
 STATUTORY INSTRUMENTS

1987 No. 299

CRIMINAL LAW, ENGLAND AND WALES

**The Prosecution of Offences (Custody Time Limits)
Regulations 1987**

<i>Made</i> - - - -	<i>26th February 1987</i>
<i>Laid before Parliament</i>	<i>6th March 1987</i>
<i>Coming into force</i>	<i>1st April 1987</i>

ARRANGEMENT OF REGULATIONS

1. Citation and commencement.
2. Interpretation.
3. Application.
4. Custody time limits in magistrates' courts.
5. Custody time limits in the Crown Court.
6. Bail on expiry of Crown Court custody time limit.
7. Application for extension of custody time limit.
8. Application of Bail Act 1976.

In exercise of the powers conferred on me by sections 22(1) and (2) and 29(2) of the Prosecution of Offences Act 1985(a), I hereby make the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Prosecution of Offences (Custody Time Limits) Regulations 1987 and shall come into force on 1st April 1987.

Interpretation

2.—(1) In these Regulations —

“the 1980 Act” means the Magistrates' Courts Act 1980(b);

“the 1985 Act” means the Prosecution of Offences Act 1985.

(2) In these Regulations a reference to a person's first appearance in relation to proceedings in a magistrates' court for an offence is a reference to the time when first he appears or is brought before the court on an information charging him with that offence.

(3) In these Regulations a reference to the commencement of a summary trial is a reference to the time when the court begins to hear evidence for the prosecution at the trial or, if the court accepts a plea of guilty without hearing such evidence, the time when the plea is accepted.

(4) Any maximum period set by these Regulations during which a person may be in the custody of a court does not include the day on which the custody commenced.

(5) A custody time limit which would, apart from this paragraph, expire on any of the days to which this paragraph applies shall be treated as expiring on the next preceding day which is not one of those days.

The days to which this paragraph applies are Saturday, Sunday, Christmas Day, Good Friday and any day which under the Banking and Financial Dealings Act 1971(a) is a bank holiday in England and Wales.

Application

3.—(1) Subject to paragraph (3) below these Regulations shall apply in relation to proceedings instituted in any of the areas mentioned in paragraph (2) below, but shall not apply in relation to proceedings instituted elsewhere.

(2) The areas referred to in paragraph (1) above are the following counties, namely –

Avon
Kent
Somerset
West Midlands.

(3) These Regulations shall not apply in relation to proceedings for an offence instituted before the date of commencement of these Regulations, except where the accused is committed on or after that date for trial in the Crown Court.

Custody time limits in magistrates' courts

4.—(1) In proceedings in relation to which these Regulations apply, the maximum period during which a person accused of an indictable offence other than treason may be in the custody of a magistrates' court in relation to that offence while awaiting completion of any preliminary stage of the proceedings specified in the following provisions of this Regulation shall be as stated in those provisions.

(2) Except as provided in paragraph (3) below, in the case of an offence triable either way the maximum period of custody between the accused's first appearance and the commencement of summary trial or, as the case may be, the time when the court decides whether or not to commit the accused to the Crown Court for trial shall be –

(a) in the case of proceedings instituted in the county of West Midlands, 98 days;
and

(b) in the case of proceedings instituted elsewhere, 70 days.

(3) In the case of an offence triable either way if, before the expiry of 56 days following the day of the accused's first appearance, the court decides to proceed to summary trial in pursuance of sections 19 to 24 of the 1980 Act the maximum period of custody between the accused's first appearance and the commencement of the summary trial shall be 56 days.

(4) In the case of an offence triable on indictment exclusively the maximum period of custody between the accused's first appearance and the time when the court decides whether or not to commit the accused to the Crown Court for trial, shall be –

(a) in the case of proceedings instituted in the county of West Midlands, 98 days;
and

(b) in the case of proceedings instituted elsewhere, 70 days.

(5) Where a court proceeds to inquire into an information as examining justices in pursuance of section 6(1) of the 1980 Act, the foregoing provisions of this Regulation shall have effect as if any reference therein to the time when the court decides whether or not to commit the accused to the Crown Court for trial was a reference to the time when it begins to hear evidence for the prosecution at the inquiry.

Custody time limits in the Crown Court

5.—(1) In this Regulation “specified Crown Court centre” means the Crown Court sitting at any of the following places, namely –

Birmingham
Bristol
Maidstone.

(2) In proceedings in relation to which these Regulations apply, where –

- (a) a person accused of an indictable offence other than treason is committed for trial at a specified Crown Court centre; or
- (b) a bill of indictment is preferred against such a person under section 2(2)(b) of the Administration of Justice (Miscellaneous Provisions) Act 1933(a) at a specified Crown Court centre,

the maximum period during which he may be in the custody of the Crown Court in relation to that offence, or any other offence included in the indictment preferred against him, while awaiting the preliminary stage of the proceedings specified in the following provisions of this Regulation shall be as stated in those provisions.

(3) The maximum period of custody –

- (a) between the time when the accused is committed for trial and his arraignment; or
- (b) where a bill of indictment is preferred against him under the said section 2(2)(b), between the preferment of the bill and his arraignment,

shall, subject to the following provisions of this Regulation, be 112 days.

(4) Where, following a committal for trial, the bill of indictment preferred against the accused (not being a bill preferred under the said section 2(2)(b)) contains a count charging an offence for which he was committed for trial at that committal together with a count charging an offence for which he was committed for trial on a different occasion, paragraph (3) above applies in relation to each offence separately.

(5) Where, following a committal for trial, a bill of indictment is preferred under the said section 2(2)(b) and the bill does not contain a count charging an offence for which he was not committed for trial, the maximum period of custody between the preferment of the bill and the accused’s arraignment shall be 112 days less any period, or the aggregate of any periods, during which the accused has, since the committal, been in the custody of the Crown Court in relation to an offence for which he was committed for trial.

(6) Where, following a committal for trial, the bill of indictment preferred against the accused (not being a bill preferred under the said section 2(2)(b)) contains a count charging an offence for which he was not committed for trial, the maximum period of custody –

- (a) between the preferment of the bill and his arraignment, or
- (b) if the count was added to the bill after its preferment, between that addition and his arraignment,

shall be 112 days less any period, or the aggregate of any periods, during which he has, since the committal, been in the custody of the Crown Court in relation to an offence for which he was committed for trial.

(a) 1933 c.36; section 2(2)(b) was amended by the Supreme Court Act 1981 (c.54), Schedule 5, and by the Prosecution of Offences Act 1985 (c.23), Schedule 2.

(7) For the purposes of this Regulation, the arraignment of the accused shall be regarded as occurring at the time when he is asked to plead, notwithstanding that he has not done so.

Bail on expiry of Crown Court custody time limit

6.—(1) Subject to the following provisions of this Regulation where an accused who is in custody pending trial in the Crown Court has the benefit of a custody time limit under Regulation 5 above the prosecution shall –

- (a) not less than 5 days before the expiry of the time limit give notice in writing to the appropriate officer of the Crown Court and to the accused or his representative stating whether or not it intends to ask the Crown Court to impose conditions on the grant of bail in respect of the accused and, if it intends to do so, the nature of the conditions to be sought; and
- (b) make arrangements for the accused to be brought before the Crown Court within the period of 2 days preceding the expiry of the time limit.

(2) If the Crown Court is satisfied that it is not practicable in all the circumstances for the prosecution to comply with sub-paragraph (a) in paragraph (1) above, the Crown Court may direct that the prosecution need not comply with that sub-paragraph or that the minimum period of notice required by that sub-paragraph shall be such lesser minimum period as the Crown Court may specify.

(3) The prosecution need not comply with paragraph (1)(a) above if it has given notice under Regulation 7(2) below of its intention to make an application under section 22(3) of the 1985 Act.

(4) On receiving notice under paragraph (1)(a) above stating that the prosecution intends to ask the Crown Court to impose conditions on the grant of bail, the accused or his representative shall –

- (a) give notice in writing to the appropriate officer of the Crown Court and to the prosecution that the accused wishes to be represented at the hearing of the application; or
- (b) give notice in writing to the appropriate officer and to the prosecution stating that the accused does not oppose the application; or
- (c) give to the appropriate officer, for the consideration of the Crown Court, a written statement of the accused's reasons for opposing the application, at the same time sending a copy of the statement to the prosecution.

(5) The Crown Court may direct that the prosecution need not comply with paragraph (1)(b) above.

(6) The Crown Court, on being notified that an accused who is in custody pending trial there has the benefit of a custody time limit under Regulation 5 above and that the time limit is about to expire, shall grant him bail in accordance with the Bail Act 1976(a), as from the expiry of the time limit, subject to a duty to appear before the Crown Court for trial.

Application for extension of custody time limit

7.—(1) An application to a court for the extension or further extension of a custody time limit under section 22(3) of the 1985 Act may be made orally or in writing.

(2) Subject to paragraphs (3) and (4) below the prosecution shall –

- (a) not less than 5 days before making such an application in the Crown Court; and
- (b) not less than 2 days before making such an application in a magistrates' court,

give notice in writing to the accused or his representative and to the appropriate officer of the Crown Court stating that it intends to make such an application.

(3) It shall not be necessary for the prosecution to comply with paragraph (2) above if the accused or his representative has informed the prosecution that he does not require such notice.

(4) If the court is satisfied that it is not practicable in all the circumstances for the prosecution to comply with paragraph (2) above, the court may direct that the prosecution need not comply with that paragraph or that the minimum period of notice required by that paragraph to be given shall be such lesser minimum period as the court may specify.

Application of Bail Act 1976

8.—(1) The Bail Act 1976 shall apply in relation to cases to which a custody time limit applies subject to the modifications specified in paragraph (2) below, being modifications necessary in consequence of the foregoing provisions of these Regulations.

(2) That Act shall apply as if –

(a) in section 3 (general provisions) at the end there were inserted the following subsection:–

“(10) Where a custody time limit has expired this section shall have effect as if –

(a) subsections (4) and (5) (sureties and security for his surrender to custody) were omitted;

(b) in subsection (6) (conditions of bail) for the words “before release on bail or later” there were substituted the words “after release on bail”;

(b) in section 4 (general right to bail of accused persons and others) at the end there were inserted the following subsection:–

“(8) Where a custody time limit has expired this section shall have effect as if, in subsection (1), the words “except as provided in Schedule 1 to this Act” were omitted.”;

(c) in section 7 (liability to arrest for absconding or breaking conditions of bail) at the end there were inserted the following subsection:–

“(7) Where a custody time limit has expired this section shall have effect as if, in subsection (3), paragraphs (a) and (c) were omitted.”.

Home Office
26th February 1987

Douglas Hurd
One of Her Majesty's Principal Secretaries of State

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision, with effect from 1st April 1987, as to the maximum period during which a person accused of any indictable offence except treason (including an offence triable either way) in the counties of Avon, Kent, Somerset and West Midlands may be kept in custody while awaiting trial or committal for trial.

Regulation 4 is concerned with custody time limits in relation to proceedings in magistrates' courts. The limit between the first appearance of the accused in court and the commencement of summary trial or, as the case may be, committal for trial is 70 days, except where the proceedings are commenced in the West Midlands in which case the limit is 98 days. If a decision to proceed to summary trial is taken within 56 days following the accused's first appearance, the limit up to the commencement of the trial is reduced to 56 days in all cases.

Regulations 5 and 6 are concerned with custody time limits in relation to proceedings in the Crown Court sitting at Birmingham, Bristol or Maidstone. The limit between committal (or the preferment of a voluntary bill of indictment) and arraignment is 112 days.

Regulation 7 deals with the procedure for applying to the Crown Court or a magistrates' court for an extension of a custody time limit. In particular, the prosecution is normally required to give the accused 5 days notice before applying to the Crown Court and 2 days before applying to a magistrates' court.

Regulation 8 makes consequential modifications in the application of the Bail Act 1976 in cases where a custody time limit applies.