

**EXPLANATORY MEMORANDUM TO THE
CRIME AND DISORDER ACT 1998 (SERVICE OF PROSECUTION
EVIDENCE) REGULATIONS 2005**

2005 No. 902

1. This explanatory memorandum has been prepared by the Legal Secretariat to the Law Officers and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Description**

- 2.1 These Regulations amend the time period for the service of prosecution evidence in the case of persons sent to the Crown Court for trial under section 51 of the Crime and Disorder Act 1998. These amendments follow changes effected by the Criminal Procedure Rules 2005 (2005 No 384 (L.4)) and put in place a regime of time periods consistent with those currently in place.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

- 3.1 The above Regulations must come into force on 4 April 2005 in order to complement the Criminal Procedure Rules 2005. The effect of the Regulations is to put in place, within the context of the Criminal Procedure Rules 2005, a regime of time periods which replicates that which currently applies in relation to the service of prosecution evidence. It is essential that there should be certainty, and continuity of practice, in applying the time periods for the service of prosecution evidence in relation to persons sent for trial.

- 3.2 We regret that administrative delays in preparing the final version of the regulations means that the Regulations come into force less than 21 days from the date of laying. In these circumstances we offer the Committees our apologies.

4. **Legislative Background**

- 4.1 By paragraph 1 of Schedule 3 of the Crime and Disorder Act 1998, the Attorney General shall by regulation provide that, where a person is sent for trial under section 51 of that Act on any charge or charges, copies of the documents containing the evidence upon which the charge or charges are based shall be served on the person sent for trial, and upon the Crown Court, on or before the relevant date prescribed by the regulations.

- 4.2 Under the current regulations (The Crime and Disorder Act 1998 (Service of Prosecution Evidence) Regulations 2000 (SI 2000/3305)), the time for service of the prosecution evidence is no later than 42 days after the first Crown Court appearance listed by the appropriate officer of the Crown Court under Rule 24ZA of the Crown Court Rules 1982 (SI 1982/1109), inserted by the Crown Court (Amendment) (No.3) Rules 2000 (SI 1998/3362). The first appearance, for the purposes of Rule 24ZA, is a date no later than 28 days after the date on which the Crown Court receives notice under section 51(7) of the 1998 Act or, in the case of a person committed to custody under section 52(1)(a) of that Act, no later than 8 days after that date.
- 4.3 In practice therefore, the overall period of time for service of prosecution evidence is no later than 70 days from receipt by the Crown Court of the notice under section 51(7) of the 1998 Act or, in the case of a person committed to custody, no later than 50 days after that date.
- 4.4 By virtue of Rule 12.2 of the Criminal Procedure Rules 2005, which come into force on 4 April 2005, the provisions of Rule 24ZA of the Crown Court Rules 1982 regarding the listing of the first appearance within set periods of time no longer apply.
- 4.5 The above Regulations are necessary in order to confirm the current regime of time periods in the context of the revised procedures established by the Criminal Procedure Rules 2005. This is achieved by replacing the first Crown Court appearance with the date of sending of the person to the Crown Court as the date from which the time periods begin to run. Furthermore, the periods of time set by the Regulations for the service of the prosecution evidence are adjusted so as to reflect the current time periods.

5. Extent

- 5.1 This instrument applies in England and Wales.

6. European Convention on Human Rights

Not applicable

7. Policy background

- 7.1 The intention in making these Regulations is to maintain, in relation to the Criminal Procedure Rules 2005, the regime of time periods during which the prosecution evidence will be served in relation to persons sent for trial under section 51 of the Crime and Disorder Act 1998 as was established by the Crime and Disorder Act 1998 (Service of Prosecution Evidence) Regulations 2000

8. Impact

8.1 Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

9. Contact

John Hudson at the Legal Secretariat to the Law Officers Tel: 020 7271 2495 or e-mail: John.Hudson@lslo.x.gsi.gov.uk can answer any queries regarding the instrument.