

Status: Point in time view as at 31/10/2009. This version of this schedule contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Prosecution of Offences Act 1985, SCHEDULE 1. (See end of Document for details)

SCHEDULES

SCHEDULE 1

Section 31(5).

MINOR AND CONSEQUENTIAL AMENDMENTS

PART I

AMENDMENTS RELATING TO PART I

The Magistrates' Courts Act 1980 (c. 43)

F1
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Textual Amendments

F1 Sch. 1 para. 1 repealed (4.9.1995) by 1994 c. 33, s. 168(3), Sch.11; S.I. 1995/1957, art.6

2 In section 19 of that Act (in cases triable either way, court to begin by considering which mode of trial appears more suitable) the following subsection shall be added at the end—

“(5) The power of the Director of Public Prosecutions under subsection (4) above to apply for an offence to be tried on indictment shall not be exercised except with the consent of the Attorney General.”

3 In section 25 of that Act (power to change from summary trial to committal proceedings and vice versa), in subsection (3) before the word “proceed ” there shall be inserted “subject to subsection (3A) below ” and after subsection (3) there shall be inserted the following subsection—

“(3A) Where the prosecution is being carried on by the Attorney General or the Solicitor General, the court shall not exercise the power conferred by subsection (3) above without his consent and, where the prosecution is being carried on by the Director of Public Prosecutions, shall not exercise that power if the Attorney General directs that it should not be exercised.”

The Contempt of Court Act 1981 (c. 49)

4 In paragraph 7 of Schedule 1 to the Contempt of Court Act 1981 (meaning of “discontinuance ” in relation to criminal proceedings), the following sub-paragraph shall be inserted after sub-paragraph (a)—

“(aa) in England and Wales, if they are discontinued by virtue of section 23 of the Prosecution of Offences Act 1985;”.

5 After paragraph 9 of Schedule 1 to that Act there shall be inserted the following paragraph—

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- “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.”

PART II

AMENDMENTS RELATING TO PART II

The Criminal Justice Act 1967 (c. 80)

- 6 In section 32 of the Criminal Justice Act 1967 (which provides that the costs of a medical practitioner reporting to a court are to be recoverable as witness costs), in subsection (2)—
- (a) the words from “and ”, where it first appears, to “funds ”, and the words from “and ”, where it next appears, to the end of the subsection, shall be omitted; and
 - (b) for the words “they apply ” there shall be substituted “it applies ”.

The Administration of Justice Act 1970 (c. 31)

- 7 (1) Schedule 9 to the Administration of Justice Act 1970 shall be amended as follows.
- (2) After paragraph 1 there shall be inserted—
- “1A Where a magistrates’ court makes an order as to costs to be paid by the accused in exercise of any power in that behalf conferred by regulations made under section 19(1) of the Prosecution of Offences Act 1985.”
- (3) In paragraph 4, for the words “orders him to pay the whole or part of the costs incurred in or about the prosecution and conviction ” there shall be substituted “makes an order as to costs to be paid by him ”.
- (4) After paragraph 4 there shall be inserted—
- “4A Where the Crown Court makes an order as to costs to be paid by the accused in exercise of any power in that behalf conferred by regulations made under section 19(1) of the Prosecution of Offences Act 1985.”
- (5) For paragraphs 6 and 7 there shall be substituted the following—
- “6 Where the criminal division of the Court of Appeal makes an order as to costs to be paid by—
- (a) an appellant;
 - (b) an applicant for leave to appeal to that court; or
 - (c) in the case of an application for leave to appeal to the House of Lords, an applicant who was the appellant before the criminal division.”.

(6) In paragraph 9, for “section 18 of the Costs in Criminal Cases Act 1973 ” there shall be substituted “regulations made under section 19(5) of the Prosecution of Offences Act 1985 ”.

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(7) For paragraph 13 there shall be substituted the following—

“13 Where a magistrates’ court makes an order as to costs to be paid by the prosecutor in exercise of any power in that behalf conferred by regulations made under section 19(1) of the Prosecution of Offences Act 1985.”

(8) Paragraph 15 shall be omitted.

(9) After paragraph 16 there shall be inserted—

“ Costs awarded by Court of Appeal (criminal division)

16A Where the criminal division of the Court of Appeal makes an order as to costs to be paid by the respondent or, in the case of an application for leave to appeal to the House of Lords, an applicant who was the respondent before the criminal division, and does so in exercise of any power in that behalf conferred by regulations made under section 19(1) of the Prosecution of Offences Act 1985.”

The Criminal Justice Act 1972 (c. 71)

8 In section 36 of the Criminal Justice Act 1972 (reference to Court of Appeal of point of law following acquittal on indictment) the following subsection shall be inserted after subsection (5)—

“(5A) Section 20(1) of the Prosecution of Offences Act 1985 (regulations as to scales and rates of payment of costs payable out of central funds) shall apply in relation to this section as it applies in relation to Part II of that Act.”

The [F2Senior Courts Act 1981] (c. 54)

Textual Amendments

F2 Words in Act substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), s. 148\(1\), Sch. 11 para. 1\(2\)](#); [S.I. 2009/1604, art. 2\(d\)](#)

9 In section 52(3) of the [F2Senior Courts Act 1981] (ambit of Crown Court rules in relation to awards of costs) for the words “Costs in Criminal Cases Act 1973 ” there shall be substituted “Part II of the Prosecution of Offences Act 1985 ” and for the words from “is ” to the end of the subsection there shall be substituted “in relation to costs of proceedings in the Crown Court, is contained in section 18 of that Act or in regulations made under section 19 of that Act (awards of party and party costs in criminal proceedings) ”.

10 In section 52(4) of that Act, for the words “Costs in Criminal Cases Act 1973 ” there shall be substituted “Part II of the Prosecution of Offences Act 1985 ”.

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PROSPECTIVE

PART III

MISCELLANEOUS

The [F²Senior Courts Act 1981] (c. 54)

- 11 In section 77 of the [F²Senior Courts Act 1981] (Crown Court rules to prescribe minimum and maximum period which may elapse between committal and beginning of trial), for the words “and maximum periods”, in subsection (3), there shall be substituted “period”.

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