

1986 No. 367 (L.1)

MAGISTRATES' COURTS

PROCEDURE

The Magistrates' Courts (Discontinuance of Proceedings) Rules 1986

Made - - - - - 25th February 1986

Laid before Parliament 6th March 1986

Coming into Operation 1st April 1986

The Lord Chancellor, in exercise of the power conferred on him by section 144 of the Magistrates' Courts Act 1980(a), as extended by section 23 of the Prosecution of Offences Act 1985(b), after consultation with the Rule Committee appointed under the said section 144, hereby makes the following Rules:—

1. These Rules may be cited as the Magistrates' Courts (Discontinuance of Proceedings) Rules 1986 and shall come into operation on 1st April 1986.

2. In these Rules "section 23" means section 23 of the Prosecution of Offences Act 1985.

3. The period within which an accused person may give notice under subsection (7) of section 23 that he wants proceedings against him to continue is 35 days from the date when the proceedings were discontinued under that section.

4. Notice under subsection (3), (4) or (7) of section 23 shall be given in writing and shall contain sufficient particulars to identify the particular offence to which it relates; and, without prejudice to any other lawful method of giving notice, may be given by post in a registered letter or by the recorded delivery service, in which case it shall be treated as having been given on the date on which it is received for dispatch by the Post Office.

5. On giving notice under subsection (3) or (4) of section 23 the Director of Public Prosecutions shall inform any person who is detaining the accused person for the offence in relation to which the notice is given that he has given such notice and of the effect of the notice.

6. On being given notice under subsection (3) of section 23 in relation to an offence for which the accused person has been granted bail by a court, the clerk of a magistrates' court shall inform—

(a) any sureties of the accused, and

(a) 1980 c. 43.

(b) 1985 c. 23.

(b) any persons responsible for securing the accused's compliance with any conditions of bail

that he has been given such notice and of the effect of the notice.

Hailsham of St Marylebone, C.

Dated 25th February 1986.

EXPLANATORY NOTE

(This Note is not part of the Rules.)

These Rules make provision regarding the discontinuance of criminal proceedings in magistrates' courts by the Director of Public Prosecutions ("the Director") where he has the conduct of those proceedings.

Under section 23(3) of the Prosecution of Offences Act 1985 where the Director has the conduct of proceedings for an offence he may, at any time during the preliminary stages (defined in subsection (2) of that section) of those proceedings, by notice to the clerk of the court effect their discontinuance. The proceedings may, however, under section 23(7) be revived by notice given by the accused to the clerk of the court within the "prescribed period". Rule 3 prescribes a period of 35 days.

The Director may, under section 23(4) of the 1985 Act, in a case where a person has been charged with an offence after being taken into custody without a warrant but no magistrates' court has yet been informed of the charge, effect discontinuance by giving notice of discontinuance to the accused.

Rule 4 provides that "notice" under the provisions mentioned above is to be given in writing, with sufficient particulars to identify the offence concerned, and deals in particular with the giving of notice by registered post or the recorded delivery service.

Rules 5 and 6 impose obligations to inform certain persons that a notice of discontinuance has been given and of the effect of the notice. Under Rule 5 the Director is to inform any person who is detaining the accused for an offence to which the notice relates. Where the accused is on bail granted by any court the clerk of the court who receives a notice under section 23(3) is to inform any sureties of the accused and any persons responsible for securing his compliance with bail conditions.

The Rules come into operation on 1st April 1986, the date on which the Crown Prosecution Service, headed by the Director of Public Prosecutions, commences functioning in certain parts of England.

SI 1986/367
ISBN 0-11-066367-5



780110 663678