



# Prosecution of Offences Act 1985

## 1985 CHAPTER 23

### PART III

#### MISCELLANEOUS

- 22 Power of Secretary of State to set time limits in relation to preliminary stages of criminal proceedings.**
- (1) The Secretary of State may by regulations make provision, with respect to any specified preliminary stage of proceedings for an offence, as to the maximum period—
- (a) to be allowed to the prosecution to complete that stage;
  - (b) during which the accused may, while awaiting completion of that stage, be—
    - (i) in the custody of a magistrates' court; or
    - (ii) in the custody of the Crown Court;in relation to that offence.
- (2) The regulations may, in particular—
- (a) be made so as to apply only in relation to proceedings instituted in specified areas;
  - (b) make different provision with respect to proceedings instituted in different areas;
  - (c) make such provision with respect to the procedure to be followed in criminal proceedings as the Secretary of State considers appropriate in consequence of any other provision of the regulations;
  - (d) provide for the <sup>M1</sup>Magistrates' Court Act 1980 and the <sup>M2</sup>Bail Act 1976 to apply in relation to cases to which custody or overall time limits apply subject to such modifications as may be specified (being modifications which the Secretary of State considers necessary in consequence of any provision made by the regulations); and
  - (e) make such transitional provision in relation to proceedings instituted before the commencement of any provision of the regulations as the Secretary of State considers appropriate.

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*Status: Point in time view as at 04/07/1996. This version of this provision has been superseded.*

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- (3) The appropriate court may, at any time before the expiry of a time limit imposed by the regulations, extend, or further extend, that limit if it is satisfied—
- (a) that there is good and sufficient cause for doing so; and
  - (b) that the prosecution has acted with all due expedition.
- (4) Where, in relation to any proceedings for an offence, an overall time limit has expired before the completion of the stage of the proceedings to which the limit applies, the accused shall be treated, for all purposes, as having been acquitted of that offence.
- (5) Where—
- (a) a person escapes from the custody of a magistrates' court or the Crown Court before the expiry of a custody time limit which applies in his case; or
  - (b) a person who has been released on bail in consequence of the expiry of a custody time limit—
    - (i) fails to surrender himself into the custody of the court at the appointed time; or
    - (ii) is arrested by a constable on a ground mentioned in section 7(3)(b) of the Bail Act 1976 (breach, or likely breach, of conditions of bail);
 the regulations shall, so far as they provide for any custody time limit in relation to the preliminary stage in question, be disregarded.
- (6) 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;
- 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 shall, so far as the offence in question is concerned, cease to have effect.
- (7) Where a magistrates' court decides to extend, or further extend, a custody or overall time limit, the accused may appeal against the decision to the Crown Court.
- (8) Where a magistrates' court refuses to extend, or further extend, a custody or overall time limit the prosecution may appeal against the refusal to the Crown Court.
- (9) An appeal under subsection (8) above 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.
- (10) Where a person is convicted of an offence in any proceedings, the exercise, in relation to any preliminary stage of those proceedings, of the power conferred by subsection (3) above shall not be called into question in any appeal against that conviction.
- (11) In this section—
- “appropriate court ” means—
- (a) where the accused has been committed for trial or indicted for the offence, the Crown Court; and
  - (b) in any other case, the magistrates' court specified in the summons or warrant in question or, where the accused has already appeared or been brought before a magistrates' court, a magistrates' court for the same area;

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[<sup>F1</sup>“custody ” includes local authority accommodation to which a person is remanded or committed by virtue of section 23 of the Children and Young Persons Act 1969, and references to a person being committed to custody shall be construed accordingly;]

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

- (a) section 6 of the <sup>M3</sup>Magistrates’ Courts Act 1980 (magistrates’ court committing accused for trial); or
- (b) section 43A of that Act (magistrates’ court dealing with a person brought before it following his arrest in pursuance of a warrant issued by the Crown Court); [<sup>F2</sup>or
- (c) section 5(3)(a) of the Criminal Justice Act 1987 (custody after transfer order in fraud case); [<sup>F3</sup>, or]]
- [<sup>F3</sup>(d) paragraph 2(1)(a) of Schedule 6 to the Criminal Justice Act 1991 (custody after transfer order in certain cases involving children).]

“custody of a magistrates’ court ” means custody to which a person is committed in pursuance of section 128 of the <sup>M4</sup>Magistrates’ Courts Act 1980 (remand);

“custody time limit ” means a time limit imposed by regulations made under subsection (1)(b) above or, where any such limit has been extended by a court under subsection (3) above, the limit as so extended;

[<sup>F4</sup>“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);]

“overall time limit ” means a time limit imposed by regulations made under subsection (1)(a) above or, where any such limit has been extended by a court under subsection (3) above, the limit as so extended; and

“specified ” means specified in the regulations.

[<sup>F5</sup>(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 <sup>M5</sup>Criminal Justice Act 1987 and section 30 of the <sup>M6</sup>Criminal Procedure and Investigations Act 1996 (preparatory hearings).

[<sup>F5</sup>(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 <sup>M7</sup>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.]

(12) For the purposes of the application of any 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.

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- (13) For the purposes of section 29(3) of the <sup>M8</sup>Supreme Court Act 1981 (High Court to have power to make prerogative orders in relation to jurisdiction of Crown Court in matters which do not relate to trial on indictment) the jurisdiction conferred on the Crown Court by this section shall be taken to be part of its jurisdiction in matters other than those relating to trial on indictment.

#### Subordinate Legislation Made

**P1** S. 22: power previously exercised by S.I. 1987/299, 1988/164, 1989/767, 1989/1107.

**P2** S. 22(1)(2): s. 22(1)(with ss. 22(2) and 29(2)) power exercised by S.I. 1991/1515.

#### Textual Amendments

**F1** Definition of "custody" in s. 22(11) inserted (14. 10. 1991) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), s. 100, [Sch. 11 para. 36](#); S.I. 1991/2208, art. 2(1), [Sch. 1](#).

**F2** S. 22(11)(c) and the word "or" immediately preceding it added by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 170, [Sch. 8 para. 16](#), [Sch. 15 para. 104](#)

**F3** S. 22(11)(d) and the word ", or" immediately preceding it inserted (3.2.1995) by [1994 c. 33, s. 168\(3\)](#), [Sch. 9 para. 27](#); S.I. 1995/127, art. 2(1), [Sch. 1](#) Appendix A

**F4** Definition of "preliminary stage" in s. 22(11) substituted (4.7.1996 with effect as mentioned in s. 71(5)(a)(b)(6) of the substituting Act) by [1996 c. 25, s. 71\(2\)\(5\)](#) (with s. 78(1)); S.I. 1996/2343, [art.2](#)

**F5** S. 22(11A)(11B) inserted (4.7.1996 with effect as mentioned in s. 71(5)(a)(b)(6) of the inserting Act) by [1996 c. 25, s. 71\(3\)\(5\)](#) (with s. 78(1)); S.I. 1996/2343, [art.2](#)

#### Marginal Citations

**M1** 1980 c. 43.

**M2** 1976 c. 63.

**M3** 1980 c. 43.

**M4** 1980 c. 43.

**M5** 1987 c. 38.

**M6** 1996 c. 00.

**M7** 1983 c. 20.

**M8** 1981 c. 54.

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