

Criminal Justice and Courts Bill

Fact sheet: amendment to section 127 of the Communications Act 2003

Introduction and current position

1. This clause extends the time limit within which prosecutions must be brought for offences under section 127 of the Communications Act 2003 Act from six months to three years from date of the offence (but no more than six months from the day on which sufficient evidence to justify proceedings comes to the prosecutor's knowledge).
2. Section 127 of the Communications Act 2003 ('Improper use of public electronic communications network') provides that a person is guilty of an offence if he/she:
 - a. sends by means of a public electronic communications network a message or other matter that is grossly offensive or of an indecent, obscene or menacing character or causes any such message or matter to be so sent (section 127(1)); or
 - b. for the purpose of causing annoyance, inconvenience or needless anxiety to another, sends by means of a public communications network a message that he knows to be false, causes such a message to be sent; or persistently makes use of a public electronic communications network to cause annoyance, inconvenience or needless anxiety to another (section 127(2)).
3. The offences in section 127 are summary-only offences. This means that there is currently a six-month time limit for prosecutions to be brought.

What are the proposed changes?

4. This clause disapplies the statutory six-month time limits for summary prosecutions that currently apply to the offences in section 127(1) and (2) of the Communications Act 2003 and substitutes specific provision that permits a prosecution for either of the offences in section 127(1) and (2) of the Communications Act 2003 to be brought within three years of the offence being committed provided that this is also within six months of the day on which evidence which the prosecutor considers sufficient to justify proceedings comes to the prosecutor's knowledge.
5. Clause 29 of the Criminal Justice and Courts Bill, which makes the offence in section 1 of the Malicious Communications Act 1988 an either way offence, will also have effect to extend the time in which prosecutions for that offence can be brought. The effect of this amendment will therefore be to ensure that longer time limits apply in relation to both these complementary offences.
6. The changes will allow more time for prosecutions to be brought and should be viewed as a response to the representations made to Ministers by a range of stakeholders that the six-month time limit which currently applies to this offence

hampers police investigations into internet related offences that might be charged under section 127.