

JUSTICE (NORTHERN IRELAND) ACT 2002

EXPLANATORY NOTES

COMMENTARY

Part 2: Law Officers and Public Prosecution Service

Public Prosecution Service

Section 32: Discontinuance of proceedings before court appearance

63. This section addresses a recommendation of the Review that the prosecutor be able to withdraw charges before the defendant's first court appearance ('first remand'). When combined with a direction that the name of the accused not be released before that first court appearance it will help to address the potential for damage to reputation if someone has been wrongly charged. Removing the requirement for withdrawal of charge to be sought in court will also prevent unnecessary court appearances by the person accused and the prosecutor and will ensure a more efficient use of court time. Other methods of terminating a prosecution (such as the entering of a nolle prosequi) will continue to be open to the prosecution service after first remand.
64. *Subsection (3)* ensures that the person concerned will be released from custody when the charge is withdrawn (unless there are other charges pending that warrant his detention) and that any requirement for him to appear at or be brought before court, or appear at a police station (for example, those imposed by Article 47 or 48 of the Police and Criminal Evidence (Northern Ireland) Order 1989) ceases to have effect. *Subsection (4)* ensures that the person can be prosecuted for the same offence in the future.