



# Crime and Disorder Act 1998

## 1998 CHAPTER 37

### PART III

#### CRIMINAL JUSTICE SYSTEM

##### *Time limits etc.*

#### 43 Time limits.

- (1) In subsection (2) of section 22 (time limits in relation to criminal proceedings) of the <sup>M1</sup>Prosecution of Offences Act 1985 (“the 1985 Act”), for paragraphs (a) and (b) there shall be substituted the following paragraphs—
- “(a) be made so as to apply only in relation to proceedings instituted in specified areas, or proceedings of, or against persons of, specified classes or descriptions;
  - (b) make different provision with respect to proceedings instituted in different areas, or different provision with respect to proceedings of, or against persons of, different classes or descriptions;”.
- (2) For subsection (3) of that section there shall be substituted the following subsection—
- “(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; but the court shall not do so unless it is satisfied—
- (a) that the need for the extension is due to—
    - (i) the illness or absence of the accused, a necessary witness, a judge or a magistrate;
    - (ii) a postponement which is occasioned by the ordering by the court of separate trials in the case of two or more accused or two or more offences; or
    - (iii) some other good and sufficient cause; and
  - (b) that the prosecution has acted with all due diligence and expedition.”

*Status: Point in time view as at 30/09/1998. This version of this cross heading contains provisions that are not valid for this point in time.*

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- (3) In subsection (4) of that section, for the words from “the accused” to the end there shall be substituted the words “ the appropriate court shall stay the proceedings ”.
- (4) In subsection (6) of that section—
- (a) for the word “Where” there shall be substituted the words “ Subsection (6A) below applies where ”; and
  - (b) for the words from “the overall time limit” to the end there shall be substituted the words “ and is accordingly unlawfully at large for any period. ”
- (5) After that subsection there shall be inserted the following subsection—
- “(6A) The following, namely—
- (a) the period for which the person is unlawfully at large; and
  - (b) such additional period (if any) as the appropriate court may direct, having regard to the disruption of the prosecution occasioned by—
    - (i) the person’s escape or failure to surrender; and
    - (ii) the length of the period mentioned in paragraph (a) above,
 shall be disregarded, so far as the offence in question is concerned, for the purposes of 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.”

(6) In subsection (7) of that section, after the words “time limit,” there shall be inserted the words “ or to give a direction under subsection (6A) above, ”.

(7) In subsection (8) of that section, after the words “time limit” there shall be inserted the words “ , or to give a direction under subsection (6A) above, ”.

(8) After subsection (11) of that section there shall be inserted the following subsection—

“(11ZA) For the purposes of this section, proceedings for an offence shall be taken to begin when the accused is charged with the offence or, as the case may be, an information is laid charging him with the offence.”

#### Commencement Information

**II** S. 43 wholly in force at 1.6.1999; S. 43 not in force at Royal Assent see s. 121; S. 43(1) in force at 30.9.1998 by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8); s. 43 in force at 1.6.1999 insofar as not already in force by S.I. 1999/1279, art. 2(a)

#### Marginal Citations

**M1** 1985 c.23.

VALID FROM 01/06/1999

#### 44 Additional time limits for persons under 18.

After section 22 of the 1985 Act there shall be inserted the following section—

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## **“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.
- (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 <sup>M2</sup>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 <sup>M3</sup>Police and Criminal Evidence Act 1984 fails to surrender himself at the appointed time,

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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.”

#### Marginal Citations

M2 1984 c.60.

M3 1984 c.60.

VALID FROM 01/06/1999

#### 45 Re-institution of stayed proceedings.

After section 22A of the 1985 Act there shall be inserted the following section—

**“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—

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- (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 <sup>M4</sup>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 <sup>M5</sup>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

**M4** 1980 c.43.

**M5** 1996 c.25.

#### 46 Date of first court appearance in bail cases.

(1) In subsection (3) of section 47 of the 1984 Act (bail after arrest), for the words “subsection (4)” there shall be substituted the words “ subsections (3A) and (4) ”.

(2) After that subsection there shall be inserted the following subsection—

“(3A) Where a custody officer grants bail to a person subject to a duty to appear before a magistrates' court, he shall appoint for the appearance—

- (a) a date which is not later than the first sitting of the court after the person is charged with the offence; or
- (b) where he is informed by the clerk to the justices for the relevant petty sessions area that the appearance cannot be accommodated until a later date, that later date.”

#### Commencement Information

**I2** S. 46 wholly in force at 1.11.1999; S. 46 not in force at Royal Assent see s. 121; S. 46 in force at 30.9.1998 in the areas specified in Sch. 2 of the said S.I. by S.I. 1998/2327, art. 3(2), Sch. 2; S. 46 in force at 1.11.1999 insofar as not already in force by S.I. 1999/2976, art. 2

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