
STATUTORY INSTRUMENTS

2014 No. 1610

The Criminal Procedure Rules 2014

PART 8

DISCONTINUING A PROSECUTION

When this Part applies

8.1.—(1) This Part applies where—

- (a) the Director of Public Prosecutions can discontinue a case in a magistrates' court, under section 23 of the Prosecution of Offences Act 1985(1);
- (b) the Director of Public Prosecutions, or another public prosecutor, can discontinue a case sent for trial in the Crown Court, under section 23A of the Prosecution of Offences Act 1985(2).

(2) In this Part, 'prosecutor' means one of those authorities.

[Note. Under section 23 of the Prosecution of Offences Act 1985, the Director of Public Prosecutions may discontinue proceedings in a magistrates' court, before the court—

- (a) *commits or sends the defendant for trial in the Crown Court; or*
- (b) *begins to hear the prosecution evidence, at a trial in the magistrates' court.*

Under section 23(4) of the 1985 Act, the Director may discontinue proceedings where a person charged is in custody but has not yet been brought to court.

Under section 23 of the 1985 Act, the defendant has a right to require the proceedings to continue. See rule 8.3.

Under section 23A of the 1985 Act, the Director of Public Prosecutions, or a public authority within the meaning of section 17 of that Act(3), may discontinue proceedings where the defendant was sent for trial in the Crown Court under section 51 of the Crime and Disorder Act 1998(4). In such a case—

- (a) *the prosecutor must discontinue before a draft indictment has been served under rule 14.1; and*
- (b) *the defendant has no right to require the proceedings to continue.*

(1) 1985 c. 23; section 23 was amended by section 119 of, and paragraph 63 of Schedule 8 to, the Crime and Disorder Act 1998 (c. 37), paragraph 290 of Schedule 8 to the Courts Act 2003 (c. 39) and paragraph 57 of Schedule 3 to the Criminal Justice Act 2003 (c. 44).

(2) 1985 c. 23; section 23A was inserted by section 119 of, and paragraph 64 of Schedule 8 to, the Crime and Disorder Act 1998 (c. 37) and amended by paragraph 57 of Schedule 3, and Part 4 of Schedule 37, to the Criminal Justice Act 2003 (c. 44).

(3) 1985 c. 23; section 17 was amended by section 40 of, and paragraph 41 of Schedule 9 to, the Constitutional Reform Act 2005 (c. 4) and paragraphs 1 and 4 and Part 4 of Schedule 7 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10).

(4) 1998 c. 37; section 51 was substituted by paragraphs 15 and 18 of Schedule 3 to the Criminal Justice Act 2003 (c. 44) and amended by section 59 of, and paragraph 1 of Schedule 11 to, the Constitutional Reform Act 2005 (c. 4).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Where a prosecution does not proceed, the court has power to order the payment of the defendant's costs out of central funds. See rule 76.4.]