



# Administration of Justice (Miscellaneous Provisions) Act 1933

1933 CHAPTER 36 23 and 24 Geo 5

## 2 Procedure for indictment of offenders.

- (1) Subject to the provisions of this section, a bill of indictment charging any person with an indictable offence may be preferred by any person before a court in which the person charged may lawfully be indicted for that offence, and where a bill of indictment has been so preferred the proper officer, of the, court shall if he is satisfied that the requirements of the next following subsection have been complied with, sign the bill, and it shall thereupon become an indictment and be proceeded with accordingly:

Provided that if the judge . . . <sup>F1</sup>of the court is satisfied that the said requirements have been complied with, he may, on the application of the prosecutor or of his own motion, direct the proper officer to sign the bill and the be shall be signed accordingly.

- (2) Subject as hereinafter provided no bill of indictment charging any person with an indictable offence shall be preferred unless either—
- (a) the person charged has been committed for trial for the offence; or
  - <sup>F2</sup>(aa) the offence is specified in a notice of transfer under section 4 of the Criminal Justice Act 1987 (serious and complex fraud); or]
  - <sup>F3</sup>(ab) the offence is specified in a notice of transfer under section 53 of the Criminal Justice Act 1991 (violent or sexual offences against children); or]
  - <sup>F4</sup>(ac) the person charged has been sent for trial for the offence under section 51 (no committal proceedings for indictable-only offences) of the Crime and Disorder Act 1998 (“the 1998 Act”); or]
  - (b) the bill is preferred [<sup>F5</sup>by the direction of the [<sup>F6</sup>criminal division of the Court of Appeal] or] by the direction or with the consent of a judge of the High Court . . . <sup>F7</sup>: [<sup>F8</sup>or
  - (c) the bill is preferred under section 22B(3)(a) of the <sup>M1</sup>Prosecution of Offences Act 1985.]

Provided that—

*Status: Point in time view as at 01/06/1999. This version of this provision has been superseded.*

*Changes to legislation: There are currently no known outstanding effects for the Administration of Justice (Miscellaneous Provisions) Act 1933, Section 2. (See end of Document for details)*

(i) where the person charged has been committed for trial, the bill of indictment against him may include, either in substitution for or in addition to counts charging the offence which he was committed, any counts founded on facts or evidence disclosed [<sup>F9</sup>to the magistrates' court inquiring into that offence as examining justices], being counts which may lawfully be joined in the same indictment;

[<sup>F10</sup>(iA) in a case to which paragraph (aa) [<sup>F11</sup>or (ab)] above applies, the bill of indictment may include, either in substitution for or in addition to any count charging an offence specified in the notice of transfer, any counts founded on material that accompanied the copy of that notice which, in pursuance of [<sup>F12</sup>regulations under the relevant provision], was given to the person charged, being counts which may lawfully be joined in the same indictment;]

[<sup>F13</sup>(iB) in a case to which paragraph (ac) above applies, the bill of indictment may include, either in substitution for or in addition to any count charging an offence specified in the notice under section 51(7) of the 1998 Act, any counts founded on material which, in pursuance of regulations made under paragraph 1 of Schedule 3 to that Act, was served on the person charged, being counts which may be lawfully joined in the same indictment;]

(ii) a charge of a previous conviction of an offence <sup>F14</sup>. . . may, notwithstanding that it was not included in the committal or in any such direction or consent as aforesaid, be included in any bill of indictment

[<sup>F15</sup>and in paragraph (iA) above "the relevant provision" means section 5(9) of the Criminal Justice Act 1987 in a case to which paragraph (aa) above applies, and paragraph 4 of Schedule 6 to the Criminal Justice Act 1991 in a case to which paragraph (ab) above applies].

(3) If a bill of indictment preferred otherwise than in accordance with the provisions of the last foregoing subsection has been signed by the proper officer of the court, the indictment shall be liable to be quashed:

Provided that—

(a) if the bill contains several counts, and the said provisions have been complied with as respects one or more of them, those counts only that were wrongly included shall be quashed under this subsection; and

(b) where a person who has been committed for trial is convicted on any indictment or any count of an indictment, that indictment or count shall not be quashed under this subsection in any proceedings on appeal, unless application was made at the trial that it should be so quashed.

(4) . . . . . <sup>F16</sup>

(6) The Lord Chancellor may make rules for carrying this section into effect and in particular for making provision as to the manner in which and the time at which bills of indictment are to be preferred before any court and the manner in which application is to be made for the consent of a judge of the High Court . . . <sup>F17</sup> for the preferment of a bill of indictment.

(7) <sup>F18</sup> . . . Nothing in this section shall affect any enactment restricting the right to prosecute in particular classes of case.

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- (8) The provisions of any enactment passed before the commencement of this Act shall have effect subject to the adaptations and modifications specified in the Second Schedule to this Act.

#### Textual Amendments

- F1** Words repealed by [Courts Act 1971 \(c. 23\)](#), s. 56(4), **Sch. 11 Pt. IV**
- F2** S. 2(2)(aa) inserted by [Criminal Justice Act, 1987 \(c. 38\)](#), s. 15, **Sch. 2 para. 1(1)**
- F3** S. 2(2)(ab) inserted (1.10.1992) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), s. 53(5), **Sch. 6 para. 8(1)**; S.I. 1992/333, art. 2(2), **Sch. 2**
- F4** S. 2(2)(ac) inserted (4.1.1999 for specified purposes and otherwise 15.1.2001) by [1998 c. 37](#), s. 119, **Sch. 8 para. 5(1)(a)**; S.I. 1998/2327, art. 4(2)(c) and S.I. 2000/3283, art. 2
- F5** Words inserted by [Criminal Appeal Act 1964 \(c. 43\)](#), s. 5, **Sch. 2**
- F6** Words substituted by virtue of [Criminal Appeal Act 1966 \(c. 31\)](#), s. 1(6)(a)
- F7** Words repealed by [Prosecution of Offences Act 1985 \(c. 23\)](#), s. 31(6), **Sch. 2**
- F8** S. 2(2)(c) and preceding word inserted (1.6.1999) by [1998 c. 37](#), s. 119, **Sch. 8 para. 5(1)(b)**; S.I. 1999/1279, art. 2.
- F9** Words in s. 2(2) proviso para. (i) substituted (4.7.1996 but with effect (8.3.1997) as mentioned in Sch. 1 Pt. III para. 39) by [1996 c. 25](#), s. 47, **Sch. 1 Pt. II para. 17** (with s. 78(1)); S.I. 1997/683, art. 1(2)
- F10** Para. (iA) of the proviso to s. 2(2) inserted by [Criminal Justice Act, 1987 \(c. 38\)](#), s. 15, **Sch. 2 para. 1(2)** which s. 2(2)(iA) was substituted by [Criminal Justice Act, 1988 \(c. 33\)](#), s. 170(1), **Sch. 15 para. 10**
- F11** Words in para. (iA) of the proviso to s. 2(2) inserted (1.10.1992) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), s. 53(5), **Sch. 6 para. 8(2)(a)**; S.I. 1992/333, art. 2(2), **Sch. 2**
- F12** Words in para. (iA) of the proviso to s. 2(2) substituted (1.10.1992) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), s. 53(5), **Sch. 6 para. 8(2)(b)**; S.I. 1992/333, art. 2(2), **Sch. 2**
- F13** S. 2(2) proviso para. (iB) inserted (4.1.1999 for specified purposes and otherwise 15.1.2001) by [1998 c. 37](#), s. 119, **Sch. 8 para. 5(2)**; S.I. 1998/2327, art. 4(2)(c) and S.I. 2000/3283, art. 2
- F14** Words in s. 2(2)(ii) repealed (5.11.1993) by [1993 c. 50](#), s. 1(1), **Sch. 1 Pt. III**.
- F15** Words in s. 2(2) proviso inserted (1.10.1992) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), s. 53(5), **Sch. 6 para. 8(3)**; S.I. 1992/333, art. 2(2), **Sch. 2**
- F16** S. 2(4)(5) repealed by [Courts Act 1971 \(c. 23\)](#), s. 56(4), **Sch. 11 Pt. IV**
- F17** Words repealed by [Courts Act 1971 \(c. 23\)](#), s. 56(4), **Sch. 11 Pt. IV**
- F18** Words in s. 2(7) repealed (5.11.1993) by [1993 c. 50](#), s. 1(1), **Sch. 1 Pt. III**.

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

- C1** S. 2 continued (as amended) by [Supreme Court Act, 1981 \(c. 54\)](#), s. 152(1), **Sch. 5**
- C2** S. 2(2)(b): by the [Supreme Court Act 1981 \(c.54\)](#), **Sch. 5**, it is provided that this section shall continue to have effect with the amendments made by the [Criminal Appeal Act 1964](#) and the [Criminal Appeal Act 1966](#) that is with the insertion after “preferred” of “by the direction of the criminal division of the Court of Appeal or”.
- C3** S. 2(2) proviso (i) amended by [Magistrates' Courts Act, 1980 \(c. 43\)](#), s. 102(8)

#### Marginal Citations

- M1** [1985 c.23](#).

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**Changes to legislation:**

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