



Criminal Justice and Immigration Act 2008

2008 CHAPTER 4

PART 4

OTHER CRIMINAL JUSTICE PROVISIONS

Proceedings in magistrates' courts

55 Extension of powers of non-legal staff

- (1) Section 7A of the Prosecution of Offences Act 1985 (c. 23) (powers of non-legal staff) is amended as follows.
- (2) In subsection (2) (powers of designated non-legal staff)—
 - (a) in paragraph (a)(ii), after “trials” insert “of offences triable either way or offences which are punishable with imprisonment in the case of persons aged 21 or over”;
 - (b) after paragraph (a)(ii) insert—
 - “(iii) the conduct of applications or other proceedings relating to 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.”;
 - (c) for paragraph (b) substitute—
 - “(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

Status: This is the original version (as it was originally enacted).

(ii) applications or proceedings falling within paragraph (a)(iii) or (iv).”

(3) For subsection (5) (interpretation) substitute—

“(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.”

(4) Omit subsection (6) (powers not applicable to offences triable only on indictment etc.).

(5) After subsection (7) insert—

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

(6) In section 15 of that Act (interpretation of Part 1) in subsection (4) (provisions for the purposes of which binding over proceedings are to be taken to be criminal proceedings) for “and 7(1)” substitute “, 7(1) and 7A”.