



# Prosecution of Offences Act 1985

## 1985 CHAPTER 23

### PART I

#### THE CROWN PROSECUTION SERVICE

##### *Constitution and functions of Service*

#### **1 The Crown Prosecution Service.**

- (1) There shall be a prosecuting service for England and Wales (to be known as the “Crown Prosecution Service”) consisting of—
  - (a) the Director of Public Prosecutions, who shall be head of the Service;
  - (b) the Chief Crown Prosecutors, designated under subsection (4) below, each of whom shall be the member of the Service responsible to the Director for supervising the operation of the Service in his area; and
  - (c) the other staff appointed by the Director under this section.
- (2) The Director shall appoint such staff for the Service as, with the approval of the Treasury as to numbers, remuneration and other terms and conditions of service, he considers necessary for the discharge of his functions.
- (3) The Director may designate any member of the Service [<sup>F1</sup>who has a general qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990)] for the purposes of this subsection, and any person so designated shall be known as a Crown Prosecutor.
- (4) The Director shall divide England and Wales into areas and, for each of those areas, designate a Crown Prosecutor for the purposes of this subsection and any person so designated shall be known as a Chief Crown Prosecutor.
- (5) The Director may, from time to time, vary the division of England and Wales made for the purposes of subsection (4) above.
- (6) Without prejudice to any functions which may have been assigned to him in his capacity as a member of the Service, every Crown Prosecutor shall have all the powers

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of the Director as to the institution and conduct of proceedings but shall exercise those powers under the direction of the Director.

- (7) Where any enactment (whenever passed)—
- (a) prevents any step from being taken without the consent of the Director or without his consent or the consent of another; or
  - (b) requires any step to be taken by or in relation to the Director;
- any consent given by or, as the case may be, taken by or in relation to, a Crown Prosecutor shall be treated, for the purposes of that enactment, as given by or, as the case may be, taken by or in relation to the Director.

#### Textual Amendments

**F1** Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 71(2), Sch. 10 para. 61(1)

#### Modifications etc. (not altering text)

**C1** S. 1(7) excluded (4.4.2005) by Criminal Justice Act 2003 (c. 44), ss. 92(1), 336; S.I. 2005/950, art. 2(1), Sch. 1 para. 5 (subject to art. 2(2), Sch. 2) (as amended by 2005/2122, art. 2 and 2007/391, art. 2)

## 2 The Director of Public Prosecutions

- (1) The Director of Public Prosecutions shall be appointed by the Attorney General.
- (2) The Director must be a [<sup>F2</sup>person who has a ten year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990].
- (3) There shall be paid to the Director such remuneration as the Attorney General may, with the approval of the Treasury, determine.

#### Textual Amendments

**F2** Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 71(2), Sch. 10 para. 60

## 3 Functions of the Director.

- (1) The Director shall discharge his functions under this or any other enactment under the superintendence of the Attorney General.
- (2) It shall be the duty of the Director [<sup>F3</sup>, subject to any provisions contained in the Criminal Justice Act 1987] —
  - (a) to take over the conduct of all criminal proceedings, other than specified proceedings, instituted on behalf of a police force (whether by a member of that force or by any other person);
  - [<sup>F4</sup>(aa) to take over the conduct of any criminal proceedings instituted by an immigration officer (as defined for the purposes of the <sup>M1</sup>Immigration Act 1971) acting in his capacity as such an officer;]
  - (b) to institute and have the conduct of criminal proceedings in any case where it appears to him that—
    - (i) the importance or difficulty of the case makes it appropriate that proceedings should be instituted by him; or
    - (ii) it is otherwise appropriate for proceedings to be instituted by him;

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- [<sup>F5</sup>(ba) to institute and have the conduct of any criminal proceedings in any case where the proceedings relate to the subject-matter of a report a copy of which has been sent to him under paragraph 23 or 24 of Schedule 3 to the Police Reform Act 2002 (c. 30)(reports on investigations into conduct of persons serving with the police);]
- (c) to take over the conduct of all binding over proceedings instituted on behalf of a police force (whether by a member of that force or by any other person);
- (d) to take over the conduct of all proceedings begun by summons issued under section 3 of the <sup>M2</sup>Obscene Publications Act 1959 (forfeiture of obscene articles);
- (e) to give, to such extent as he considers appropriate, advice to police forces on all matters relating to criminal offences;
- [<sup>F6</sup>(ea) to have the conduct of any extradition proceedings;
- (eb) to give, to such extent as he considers appropriate, and to such persons as he considers appropriate, advice on any matters relating to extradition proceedings or proposed extradition proceedings;
- [<sup>F7</sup>(ec) to give, to such extent as he considers appropriate, advice to immigration officers on matters relating to criminal offences;]]
- (f) to appear for the prosecution, when directed by the court to do so, on any appeal under—
  - (i) section 1 of the <sup>M3</sup>Administration of Justice Act 1960 (appeal from the High Court in criminal cases);
  - (ii) Part I or Part II of the <sup>M4</sup>Criminal Appeal Act 1968 (appeals from the Crown Court to the criminal division of the Court of Appeal and thence to the House of Lords); or
  - (iii) section 108 of the <sup>M5</sup>Magistrates' Courts Act 1980 (right of appeal to Crown Court) as it applies, by virtue of subsection (5) of section 12 of the <sup>M6</sup>Contempt of Court Act 1981, to orders made under section 12 (contempt of magistrates' courts); <sup>F8</sup> . . .
- [<sup>F9</sup>(fa) to have the conduct of applications for orders under section 1C of the Crime and Disorder Act 1998 (orders made on conviction of certain offences) and section 14A of the Football Spectators Act 1989 (banning orders made on conviction of certain offences);]
- [<sup>F10</sup>(faa) where it appears to him appropriate to do so, to have the conduct of applications made by him for orders under section 14B of the Football Spectators Act 1989 (banning orders made on complaint);]
- [<sup>F11</sup>(fb) where it appears to him appropriate to do so, to have the conduct of applications under section 1CA(3) of the Crime and Disorder Act 1998 for the variation or discharge of orders made under section 1C of that Act;
- (fc) where it appears to him appropriate to do so, to appear on any application under section 1CA of that Act made by a person subject to an order under section 1C of that Act for the variation or discharge of the order.]
- [<sup>F12</sup>(ff) to discharge such duties as are conferred on him by, or in relation to, Part 5 or 8 of the Proceeds of Crime Act 2002 (c. 29) (civil recovery of the proceeds etc. of unlawful conduct, civil recovery investigations and disclosure orders in relation to confiscation investigations);]
- (g) to discharge such other functions as may from time to time be assigned to him by the Attorney General in pursuance of this paragraph.

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- [<sup>F13</sup>(2A) Subsection (2)(ea) above does not require the Director to have the conduct of any extradition proceedings in respect of a person if he has received a request not to do so and—
- (a) in a case where the proceedings are under Part 1 of the Extradition Act 2003, the request is made by the authority which issued the Part 1 warrant in respect of the person;
  - (b) in a case where the proceedings are under Part 2 of that Act, the request is made on behalf of the territory to which the person’s extradition has been requested.]
- (3) In this section—
- “the court ” means—
- (a) in the case of an appeal to or from the criminal division of the Court of Appeal, that division;
  - (b) in the case of an appeal from a Divisional Court of the Queen’s Bench Division, the Divisional Court; and
  - (c) in the case of an appeal against an order of a magistrates’ court, the Crown Court;
- “police force ” means any police force maintained by a police authority under [<sup>F14</sup>the <sup>M7</sup>Police Act 1996]<sup>F15</sup>. . . and any other body of constables for the time being specified by order made by the Secretary of State for the purposes of this section; and
- “specified proceedings ” means proceedings which fall within any category for the time being specified by order made by the Attorney General for the purposes of this section.
- (4) The power to make orders under subsection (3) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

- F3** Words inserted by [Criminal Justice Act 1987](#) (c. 38, SIF 39:1), s. 15, **Sch. 2 para. 13**
- F4** S. 3(2)(aa) inserted (1.12.2004) by [1999 c. 33](#), ss. 164, 170(4); S.I. 2004/2997, **art. 2**
- F5** S. 3(2)(ba) inserted (1.4.2004) by [Police Reform Act 2002](#) (c. 30) ss. 107, 108(2), {Sch. 7 para. 10}; S.I. 2004/913, **art. 2(e)**
- F6** S. 3(2)(ea)(eb) inserted (1.1.2004) by [Extradition Act 2003](#) (c. 41), **ss. 190(2)**, 221; S.I. 2003/3103, **art. 2** (subject to savings in Order (as amended by S.I. 2003/3312, art. 2(2) and S.I. 2003/3258, art. 3(2)))
- F7** S. 3(2)(ec) inserted (1.12.2004) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004](#) (c. 19), **ss. 7**, 48(1)-(3); S.I. 2004/2999, **art. 2**, Sch.
- F8** Word in s. 3(2)(f) repealed (20.1.2004) by [Anti-social Behaviour Act 2003](#) (c. 38), ss. 86(6), 92, 93, **Sch. 3**; S.I. 2003/3300, **art. 2(f)(ii)(g)(ii)(b)**
- F9** S. 3(2)(fa) inserted (20.1.2004) by [Anti-social Behaviour Act 2003](#) (c. 38). {ss. 86(6)}, 93; S.I. 2003/3300, **art. 2(f)(ii)**
- F10** S. 3(2)(faa) inserted (6.4.2007) by [Violent Crime Reduction Act 2006](#) (c. 38), ss. 52, 66(2), **Sch. 3 para. 15**; S.I. 2007/858, **art. 2(k)**
- F11** S. 3(2)(fb)(fc) inserted (1.7.2005) by [Serious Organised Crime and Police Act 2005](#) (c. 15), **ss. 140(5)**, 178; S.I. 2005/1521, **art. 3(s)** (subject to art. 3(4)(5))
- F12** S. 3(2)(ff) inserted (1.4.2008) by [Serious Crime Act 2007](#) (c. 27), s. 94(1), **Sch. 8 para. 149**; S.I. 2008/755, art. 2(1)(a) (with arts. 3-14)

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- F13** S. 3(2A) inserted (1.1.2004) by Extradition Act 2003 (c. 41), **ss. 190(3)**, 221; S.I. 2003/3103, **art. 2** (subject to savings in Order (as amended by S.I. 2003/3312, **art. 2(2)** and S.I. 2003/3258, **art. 3(2)**))
- F14** Words in the definition of "police force" in s. 3(3) substituted (22.8.1996) by 1996 c. 16, **ss. 103, 104(1)**, **Sch. 7 Pt. II para. 39**
- F15** S. 3(3): words in definition of "police force" repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), **ss. 59, 174, 178**, **Sch. 4 para. 47**, **Sch. 17**; S.I. 2006/378, **art. 4(1)** (subject to **art. 4(2)-(7)**)

**Modifications etc. (not altering text)**

- C2** S. 3(2) excluded by Criminal Justice Act 1987 (c. 38, SIF 39:1), **s. 5(1)**
- C3** S. 3(2)(a)(d) restricted by S.I. 1986/1029, **art. 5**

**Marginal Citations**

- M1** 1971 c. 77.  
**M2** 1959 c. 66.  
**M3** 1960 c. 65.  
**M4** 1968 c. 19.  
**M5** 1980 c. 43.  
**M6** 1981 c. 49.  
**M7** 1996 c. 16.

**4 Crown Prosecutors.**

- F16**(1) .....  
**F16**(2) .....  
**F16**(3) .....  
**F16**(3A) .....  
**F16**(3B) .....  
**F16**(3C) .....  
**F16**(3D) .....  
**F16**(3E) .....

(4) In section 88 of the <sup>M8</sup>Solicitors Act 1974 (which, amongst other things, provides that solicitors in public departments are not required to hold practising certificates) the following subsection shall be inserted after subsection (1)—

“(1A) The exemption from the requirement to hold a practising certificate conferred by subsection (1) above shall not apply to solicitors who are Crown Prosecutors.”

(5) ..... **F17**

(6) In Schedule 2 to the Act of 1974 (the compensation fund), in paragraph 2, for the words “sub-paragraph (2)” there shall be substituted the words “sub-paragraphs (2) and (2A)” and after sub-paragraph (2) there shall be inserted the following sub-paragraph—

“(2A) Sub-paragraph (1) above shall not apply to any solicitor who is a Crown Prosecutor.”

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#### Textual Amendments

- F16** S. 4(1)-(3E) repealed (31.7.2000) by 1999 c. 22, s. 106, **Sch.15 Pt II** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/1920, **art. 2(c)**
- F17** S. 4(5) repealed by **Courts and Legal Services Act 1990** (c. 41, SIF 37), s. 125(7), **Sch. 20**

#### Marginal Citations

- M8** 1974 c. 47.

### 5 Conduct of prosecutions on behalf of the Service.

- (1) The Director may at any time appoint a person who is not a Crown Prosecutor but [<sup>F18</sup>who has a general qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990)] to institute or take over the conduct of such criminal proceedings [<sup>F19</sup>or extradition proceedings] as the Director may assign to him.
- (2) Any person conducting proceedings assigned to him under this section shall have all the powers of a Crown Prosecutor but shall exercise those powers subject to any instructions given to him by a Crown Prosecutor.

#### Textual Amendments

- F18** Words substituted by virtue of **Courts and Legal Services Act 1990** (c. 41, SIF 37), s. 71(2), **Sch. 10 para. 61(2)** [Editorial Note: The amending legislation provides that the new words in s. 5(1) should be substituted for the words from "who is" to "authority". The words "who is" occur three times in s. 5(1) as enacted. It is thought that the context requires the substitution to begin with the second occurrence of those words.]
- F19** Words in s. 5(1) inserted (1.1.2004) by **Extradition Act 2003** (c. 41), **ss. 190(4), 221**; S.I. 2003/3103, **art. 2** (subject to savings in Order (as amended by S.I. 2003/3312, art. 2(2) and S.I. 2003/3258, art. 3(2)))

### 6 Prosecutions instituted and conducted otherwise than by the Service.

- (1) Subject to subsection (2) below, nothing in this Part shall preclude any person from instituting any criminal proceedings or conducting any criminal proceedings to which the Director's duty to take over the conduct of proceedings does not apply.
- (2) Where criminal proceedings are instituted in circumstances in which the Director is not under a duty to take over their conduct, he may nevertheless do so at any stage.

### 7 Delivery of recognizances etc. to Director.

- (1) Where the Director or any Crown Prosecutor gives notice to any justice of the peace that he has instituted, or is conducting, any criminal proceedings, the justice shall—
  - (a) at the prescribed time and in the prescribed manner; or
  - (b) in a particular case, at the time and in the manner directed by the Attorney General;

send him every recognizance, information, certificate, deposition, document and thing connected with those proceedings which the justice is required by law to deliver to the appropriate officer of the Crown Court.

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- (2) The Attorney General may make regulations for the purpose of supplementing this section; and in subsection (1) above “prescribed” means prescribed by the regulations.
- (3) The Director or, as the case may be, Crown Prosecutor shall—
  - (a) subject to the regulations, cause anything which is sent to him under subsection (1) above to be delivered to the appropriate officer of the Crown Court; and
  - (b) be under the same obligation (on the same payment) to deliver to an applicant copies of anything so sent as that officer.
- (4) It shall be the duty of [<sup>F20</sup>the designated officer for every magistrates' court] to send to the Director, in accordance with the regulations, a copy of the information and of any depositions and other documents relating to any case in which—
  - (a) a prosecution for an offence before [<sup>F21</sup>the magistrates' court] is withdrawn or is not proceeded with within a reasonable time;
  - (b) the Director does not have the conduct of the proceedings; and
  - (c) there is some ground for suspecting that there is no satisfactory reason for the withdrawal or failure to proceed.

#### Textual Amendments

**F20** Words in s. 7(4) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, Sch. 8 para. 287(a); S.I. 2005/910, art. 3(y)

**F21** Words in s. 7(4) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, Sch. 8 para. 287(b); S.I. 2005/910, art. 3(y)

#### [<sup>F22</sup>7A Powers of non-legal staff.

- (1) The Director may designate, for the purposes of this section, members of the staff of the Crown Prosecution Service who are not Crown Prosecutors.
- (2) Subject to such exceptions (if any) as may be specified in the designation, a person so designated shall have such of the following as may be so specified, namely—
  - (a) the powers and rights of audience of a Crown Prosecutor in relation to—
    - (i) applications for, or relating to, bail in criminal proceedings;
    - (ii) the conduct of criminal proceedings in magistrates' courts other than trials [<sup>F23</sup>of offences triable either way or offences which are punishable with imprisonment in the case of persons aged 21 or over];
    - [ the conduct of applications or other proceedings relating to
    - <sup>F24</sup>(iii) preventative civil orders;
    - (iv) the conduct of proceedings (other than criminal proceedings) in, or in connection with, the discharge of functions assigned to the Director under section 3(2)(g) above.]
  - [<sup>F25</sup>(b) any powers of a Crown Prosecutor that do not involve the exercise of such rights of audience as are mentioned in paragraph (a) above but are exercisable in relation to the conduct of—
    - (i) criminal proceedings in magistrates' courts, or
    - (ii) applications or proceedings falling within paragraph (a)(iii) or (iv).]

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- (3) A person so designated shall exercise any such powers subject to instructions given to him by the Director.
- (4) Any such instructions may be given so as to apply generally.
- [<sup>F26</sup>(5) In this section—
- “bail in criminal proceedings” has the same meaning as in the Bail Act 1976 (see section 1 of that Act);
- “preventative civil orders” means—
- (a) orders within section 3(2)(fa) to (fe) above;
- (b) orders under section 5 or 5A of the Protection from Harassment Act 1997 (restraining orders); or
- (c) orders under section 8 of the Crime and Disorder Act 1998 (parenting orders).
- (5A) For the purposes of this section a trial begins with the opening of the prosecution case after the entry of a plea of not guilty and ends with the conviction or acquittal of the accused.]
- [<sup>F27</sup>(6) . . . . .
- (7) Details of the following for any year, namely—
- (a) the criteria applied by the Director in determining whether to designate persons under this section;
- (b) the training undergone by persons so designated; and
- (c) any general instructions given by the Director under subsection (4) above,
- shall be set out in the Director’s report under section 9 of this Act for that year.]
- [<sup>F28</sup>(8) As from 1 May 2011 nothing in this section confers on persons designated under this section—
- (a) any rights of audience, or
- (b) any right to conduct litigation,
- for the purposes of Part 3 of the Legal Services Act 2007 (reserved legal activities).
- (9) As from that date the following provisions of that Act accordingly do not apply to persons designated under this section—
- (a) paragraph 1(3) of Schedule 3 (exemption for persons with statutory rights of audience), and
- (b) paragraph 2(3) of that Schedule (exemption for persons with statutory right to conduct litigation).
- (10) The Attorney General may by order make such modifications in the application of any enactment (including this section) in relation to persons designated under this section as the Attorney General considers appropriate in consequence of, or in connection with, the matters provided for by subsections (8) and (9).
- (11) The Attorney General may also by order amend subsection (2)(a)(ii) so as to omit the words “or offences which are punishable with imprisonment in the case of persons aged 21 or over”.
- (12) The power to make an order under subsection (10) or (11) is exercisable by statutory instrument, but a statutory instrument containing such an order may not be made unless



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a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.]

#### Textual Amendments

- F22** S. 7A substituted (30.9.1998) by 1998 c. 37, s.53; S.I. 1998/2327, art. 2(1)(n).
- F23** Words in s. 7A(2)(a)(ii) inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 55(2)(a), 153(7) (with Sch. 27 para. 21); S.I. 2008/1586, art. 2(1), Sch. 1 para. 29
- F24** S. 7A(2)(a)(iii)(iv) inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 55(2)(b), 153(7) (with Sch. 27 para. 21); S.I. 2008/1586, art. 2(1), Sch. 1 para. 29
- F25** S. 7A(2)(b) substituted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 55(2)(c), 153(7) (with Sch. 27 para. 21); S.I. 2008/1586, art. 2(1), Sch. 1 para. 29
- F26** S. 7A(5)(5A) substituted for s. 7A(5) (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 55(3), 153(7) (with Sch. 27 para. 21); S.I. 2008/1586, art. 2(1), Sch. 1 para. 29
- F27** S. 7A(6) repealed (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 55(4), 153(7), Sch. 28 Pt. 4 (with Sch. 27 para. 21); S.I. 2008/1586, art. 2(1), Sch. 1 paras. 29, 50(4)(b)
- F28** Ss. 7A(8)-(12) inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 55(5), 153(7) (with Sch. 27 para. 21); S.I. 2008/1586, art. 2(1), Sch. 1 para. 29

#### Reports

### 8 Reports to Director by chief officers of police.

- (1) The Attorney General may make regulations requiring the chief officer of any police force to which the regulations are expressed to apply to give to the Director information with respect to every offence of a kind prescribed by the regulations which is alleged to have been committed in his area and in respect of which it appears to him that there is a prima facie case for proceedings.
- (2) The regulations may also require every such chief officer to give to the Director such information as the Director may require with respect to such cases or classes of case as he may from time to time specify.

### 9 Reports by Director to Attorney General.

- (1) As soon as practicable after 4th April in any year the Director shall make to the Attorney General a report on the discharge of his functions during the year ending with that date.
- (2) The Attorney General shall lay before Parliament a copy of every report received by him under subsection (1) above and shall cause every such report to be published.
- (3) The Director shall, at the request of the Attorney General, report to him on such matters as the Attorney General may specify.

#### Guidelines

### 10 Guidelines for Crown Prosecutors.

- (1) The Director shall issue a Code for Crown Prosecutors giving guidance on general principles to be applied by them—

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- (a) in determining, in any case—
    - (i) whether proceedings for an offence should be instituted or, where proceedings have been instituted, whether they should be discontinued; or
    - (ii) what charges should be preferred; and
  - (b) in considering, in any case, representations to be made by them to any magistrates' court about the mode of trial suitable for that case.
- (2) The Director may from time to time make alterations in the Code.
- (3) The provisions of the Code shall be set out in the Director's report under section 9 of this Act for the year in which the Code is issued; and any alteration in the Code shall be set out in his report under that section for the year in which the alteration is made.

**Modifications etc. (not altering text)**

C4 S. 10(2)(3) modified (1.3.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), [Sch. 2 para. 4](#); S.I. 2008/219, art. 3(c)

*Transfer of staff, etc.*

**11 Transfer of staff.**

- (1) The Attorney General may, with the approval of the Treasury, by regulations make such provision as he considers appropriate in relation to the transfer to the staff of the Director of such persons employed by any authority wholly or mainly in connection with the discharge of prosecution functions as may be specified in the regulations.
- (2) The regulations may, in particular, make provision—
- (a) as to the method by which any staff or group of staff are transferred;
  - (b) as to the terms and conditions of the transfer; and
  - (c) for the termination of the employment with the authorities concerned of persons to whom the regulations apply (whether or not they are transferred in accordance with the regulations) and as to the consequences of that termination;
- and (without prejudice to section 29(2) of this Act) may make different provision with respect to staff employed in different areas.
- (3) The regulations may include provision for the determination of questions arising under them and may make such modifications in the application of any enactment as the Attorney General considers appropriate in connection with any provision of the regulations of a kind mentioned in subsection (2)(c) above.
- (4) Staff transferred in accordance with the regulations shall be exempt from any requirement to the effect that before a person is appointed to Her Majesty's Home Civil Service a certificate of qualification must be issued in respect of him by the Civil Service Commissioners.
- (5) For the purposes of [F<sup>29</sup>Chapter I of Part XIV of the M<sup>9</sup>Employment Rights Act 1996] (as it applies for the purposes of computing an employee's period and continuity of employment for the purposes of that Act and any other enactment) in its application to a person who is transferred to the staff of the Director as a result of this Part—

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- (a) the period of his employment in the employment from which he is transferred shall count as a period of Crown employment; and
  - (b) the change of employment shall not break the continuity of his employment.
- (6) Where a person ceases to be a member of the staff of an authority—
- (a) on becoming a member of the staff of the Service in consequence of any regulations made under this section; or
  - (b) having unreasonably refused to be transferred in pursuance of the regulations;
- he shall not, on ceasing to be a member of the staff of the authority, be treated for the purposes of any regulations or scheme made under the <sup>M10</sup>Superannuation Act 1972 as having ceased to hold his employment by reason of redundancy.
- (7) In this section “authority ” means any police authority or other authority or body mentioned in section 17(6)(c) or (d) of this Act; and “police authority ”, in relation to the metropolitan police district, means the Commissioner of Police of the Metropolis.

**Textual Amendments**

**F29** Words in s. 11(5) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, Sch. 1 para. 25(2)

**Marginal Citations**

**M9** 1996 c. 18.

**M10** 1972 c. 11.

**<sup>F30</sup>12 Staff commission.**

**Textual Amendments**

**F30** S. 12 repealed (21.7.2008) by Statute Law (Repeals) Act 2008 (c. 12), Sch. 1 Pt. 3

**<sup>F31</sup>13 Premises formerly used in connection with Director’s new functions.**

**Textual Amendments**

**F31** S. 13 repealed (21.7.2008) by Statute Law (Repeals) Act 2008 (c. 12), Sch. 1 Pt. 3

*Miscellaneous*

**14 Control of certain fees and expenses etc. paid by the Service.**

- (1) The Attorney General may, with the approval of the Treasury, by regulations make such provision as he considers appropriate in relation to—
- (a) the fees of [<sup>F32</sup>any legal representative] briefed to appear on behalf of the Service in any criminal proceedings [<sup>F33</sup>or extradition proceedings] ; and

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- (b) the costs and expenses of witnesses attending to give evidence at the instance of the Service [<sup>F34</sup>and, subject to subsection (1A) below, of any other person who in the opinion of the Service necessarily attends for the purpose of the case otherwise than to give evidence].

[<sup>F35</sup>(1A) The power conferred on the Attorney General by subsection (1)(b) above only relates to the costs and expenses of an interpreter if the interpreter is required because of the lack of English of a person attending to give evidence at the instance of the Service.]

[<sup>F35</sup>(1B) In subsection (1)(b) above “attending ” means attending at the court or elsewhere.]

(2) The regulations may, in particular—

- (a) prescribe scales or rates of fees, costs or expenses; and  
 (b) specify conditions for the payment of fees, costs or expenses.

[<sup>F36</sup>(3) Regulations made under subsection (1)(b) above may provide that scales or rates of costs and expenses shall be determined by the Attorney General with the consent of the Treasury.]

#### Subordinate Legislation Made

**P1** S. 14; power conferred by s. 14 previously exercised by [S.I. 1986/405](#), 842, 1250, 1818, 1987/902, 1636, 1851, 1988/807, 1054, 1862

#### Textual Amendments

**F32** Words in s. 14(1) substituted (1. 4. 1991) by [Courts and Legal Services Act 1990 \(c. 41, SIF 37\)](#), s. 125(3), [Sch. 18 para. 52\(1\)](#); [S.I.1991/608](#), art. 2, [Sch.](#)

**F33** Words in s. 14(1)(a) inserted (1.1.2004) by [Extradition Act 2003 \(c. 41\)](#), [ss. 190\(5\)](#), 221; [S.I. 2003/3103](#), [art. 2](#) (subject to savings in Order (as amended by [S.I. 2003/3312](#), art. 2(2) and [S.I. 2003/3258](#), art. 3(2)))

**F34** Words added by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 166(a), [Sch. 8 para. 16](#)

**F35** S. 14(1A)(1B) inserted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 166(1)(b), [Sch. 8 para. 16](#)

**F36** S. 14(3) inserted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 166(1)(c), [Sch. 8 para. 16](#)

#### Modifications etc. (not altering text)

**C5** S. 14 applied (6.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), [Sch. 2 para. 5](#); [S.I. 2008/755](#), art. 15(1)(h)

## 15 Interpretation of Part I.

(1) In this Part—

“binding over proceedings” means any proceedings instituted (whether by way of complaint under section 115 of the <sup>M11</sup>Magistrates’ Courts Act 1980 or otherwise) with a view to obtaining from a magistrates’ court an order requiring a person to enter into a recognizance to keep the peace or to be of good behaviour;

“Director” means the Director of Public Prosecutions;

[<sup>F37</sup>“extradition proceedings” means proceedings under the Extradition Act 2003;]

[<sup>F38</sup>“legal representative ” means an authorised advocate or authorised litigator, as defined by section 119(1) of the Courts and Legal Services Act 1990.]

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“police force ” has the same meaning as in section 3 of this Act;  
“prosecution functions ” means functions which by virtue of this Part become functions of the Director;  
“public authority ” has the same meaning as in section 17 of this Act;  
[<sup>F39</sup>“public prosecutor”, “requisition” and “written charge” have the same meaning as in section 29 of the Criminal Justice Act 2003;]  
“Service ” means the Crown Prosecution Service; [<sup>F40</sup> . . .  
<sup>F40</sup> . . .]

- (2) For the purposes of this Part, proceedings in relation to an offence are instituted—
- (a) where a justice of the peace issues a summons under section 1 of the <sup>M12</sup>Magistrates’ Courts Act 1980, when the information for the offence is laid before him;
  - (b) where a justice of the peace issues a warrant for the arrest of any person under that section, when the information for the offence is laid before him;
  - [<sup>F41</sup>(ba) where a public prosecutor issues a written charge and requisition for the offence, when the written charge and requisition are issued;]
  - (c) where a person is charged with the offence after being taken into custody without a warrant, when he is informed on the particulars of the charge;
  - (d) where a bill of indictment is preferred under section 2 of the <sup>M13</sup>Administration of Justice (Miscellaneous Provisions) Act 1933 in a case falling within paragraph (b) of subsection (2) of that section, when the bill of indictment is preferred before the court;

and where the application of this subsection would result in there being more than one time for the institution of the proceedings, they shall be taken to have been instituted at the earliest of those times.

- (3) For the purposes of this Part, references to the conduct of any proceedings include references to the proceedings being discontinued and to the taking of any steps (including the bringing of appeals and making of representations in respect of applications for bail) which may be taken in relation to them.
- (4) For the purposes of sections 3(2)(b), 5, 6 [<sup>F42</sup>, 7(1) and 7A] of this Act, binding over proceedings shall be taken to be criminal proceedings.
- (5) For the purposes of section 5 of this Act, proceedings begun by summons issued under section 3 of the <sup>M14</sup>Obscene Publications Act 1959 (forfeiture of obscene articles) shall be taken to be criminal proceedings.
- (6) The functions which become functions of the Director by virtue of this Part shall [<sup>F43</sup>not be treated as transferred functions] for the purposes of paragraph 1(2) of Schedule 3 to the <sup>M15</sup>Pensions (Increase) Act 1971 (meaning of “last employing authority”).

<sup>F44</sup>(7) . . . . .

#### Textual Amendments

**F37** Definition in s. 15(1) inserted (1.1.2004) by [Extradition Act 2003 \(c. 41\)](#), **ss. 190(6)**, 221; S.I. 2003/3103, **art. 2** (subject to savings in Order (as amended by S.I. 2003/3312, **art. 2(2)** and S.I. 2003/3258, **art. 3(2))**)

**F38** Definition in s. 15(1) inserted (1.4.1991) by [Courts and Legal Services Act 1990 \(c. 41, SIF 37\)](#), s. 125(3), **Sch. 18 para. 52(2)**; S.I. 1991/608, **art. 2, Sch.**

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- F39** Definition in s. 15(1) inserted (1.10.2007) by Criminal Justice Act 2003 (c. 44), ss. 331, 336, **Sch. 36 para. 10(1)(2)**; S.I. 2007/2874, **art. 2(4)**
- F40** Word and definition in s. 15(1) repealed (1. 4. 1991) by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(7), **Sch. 20**; S.I. 1991/608, art. 2, **Sch.**
- F41** S. 15(2)(ba) inserted (1.10.2007) by Criminal Justice Act 2003 (c. 44), ss. 331, 336, **Sch. 36 para. 10(1)(3)**; S.I. 2007/2874, **art. 2(4)**
- F42** Words in s. 15(4) substituted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), **ss. 55(6), 153(7)**; S.I. 2008/1586, art. 2(1), Sch. 1 para. 29
- F43** Words in s. 15(6) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, **Sch. 1 para. 25(3)**
- F44** S. 15(7) repealed (21.7.2008) by Statute Law (Repeals) Act 2008 (c. 12), **Sch. 1 Pt. 3**

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#### **Marginal Citations**

- M11** 1980 c. 43.  
**M12** 1980 c. 43.  
**M13** 1933 c. 36.  
**M14** 1959 c. 66.  
**M15** 1971 c. 56.

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