



# Prosecution of Offences Act 1985

## 1985 CHAPTER 23

### PART III

#### MISCELLANEOUS

- 22 Power of Secretary of State to set time limits in relation to preliminary stages of criminal proceedings**
- (1) The Secretary of State may by regulations make provision, with respect to any specified preliminary stage of proceedings for an offence, as to the maximum period—
- (a) to be allowed to the prosecution to complete that stage ;
  - (b) during which the accused may, while awaiting completion of that stage, be—
    - (i) in the custody of a magistrates' court; or
    - (ii) in the custody of the Crown Court;in relation to that offence.
- (2) The regulations may, in particular—
- (a) be made so as to apply only in relation to proceedings instituted in specified areas;
  - (b) make different provision with respect to proceedings instituted in different areas;
  - (c) make such provision with respect to the procedure to be followed in criminal proceedings as the Secretary of State considers appropriate in consequence of any other provision of the regulations ;
  - (d) provide for the Magistrates' Courts Act 1980 and the Bail Act 1976 to apply in relation to cases to which custody or overall time limits apply subject to such modifications as may be specified (being modifications which the Secretary of State considers necessary in consequence of any provision made by the regulations) ; and
  - (e) make such transitional provision in relation to proceedings instituted before the commencement of any provision of the regulations as the Secretary of State considers appropriate.

---

*Status: This is the original version (as it was originally enacted).*

---

- (3) The appropriate court may, at any time before the expiry of a time limit imposed by the regulations, extend, or further extend, that limit if it is satisfied—
- (a) that there is good and sufficient cause for doing so ; and
  - (b) that the prosecution has acted with all due expedition.
- (4) Where, in relation to any proceedings for an offence, an overall time limit has expired before the completion of the stage of the proceedings to which the limit applies, the accused shall be treated, for all purposes, as having been acquitted of that offence.
- (5) Where—
- (a) a person escapes from the custody of a magistrates' court or the Crown Court before the expiry of a custody time limit which applies in his case ; or
  - (b) a person who has been released on bail in consequence of the expiry of a custody time limit—
    - (i) fails to surrender himself into the custody of the court at the appointed time ; or
    - (ii) is arrested by a constable on a ground mentioned in section 7(3)(b) of the Bail Act 1976 (breach, or likely breach, of conditions of bail);
- the regulations shall, so far as they provide for any custody time limit in relation to the preliminary stage in question, be disregarded.
- (6) Where —
- (a) a person escapes from the custody of a magistrates' court or the Crown Court; or
  - (b) a person who has been released on bail fails to surrender himself into the custody of the court at the appointed time;
- the overall time limit which applies in his case in relation to the stage which the proceedings have reached at the time of the escape or, as the case may be, at the appointed time shall, so far as the offence in question is concerned, cease to have effect.
- (7) Where a magistrates' court decides to extend, or further extend, a custody or overall time limit, the accused may appeal against the decision to the Crown Court.
- (8) Where a magistrates' court refuses to extend, or further extend, a custody or overall time limit the prosecution may appeal against the refusal to the Crown Court.
- (9) An appeal under subsection (8) above may not be commenced after the expiry of the limit in question ; but where such an appeal is commenced before the expiry of the limit the limit shall be deemed not to have expired before the determination or abandonment of the appeal.
- (10) Where a person is convicted of an offence in any proceedings, the exercise, in relation to any preliminary stage of those proceedings, of the power conferred by subsection (3) above shall not be called into question in any appeal against that conviction.
- (11) In this section—
- " appropriate court " means—
- (a) where the accused has been committed for trial or indicted for the offence, the Crown Court; and
  - (b) in any other case, the magistrates' court specified in the summons or warrant in question or, where the accused has already appeared or been

---

*Status: This is the original version (as it was originally enacted).*

---

brought before a magistrates' court, a magistrates' court for the same area;

" custody of the Crown Court" includes custody to which a person is committed in pursuance of—

- (a) section 6 of the Magistrates' Courts Act 1980 (magistrates' court committing accused for trial); or
- (b) section 43A of that Act (magistrates' court dealing with a person brought before it following his arrest in pursuance of a warrant issued by the Crown Court);

" custody of a magistrates' court" means custody to which a person is committed in pursuance of section 128 of the Magistrates' Courts Act 1980 (remand);

" custody time limit" means a time limit imposed by regulations made under subsection (1)(b) above or, where any such limit has been extended by a court under subsection (3) above, the limit as so extended ;

" preliminary stage ", in relation to any proceedings, does not include any stage of the proceedings after the accused has been arraigned in the Crown Court or, in the case of a summary trial, the magistrates' court has begun to hear evidence for the prosecution at the trial;

" overall time limit" means a time limit imposed by regulations made under subsection (1)(a) above or, where any such limit has been extended by a court under subsection (3) above, the limit as so extended ; and

" specified " means specified in the regulations.

- (12) For the purposes of the application of any custody time limit in relation to a person who is in the custody of a magistrates' court or the Crown Court—
  - (a) all periods during which he is in the custody of a magistrates' court in respect of the same offence shall be aggregated and treated as a single continuous period; and
  - (b) all periods during which he is in the custody of the Crown Court in respect of the same offence shall be aggregated and treated similarly.
- (13) For the purposes of section 29(3) of the Supreme Court Act 1981 (High Court to have power to make prerogative orders in relation to jurisdiction of Crown Court in matters which do not relate to trial on indictment) the jurisdiction conferred on the Crown Court by this section shall be taken to be part of its jurisdiction in matters other than those relating to trial on indictment.

## **23 Discontinuance of proceedings in magistrates' courts**

- (1) Where the Director of Public Prosecutions has the conduct of proceedings for an offence, this section applies in relation to the preliminary stages of those proceedings.
- (2) In this section, " preliminary stage " in relation to proceedings for an offence does not include—
  - (a) in the case of a summary offence, any stage of the proceedings after the court has begun to hear evidence for the prosecution at the trial;
  - (b) in the case of an indictable offence, any stage of the proceedings after—
    - (i) the accused has been committed for trial; or
    - (ii) the court has begun to hear evidence for the prosecution at a summary trial of the offence.

---

*Status: This is the original version (as it was originally enacted).*

---

- (3) Where, at any time during the preliminary stages of the proceedings, the Director gives notice under this section to the clerk of the court that he does not want the proceedings to continue, they shall be discontinued with effect from the giving of that notice but may be revived by notice given by the accused under subsection (7) below.
- (4) Where, in the case of a person charged with an offence after being taken into custody without a warrant, the Director gives him notice, at a time when no magistrates' court has been informed of the charge, that the proceedings against him are discontinued, they shall be discontinued with effect from the giving of that notice.
- (5) The Director shall, in any notice given under subsection (3) above, give reasons for not wanting the proceedings to continue.
- (6) On giving any notice under subsection (3) above the Director shall inform the accused of the notice and of the accused's right to require the proceedings to be continued; but the Director shall not be obliged to give the accused any indication of his reasons for not wanting the proceedings to continue.
- (7) Where the Director has given notice under subsection (3) above, the accused shall, if he wants the proceedings to continue, give notice to that effect to the clerk of the court within the prescribed period; and where notice is so given the proceedings shall continue as if no notice had been given by the Director under subsection (3) above.
- (8) Where the clerk of the court has been so notified by the accused he shall inform the Director.
- (9) The discontinuance of any proceedings by virtue of this section shall not prevent the institution of fresh proceedings in respect of the same offence.
- (10) In this section " prescribed " means prescribed by rules made under section 144 of the Magistrates' Courts Act 1980.

## **24 Restriction of vexatious prosecutions**

- (1) Section 42 of the Supreme Court Act 1981 (restriction of vexatious civil proceedings) shall be amended as follows.
- (2) In subsection (1)—
  - (a) in paragraphs (a) and (b) for the word " legal " there shall be substituted, in each case, " civil " ;
  - (b) at the end of paragraph (b) there shall be inserted—
 

“or

    - (c) instituted vexatious prosecutions (whether against the same person or different persons),”; and
  - (c) for the words from " order " to the end of the subsection there shall be substituted—
 

“make a civil proceedings order, a criminal proceedings order or an all proceedings order.”.
- (3) After subsection (1) there shall be inserted—
 

“(1A) In this section—  
" civil proceedings order " means an order that—

---

*Status: This is the original version (as it was originally enacted).*

---

- (a) no civil proceedings shall without the leave of the High Court be instituted in any court by the person against whom the order is made;
  - (b) any civil proceedings instituted by him in any court before the making of the order shall not be continued by him without the leave of the High Court; and
  - (c) no application (other than one for leave under this section) shall be made by him, in any civil proceedings instituted in any court by any person, without the leave of the High Court;
    - " criminal proceedings order " means an order that—
      - (a) no information shall be laid before a justice of the peace by the person against whom the order is made without the leave of the High Court; and
      - (b) no application for leave to prefer a bill of indictment shall be made by him without the leave of the High Court; and
    - "all proceedings order" means an order which has the combined effect of the two other orders.”.
- (4) In subsection (3), for the word "legal" there shall be substituted " civil".
- (5) After subsection (3) there shall be inserted—
- “(3A) Leave for the laying of an information or for an application for leave to prefer a bill of indictment by a person who is the subject of an order for the time being in force under subsection (1) shall not be given unless the High Court is satisfied that the institution of the prosecution is not an abuse of the criminal process and that there are reasonable grounds for the institution of the prosecution by the applicant.”
- (6) In subsection (4), for the words from " for the institution " to the end there shall be substituted " required by virtue of this section".
- (7) An order made under section 42 before the commencement of this section and in force at the time of that commencement shall, for the purposes of that section as amended by this section, be treated as a civil proceedings order.

## **25 Consents to prosecutions etc.**

- (1) This section applies to any enactment which prohibits the institution or carrying on of proceedings for any offence except—
- (a) with the consent (however expressed) of a Law Officer of the Crown or the Director; or
  - (b) where the proceedings are instituted or carried on by or on behalf of a Law Officer of the Crown or the Director;
- and so applies whether or not there are other exceptions to the prohibition (and in particular whether or not the consent is an alternative to the consent of any other authority or person).
- (2) An enactment to which this section applies—
- (a) shall not prevent the arrest without warrant, or the issue or execution of a warrant for the arrest, of a person for any offence, or the remand in custody or on bail of a person charged with any offence ; and

(b) shall be subject to any enactment concerning the apprehension or detention of children or young persons.

(3) In this section "enactment" includes any provision having effect under or by virtue of any Act; and this section applies to enactments whenever passed or made.

## **26 Consents to be admissible in evidence**

Any document purporting to be the consent of a Law Officer of the Crown, the Director or a Crown Prosecutor for, or to—

- (a) the institution of any criminal proceedings ; or
- (b) the institution of criminal proceedings in any particular form;

and to be signed by a Law Officer of the Crown, the Director or, as the case may be, a Crown Prosecutor shall be admissible as prima facie evidence without further proof.

## **27 Care proceedings involving allegation of offences**

In section 3(2) of the Children and Young Persons Act 1969 (care proceedings alleging commission of offence by child or young person to be brought only by local authority or constable), after the word "constable" there shall be inserted the words "and, in the case of proceedings brought by a constable, the Director of Public Prosecutions has consented to the allegation being made".

## **28 Repeal of s. 9 of Perjury Act 1911**

Section 9 of the Perjury Act 1911 (which gives certain judicial authorities power to order the prosecution of persons for perjury) shall cease to have effect.