
STATUTORY INSTRUMENTS

1981 No. 1675

The Magistrates' Courts (Northern Ireland) Order 1981

PART V

CRIMINAL JURISDICTION AND PROCEDURE

Summary trial of indictable offences

Summary trial of certain indictable offences

45.—(1) Where—

- (a) an adult is charged before a resident magistrate (whether sitting as a court of summary jurisdiction or out of petty sessions under Article 18 (2)) with an indictable offence specified in Schedule 2; and
- (b) the magistrate, at any time, having regard to—
 - (i) any statement or representation made in the presence of the accused by or on behalf of the prosecution or the accused;
 - (ii) the nature of the offence;
 - (iii) the absence of circumstances which would render the offence one of a serious character; and
 - (iv) all the other circumstances of the case (including the adequacy of the punishment which the court has power to impose);thinks it expedient to deal summarily with the charge; and
- (c) the accused, subject to paragraph (2) having been given at least twenty-four hours' notice in writing of his right to be tried by a jury, consents to be dealt with summarily;

the magistrate may, subject to the provisions of this Article and Article 46, deal summarily with the charge and convict and sentence the accused whether upon the charge being read to him he pleads guilty or not guilty to the charge.

(2) The requirement of the notice mentioned in paragraph (1) (c) may be waived in writing by the accused.

(3) A resident magistrate shall not deal summarily under this Article with any offence without the consent of the prosecution.

(4) For the purpose of this Article and Article 46 “adult” means a person who is, in the opinion of the court, of the age of^{F1} eighteen] years or upwards.

Changes to legislation: *The Magistrates' Courts (Northern Ireland) Order 1981, Cross Heading: Summary trial of indictable offences is up to date with all changes known to be in force on or before 17 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Modifications etc. (not altering text)

- C1** Art. 45 applied by 2015 c. 9 (N.I.), s. 9(2)(aa) (as inserted (13.5.2016) by [Justice Act \(Northern Ireland\) 2016 \(c. 21\)](#), [ss. 57\(3\)](#), [61\(1\)](#))

Powers of court in dealing summarily with an indictable offence

46.—(1) A resident magistrate may assume the power to deal with an offence summarily under Article 45 at any stage of the proceedings^{F2}... and, where such power is assumed, the provisions of any enactment (including this Order) for the time being in force relating to summary offences shall (subject to the succeeding provisions of this Article and to magistrates' courts rules) apply as if the offence were a summary offence and not an indictable offence.

(2) Notwithstanding that a magistrate has decided to deal summarily with an offence specified in Schedule 2 and that the accused has consented to be dealt with summarily the magistrate may reconsider his decision at any time prior to his determination to convict and sentence the accused, and, if satisfied that it is expedient to do so, he may decide, instead of dealing with the offence summarily, to commit the accused for trial and in such event^{F3}... a preliminary inquiry shall be conducted, and the offence dealt with in all respects as if the magistrate had not decided to deal with it summarily.

(3) Where a resident magistrate deals summarily with an offence specified in Schedule 2 and the offence is such that, had the accused been charged on indictment with that offence, he might lawfully have been convicted of an alternative offence, the magistrate may convict him of such alternative offence.

(4) Upon convicting the accused the magistrate may sentence him to be imprisoned for a term not exceeding twelve months or to a fine not exceeding^{F4} the prescribed sum within the meaning of Article 4 of the Fines and Penalties (Northern Ireland) Order 1984] or to both, so, however, that the accused shall not be sentenced to imprisonment for any greater term or to a fine of any greater amount that the term or fine to which he would be liable if tried on indictment.

(5) If the magistrate dismisses a charge with which he has dealt summarily under the provisions of Article 45 and of this Article, the dismissal shall in all cases have effect as though it were an acquittal on a trial of the charge upon indictment.

F2 Words in art. 46(1) repealed (17.10.2022) by [Criminal Justice \(Committal Reform\) Act \(Northern Ireland\) 2022 \(c. 4\)](#), s. 5(2), [Sch. para. 8\(3\)\(k\)](#); S.R. 2022/221, art. 2(d)

F3 Words in art. 46(2) repealed (17.10.2022) by [Criminal Justice \(Committal Reform\) Act \(Northern Ireland\) 2022 \(c. 4\)](#), s. 5(2), [Sch. para. 8\(3\)\(l\)](#); S.R. 2022/221, art. 2(d)

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Changes to legislation:

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Changes and effects yet to be applied to :

- Instrument am (prosp) by [S.I. 1994/2795 \(N.I.\) arts.3\(4\)25](#)
- Instrument am (prosp) by [S.I. 1994/2795 \(N.I.\) art.3\(5\)Sch.1](#)
- Instrument am (prosp) by [S.I. 1994/2795 \(N.I.\) art.5\(2\)](#)
- Instrument mod (prosp) by [1994 c. 33 s. 91\(3\)](#)
- Instrument revoked by [1998 c. 41 s.74\(1\)\(3\)Sch.12 para.5Sch.14 Pt.I](#)

Changes and effects yet to be applied to the whole Order associated Parts and Chapters:

- Act amended by [1996 c. 25 s.79Sch.4 para 30](#)
- Act amended by [1996 c. 25 s.79Sch.4 para 30](#)
- Order applied (with modifications) by [S.I. 2018/1125 reg. 8](#) (This amendment not applied to [legislation.gov.uk](#). [S.I. 2018/1125](#), reg. 8 omitted (31.12.2020) by virtue of Private International Law (Implementation of Agreements) Act 2020 (c. 24), s. 4(3), Sch. 5 para. 4(4))
- Order power to modify conferred by [2015 c. 9 \(N.I.\) s. 24\(5\)\(a\)](#) (see [s 24\(6\)](#))

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- [Sch.6 Pt.I paras.1819](#) revoked by [1995 c. 21 s. 314\(1\)Sch.12](#) (Amendment could not be applied. The relevant affected text is not available on [legislation.gov](#))
- [Sch.6 Pt.I para.5](#) revoked by [S.I. 1995/756 art.15Sch.](#)
- [Sch. 6 para. 128-130](#) repealed by [2011 c. 15 \(N.I.\) Sch. 3 Pt. 2](#) (Amendment could not be applied. The relevant affected text is not available on [legislation.gov](#))
- [Sch. 6 para. 125](#) repealed by [2011 c. 16 \(N.I.\) Sch. 5](#) (Amendment could not be applied. The relevant affected text is not available on [legislation.gov](#))
- [Sch. 6 Pt. 3 para. 170](#) repealed by [S.I. 2007/916 \(N.I.\) Sch. 8 Pt. 1](#) (Amendment could not be applied. The relevant affected text is not available on [legislation.gov](#))
- [Sch. 6 para. 144](#) repealed by [2006 c. 48 Sch. 15 Pt. 4](#) (Amendment could not be applied. The relevant affected text is not available on [legislation.gov](#))
- [Sch. 6 para. 21](#) repealed by [2013 c. 22 Sch. 11 para. 210](#) (Amendment could not be applied. The relevant affected text is not available on [legislation.gov](#))
- [Sch. 6 para. 25](#) repealed by [2013 c. 22 Sch. 11 para. 210](#) (Amendment could not be applied. The relevant affected text is not available on [legislation.gov](#))
- [art. 29A](#) excluded by [1975 c. 59, s. 4\(3\)](#) (as substituted) by [2015 c. 9 \(N.I.\) s. 7\(6\)](#)
- [art. 29A](#) inserted by [2015 c. 9 \(N.I.\) s. 7\(2\)](#)
- [art. 34\(1A\)-\(1E\)](#) inserted by [2015 c. 9 \(N.I.\) s. 8\(2\)](#)
- [art. 140\(2ZA\)](#) inserted by [2016 c. 18 \(N.I.\) Sch. 10 para. 16](#)