
STATUTORY INSTRUMENTS

2016 No. 430

CRIMINAL LAW, ENGLAND AND WALES

**The Criminal Justice Act 2003 (New Method
of Instituting Proceedings) (Specification
of Relevant Prosecutors) Order 2016**

Made - - - - 22nd March 2016
Laid before Parliament 24th March 2016
Coming into force - - 14th April 2016

The Secretary of State makes the following Order in exercise of the powers conferred by sections 29(5)(h), 29(5A) and 330(3) of the Criminal Justice Act 2003(1) (“the Act”).

Citation and commencement

1. This Order may be cited as the Criminal Justice Act 2003 (New Method of Instituting Proceedings) (Specification of Relevant Prosecutors) Order 2016 and comes into force on 14th April 2016.

Specification of relevant prosecutors

2. The persons specified in articles 3 to 8 are specified as relevant prosecutors for the purposes of section 29 of the Act (new method of instituting proceedings).

The Environment Agency

3. The Environment Agency(2).

Local authorities

4. The following local authorities—
- (a) a county council;
 - (b) a county or county borough council in Wales;
 - (c) a district council;

(1) 2003 c. 44; section 29 was amended by section 46 of the Criminal Justice and Courts Act 2015 (c. 2).
(2) A body corporate established by section 1 of the Environment Act 1995 (c. 25).

- (d) a London borough council;
- (e) the Common Council of the City of London in its capacity as a local authority; and
- (f) the Council of the Isles of Scilly.

The Natural Resources Body for Wales

5. The Natural Resources Body for Wales(3).

Railway operators

6.—(1) For the purpose of prosecuting a railway offence—

- (a) a person who is authorised to be the operator of a railway asset by a licence granted in accordance with section 8(1) of the Railways Act 1993(4) (licences); and
- (b) a person who is exempt from being so authorised by virtue of section 7(1)(5) of that Act (exemptions from section 6) and has the management of a railway asset for the time being.

(2) In this article—

“the 2005 Act” means the Railways Act 2005(6);

“operator”, in relation to a railway asset, means the person having the management of that railway asset for the time being;

“railway” means a system of transport employing parallel rails which—

- (a) provide support and guidance for vehicles carried on flanged wheels; and
- (b) form a track which either is of a gauge of at least 350 millimetres or crosses a carriageway (whether or not on the same level),

but does not include a tramway (within the meaning of article 7);

“railway asset” means any train being used on a network, whether for the purpose of carrying passengers or goods by railway or for any other purpose whatsoever; and

“railway offence” means—

- (a) an offence under section 5 of the Tyne and Wear Passenger Transport Act 1979(7) (avoidance of fare);
- (b) an offence contained in bye-laws made under section 46(1) of the 2005 Act(8) (bye-laws);
- (c) an offence contained in bye-laws which continue to have effect by virtue of section 46(4) and paragraph 2 of Part 2 of Schedule 13 to the 2005 Act; and
- (d) an offence contained in bye-laws saved by the Transport Act 2000(9), as defined by section 46(6) of the 2005 Act.

(3) In the definition of railway asset—

“network” means—

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- (3) A body corporate established by article 3 of the Natural Resources Body for Wales (Establishment) Order 2012 (S.I. 2012/1903).
 - (4) 1993 c. 43; section 8(1) was amended by the Transport Act 2000 (c. 38), section 216 and Schedule 17, Part 1, paragraphs 1, 4(1) and (2); the Railways and Transport Safety Act 2003 (c. 20) Schedule 2, Part 1, paragraphs 1 and 3; the Railways Act 2005 (c. 14) sections 1(1), 59(6) and Schedule 1, Part 1, paragraph 3(1) and Schedule 13, Part 1; and S.I. 2015/1682.
 - (5) Section 7(1) was amended by the Transport Act 2000, section 216 and Schedule 17, Part 1, paragraphs 1, 2(1) and (2); the Railways and Transport Safety Act 2003, Schedule 2, Part 1, paragraphs 1 and 3; the Railways Act 2005, section 1(1), 59(6) and Schedule 1, Part 1, paragraphs 1(1)(a) and Schedule 13, Part 1; and S.I. 2015/1682.
 - (6) 2005 c. 14.
 - (7) 1979 c. i.
 - (8) 2005 c. 14; section 46 was amended by S.I. 2005/3050.
 - (9) 2000 c. 38.

- (a) any railway line, or combination of two or more railway lines; and
- (b) any installations associated with any of the track comprised in that line or those lines, together constituting a system of track and other installations which is used for and in connection with the support, guidance and operation of trains; and

“train” means—

- (a) two or more items of rolling stock coupled together, at least one of which is a locomotive; or
- (b) a locomotive not coupled to any other rolling stock.

(4) In the definition of train—

“locomotive” means any railway vehicle which has the capacity for self-propulsion (whether or not the power by which it operates is derived from a source external to the vehicle); and

“rolling stock” means any carriage, wagon or other vehicle used on track and includes a locomotive.

(5) In the definition of “locomotive”, “railway vehicle” includes anything which, whether or not it is constructed or adapted to carry any person or load, is constructed or adapted to run on flanged wheels over or along track.

Tramway operators

7.—(1) The operator of a tramcar on the transport systems known as—

- (a) the Croydon Tramlink;
- (b) the Manchester Metrolink; and
- (c) the Nottingham Express Transit.

(2) In this article—

“operator”, in relation to a tramcar, means the person having the management of that tramcar for the time being;

“tramcar” means any vehicle carried on flanged wheels along the rails of a tramway; and

“tramway” means a system of transport used wholly or mainly for the carriage of passengers and employing parallel rails which—

- (a) provide support and guidance for vehicles carried on flanged wheels; and
- (b) are laid wholly or mainly along a street or in any place to which the public has access (including a place to which the public has access only on making a payment).

TV Licensing

8.—(1) For the purpose of prosecuting a relevant offence, the person empowered by section 364 of the Communications Act 2003⁽¹⁰⁾ (TV licences) (“the 2003 Act”) to issue a licence for the purposes of section 363 of that Act (licence required for use of TV receiver).

(2) In this article, “relevant offence” means an offence under—

- (a) section 363(2) of the 2003 Act (installing or using a television receiver without a licence);
- (b) section 363(3) of the 2003 Act (having a receiver in a person’s possession intending to install or use it without a licence etc); and

⁽¹⁰⁾ 2003 c. 21. The power to issue licences is given by section 364 of the Communications Act 2003 to the British Broadcasting Corporation (“the BBC”). In practice, licensing activities are done on its behalf by TV Licensing, a trademark used by companies contracted by the BBC to administer the collection of television licence fees and enforcement of the television licensing system.

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

- (c) section 366(8) of the 2003 Act (obstructing or failing to assist those with powers to enforce TV Licensing).

Authorisation to issue only written charges and single justice procedure notices

9. The persons specified in articles 3 to 8 and any person authorised by them to institute criminal proceedings are authorised to issue only written charges and single justice procedure notices.

22nd March 2016

Shailesh Vara
Parliamentary Under Secretary of State
Ministry of Justice

EXPLANATORY NOTE

(This note is not part of the Order)

Articles 3 to 8 of this Order specify various persons as relevant prosecutors for the purposes of section 29 of the Criminal Justice Act 2003 (c. 44) (“the Act”). Section 29 provides relevant prosecutors with the power to institute criminal proceedings by written charge. Where a relevant prosecutor issues a written charge, it must at the same time issue a requisition or a single justice procedure notice.

By section 29(5A) of the Act an order must also specify whether relevant prosecutors are authorised to issue written charges, requisitions and single justice procedure notices or only written charges and single justice procedure notices. Article 9 authorises the relevant prosecutors specified by this Order and any person authorised by them to institute criminal proceedings only to issue written charges and single justice procedure notices.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.