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Abuse of Process and Judicial Stays of Criminal Proceedings

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Oxford University Press UK (2008)



Abstract

The criminal courts have a power to stop a prosecution from proceeding altogether where it would be inappropriate for it to continue. This power to stay proceedings which constitute an abuse of the process of the court has assumed great practical significance and is potentially applicable in many situations. There is at least one consideration of the abuse of process doctrine in virtually every major criminal trial today. This fully updated second edition of *Abuse of Process and Judicial Stays of Criminal Proceedings* blends doctrinal discussion with a thorough consideration of the underlying theory to provide a searching analysis of the theory and practice of abuse of process in England and Wales, with comparative examinations of many other jurisdictions including The USA, Canada, Australia, and New Zealand. This edition focuses in particular upon the profound impact of the European Convention on Human Rights in this area.

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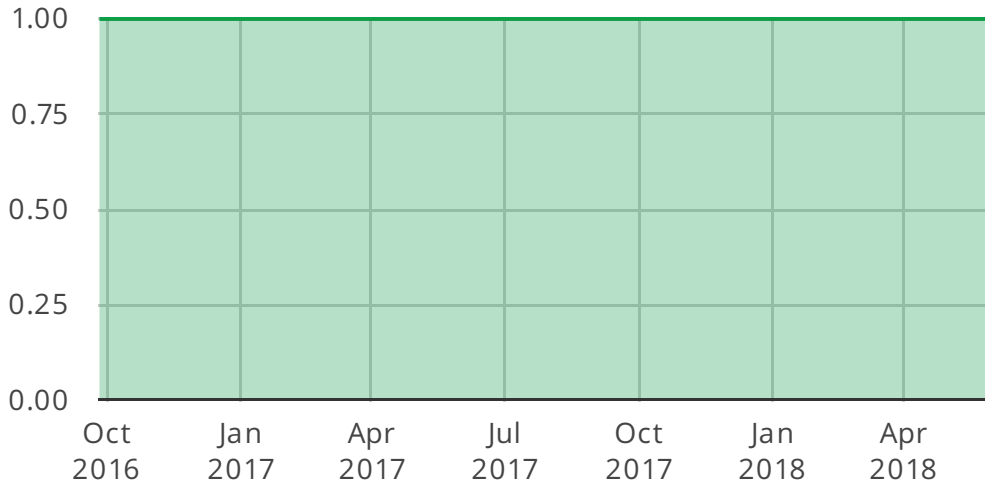
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Under s. 579 the Crown may direct that a proceedings be stayed. This is a right of the crown on the basis that all criminal proceedings are on behalf of the queen. This form of stay is separate and apart from a judicial stay of proceedings. Courts have jurisdiction to stay criminal proceedings under s. 24(1) where putting a person on trial would amount to an "abuse of process" and violate the "principles of fundamental justice" under s. 7. The principle of abuse of process arises from the common law This power to stay proceedings which constitute an abuse of the process of the court has assumed great practical significance and is potentially applicable in many situations. There is at least one consideration of the abuse of process doc The criminal courts have the power to stop a prosecution from proceeding altogether where it would be inappropriate for it to continue. This power to stay proceedings which constitute an abuse of the process of the court has assumed great practical significance and is potentially applicable in many situations. There is at least one consideration of the abuse ... This power to stay proceedings which constitute an abuse of the process of the court has assumed great practical significance and is potentially applicable in many situations. There is at least one consideration of the abuse of process doctrine in virtually every major criminal trial today. This fully updated second edition of Abuse of Process and Judicial Stays of Criminal Proceedings blends doctrinal discussion with a thorough consideration of the underlying theory to provide a searching analysis of the theory and practice of abuse of process in England and Wales.