



# Administration of Justice (Miscellaneous Provisions) Act 1933

1933 CHAPTER 36 23 and 24 Geo 5

1 .....<sup>F1</sup>

## Textual Amendments

F1 S. 1 repealed by [Courts Act 1971 \(c. 23\)](#), 56(4), Sch. 11 Pt. IV

## 2 Procedure for indictment of offenders.

(1) Subject to the provisions of this section, a bill of indictment charging any person with an indictable offence may be preferred by any person before a court in which the person charged may lawfully be indicted for that offence<sup>F2</sup>... and it shall thereupon become an indictment and be proceeded with accordingly:

<sup>F3</sup>  
...

(2) Subject as hereinafter provided no bill of indictment charging any person with an indictable offence shall be preferred unless either—

(a) the person charged has been [<sup>F4</sup>sent] for trial for the offence; or

[<sup>F5</sup>(aa) the offence is specified in a notice of transfer under section 4 of the Criminal Justice Act 1987 (serious and complex fraud); or]

[<sup>F5</sup>(ab) the offence is specified in a notice of transfer under section 53 of the Criminal Justice Act 1991 (violent or sexual offences against children); or]

[<sup>F5</sup>(ac) the person charged has been sent for trial for the offence under section 51 (no committal proceedings for indictable-only offences) of the Crime and Disorder Act 1998 (“the 1998 Act”); or ]

(b) the bill is preferred [<sup>F6</sup>by the direction of the [<sup>F7</sup>criminal division of the Court of Appeal] or] by the direction or with the consent of a judge of the High Court<sup>F8</sup>...: [<sup>F9</sup>or

(c) the bill is preferred under section 22B(3)(a) of the<sup>M1</sup> Prosecution of Offences Act 1985. ]

Status: Point in time view as at 18/06/2012.

Changes to legislation: There are currently no known outstanding effects for the Administration of Justice (Miscellaneous Provisions) Act 1933. (See end of Document for details)

Provided that—

[<sup>F10</sup>(i) where the person charged has been sent for trial, the bill of indictment against him may include, either in substitution for or in addition to any count charging an offence specified in the notice under section 57D(1) of the Crime and Disorder Act 1998, any counts founded on material which, in pursuance of regulations made under paragraph 1 of Schedule 3 to that Act, was served on the person charged, being counts which may lawfully be joined in the same indictment;]

[<sup>F11</sup>(iA) in a case to which paragraph (aa) [<sup>F12</sup>or (ab)] above applies, the bill of indictment may include, either in substitution for or in addition to any count charging an offence specified in the notice of transfer, any counts founded on material that accompanied the copy of that notice which, in pursuance of [<sup>F13</sup>regulations under the relevant provision], was given to the person charged, being counts which may lawfully be joined in the same indictment;]

[<sup>F11</sup>(iB) in a case to which paragraph (ac) above applies, the bill of indictment may include, either in substitution for or in addition to any count charging an offence specified in the notice under section 51(7) of the 1998 Act, any counts founded on material which, in pursuance of regulations made under paragraph 1 of Schedule 3 to that Act, was served on the person charged, being counts which may be lawfully joined in the same indictment;]

(ii) a charge of a previous conviction of an offence <sup>F14</sup>... may, notwithstanding that it was not included in [<sup>F15</sup>such notice] or in any such direction or consent as aforesaid, be included in any bill of indictment

[<sup>F16</sup>[<sup>F17</sup>and in paragraph (iA) above “the relevant provision” means section 5(9) of the Criminal Justice Act 1987 in a case to which paragraph (aa) above applies, and paragraph 4 of Schedule 6 to the Criminal Justice Act 1991 in a case to which paragraph (ab) above applies]].

(3) If a bill of indictment preferred otherwise than in accordance with the provisions of the last foregoing subsection has been signed by the proper officer of the court, the indictment shall be liable to be quashed:

Provided that—

(a) If a bill of indictment [<sup>F18</sup>has been] preferred otherwise than in accordance with the provisions of the last foregoing subsection <sup>F19</sup>..., the indictment shall be liable to be quashed:

<sup>F20</sup>(b) where a person who has been [<sup>F20</sup>sent] for trial is convicted on any indictment or any count of an indictment, that indictment or count shall not be quashed under this subsection in any proceedings on appeal, unless application was made at the trial that it should be so quashed.

<sup>F21</sup>(4) .....

(6) [<sup>F22</sup>Rules may make provision] for carrying this section into effect and [<sup>F23</sup>, in particular,] provision as to the manner in which and the time at which bills of indictment are to be preferred before any court and the manner in which application is to be made for the consent of a judge of the High Court <sup>F24</sup>... for the preferment of a bill of indictment.

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[<sup>F25</sup>(6ZA) Where a bill of indictment is preferred in accordance with subsections (1) and (2), no objection to the indictment may be taken after the commencement of the trial by reason of any failure to observe any rules under subsection (6).

(6ZB) For the purposes of subsection (6ZA) the trial commences at the time when a jury is sworn to consider the issue of guilt or whether the accused did the act or made the omission charged, or, if the court accepts a plea of guilty before the time when a jury is sworn, when that plea is accepted.

(6ZC) The references in subsection (6ZB) to the time when a jury is sworn include the time when that jury would be sworn but for the making of an order under Part 7 of the Criminal Justice Act 2003.]

[<sup>F26</sup>(6A) In subsection (6) above “rules”—

(a) in relation to the preferment of a bill of indictment by the direction or with the consent of a judge of the High Court, means rules made [<sup>F27</sup>in accordance with Part 1 of Schedule 1 to the Constitutional Reform Act 2005], and

(b) in any other case, means Criminal Procedure Rules.]

(7) <sup>F28</sup>... Nothing in this section shall affect any enactment restricting the right to prosecute in particular classes of case.

(8) The provisions of any enactment passed before the commencement of this Act shall have effect subject to the adaptations and modifications specified in the Second Schedule to this Act.

#### Textual Amendments

- F2** Words in s. 2(1) repealed (12.11.2009 with retrospective effect in accordance with Sch. 22 para. 26 of the amending Act) by Coroners and Justice Act 2009 (c. 25), ss. 116(1)(a)(i), 182(1)(b), Sch. 23 Pt. 3
- F3** Words in s. 2(1) repealed (12.11.2009 with retrospective effect in accordance with Sch. 22 para. 26 of the amending Act) by Coroners and Justice Act 2009 (c. 25), ss. 116(1)(a)(ii), 182(1)(b), Sch. 23 Pt. 3
- F4** Word in s. 2(2)(a) substituted (9.5.2005 for specified purposes; 18.6.2012 for specified purposes; 5.11.2012 for specified purposes; 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 3 para. 34(2)(a); S.I. 2005/1267, art. 2(1)(2)(b), Sch. Pt. 2; S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5); S.I. 2012/2574, art. 2(1)(c)(d)(2)(3) (with arts. 3, 4); S.I. 2013/1103, art. 2(1)(c)(d)(2)(3) (with arts. 3, 4)
- F5** S. 2(2)(aa)–(ac) repealed (18.6.2012 for specified purposes; 5.11.2012 for specified purposes; 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 3 para. 34(2)(b), Sch. 37 Pt. 4; S.I. 2012/1320, art. 4(1)(c)(d)(2)(3) (with art. 5); S.I. 2012/2574, art. 2(1)(c)(d)(2)(3) (with arts. 3, 4); S.I. 2013/1103, art. 2(1)(c)(d)(2)(3) (with arts. 3, 4)
- F6** Words inserted by Criminal Appeal Act 1964 (c. 43), s. 5, Sch. 2
- F7** Words substituted by virtue of Criminal Appeal Act 1966 (c. 31), s. 1(6)(a)
- F8** Words repealed by Prosecution of Offences Act 1985 (c. 23), s. 31(6), Sch. 2
- F9** S. 2(2)(c) and preceding word inserted (1.6.1999) by 1998 c. 37, s. 119, Sch. 8 para. 5(1)(b); S.I. 1999/1279, art. 2.
- F10** S. 2(2)(i) substituted (9.5.2005 for specified purposes; 18.6.2012 for specified purposes; 5.11.2012 for specified purposes; 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 3 para. 34(2)(c); S.I. 2005/1267, art. 2(1)(2)(b), Sch. Pt. 2; S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5); S.I. 2012/2574, art. 2(1)(c)(d)(2)(3) (with arts. 3, 4); S.I. 2013/1103, art. 2(1)(c)(d)(2)(3) (with arts. 3, 4)
- F11** S. 2(2)(iA)(iB) repealed (18.6.2012 for specified purposes; 5.11.2012 for specified purposes; 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 3 para. 34(2)

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- (d), **Sch. 37 Pt. 4**; S.I. 2012/1320, **art. 4(1)(c)(d)(2)(3)** (with art. 5); S.I. 2012/1320, **art. 4(1)(c)(d)(2)(3)** (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, **art. 4**); S.I. 2012/2574, **art. 2(1)(c)(d)(2)(3)** (with arts. 3, 4); S.I. 2013/1103, **art. 2(1)(c)(d)(2)(3)** (with arts. 3, 4)
- F12** Words in para. (iA) of the proviso to s. 2(2) inserted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 53(5), **Sch. 6 para. 8(2)(a)**; S.I. 1992/333, art. 2(2), **Sch. 2**
- F13** Words in para. (iA) of the proviso to s. 2(2) substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 53(5), **Sch. 6 para. 8(2)(b)**; S.I. 1992/333, art. 2(2), **Sch. 2**
- F14** Words in s. 2(2)(ii) repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. III**.
- F15** Words in s. 2(2)(ii) substituted (9.5.2005 for specified purposes; 18.6.2012 for specified purposes; 5.11.2012 for specified purposes; 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 3 para. 34(2)(e)**; S.I. 2005/1267, art. 2(1)(2)(a), **Sch. Pt. 1**; S.I. 2012/1320, **art. 4(1)(c)(2)(3)** (with art. 5); S.I. 2012/2574, **art. 2(1)(c)(d)(2)(3)** (with arts. 3, 4); S.I. 2013/1103, **art. 2(1)(c)(d)(2)(3)** (with arts. 3, 4)
- F16** Words in s. 2(2) proviso inserted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 53(5), **Sch. 6 para. 8(3)**; S.I. 1992/333, art. 2(2), **Sch. 2**
- F17** Words in s. 2(2) repealed (18.6.2012 for specified purposes; 5.11.2012 for specified purposes; 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 3 para. 34(2)(f)**, **Sch. 37 Pt. 4**; S.I. 2012/1320, **art. 4(1)(c)(d)(2)(3)** (with art. 5); S.I. 2012/2574, **art. 2(1)(c)(d)(2)(3)** (with arts. 3, 4); S.I. 2013/1103, **art. 2(1)(c)(d)(2)(3)** (with arts. 3, 4)
- F18** Words in s. 2(3) inserted (12.11.2009 with retrospective effect in accordance with Sch. 22 para. 26 of the amending Act) by Coroners and Justice Act 2009 (c. 25), **ss. 116(1)(b)(i)**, 182(1)(b)
- F19** Words in s. 2(3) repealed (12.11.2009 with retrospective effect in accordance with Sch. 22 para. 26 of the amending Act) by Coroners and Justice Act 2009 (c. 25), **ss. 116(1)(b)(ii)**, 182(1)(b), **Sch. 23 Pt. 3**
- F20** Word in s. 2(3)(b) substituted (9.5.2005 for specified purposes; 18.6.2012 for specified purposes; 5.11.2012 for specified purposes; 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 3 para. 34(3)**; S.I. 2005/1267, art. 2(1)(2)(a), **Sch. Pt. 1**; S.I. 2012/1320, **art. 4(1)(c)(2)(3)** (with art. 5); S.I. 2012/2574, **art. 2(1)(c)(d)(2)(3)** (with arts. 3, 4); S.I. 2013/1103, **art. 2(1)(c)(d)(2)(3)** (with arts. 3, 4)
- F21** S. 2(4)(5) repealed by Courts Act 1971 (c. 23), s. 56(4), **Sch. 11 Pt. IV**
- F22** Words in s. 2(6) substituted (1.9.2004) by Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 2(1), **Sch. para. 1(2)(a)** (with art. 2(2))
- F23** Words in s. 2(6) substituted (1.9.2004) by Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 2(1), **Sch. para. 1(2)(b)** (with art. 2(2))
- F24** Words repealed by Courts Act 1971 (c. 23), s. 56(4), **Sch. 11 Pt. IV**
- F25** S. 2(6ZA)-(6ZC) inserted (12.11.2009 with retrospective effect in accordance with Sch. 22 para. 26 of the amending Act) by Coroners and Justice Act 2009 (c. 25), **ss. 116(1)(c)**, 182(1)(b)
- F26** S. 2(6A) inserted (1.9.2004) by Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 2(1), **Sch. para. 1(3)** (with art. 2(2))
- F27** Words in s. 2(6A)(a) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 148(1), **Sch. 1 para. 7**; S.I. 2006/1014, art. 2(a), **Sch. 1 para. 7**
- F28** Words in s. 2(7) repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. III**.

#### Modifications etc. (not altering text)

- C1** S. 2 continued (as amended) by Supreme Court Act, 1981 (c. 54), s. 152(1), **Sch. 5**
- C2** S. 2(2)(b): by the Supreme Court Act 1981 (c.54), **Sch. 5**, it is provided that this section shall continue to have effect with the amendments made by the Criminal Appeal Act 1964 and the Criminal Appeal Act 1966 that is with the insertion after “preferred” of “by the direction of the criminal division of the Court of Appeal or”.
- C3** S. 2(2) proviso (i) amended by Magistrates' Courts Act, 1980 (c. 43), s. 102(8)

#### Marginal Citations

- M1** 1985 c.23.

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3 ..... F29

**Textual Amendments**

**F29** S. 3 repealed (with savings) by [Finance Act 1975 \(c. 7\)](#), ss. 50, 52(2)(3), 59, [Sch. 13 pt. I](#)

4 ..... F30

**Textual Amendments**

**F30** S. 4 repealed by [Crown Proceedings Act 1947 \(c. 44\)](#), s. 39, [Sch. 2](#)

5 ..... F31

**Textual Amendments**

**F31** S. 5 repealed by [Administration of Justice \(Misc. Provisions\) Act 1938 \(c. 63\)](#), s. 20(3), [Sch. 4](#)

6 ..... F32

**Textual Amendments**

**F32** S. 6 repealed by [Supreme Court Act 1981 \(c. 54\)](#), [s. 152 \(4\)](#), [Sch. 7](#)

**7 Costs in Crown proceedings.**

(1) In any civil proceedings to which the Crown is a party in any court having power to award costs in cases between subjects, and in any arbitration to which the Crown is a party, the costs of and incidental to the proceedings shall be in the discretion of the court or arbitrator to be exercised in the same manner and on the same principles as in cases between subjects, and the court or arbitrator shall have power to make an order for the payment of costs by or to the Crown accordingly:

Provided that—

- (a) in the case of proceedings to which by reason of any enactment or otherwise the Attorney-General, a Government department or any officer of the Crown as such is required to be made a party, the court or arbitrator shall have regard to the nature of the proceedings and the character and circumstances in which the Attorney-General, the department or officer of the Crown appears, and may in the exercise of its or his discretion order any other party to the proceedings to pay the costs of the Attorney-General, department or officer, whatever may be the result of the proceedings; and
- (b) nothing in this section shall affect the power of the court or arbitrator to order, or any enactment providing for, the payment of costs out of any particular fund or property, or any enactment expressly relieving any department or officer of the Crown of the liability to pay costs.

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(2) In this section the expression “civil proceedings” includes proceedings by petition of right and proceedings by the Crown in the High Court or a county court for the recovery of fines or penalties, and references to proceedings to which the Crown is a party include references to proceedings to which the Attorney-General or any Government department or any officer of the Crown as such is a party, so, however, that the Crown shall not be deemed to be a party to any proceedings by reason only that the proceedings are proceedings by the Attorney-General on the relation of some other person.

<sup>F33</sup>(3) .....

.....

**Textual Amendments**

**F33** S. 7(3) repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt.III.**

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**Modifications etc. (not altering text)**

**C4** S. 7 applied by **Trade Marks Act 1938 (c. 22), s. 48 (2)**

**8** ..... <sup>F34</sup>

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**Textual Amendments**

**F34** S. 8 repealed by **Mental Health Act 1959 (c. 72), s. 149(2), Sch. 8 Pt. I**

**9 Saving for proceedings affecting His Majesty in His private capacity.**

Nothing in this Act shall apply to proceedings affecting His Majesty in His private capacity.

**10 Short title, extent, repeal and commencement.**

(1) This Act may be cited as the Administration of Justice (Miscellaneous Provisions) Act 1933.

(2) This Act shall not extend to Scotland or to Northern Ireland.

(3) ..... <sup>F35</sup>

.....

**Textual Amendments**

**F35** S. 10(3)(4), Sch. 3 repealed Statutue Law Revision Act 1950 s. 1(1), Sch. 1

**Status:**

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**Changes to legislation:**

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