

Para 1.6 The Divisional Court in *Austen v CPS* [2016] EWHC 2247 (Admin) confirmed that the bar referred to in the second paragraph only applies to private prosecutions brought by the Crown Prosecution Service or the Police.

Para 1.30, last paragraph In *Willers v Joyce* [2016] UKSC 44, the Supreme Court held that, since the Judicial Committee of the Privy Council (JCPC) was not a court of any part of the United Kingdom, JCPC decisions could not be binding on any judge of England and Wales and could not override any decision of a Court of England and Wales which would otherwise be a binding precedent. However, subject to that point, any JCPC decision, at least on a common law issue, should normally be regarded by any judge of England and Wales as being of great weight and persuasive value.

The Supreme Court also held that it was an absolute rule that a court should not follow a JCPC decision if it was inconsistent with a binding decision. There was not a qualification that the binding decision could be disapplied where a trial judge or the Court of Appeal considered that it was a foregone conclusion that the view taken by the JCPC would be accepted by the Court of Appeal or Supreme Court. However, the Supreme Court held that the absolute rule is subject to a qualification where the JCPC has decided that an earlier House of Lords, Supreme Court or Court of Appeal decision was wrong. In such a case, the JCPC can, if it thinks it appropriate, also expressly direct that the courts of England and Wales should treat the decision of the JCPC as representing the law of England and Wales. This is sensible. The JCPC normally consists of Supreme Justices and, as the Supreme Court stated, it would be unfortunate in practical terms if the JCPC could never effectively decide that the courts of England and Wales should follow its decision rather than the earlier decision.

***Para 1.39, n 56** The Wales Act (WA 2017) has increased the powers of the Welsh Assembly, by amending the Government of Wales Act 2006 (GoWA 2006) to define to the Welsh Assembly's powers not in terms of what it can do, but in terms of what it cannot. The Assembly will not be able to legislate on reserved matters, as listed in the new Sch 7A to GoWA 2006, added by WA 2017, and it will not be able to legislate in areas falling within the general restrictions provisions contained in the new Sch 7B to GoWA 2006, added by WA 2017, which provides restrictions on the Assembly's legislative competence. Schedule 7B outlines restrictions imposed in areas of criminal law, such as homicide offences, offences against the person, sexual offences, the meaning of intention, recklessness, dishonesty and other mental elements of offences, inchoate offences and secondary criminal liability.

The relevant provisions contained in the WA 2017, discussed above, came into force on the 1 April 2018.

***Para 1.45-1.48** The EU referendum took place on the 23 June 2016 and resulted in an overall vote to leave the EU. However, EU law will apply, as it did before 23 June, until the UK has served formal notice to the EU Council under Article 50 of the Lisbon Treaty of its intention to leave, after which there will be a two-year period in which to negotiate a new treaty setting out the arrangements for the UK's withdrawal. At the Conservative Party Conference on the 1 October 2016, Theresa May announced that Article 50 would be triggered no later than the end of March 2017, which would mean that the UK would leave the EU no later than April 2019.

The European Union (Withdrawal) Act 2018 received Royal Assent on 26 June 2018. Although some of the provisions have come into force already, many provisions will not be brought into force until the date we leave the EU. The purpose of the Act is to make sure that the UK's law will continue to operate appropriately once we leave the EU by transferring EU law into UK law. The Act also creates temporary powers to make secondary legislation to enable corrections to be made to the laws that would otherwise no longer operate appropriately once the UK has left the EU, so that the domestic legal system continues to function correctly outside the EU.