

## SCHEDULES

### SCHEDULE 1

Section 2.

#### TIMES WHEN PROCEEDINGS ARE ACTIVE FOR PURPOSES OF SECTION 2

##### *Preliminary*

- 1 In this Schedule " criminal proceedings " means proceedings against a person in respect of an offence, not being appellate proceedings or proceedings commenced by motion for committal or attachment in England and Wales or Northern Ireland ; and " appellate proceedings" means proceedings on appeal from or for the review of the decision of a court in any proceedings.
- 2 Criminal, appellate and other proceedings are active within the meaning of section 2 at the times respectively prescribed by the following paragraphs of this Schedule ; and in relation to proceedings in which more than one of the steps described in any of those paragraphs is taken, the reference in that paragraph is a reference to the first of those steps.

##### *Criminal proceedings*

- 3 Subject to the following provisions of this Schedule, criminal proceedings are active from the relevant initial step specified in paragraph 4 until concluded as described in paragraph 5.
- 4 The initial steps of criminal proceedings are :—
  - (a) arrest without warrant;
  - (b) the issue, or in Scotland the grant, of a warrant for arrest;
  - (c) the issue of a summons to appear, or in Scotland the grant of a warrant to cite ;
  - (d) the service of an indictment or other document specifying the charge;
  - (e) except in Scotland, oral charge.
- 5 Criminal proceedings are concluded—
  - (a) by acquittal or, as the case may be, by sentence ;
  - (b) by any other verdict, finding, order or decision which puts an end to the proceedings ;
  - (c) by discontinuance or by operation of law.
- 6 The reference in paragraph 5(a) to sentence includes any order or decision consequent on conviction or finding of guilt which disposes of the case, either absolutely or subject to future events, and a deferment of sentence under section 1 of the Powers of Criminal Courts Act 1973, section 219 or 432 of the Criminal Procedure (Scotland) Act 1975 or Article 14 of the Treatment of Offenders (Northern Ireland) Order 1976.
- 7 Proceedings are discontinued within the meaning of paragraph 5(c)—

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- (a) in England and Wales or Northern Ireland, if the charge or summons is withdrawn or a nolle prosequi entered ;
  - (b) in Scotland, if the proceedings are expressly abandoned by the prosecutor or are deserted simpliciter;
  - (c) in the case of proceedings in England and Wales or Northern Ireland commenced by arrest without warrant, if the person arrested is released, otherwise than on bail, without having been charged.
- 8 Criminal proceedings before a court-martial or standing civilian court are not concluded until the completion of any review of finding or sentence.
- 9 Criminal proceedings in England and Wales or Northern Ireland cease to be active if an order is made for the charge to lie on the file, but become active again if leave is later given for the proceedings to continue.
- 10 Without prejudice to paragraph 5(b) above, criminal proceedings against a person cease to be active—
- (a) if the accused is found to be under a disability such as to render him unfit to be tried or unfit to plead or, in Scotland, is found to be insane in bar of trial; or
  - (b) if a hospital order is made in his case under paragraph (b) of subsection (2) of section 76 of the Mental Health Act 1959 or paragraph (b) of subsection (2) of section 62 of the Mental Health Act (Northern Ireland) 1961 or, in Scotland, where a transfer order ceases to have effect by virtue of section 68(1) of the Mental Health (Scotland) Act 1960,
- but become active again if they are later resumed.
- 11 Criminal proceedings against a person which become active on the issue or the grant of a warrant for his arrest cease to be active at the end of the period of twelve months beginning with the date of the warrant unless he has been arrested within that period, but become active again if he is subsequently arrested.

*Other proceedings at first instance*

- 12 Proceedings other than criminal proceedings and appellate proceedings are active from the time when arrangements for the hearing are made or, if no such arrangements are previously made, from the time the hearing begins, until the proceedings are disposed of or discontinued or withdrawn ; and for the purposes of this paragraph any motion or application made in or for the purposes of any proceedings, and any pre-trial review in the county court, is to be treated as a distinct proceeding.
- 13 In England and Wales or Northern Ireland arrangements for the hearing of proceedings to which paragraph 12 applies are made within the meaning of that paragraph—
- (a) in the case of proceedings in the High Court for which provision is made by rules of court for setting down for trial, when the case is set down ;
  - (b) in the case of any proceedings, when a date for the trial or hearing is fixed.
- 14 In Scotland arrangements for the hearing of proceedings to which paragraph 12 applies are made within the meaning of that paragraph—
- (a) in the case of an ordinary action in the Court of Session or in the sheriff court, when the Record is closed ;
  - (b) in the case of a motion or application, when it is enrolled or made;

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- (c) in any other case, when the date for a hearing is fixed or a hearing is allowed.

*Appellate proceedings*

- 15 Appellate proceedings are active from the time when they are commenced—
  - (a) by application for leave to appeal or apply for review, or by notice of such an application ;
  - (b) by notice of appeal or of application for review ;
  - (c) by other originating process,until disposed of or abandoned, discontinued or withdrawn.
- 16 Where, in appellate proceedings relating to criminal proceedings, the court—
  - (a) remits the case to the court below ; or
  - (b) orders a new trial or a venire de novo, or in Scotland grants authority to bring a new prosecution,any further or new proceedings which result shall be treated as active from the conclusion of the appellate proceedings.