



# Criminal Procedure and Investigations Act 1996

## 1996 CHAPTER 25

### PART VII

#### MISCELLANEOUS AND GENERAL

##### *Tainted acquittals*

#### **54 Acquittals tainted by intimidation etc**

- (1) This section applies where—
  - (a) a person has been acquitted of an offence, and
  - (b) a person has been convicted of an administration of justice offence involving interference with or intimidation of a juror or a witness (or potential witness) in any proceedings which led to the acquittal.
- (2) Where it appears to the court before which the person was convicted that—
  - (a) there is a real possibility that, but for the interference or intimidation, the acquitted person would not have been acquitted, and
  - (b) subsection (5) does not apply,the court shall certify that it so appears.
- (3) Where a court certifies under subsection (2) an application may be made to the High Court for an order quashing the acquittal, and the Court shall make the order if (but shall not do so unless) the four conditions in section 55 are satisfied.
- (4) Where an order is made under subsection (3) proceedings may be taken against the acquitted person for the offence of which he was acquitted.
- (5) This subsection applies if, because of lapse of time or for any other reason, it would be contrary to the interests of justice to take proceedings against the acquitted person for the offence of which he was acquitted.

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- (6) For the purposes of this section the following offences are administration of justice offences—
- (a) the offence of perverting the course of justice;
  - (b) the offence under section 51(1) of the Criminal Justice and Public Order Act 1994 (intimidation etc. of witnesses, jurors and others);
  - (c) an offence of aiding, abetting, counselling, procuring, suborning or inciting another person to commit an offence under section 1 of the Perjury Act 1911.
- (7) This section applies in relation to acquittals in respect of offences alleged to be committed on or after the appointed day.
- (8) The reference in subsection (7) to the appointed day is to such day as is appointed for the purposes of this section by the Secretary of State by order.

## **55 Conditions for making order**

- (1) The first condition is that it appears to the High Court likely that, but for the interference or intimidation, the acquitted person would not have been acquitted.
- (2) The second condition is that it does not appear to the Court that, because of lapse of time or for any other reason, it would be contrary to the interests of justice to take proceedings against the acquitted person for the offence of which he was acquitted.
- (3) The third condition is that it appears to the Court that the acquitted person has been given a reasonable opportunity to make written representations to the Court.
- (4) The fourth condition is that it appears to the Court that the conviction for the administration of justice offence will stand.
- (5) In applying subsection (4) the Court shall—
- (a) take into account all the information before it, but
  - (b) ignore the possibility of new factors coming to light.
- (6) Accordingly, the fourth condition has the effect that the Court shall not make an order under section 54(3) if (for instance) it appears to the Court that any time allowed for giving notice of appeal has not expired or that an appeal is pending.

## **56 Time limits for proceedings**

- (1) Where—
- (a) an order is made under section 54(3) quashing an acquittal,
  - (b) by virtue of section 54(4) it is proposed to take proceedings against the acquitted person for the offence of which he was acquitted, and
  - (c) apart from this subsection, the effect of an enactment would be that the proceedings must be commenced before a specified period calculated by reference to the commission of the offence,
- in relation to the proceedings the enactment shall have effect as if the period were instead one calculated by reference to the time the order is made under section 54(3).
- (2) Subsection (1)(c) applies however the enactment is expressed so that (for instance) it applies in the case of—
- (a) paragraph 10 of Schedule 2 to the Sexual Offences Act 1956 (prosecution for certain offences may not be commenced more than 12 months after offence);

- (b) section 127(1) of the Magistrates' Courts Act 1980 (magistrates' court not to try information unless it is laid within 6 months from time when offence committed);
- (c) an enactment that imposes a time limit only in certain circumstances (as where proceedings are not instituted by or with the consent of the Director of Public Prosecutions).

## **57 Tainted acquittals: supplementary**

- (1) Section 45 of the Offences Against the Person Act 1861 (which releases a person from criminal proceedings in certain circumstances) shall have effect subject to section 54(4) of this Act.
- (2) The Contempt of Court Act 1981 shall be amended as mentioned in subsections (3) and (4).
- (3) In section 4 (contemporary reports of proceedings) after subsection (2) there shall be inserted—
  - “(2A) Where in proceedings for any offence which is an administration of justice offence for the purposes of section 54 of the Criminal Procedure and Investigations Act 1996 (acquittal tainted by an administration of justice offence) it appears to the court that there is a possibility that (by virtue of that section) proceedings may be taken against a person for an offence of which he has been acquitted, subsection (2) of this section shall apply as if those proceedings were pending or imminent.”
- (4) In Schedule 1 (time when proceedings are active for purposes of section 2) in paragraph 3 (period for which criminal proceedings are active) after “4” there shall be inserted “or 4A”, and after paragraph 4 there shall be inserted—
  - “4A Where as a result of an order under section 54 of the Criminal Procedure and Investigations Act 1996 (acquittal tainted by an administration of justice offence) proceedings are brought against a person for an offence of which he has previously been acquitted, the initial step of the proceedings is a certification under subsection (2) of that section; and paragraph 4 has effect subject to this.”

### *Derogatory assertions*

## **58 Orders in respect of certain assertions**

- (1) This section applies where a person has been convicted of an offence and a speech in mitigation is made by him or on his behalf before—
  - (a) a court determining what sentence should be passed on him in respect of the offence, or
  - (b) a magistrates' court determining whether he should be committed to the Crown Court for sentence.
- (2) This section also applies where a sentence has been passed on a person in respect of an offence and a submission relating to the sentence is made by him or on his behalf before—
  - (a) a court hearing an appeal against or reviewing the sentence, or

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- (b) a court determining whether to grant leave to appeal against the sentence.
- (3) Where it appears to the court that there is a real possibility that an order under subsection (8) will be made in relation to the assertion, the court may make an order under subsection (7) in relation to the assertion.
- (4) Where there are substantial grounds for believing—
  - (a) that an assertion forming part of the speech or submission is derogatory to a person's character (for instance, because it suggests that his conduct is or has been criminal, immoral or improper), and
  - (b) that the assertion is false or that the facts asserted are irrelevant to the sentence, the court may make an order under subsection (8) in relation to the assertion.
- (5) An order under subsection (7) or (8) must not be made in relation to an assertion if it appears to the court that the assertion was previously made—
  - (a) at the trial at which the person was convicted of the offence, or
  - (b) during any other proceedings relating to the offence.
- (6) Section 59 has effect where a court makes an order under subsection (7) or (8).
- (7) An order under this subsection—
  - (a) may be made at any time before the court has made a determination with regard to sentencing;
  - (b) may be revoked at any time by the court;
  - (c) subject to paragraph (b), shall cease to have effect when the court makes a determination with regard to sentencing.
- (8) An order under this subsection—
  - (a) may be made after the court has made a determination with regard to sentencing, but only if it is made as soon as is reasonably practicable after the making of the determination;
  - (b) may be revoked at any time by the court;
  - (c) subject to paragraph (b), shall cease to have effect at the end of the period of 12 months beginning with the day on which it is made;
  - (d) may be made whether or not an order has been made under subsection (7) with regard to the case concerned.
- (9) For the purposes of subsections (7) and (8) the court makes a determination with regard to sentencing—
  - (a) when it determines what sentence should be passed (where this section applies by virtue of subsection (1)(a));
  - (b) when it determines whether the person should be committed to the Crown Court for sentence (where this section applies by virtue of subsection (1)(b));
  - (c) when it determines what the sentence should be (where this section applies by virtue of subsection (2)(a));
  - (d) when it determines whether to grant leave to appeal (where this section applies by virtue of subsection (2)(b)).

## **59 Restriction on reporting of assertions**

- (1) Where a court makes an order under section 58(7) or (8) in relation to any assertion, at any time when the order has effect the assertion must not—

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- (a) be published in Great Britain in a written publication available to the public, or
  - (b) be included in a relevant programme for reception in Great Britain.
- (2) In this section—
- “relevant programme” means a programme included in a programme service, within the meaning of the Broadcasting Act 1990;
  - “written publication” includes a film, a soundtrack and any other record in permanent form but does not include an indictment or other document prepared for use in particular legal proceedings.
- (3) For the purposes of this section an assertion is published or included in a programme if the material published or included—
- (a) names the person about whom the assertion is made or, without naming him, contains enough to make it likely that members of the public will identify him as the person about whom it is made, and
  - (b) reproduces the actual wording of the matter asserted or contains its substance.

## **60 Reporting of assertions: offences**

- (1) If an assertion is published or included in a relevant programme in contravention of section 59, each of the following persons is guilty of an offence—
- (a) in the case of publication in a newspaper or periodical, any proprietor, any editor and any publisher of the newspaper or periodical;
  - (b) in the case of publication in any other form, the person publishing the assertion;
  - (c) in the case of an assertion included in a relevant programme, any body corporate engaged in providing the service in which the programme is included and any person having functions in relation to the programme corresponding to those of an editor of a newspaper.
- (2) A person guilty of an offence under this section is liable on summary conviction to a fine of an amount not exceeding level 5 on the standard scale.
- (3) Where a person is charged with an offence under this section it is a defence to prove that at the time of the alleged offence—
- (a) he was not aware, and neither suspected nor had reason to suspect, that an order under section 58(7) or (8) had effect at that time, or
  - (b) he was not aware, and neither suspected nor had reason to suspect, that the publication or programme in question was of, or (as the case may be) included, the assertion in question.
- (4) Where an offence under this section committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—
- (a) a director, manager, secretary or other similar officer of the body corporate, or
  - (b) a person purporting to act in any such capacity,
- he as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.
- (5) In relation to a body corporate whose affairs are managed by its members “director” in subsection (4) means a member of the body corporate.

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- (6) Subsections (2) and (3) of section 59 apply for the purposes of this section as they apply for the purposes of that.

## **61 Reporting of assertions: commencement and supplementary**

- (1) Section 58 applies where the offence mentioned in subsection (1) or (2) of that section is committed on or after the appointed day.
- (2) The reference in subsection (1) to the appointed day is to such day as is appointed for the purposes of this section by the Secretary of State by order.
- (3) Nothing in section 58 or 59 affects any prohibition or restriction imposed by virtue of any other enactment on a publication or on matter included in a programme.
- (4) Nothing in section 58 or 59 affects section 3 of the Law of Libel Amendment Act 1888 (privilege of newspaper reports of court proceedings).
- (5) Section 8 of the Law of Libel Amendment Act 1888 (order of judge required for prosecution for libel published in a newspaper) does not apply to a prosecution for an offence under section 60.
- (6) In section 159 of the Criminal Justice Act 1988 (appeal to Court of Appeal against orders restricting reports etc.) in subsection (1) the following paragraph shall be inserted after paragraph (a)—
- “(aa) an order made by the Crown Court under section 58(7) or (8) of the Criminal Procedure and Investigations Act 1996 in a case where the Court has convicted a person on a trial on indictment;”.

*Evidence: special provisions*

## **62 Television links and video recordings**

- (1) In section 32 of the Criminal Justice Act 1988 (evidence through television links) the following subsections shall be inserted after subsection (3B)—
- “(3C) Where—
- (a) the court gives leave for a person to give evidence through a live television link, and
- (b) the leave is given by virtue of subsection (1)(b) above,
- then, subject to subsection (3D) below, the person concerned may not give evidence otherwise than through a live television link.
- (3D) In a case falling within subsection (3C) above the court may give permission for the person to give evidence otherwise than through a live television link if it appears to the court to be in the interests of justice to give such permission.
- (3E) Permission may be given under subsection (3D) above—
- (a) on an application by a party to the case, or
- (b) of the court’s own motion;
- but no application may be made under paragraph (a) above unless there has been a material change of circumstances since the leave was given by virtue of subsection (1)(b) above.”

(2) In section 32A of the Criminal Justice Act 1988 (video recordings of testimony from child witnesses) the following subsections shall be inserted after subsection (6)—

“(6A) Where the court gives leave under subsection (2) above the child witness shall not give relevant evidence (within the meaning given by subsection (6D) below) otherwise than by means of the video recording; but this is subject to subsection (6B) below.

(6B) In a case falling within subsection (6A) above the court may give permission for the child witness to give relevant evidence (within the meaning given by subsection (6D) below) otherwise than by means of the video recording if it appears to the court to be in the interests of justice to give such permission.

(6C) Permission may be given under subsection (6B) above—

- (a) on an application by a party to the case, or
- (b) of the court’s own motion;

but no application may be made under paragraph (a) above unless there has been a material change of circumstances since the leave was given under subsection (2) above.

(6D) For the purposes of subsections (6A) and (6B) above evidence is relevant evidence if—

- (a) it is evidence in chief on behalf of the party who tendered the video recording, and
- (b) it relates to matter which, in the opinion of the court, is dealt with in the recording and which the court has not directed to be excluded under subsection (3) above.”

(3) This section applies where the leave concerned is given on or after the appointed day.

(4) The reference in subsection (3) to the appointed day is to such day as is appointed for the purposes of this section by the Secretary of State by order.

### **63 Road traffic and transport: provision of specimens**

(1) In section 7(3) of the Road Traffic Act 1988 (provision of blood or urine in course of investigating whether certain road traffic offences have been committed) after paragraph (b) there shall be inserted—

“(bb) a device of the type mentioned in subsection (1)(a) above has been used at the police station but the constable who required the specimens of breath has reasonable cause to believe that the device has not produced a reliable indication of the proportion of alcohol in the breath of the person concerned, or”.

(2) In section 31(4) of the Transport and Works Act 1992 (provision of blood or urine in course of investigating whether certain offences have been committed by persons working on transport systems) the word “or” at the end of paragraph (b) shall be omitted and after that paragraph there shall be inserted—

“(bb) a device of the type mentioned in subsection (1)(a) above has been used at the police station but the constable who required the specimens of breath has reasonable cause to believe that the device has not produced a reliable indication of the proportion of alcohol in the breath of the person concerned, or”.

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- (3) This section applies where it is proposed to make a requirement mentioned in section 7(3) of the 1988 Act or section 31(3) of the 1992 Act after the appointed day.
- (4) The reference in subsection (3) to the appointed day is to such day as is appointed for the purposes of this section by the Secretary of State by order.

#### **64 Checks against fingerprints etc**

- (1) In section 63A of the Police and Criminal Evidence Act 1984 the following subsections shall be substituted for subsection (1) (checks against fingerprints etc. where a person has been arrested on suspicion of being involved in a recordable offence)—

“(1) Where a person has been arrested on suspicion of being involved in a recordable offence or has been charged with such an offence or has been informed that he will be reported for such an offence, fingerprints or samples or the information derived from samples taken under any power conferred by this Part of this Act from the person may be checked against—

- (a) other fingerprints or samples to which the person seeking to check has access and which are held by or on behalf of a police force (or police forces) falling within subsection (1A) below or are held in connection with or as a result of an investigation of an offence;
- (b) information derived from other samples if the information is contained in records to which the person seeking to check has access and which are held as mentioned in paragraph (a) above.

(1A) Each of the following police forces falls within this subsection—

- (a) a police force within the meaning given by section 62 of the Police Act 1964 (which relates to England and Wales);
- (b) a police force within the meaning given by section 50 of the Police (Scotland) Act 1967;
- (c) the Royal Ulster Constabulary and the Royal Ulster Constabulary Reserve;
- (d) the States of Jersey Police Force;
- (e) the salaried police force of the Island of Guernsey;
- (f) the Isle of Man Constabulary.”

- (2) This section applies where a person—
  - (a) is arrested on suspicion of being involved in a recordable offence,
  - (b) is charged with a recordable offence, or
  - (c) is informed that he will be reported for a recordable offence,
 after the day on which this Act is passed.

#### *Witness orders and summonses*

#### **65 Abolition of witness orders**

- (1) Section 1 of the Criminal Procedure (Attendance of Witnesses) Act 1965 (examining justices to order witness to attend and give evidence before Crown Court) shall be omitted.



- (2) In that Act the following words shall be omitted—
  - (a) in section 3(1) the words “witness order or”;
  - (b) in section 4(1) the words “witness order or” and (where they next occur) “order or”;
  - (c) in the proviso to section 4(1) the words from “in the case” (where they first occur) to “witness summons”;
  - (d) in section 4(2) the words “a witness order or” and (where they next occur) “order or”.
- (3) In section 145 of the Magistrates' Courts Act 1980 (rules) subsection (1)(e) (which relates to witness orders) shall be omitted.
- (4) This section shall have effect in accordance with provision made by the Secretary of State by order.

## **66 Summons to witness to attend Crown Court**

- (1) The Criminal Procedure (Attendance of Witnesses) Act 1965 shall be amended as follows.
- (2) The following shall be substituted for section 2 (summons to witness to attend Crown Court)—

### *“Issue of witness summons on application*

#### **2 Issue of witness summons on application to Crown Court**

- (1) This section applies where the Crown Court is satisfied that—
  - (a) a person is likely to be able to give evidence likely to be material evidence, or produce any document or thing likely to be material evidence, for the purpose of any criminal proceedings before the Crown Court, and
  - (b) the person will not voluntarily attend as a witness or will not voluntarily produce the document or thing.
- (2) In such a case the Crown Court shall, subject to the following provisions of this section, issue a summons (a witness summons) directed to the person concerned and requiring him to—
  - (a) attend before the Crown Court at the time and place stated in the summons, and
  - (b) give the evidence or produce the document or thing.
- (3) A witness summons may only be issued under this section on an application; and the Crown Court may refuse to issue the summons if any requirement relating to the application is not fulfilled.
- (4) Where a person has been committed for trial for any offence to which the proceedings concerned relate, an application must be made as soon as is reasonably practicable after the committal.

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- (5) Where the proceedings concerned have been transferred to the Crown Court, an application must be made as soon as is reasonably practicable after the transfer.
- (6) Where the proceedings concerned relate to an offence in relation to which a bill of indictment has been preferred under the authority of section 2(2)(b) of the Administration of Justice (Miscellaneous Provisions) Act 1933 (bill preferred by direction of Court of Appeal, or by direction or with consent of judge) an application must be made as soon as is reasonably practicable after the bill was preferred.
- (7) An application must be made in accordance with Crown Court rules; and different provision may be made for different cases or descriptions of case.
- (8) Crown Court rules—
  - (a) may, in such cases as the rules may specify, require an application to be made by a party to the case;
  - (b) may, in such cases as the rules may specify, require the service of notice of an application on the person to whom the witness summons is proposed to be directed;
  - (c) may, in such cases as the rules may specify, require an application to be supported by an affidavit containing such matters as the rules may stipulate;
  - (d) may, in such cases as the rules may specify, make provision for enabling the person to whom the witness summons is proposed to be directed to be present or represented at the hearing of the application for the witness summons.
- (9) Provision contained in Crown Court rules by virtue of subsection (8)(c) above may in particular require an affidavit to—
  - (a) set out any charge on which the proceedings concerned are based;
  - (b) specify any stipulated evidence, document or thing in such a way as to enable the directed person to identify it;
  - (c) specify grounds for believing that the directed person is likely to be able to give any stipulated evidence or produce any stipulated document or thing;
  - (d) specify grounds for believing that any stipulated evidence is likely to be material evidence;
  - (e) specify grounds for believing that any stipulated document or thing is likely to be material evidence.
- (10) In subsection (9) above—
  - (a) references to any stipulated evidence, document or thing are to any evidence, document or thing whose giving or production is proposed to be required by the witness summons;
  - (b) references to the directed person are to the person to whom the witness summons is proposed to be directed.

## **2A Power to require advance production**

A witness summons which is issued under section 2 above and which requires a person to produce a document or thing as mentioned in section 2(2) above may also require him to produce the document or thing—

- (a) at a place stated in the summons, and
- (b) at a time which is so stated and precedes that stated under section 2(2) above,

for inspection by the person applying for the summons.

## **2B Summons no longer needed**

- (1) If—
  - (a) a document or thing is produced in pursuance of a requirement imposed by a witness summons under section 2A above,
  - (b) the person applying for the summons concludes that a requirement imposed by the summons under section 2(2) above is no longer needed, and
  - (c) he accordingly applies to the Crown Court for a direction that the summons shall be of no further effect,the court may direct accordingly.
- (2) An application under this section must be made in accordance with Crown Court rules; and different provision may be made for different cases or descriptions of case.
- (3) Crown Court rules may, in such cases as the rules may specify, require the effect of a direction under this section to be notified to the person to whom the summons is directed.

## **2C Application to make summons ineffective**

- (1) If a witness summons issued under section 2 above is directed to a person who—
  - (a) applies to the Crown Court,
  - (b) satisfies the court that he was not served with notice of the application to issue the summons and that he was neither present nor represented at the hearing of the application, and
  - (c) satisfies the court that he cannot give any evidence likely to be material evidence or, as the case may be, produce any document or thing likely to be material evidence,the court may direct that the summons shall be of no effect.
- (2) For the purposes of subsection (1) above it is immaterial—
  - (a) whether or not Crown Court rules require the person to be served with notice of the application to issue the summons;
  - (b) whether or not Crown Court rules enable the person to be present or represented at the hearing of the application.
- (3) In subsection (1)(b) above “served” means—

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- (a) served in accordance with Crown Court rules, in a case where such rules require the person to be served with notice of the application to issue the summons;
  - (b) served in such way as appears reasonable to the court to which the application is made under this section, in any other case.
- (4) The Crown Court may refuse to make a direction under this section if any requirement relating to the application under this section is not fulfilled.
- (5) An application under this section must be made in accordance with Crown Court rules; and different provision may be made for different cases or descriptions of case.
- (6) Crown Court rules may, in such cases as the rules may specify, require the service of notice of an application under this section on the person on whose application the witness summons was issued.
- (7) Crown Court rules may, in such cases as the rules may specify, require that where—
- (a) a person applying under this section can produce a particular document or thing, but
  - (b) he seeks to satisfy the court that the document or thing is not likely to be material evidence,
- he must arrange for the document or thing to be available at the hearing of the application.
- (8) Where a direction is made under this section that a witness summons shall be of no effect, the person on whose application the summons was issued may be ordered to pay the whole or any part of the costs of the application under this section.
- (9) Any costs payable under an order made under subsection (8) above shall be taxed by the proper officer of the court, and payment of those costs shall be enforceable in the same manner as an order for payment of costs made by the High Court in a civil case or as a sum adjudged summarily to be paid as a civil debt.

*Issue of witness summons of court's own motion*

**2D Issue of witness summons of Crown Court's own motion**

For the purpose of any criminal proceedings before it, the Crown Court may of its own motion issue a summons (a witness summons) directed to a person and requiring him to—

- (a) attend before the court at the time and place stated in the summons, and
- (b) give evidence, or produce any document or thing specified in the summons.

**2E Application to make summons ineffective**

- (1) If a witness summons issued under section 2D above is directed to a person who—

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- (a) applies to the Crown Court, and
  - (b) satisfies the court that he cannot give any evidence likely to be material evidence or, as the case may be, produce any document or thing likely to be material evidence,
- the court may direct that the summons shall be of no effect.
- (2) The Crown Court may refuse to make a direction under this section if any requirement relating to the application under this section is not fulfilled.
  - (3) An application under this section must be made in accordance with Crown Court rules; and different provision may be made for different cases or descriptions of case.
  - (4) Crown Court rules may, in such cases as the rules may specify, require that where—
    - (a) a person applying under this section can produce a particular document or thing, but
    - (b) he seeks to satisfy the court that the document or thing is not likely to be material evidence,he must arrange for the document or thing to be available at the hearing of the application.

*Other provisions”.*

- (3) In section 3 (punishment for disobedience to witness summons) after subsection (1) there shall be inserted—
  - “(1A) Any person who without just excuse disobeys a requirement made by any court under section 2A above shall be guilty of contempt of that court and may be punished summarily by that court as if his contempt had been committed in the face of the court.”
- (4) In section 3, in subsection (2) for the words “such disobedience” there shall be substituted “any disobedience mentioned in subsection (1) or (1A) above”.
- (5) In section 4 (further process to secure attendance of witness) in the proviso to subsection (1) after the word “give” there shall be inserted “evidence likely to be”.
- (6) Schedule 1 (application for direction that witness summons shall be of no effect) shall be omitted.
- (7) This section applies in relation to any proceedings for the purpose of which no witness summons has been issued under section 2 of the 1965 Act before the appointed day.
- (8) The reference in subsection (7) to the appointed day is to such day as is appointed for the purposes of this section by the Secretary of State by order.

**67 Witness summons: securing attendance of witness**

- (1) In section 4(1) of the Criminal Procedure (Attendance of Witnesses) Act 1965 (judge of High Court may issue warrant to arrest witness in respect of whom witness summons is in force) for the words “High Court” there shall be substituted “Crown Court”.

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- (2) This section shall have effect in accordance with provision made by the Secretary of State by order.

*Other miscellaneous provisions*

**68 Use of written statements and depositions at trial**

Schedule 2 to this Act (which relates to the use at the trial of written statements and depositions admitted in evidence in committal proceedings) shall have effect.

**69 Proof by written statement**

- (1) In section 9 of the Criminal Justice Act 1967 (proof by written statement) in subsection (3)(a) (statement by person under 21 must give his age) for “twenty-one” there shall be substituted “eighteen”.
- (2) This section applies in relation to statements tendered in evidence on or after the appointed day.
- (3) The reference in subsection (2) to the appointed day is to such day as is appointed for the purposes of this section by the Secretary of State by order.

**70 Indemnification of justices and justices' clerks**

- (1) In section 53 of the Justices of the Peace Act 1979 (indemnification of justices and justices' clerks) the following subsection shall be inserted after subsection (1)—
- “(1A) So far as the duty mentioned in subsection (1) above relates to criminal matters, that subsection shall have effect as if—
- (a) for the word “may” there were substituted “shall”, and
- (b) for the words following paragraph (c) there were substituted “unless it is proved, in respect of the matters giving rise to the proceedings or claim, that he acted in bad faith”.”
- (2) This section applies in relation to things done or omitted on or after the appointed day.
- (3) The reference in subsection (2) to the appointed day is to such day as is appointed for the purposes of this section by the Secretary of State by order.

**71 Meaning of preliminary stage of criminal proceedings**

- (1) Section 22 of the Prosecution of Offences Act 1985 (power of Secretary of State to set time limits in relation to preliminary stages of criminal proceedings) shall be amended as mentioned in subsections (2) and (3).
- (2) In subsection (11) the following shall be substituted for the definition of “preliminary stage”—
- ““preliminary stage”, in relation to any proceedings, does not include any stage after the start of the trial (within the meaning given by subsections (11A) and (11B) below);”.
- (3) The following subsections shall be inserted after subsection (11)—

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- “(11A) For the purposes of this section, the start of a trial on indictment shall be taken to occur 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, when that plea is accepted; but this is subject to section 8 of the Criminal Justice Act 1987 and section 30 of the Criminal Procedure and Investigations Act 1996 (preparatory hearings).
- (11B) For the purposes of this section, the start of a summary trial shall be taken to occur—
- (a) when the court begins to hear evidence for the prosecution at the trial or to consider whether to exercise its power under section 37(3) of the Mental Health Act 1983 (power to make hospital order without convicting the accused), or
  - (b) if the court accepts a plea of guilty without proceeding as mentioned above, when that plea is accepted.”
- (4) The Prosecution of Offences (Custody Time Limits) Regulations 1987 shall be amended as follows, but without prejudice to the power to make further regulations amending or revoking the provisions amended—
- (a) in regulation 2 (interpretation) for paragraph (3) there shall be substituted—

“(3) In these Regulations any reference to the start of the trial shall be construed in accordance with section 22(11A) and (11B) of the 1985 Act.”;
  - (b) in regulation 4 (custody time limits in magistrates' courts) in paragraphs (2) and (3) for “commencement” there shall be substituted “start”;
  - (c) in regulation 5 (custody time limits in Crown Court) for “his arraignment” in paragraphs (3)(a) and (b) and (6)(a) and (b), and for “the accused’s arraignment” in paragraph (5), there shall be substituted “the start of the trial”;
  - (d) regulation 5(7) (when arraignment occurs) shall be omitted.
- (5) This section applies in relation to—
- (a) any time limit which begins to run on or after the appointed day, and
  - (b) any time limit which has begun to run and has not expired before that day,
- except that it does not apply in relation to proceedings for an offence for which the accused has been duly arraigned in the Crown Court before that day.
- (6) The reference in subsection (5) to the appointed day is to such day as is appointed for the purposes of this section by the Secretary of State by order.

## **72 Fraud**

Schedule 3 (which amends provisions relating to serious or complex fraud) shall have effect.

## **73 Amendments to the Criminal Procedure (Scotland) Act 1995**

- (1) The Criminal Procedure (Scotland) Act 1995 shall be amended as follows.
- (2) In section 27 (breach of bail conditions: offences) the following subsection shall be inserted after subsection (4)—

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- “(4A) The fact that the subsequent offence was committed while the accused was on bail shall, unless challenged—
- (a) in the case of proceedings on indictment, by giving notice of a preliminary objection under paragraph (b) of section 72(1) of this Act or under that paragraph as applied by section 71(2) of this Act; or
  - (b) in summary proceedings, by preliminary objection before his plea is recorded,
- be held as admitted.”.
- (3) In subsection (1) of section 65 (prevention of delay in trials), for the words from “shall be discharged forthwith” to the end of the subsection there shall be substituted—
- “(a) shall be discharged forthwith from any indictment as respects the offence; and
  - (b) shall not at any time be proceeded against on indictment as respects the offence”.
- (4) In Schedule 9 (certificates as to proof of certain routine matters), in the entry relating to the Social Security Administration Act 1992, for “Section 114(4)” in column 1 there shall be substituted “Section 112(1)”.

#### **74 Alibi**

- (1) Section 11 of the Criminal Justice Act 1967 (notice of alibi) shall cease to have effect, but subject to the following provisions of this section.
- (2) Subsection (1) does not affect the application of section 11 of the Criminal Justice Act 1967 to proceedings before courts martial by virtue of section 12 of that Act.
- (3) The reference in section 12 of the Criminal Justice Act 1967 to section 11 as it applies to proceedings on indictment shall be construed as a reference to it as it would apply to proceedings on indictment apart from subsection (1) of this section.
- (4) In section 9(6) of the Criminal Justice Act 1987 (disclosure in cases involving fraud) in paragraph (a) for the words “section 11 of the Criminal Justice Act 1967” there shall be substituted “section 5(7) of the Criminal Procedure and Investigations Act 1996”.
- (5) This section applies in relation to alleged offences into which no criminal investigation, within the meaning given by section 1(4), has begun before the day appointed under section 1(5).

#### *General*

#### **75 Time when alleged offence committed**

- (1) Subsection (2) applies for the purposes of sections 52(3) and 54(7).
- (2) Where an offence is alleged to be committed over a period of more than one day, or at some time during a period of more than one day, it must be taken to be alleged to be committed on the last of the days in the period.
- (3) Subsection (2) applies for the purposes of section 61(1) as if “alleged to be” (in each place) were omitted.



## **76 Power of magistrates' courts**

In section 148(2) of the Magistrates' Courts Act 1980 (power of court to act where another may act) the reference to that Act includes a reference to this Act.

## **77 Orders and regulations**

- (1) This section concerns the powers of the Secretary of State to make orders or regulations under this Act.
- (2) Any power to make an order or regulations may be exercised differently in relation to different areas or in relation to other different cases or descriptions of case.
- (3) Any order or regulations may include such supplementary, incidental, consequential or transitional provisions as appear to the Secretary of State to be necessary or expedient.
- (4) Any power to make an order or regulations shall be exercisable by statutory instrument.
- (5) No order under section 25 shall have effect unless approved by a resolution of each House of Parliament.
- (6) A statutory instrument containing—
  - (a) an order under section 78, or
  - (b) regulations,shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## **78 Application to armed forces**

- (1) Subject to subsection (2) and to section 74(2) and (3), nothing in this Act applies to—
  - (a) proceedings before a court martial constituted under the Army Act 1955, the Air Force Act 1955 or the Naval Discipline Act 1957;
  - (b) proceedings before a Standing Civilian Court;
  - (c) any investigation conducted with a view to it being ascertained whether a person should be charged with an offence under any of those Acts or whether a person charged with such an offence is guilty of it.
- (2) The Secretary of State may by order—
  - (a) make as regards any proceedings falling within subsection (3) provision which is equivalent to the provisions contained in or made under Part I, subject to such modifications as he thinks fit and specifies in the order;
  - (b) make as regards any investigation falling within subsection (4) provision which is equivalent to the provisions contained in or made under Part II, subject to such modifications as he thinks fit and specifies in the order.
- (3) The proceedings falling within this subsection are—
  - (a) proceedings before a court martial constituted under the Army Act 1955;
  - (b) proceedings before a court martial constituted under the Air Force Act 1955;
  - (c) proceedings before a court martial constituted under the Naval Discipline Act 1957;
  - (d) proceedings before a Standing Civilian Court.

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- (4) An investigation falls within this subsection if it is conducted with a view to it being ascertained whether a person should be charged with an offence under any of the Acts mentioned in subsection (3) or whether a person charged with such an offence is guilty of it.
- (5) An order under this section may make provision in such way as the Secretary of State thinks fit, and may in particular apply any of the provisions concerned subject to such modifications as he thinks fit and specifies in the order.
- (6) Without prejudice to the generality of section 77(3), an order under this section may include provision—
  - (a) repealing section 11 of the Criminal Justice Act 1967 (alibi) as it applies to proceedings before courts martial;
  - (b) amending or repealing any provision of section 12 of that Act or of section 74 above.

## **79 Extent**

- (1) This Act does not extend to Scotland, with the exception of—
  - (a) sections 37, 38, 41, 42, 59, 60, 61(3), 63, 72, 73, 74(2) and (3) and 78, this section and section 81;
  - (b) paragraphs 6 and 7 of Schedule 3, and paragraph 8 of that Schedule so far as it relates to paragraphs 6 and 7;
  - (c) paragraph 5 of Schedule 5;
  - (d) paragraph 12 of Schedule 5 so far as it relates to provisions amending section 11 of the Criminal Justice Act 1987.
- (2) Section 73 extends only to Scotland.
- (3) Parts III and VI and sections 44, 47, 65, 67, 68 and 71 do not extend to Northern Ireland.
- (4) In its application to Northern Ireland, this Act has effect subject to the modifications set out in Schedule 4.
- (5) Section 74(2) and (3) extend to any place where proceedings before courts martial may be held.
- (6) Section 78 extends as follows—
  - (a) so far as it relates to proceedings, it extends to any place where such proceedings may be held;
  - (b) so far as it relates to investigations, it extends to any place where such investigations may be conducted.

## **80 Repeals**

The provisions mentioned in Schedule 5 are repealed (or revoked) to the extent specified in column 3, but subject to any provision of that Schedule.

## **81 Citation**

This Act may be cited as the Criminal Procedure and Investigations Act 1996.