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## STATUTORY INSTRUMENTS

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# 2003 No. 1247

## The Criminal Justice (Northern Ireland) Order 2003

### PART III

#### TIME LIMITS

##### Introductory

**11.—(1)** In this Part—

custody time limit means a time limit imposed by regulations in pursuance of paragraph (1) (b) of Article 12;

overall time limit means a time limit imposed by regulations in pursuance of paragraph (1) (a) of Article 12;

specified means specified in regulations;

but where a custody time limit or an overall time limit has been extended by a court by virtue of paragraph (2)(c) of Article 12 custody time limit or overall time limit, as the case may be, means the limit as so extended.

**(2)** In Article 12 and Article 13—

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

- (a) Article 37 or 40(4) of the Magistrates' Courts (Northern Ireland) Order 1981 (NI 26) (magistrates' court committing accused for trial);
- (b) section 51(8) of the Judicature (Northern Ireland) Act 1978 (c. 23) (magistrates' court dealing with a person brought before it following his arrest in pursuance of a warrant issued by the Crown Court);
- (c) Article 4(3)(a) of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988 (NI 16) (magistrates' court dealing with a person to whom notice of transfer under that Order relates); or
- (d) paragraph 2(1)(a) of Schedule 1 to the Children's Evidence (Northern Ireland) Order 1995 (NI 3) (magistrates' court dealing with a person to whom notice of transfer under that Order relates);

custody of a magistrates' court means custody to which a person is committed in pursuance of Article 47 or 49 of the Magistrates' Courts (Northern Ireland) Order 1981;

law about bail means any statutory provision or rule of law relating to bail;

preliminary stage, in relation to any proceedings, does not include any stage after the start of the trial (within the meaning given by Article 13).

**(3)** This Part shall not apply to scheduled offences (within the meaning of section 65 of the Terrorism Act 2000 (c. 11)).

## **Preliminary stages of criminal proceedings**

12.—(1) The Secretary of State may by regulations make provision, in respect of a specified preliminary stage of proceedings for an offence, as to the maximum period—

- (a) to be allowed to the prosecution to complete the stage;
- (b) during which the accused may, while awaiting completion of the stage, be in the custody of a magistrates' court or the Crown Court in relation to the offence.

(2) The regulations may, in particular—

- (a) provide for a specified law about bail to apply in relation to cases to which custody or overall time limits apply (subject to any modifications which the Secretary of State considers it necessary to specify in the regulations);
- (b) make such provision with respect to the procedure to be followed in criminal proceedings as the Secretary of State considers appropriate in consequence of another provision of the regulations; and
- (c) enable a magistrates' court or the Crown Court in specified circumstances to extend or further extend a time limit at any time before it expires.

(3) Where an overall time limit expires before the completion of the stage of proceedings to which the limit applies, a magistrates' court or the Crown Court (as the case may be) shall stay the proceedings.

(4) Regulations under this Article which provide for a custody time limit in relation to a preliminary stage shall have no effect where—

- (a) a person escapes from the custody of a magistrates' court or the Crown Court before the expiry of the custody time limit;
- (b) a person who has been released on bail in consequence of the expiry of a custody time limit fails to surrender himself into the custody of the court at the appointed time; or
- (c) a person who has been released on bail in consequence of the expiry of a custody time limit is arrested by a constable in connection with a breach, or likely breach, of a condition of his bail.

(5) Paragraph (6) applies 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,

and is accordingly unlawfully at large for any period.

(6) The following, namely—

- (a) the period for which the person is unlawfully at large; and
- (b) such additional period (if any) as the court may direct, having regard to the disruption of the prosecution occasioned by—
  - (i) the person's escape or failure to surrender; and
  - (ii) the length of the period mentioned in sub-paragraph (a),

shall be disregarded, so far as the offence in question is concerned, for the purposes of 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.

[<sup>F1</sup>(7) Any period during which proceedings for an offence are adjourned pending the determination of an appeal under Part IV of the Criminal Justice (Northern Ireland) Order 2004 (prosecution appeals) shall be disregarded, so far as the offence is concerned, for the purposes of

the overall time limit and the custody time limit which applies to the stage which the proceedings have reached when they are adjourned.]

**Annotations:**

F1 [2004 NI 9](#)

### Supplementary provisions

**13.**—(1) Where a person is convicted of an offence, the extension of a time limit in the exercise of the power conferred by virtue of Article 12(2)(c) in relation to proceedings for the offence shall not be called into question on an appeal against the conviction.

(2) For the purposes of Article 12 proceedings for an offence shall be taken to begin when the accused is charged with the offence or, as the case may be, a complaint is made charging him with the offence.

(3) In the application of Article 12 in relation to proceedings on indictment, preliminary stage does not include a stage after the time when a jury is sworn to consider the issue of guilt or fitness to plead or, if the court accepts a plea of guilty before a jury is sworn, after that plea is accepted (but this is subject to Article 7 of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988 (NI 16) (trial begins with preparatory hearing)).

(4) In the application of Article 12 in relation to summary proceedings, preliminary stage does not include a stage—

- (a) after the court begins to hear evidence for the prosecution at the trial; or
- (b) if the court accepts a plea of guilty without proceeding as mentioned in sub-paragraph (a), after the plea is accepted; or
- (c) after the court begins to consider whether to exercise its power under Article 44(4) of the Mental Health (Northern Ireland) Order 1986 (NI 4) (power to make hospital or guardianship order without convicting person).

(5) For the purposes of the application of a 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.

### Appeals

**14.**—(1) Where a court decides—

- (a) to extend, or further extend, a custody or overall time limit, or
- (b) to give a direction under Article 12(6),

the accused may appeal against the decision.

(2) Where a court refuses—

- (a) to extend, or further extend, a custody or overall time limit, or
- (b) to give a direction under Article 12(6),

the prosecution may appeal against the refusal.

(3) An appeal under paragraph (2) 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.

- (4) An appeal under this Article from a decision or refusal of—
- (a) a magistrates' court shall lie to a county court;
  - (b) the Crown Court shall lie to the Court of Appeal but only with the leave of—
    - (i) a judge of the Crown Court; or
    - (ii) the Court of Appeal.

#### **Additional time limits for persons under 18**

**15.—**(1) The Secretary of State may by regulations make provision—

- (a) with respect to a person under the age of 18 at the time of his arrest in connection with an offence, as to the maximum period to be allowed for the completion of the stage beginning with his arrest and ending with the date fixed for his first appearance in court in connection with the offence ( the initial stage);
- (b) with respect to a person convicted of an offence who was under that age at the time of his arrest for the offence or (where he was not arrested for it) the making of the complaint charging him with it, as to the period within which the stage between his conviction and his being sentenced for the offence should be completed.

(2) Paragraph (2) of Article 12 applies for the purposes of regulations under paragraph (1) as if the reference in sub-paragraph (a) of Article 12(2) to custody or overall time limits were a reference to time limits imposed by the regulations.

(3) In this Article initial stage time limit means a time limit imposed by the regulations under paragraph (1)(a); but, where an initial stage time limit has been extended by the court by virtue of Article 12(2)(c) as applied by paragraph (2), initial stage time limit means the limit as extended.

(4) Where the initial stage time limit expires before the person arrested is charged with the offence, he shall not be charged with it unless further evidence relating to it is obtained, and—

- (a) if he is then under arrest, he shall be released;
- (b) if he is then on bail under Part V of the Police and Criminal Evidence (Northern Ireland) Order 1989 (NI 12), his bail (and any duty or conditions to which it is subject) shall be discharged.

(5) Where the initial stage time limit expires after the person arrested is charged with the offence but before the date fixed for his first appearance in court in connection with it, the court shall stay the proceedings.

(6) Where—

- (a) a person escapes from arrest; or
- (b) a person who has been released on bail under Part V of the Police and Criminal Evidence (Northern Ireland) Order 1989 fails to surrender himself at the appointed time,

and is accordingly unlawfully at large for any period, that period shall be disregarded, so far as the offence in question is concerned, for the purposes of the initial stage time limit.

(7) Article 14 (appeals) shall apply for the purposes of this Article, at any time after the person arrested has been charged with the offence in question, as if any reference (however expressed) to a custody or overall time limit were a reference to the initial stage time limit.

(8) Where a person is convicted of an offence, the extension of a time limit in the exercise of the power conferred by virtue of Article 12(2)(c) as applied by paragraph (2) shall not be called into question on an appeal against the conviction.

(9) Any reference in this Article (however expressed) to a person being charged with an offence includes a reference to the making of a complaint charging an offence.

(10) Paragraph (1) is without prejudice to Article 8 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (NI 9) (child apparently under 14).

### **Re-institution of stayed proceedings**

**16.**—(1) This Article applies where proceedings for an offence ( the original proceedings) are stayed by a court under Article 12(3) or Article 15(5).

(2) In paragraph (3) the relevant authority means—

- (a) the Director of Public Prosecutions for Northern Ireland in the case of proceedings conducted by him;
- (b) the Director of the Serious Fraud Office in the case of proceedings conducted by him;
- (c) the Commissioners of Inland Revenue in the case of proceedings conducted by them;
- (d) the Commissioners of Customs and Excise in the case of proceedings conducted by them;
- (e) a person designated for the purpose of this paragraph by the Secretary of State in the case of proceedings not conducted as mentioned in sub-paragraphs (a) to (d).

(3) If the relevant authority so directs, fresh proceedings for the offence may be instituted within a period of three months (or such longer period as the court may allow) after the date on which the original proceedings were stayed by that court.

(4) Fresh proceedings shall be instituted as follows—

- (a) where the original proceedings were stayed by the Crown Court, by presenting an indictment;
- (b) where the original proceedings were stayed by a magistrates' court, by making a complaint.

(5) Fresh proceedings may be instituted in accordance with paragraphs (3) and (4)(b) notwithstanding anything in Article 19(1) of the Magistrates' Courts (Northern Ireland) Order 1981 (NI 26) (limitation of time).

(6) Where fresh proceedings are instituted, anything done in relation to the original proceedings shall be treated as done in relation to the fresh proceedings if the court so directs or it was done—

- (a) by the prosecutor in compliance or purported compliance with section 3, 4, 7 or 9 of the Criminal Procedure and Investigations Act 1996 (c. 26); or
- (b) by the accused in compliance or purported compliance with section 5 or 6 of that Act.

(7) Where a person is convicted of an offence in fresh proceedings under this Article, the institution of those proceedings shall not be called into question in any appeal against that conviction.

### **Regulations**

**17.**—(1) Regulations made under this Part shall be subject to [<sup>F2</sup>negative resolution].

(2) Regulations under this Part may—

- (a) be made so as to apply only in relation to proceedings instituted in specified areas, or proceedings of, or against persons of, specified classes or descriptions;
- (b) make different provision with respect to proceedings instituted in different areas, or different provision with respect to proceedings of, or against persons of, different classes or descriptions; and
- (c) make such transitional provision in relation to proceedings instituted before the commencement of any provision of the regulations, or in relation to a stage begun before that commencement, as the Secretary of State considers appropriate.

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**Changes to legislation:** *The Criminal Justice (Northern Ireland) Order 2003, PART III is up to date with all changes known to be in force on or before 01 August 2017. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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**Annotations:**

- F2** Words in art. 17(1) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 4(3), **Sch. 2 para. 23(2)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

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**Commencement Orders yet to be applied to the The Criminal Justice (Northern Ireland) Order 2003**

Commencement Orders bringing legislation that affects this Order into force:

- [S.R. 2016/387 art. 2](#) commences ([2015 c. 9 \(N.I.\)](#))