the person arrested is charged with the offence, he shall not be charged with it unless further evidence relating to it is obtained, and—
- (a) if he is then under arrest, he shall be released;
 - (b) if he is then on bail under Part IV of the ^{M9}Police and Criminal Evidence Act 1984, his bail (and any duty or conditions to which it is subject) shall be discharged.
- (5) Where the initial stage time limit (whether as originally imposed or as extended or further extended under subsection (3) above) expires after the person arrested is charged with the offence but before the date fixed for his first appearance in court in connection with it, the court shall stay the proceedings.
- (6) Where—
- (a) a person escapes from arrest; or
 - (b) a person who has been released on bail under Part IV of the ^{M10}Police and Criminal Evidence Act 1984 fails to surrender himself at the appointed time, and is accordingly unlawfully at large for any period, that period shall be disregarded, so far as the offence in question is concerned, for the purposes of the initial stage time limit.
- (7) Subsections (7) to (9) of section 22 above apply for the purposes of this section, at any time after the person arrested has been charged with the offence in question, as if any reference (however expressed) to a custody or overall time limit were a reference to the initial stage time limit.
- (8) Where a person is convicted of an offence in any proceedings, the exercise of the power conferred by subsection (3) above shall not be called into question in any appeal against that conviction.
- (9) Any reference in this section (however expressed) to a person being charged with an offence includes a reference to the laying of an information charging him with it.]

Textual Amendments

F6 S. 22A inserted (1.6.1999) by 1998 c. 37, ss.44, S.I. 1999/1279, art. 2(b)

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Marginal Citations

M9 1984 c.60.

M10 1984 c.60.

VALID FROM 01/06/1999

22B Re-institution of proceedings stayed under section 22(4) or 22A(5).

- (1) This section applies where proceedings for an offence (“the original proceedings”) are stayed by a court under section 22(4) or 22A(5) of this Act.
- (2) If—
 - (a) in the case of proceedings conducted by the Director, the Director or a Chief Crown Prosecutor so directs;
 - (b) in the case of proceedings conducted by the Director of the Serious Fraud Office, the Commissioners of Inland Revenue or the Commissioners of Customs and Excise, that Director or those Commissioners so direct; or
 - (c) in the case of proceedings not conducted as mentioned in paragraph (a) or (b) above, a person designated for the purpose by the Secretary of State so directs,
 fresh proceedings for the offence may be instituted within a period of three months (or such longer period as the court may allow) after the date on which the original proceedings were stayed by the court.
- (3) Fresh proceedings shall be instituted as follows—
 - (a) where the original proceedings were stayed by the Crown Court, by preferring a bill of indictment;
 - (b) where the original proceedings were stayed by a magistrates’ court, by laying an information.
- (4) Fresh proceedings may be instituted in accordance with subsections (2) and (3)(b) above notwithstanding anything in section 127(1) of the ^{M11}Magistrates’ Courts Act 1980 (limitation of time).
- (5) Where fresh proceedings are instituted, anything done in relation to the original proceedings shall be treated as done in relation to the fresh proceedings if the court so directs or it was done—
 - (a) by the prosecutor in compliance or purported compliance with section 3, 4, 7 or 9 of the ^{M12}Criminal Procedure and Investigations Act 1996; or
 - (b) by the accused in compliance or purported compliance with section 5 or 6 of that Act.
- (6) Where a person is convicted of an offence in fresh proceedings under this section, the institution of those proceedings shall not be called into question in any appeal against that conviction.

Marginal Citations

M11 1980 c.43.

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M12 1996 c.25.

23 Discontinuance of proceedings in magistrates' courts.

- (1) Where the Director of Public Prosecutions has the conduct of proceedings for an offence, this section applies in relation to the preliminary stages of those proceedings.
- (2) In this section, “preliminary stage ” in relation to proceedings for an offence does not include—
 - (a) in the case of a summary offence, any stage of the proceedings after the court has begun to hear evidence for the prosecution at the trial;
 - (b) in the case of an indictable offence, any stage of the proceedings after—
 - (i) the accused has been committed for trial; or
 - (ii) the court has begun to hear evidence for the prosecution at a summary trial of the offence.
- (3) Where, at any time during the preliminary stages of the proceedings, the Director gives notice under this section to the clerk of the court that he does not want the proceedings to continue, they shall be discontinued with effect from the giving of that notice but may be revived by notice given by the accused under subsection (7) below.
- (4) Where, in the case of a person charged with an offence after being taken into custody without a warrant, the Director gives him notice, at a time when no magistrates' court has been informed of the charge, that the proceedings against him are discontinued, they shall be discontinued with effect from the giving of that notice.
- (5) The Director shall, in any notice given under subsection (3) above, give reasons for not wanting the proceedings to continue.
- (6) On giving any notice under subsection (3) above the Director shall inform the accused of the notice and of the accused's right to require the proceedings to be continued; but the Director shall not be obliged to give the accused any indication of his reasons for not wanting the proceedings to continue.
- (7) Where the Director has given notice under subsection (3) above, the accused shall, if he wants the proceedings to continue, give notice to that effect to the clerk of the court within the prescribed period; and where notice is so given the proceedings shall continue as if no notice had been given by the Director under subsection (3) above.
- (8) Where the clerk of the court has been so notified by the accused he shall inform the Director.
- (9) The discontinuance of any proceedings by virtue of this section shall not prevent the institution of fresh proceedings in respect of the same offence.
- (10) In this section “prescribed ” means prescribed by rules made under section 144 of the ^{M13}Magistrates' Courts Act 1980.

Marginal Citations

M13 1980 c. 43.

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VALID FROM 04/01/1999

23A Discontinuance of proceedings after accused has been sent for trial.

- (1) This section applies where—
 - (a) the Director of Public Prosecutions, or a public authority (within the meaning of section 17 of this Act), has the conduct of proceedings for an offence; and
 - (b) the accused has been sent for trial under section 51 of the Crime and Disorder Act 1998 for the offence.
- (2) Where, at any time before the indictment is preferred, the Director or authority gives notice under this section to the Crown Court sitting at the place specified in the notice under section 51(7) of the Crime and Disorder Act 1998 that he or it does not want the proceedings to continue, they shall be discontinued with effect from the giving of that notice.
- (3) The Director or authority shall, in any notice given under subsection (2) above, give reasons for not wanting the proceedings to continue.
- (4) On giving any notice under subsection (2) above the Director or authority shall inform the accused of the notice; but the Director or authority shall not be obliged to give the accused any indication of his reasons for not wanting the proceedings to continue.
- (5) The discontinuance of any proceedings by virtue of this section shall not prevent the institution of fresh proceedings in respect of the same offence.

Modifications etc. (not altering text)

- C1 S. 23A applied (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\), ss. 36\(3\), 53; S.I. 2005/1126, art. 2\(g\)](#)

24 [F7 Restriction of vexatious prosecutions.]

- (1) Section 42 of the ^{M14}Supreme Court Act 1981 (restriction of vexatious civil proceedings) shall be amended as follows.
- (2) In subsection (1)—
 - (a) in paragraphs (a) and (b) for the word “legal ” there shall be substituted, in each case, “civil ”;
 - (b) at the end of paragraph (b) there shall be inserted—

“or

 - (c) instituted vexatious prosecutions (whether against the same person or different persons),”; and
 - (c) for the words from “order ” to the end of the subsection there shall be substituted—

“make a civil proceedings order, a criminal proceedings order or an all proceedings order.”.

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(3) After subsection (1) there shall be inserted—

“(1A) In this section—

“civil proceedings order ” means an order that—

- (a) no civil proceedings shall without the leave of the High Court be instituted in any court by the person against whom the order is made;
- (b) any civil proceedings instituted by him in any court before the making of the order shall not be continued by him without the leave of the High Court; and
- (c) no application (other than one for leave under this section) shall be made by him, in any civil proceedings instituted in any court by any person, without the leave of the High Court;

“criminal proceedings order ” means an order that—

- (a) no information shall be laid before a justice of the peace by the person against whom the order is made without the leave of the High Court; and
- (b) no application for leave to prefer a bill of indictment shall be made by him without the leave of the High Court; and

“all proceedings order ” means an order which has the combined effect of the two other orders.”.

(4) In subsection (3), for the word “legal ” there shall be substituted “civil ”.

(5) After subsection (3) there shall be inserted—

“(3A) Leave for the laying of an information or for an application for leave to prefer a bill of indictment by a person who is the subject of an order for the time being in force under subsection (1) shall not be given unless the High Court is satisfied that the institution of the prosecution is not an abuse of the criminal process and that there are reasonable grounds for the institution of the prosecution by the applicant.”

(6) In subsection (4), for the words from “for the institution ” to the end there shall be substituted “required by virtue of this section ”.

(7) An order made under section 42 before the commencement of this section and in force at the time of that commencement shall, for the purposes of that section as amended by this section, be treated as a civil proceedings order.

Textual Amendments

F7 S. 23A inserted (4.1.1999 for specified purposes and otherwise 15.1.2001) by 1998 c. 37, s. 119, **Sch. 8 para.64**; S.I. 1998/2327, **art. 4(2)(c)**; S.I. 2000/3283, **art. 2(c)** (subject to art. 3)

Marginal Citations

M14 1981 c. 54.

25 Consents to prosecutions etc.

(1) This section applies to any enactment which prohibits the institution or carrying on of proceedings for any offence except—

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- (a) with the consent (however expressed)— of a Law Officer of the Crown or the Director; or
- (b) where the proceedings are instituted or carried on by or on behalf of a Law Officer of the Crown or the Director;

and so applies whether or not there are other exceptions to the prohibition (and in particular whether or not the consent is an alternative to the consent of any other authority or person).

- (2) An enactment to which this section applies—
 - (a) shall not prevent the arrest without warrant, or the issue or execution of a warrant for the arrest, of a person for any offence, or the remand in custody or on bail of a person charged with any offence; and
 - (b) shall be subject to any enactment concerning the apprehension or detention of children or young persons.
- (3) In this section “enactment ” includes any provision having effect under or by virtue of any Act; and this section applies to enactments whenever passed or made.

26 Consents to be admissible in evidence.

Any document purporting to be the consent of a Law Officer of the Crown, the Director or a Crown Prosecutor for, or to—

- (a) the institution of any criminal proceedings; or
- (b) the institution of criminal proceedings in any particular form;

and to be signed by a Law Officer of the Crown, the Director or, as the case may be, a Crown Prosecutor shall be admissible as prima facie evidence without further proof.

^{F8}27

Textual Amendments

F8 S. 27 repealed (14.10.1991) by [Children Act 1989 \(c. 41, SIF 20\)](#), s. 108(7), [Sch. 15](#); S.I. 1991/828, [art. 3\(2\)](#)

28 Repeal of s. 9 of Perjury Act 1911.

Section 9 of the ^{M15}Perjury Act 1911 (which gives certain judicial authorities power to order the prosecution of persons for perjury) shall cease to have effect.

Marginal Citations

M15 1911 c. 6.

Status:

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