Section 11(a): The Right to Be Informed Without Unreasonable Delay of the Specific Offence Charged

Provision:

Any person charged with an offence has the right … to be informed without unreasonable delay of the specific offence.

This right consists of two elements. The first and primary element is the notification of the exact accusation. If the accused is not informed about the exact nature of the accusation, their ability to fully respond and defend themselves may be impeded. The accused has the right to understand the charges against them so that they can strategize their defense, gather evidence, and prepare to confront the prosecutor's case.[1] This right is a safeguard for the legal principle that "an accused can only be charged with an offence recognized by law."[2]

The second element is the right to be notified of the charges without undue delay. This provision serves to safeguard the right to a full response and defense.[3] The Supreme Court of Canada in *R v Delaronde* (1997) determined that section 11(a) also serves as an economic safeguard. The court ruled that individuals suffering economic hardships from delayed charge notifications may have legal redress.[4]

Trigger

The right to be informed under s.11(a) is only triggered once a person has been charged with an offence.[5]

Criminal Code

The section 11(a) requirement to provide sufficient notice of the charges against the accused has been partly codified by section 581 of the *Criminal Code*. Section 581 sets the requirements for the form of statement of offence, which includes that the statement uses plain language, uses the words of the enactment that describes the offence, or uses words that provide sufficient notice of the charges to the recipient. Additionally, it requires that each count in an indictment contains an independent statement.

Unreasonable Delay

Determination of "unreasonable delay" is approached using the same factors that are relevant under section 11(b) (this protects the right to be tried within a reasonable time). These factors include the length of any delay, reasons for the delay, waiver of time periods (if the individual deliberately tries to avoid being informed of the charge), and prejudice to the accused.

Interplay with Section 1

Note that under section 1 of the *Charter*, *Charter* rights are guaranteed "subject only to such reasonable limits … as can be demonstrably justified in a free and democratic society." For more information on section 1 of the *Charter*, please refer to our webpage on the Supreme Court's *Oakes* Test.

[1] *R v Cisar*, [2014] ONCA 151 (CA).

[2] *Ibid* at para 11.

[3] *Ibid* at para 12.

[4] *R v Delaronde*, [1997] 1 SCR 213.

[5] *R v Heit*, [1984] 7 DLR (4th) 656.