



Judicature (Northern Ireland) Act 1978

1978 CHAPTER 23

PART IV

THE CROWN COURT

46 Exclusive jurisdiction in trial on indictment

- (1) The Crown Court shall be a superior court of record.
- (2) All proceedings on indictment shall be brought before the Crown Court.
- (3) The jurisdiction of the Crown Court under subsection (2) shall include jurisdiction—
 - (a) in proceedings on indictment for offences, wherever committed, which are cognisable under the law of Northern Ireland; and
 - (b) in particular, in proceedings on indictment for offences triable in Northern Ireland by virtue of any jurisdiction in admiralty.
- (4) All courts of assize are hereby abolished, and commissions, whether ordinary or special, to hold any court of assize shall not be issued.
- (5) The jurisdiction conferred on county courts by section 40 of the County Courts Act (Northern Ireland) 1959 is hereby abolished.
- (6) Subject to any provision contained in or having effect under this Act, all statutory provisions and rules of law relating to the jurisdiction and procedure of any court in connection with indictable offences shall have effect subject only to such modifications as are rendered necessary by the transfer of jurisdiction to the Crown Court in accordance with the preceding provisions of this section.
- (7) Subject to any provision contained in or having effect under this Act and without prejudice to the generality of subsection (6), the transfer of jurisdiction to the Crown Court in accordance with the preceding provisions of this section shall not affect—
 - (a) the practice by which, on any one indictment, the taking of pleas, the trial by jury and the pronouncement of judgment may respectively be by or before different judges;

Status: This is the original version (as it was originally enacted).

- (b) the release, after respite of judgment, of a convicted person on recognizance to come up for judgment if called on, but meanwhile to be of good behaviour;
 - (c) the manner of trying any question relating to the breach of a recognizance ; or
 - (d) the manner of execution of any sentence on conviction,
- or the manner in which any other judgment or order given in connection with trial on indictment may be enforced.

47 Exercise of jurisdiction by Crown Court

- (1) All proceedings in the Crown Court shall be heard and disposed of before a single judge, and—
 - (a) any Crown Court business may be conducted at any place in Northern Ireland ;
 - (b) sittings of the Crown Court at any place may be continuous or intermittent or occasional;
 - (c) judges may sit simultaneously to take any number of different cases in the same or in different places, and all or any of them may adjourn cases from time to time and may do so from place to place at any time.
- (2) The judges of the High Court and the county court shall sit in the Crown Court in accordance with directions given by the Lord Chancellor and the cases or classes of cases suitable for allocation to judges of the High Court and to county court judges respectively and all other matters relating to the distribution of Crown Court business shall be determined in accordance with directions given by the Lord Chancellor after consultation with the Lord Chief Justice.
- (3) The places at which the Crown Court sits and the days and times when the Crown Court sits at any place shall be determined in accordance with directions given by the Lord Chancellor after consultation with the Lord Chief Justice.
- (4) Subject to any provision contained in or having effect under this Act, the Crown Court shall, in relation to the attendance and examination of witnesses, any contempt of court, the enforcement of its orders and all other matters incidental to its jurisdiction, have the like powers, rights and authority as the High Court or the county court.
- (5) Officers of the Crown Court shall be responsible for the keeping of the records of the proceedings of the court, the notification to those concerned of the place and time appointed for any proceedings or other business and such other formal or administrative matters as may be specified by directions given by the Lord Chancellor.
- (6) The Royal Ulster Constabulary shall give effect to any orders or directions which may be given to it by the Crown Court.

48 Committal for trial on indictment

- (1) A magistrates' court committing a person for trial shall specify the place at which he is to be tried, and in selecting that place shall have regard to—
 - (a) the convenience of the defence, the prosecution and the witnesses;
 - (b) the expediting of the trial; and
 - (c) any directions given by the Lord Chancellor under section 47(2).
- (2) Without prejudice to the preceding provisions of this Act about the distribution of Crown Court business, the Crown Court may give directions or further directions

altering the place of any trial on indictment, either by varying the decision of a magistrates' court under subsection (1) or a previous direction of the Crown Court.

- (3) The defendant or the prosecutor, if dissatisfied with the place of trial as fixed by the magistrates' court or by the Crown Court, may apply to the Crown Court for a direction or further direction varying the place of trial; and the court shall take the matter into consideration and may grant or refuse the application, or give such other direction as the court thinks fit.
- (4) Any application under subsection (3) shall be heard by a judge in open court.
- (5) The trial of a person committed by a magistrates' court—
 - (a) shall not begin until the expiration of the specified period beginning with the date of his committal, except with his consent and the consent of the prosecutor; and
 - (b) shall, unless the Crown Court has otherwise ordered, begin not later than the expiration of the specified period beginning with the date of his committal (that is to say a period longer than the period specified for the purposes of paragraph (a) above for the proceedings in question).

For the purposes of this subsection—

- (i) " the specified period" means such period for the respective purposes of paragraphs (a) and (b) as may be specified by Crown Court rules and the rules may make different provision for different places of trial or for other different circumstances ;
 - (ii) the trial shall be deemed to begin when the defendant is arraigned.
- (6) Directions under subsection (2) may be given on behalf of the Crown Court by an officer of the Crown Court, but the power to make orders conferred on the Crown Court by subsection (5)(b) shall be exercisable only by a judge of the court.

49 Sentences imposed and other decisions made by Crown Court

- (1) A sentence imposed, or other order made, by the Crown Court when dealing with an offender shall take effect from the beginning of the day on which it is imposed or made, unless the court otherwise directs.
- (2) Subject to the following provisions of this section, a sentence imposed, or other order made, by the Crown Court when dealing with an offender may be varied or rescinded by the Crown Court within the period of 28 days beginning with the day on which the sentence or other order was imposed or made or, where subsection (3) applies, within the time allowed by that subsection.
- (3) Where two or more persons are jointly tried on an indictment, then, subject to the following provisions of this section, a sentence imposed, or other order made, by the Crown Court on conviction of any of those persons on the indictment may be varied or rescinded by the Crown Court not later than the expiration of whichever of the following periods first expires, that is—
 - (a) the period of 28 days beginning with the date of conclusion of the joint trial;
 - (b) the period of 56 days beginning with the day on which the sentence or other order was imposed or made;

and for the purposes of this subsection the joint trial is concluded on the latest of the following dates, that is any date on which any of the persons jointly tried is sentenced or acquitted or on which a special verdict is brought in.

- (4) A sentence or other order shall not be varied or rescinded under this section except by the judge of the Crown Court by whom the sentence or other order was imposed or made.
- (5) Subject to subsection (6), where a sentence or other order is varied under this section, the sentence or other order, as so varied, shall take effect from the beginning of the day on which it was originally imposed or made, unless the court otherwise directs.
- (6) For the purposes of section 20(1) of the Criminal Appeal Act (time limit for notice of appeal or of application for leave to appeal) the sentence or other order shall be regarded as imposed or made on the day on which it is so varied.
- (7) Crown Court rules—
 - (a) may, as respects cases where two or more persons are tried separately on the same or related facts alleged in one or more indictment, provide for extending the period prescribed by subsection (2);
 - (b) may, subject to the preceding provisions of this section, prescribe the cases and circumstances in which, and the time within which, any order or other decision made by the Crown Court may be varied or rescinded by the Crown Court.

50 Right of audience

- (1) A solicitor of the Supreme Court may appear in, conduct, defend and address the court in any proceedings in the Crown Court, other than proceedings of such description (if any) as may from time to time be specified in directions given by the Lord Chief Justice under this section.
- (2) In considering whether to exercise his powers under this section the Lord Chief Justice shall have regard to any rights of audience heretofore exercised by solicitors at any trials on indictment and to any other circumstances affecting the public interest.
- (3) Any direction given under this section may be subject to such conditions and restrictions as appear to the Lord Chief Justice to be necessary or expedient.
- (4) Nothing in this section shall take away or affect the inherent powers of any court or judge to confer a right of audience.

51 Process to compel appearance before Crown Court

- (1) Any condition of a recognizance to appear before the Crown Court and any summons or order to appear before the Crown Court may be framed so as to require appearance at such time and place as may be directed by the Crown Court, and, if a time or place is specified in the condition, summons or order, it may be varied by any subsequent direction of the Crown Court.
- (2) Where an indictment has been presented although the person charged has not been committed for trial, the Crown Court may issue a summons requiring that person to appear before the Crown Court or a warrant for his arrest.
- (3) Where any person charged with or convicted of an offence has entered into a recognizance conditioned for his appearance before the Crown Court and in breach of that recognizance fails to appear, the Crown Court may, without prejudice to the enforcement of the recognizance, issue a warrant for his arrest.

- (4) The Crown Court may admit to bail, or direct the admission to bail of, any person—
- (a) who has been committed in custody for appearance before the Crown Court; or
 - (b) who is in the custody of the Crown Court pending the disposal of his case by the Crown Court,
- and the time during which a person is admitted to bail under any provision of this subsection shall not count as part of any term of imprisonment or detention under his sentence.
- (5) Provision may be made by Crown Court rules as respects the powers of the Crown Court relating to bail, including any provision—
- (a) allowing the court, instead of requiring a person to enter into a recognizance, to consent to his giving other security;
 - (b) allowing the court to direct that a recognizance shall be entered into or other security given before a magistrates' court or a justice of the peace or, if the rules so provide, a person of such other description as is specified in the rules;
 - (c) prescribing the manner in which a recognizance is to be entered into or other security given and the persons by whom and the manner in which the recognizance or security may be enforced ;
 - (d) authorising the committal, in such cases and by such courts or justices as may be prescribed by the rules, of persons released from custody in pursuance of the powers;
 - (e) making provision as to the varying or dispensing with requirements as to sureties and the postponement of taking recognizances.
- (6) Any reference in any statutory provision to a recognizance shall include, unless the context otherwise requires, a reference to any other description of security given instead of a recognizance, whether in pursuance of subsection (5)(a) or otherwise.
- (7) The Crown Court, on issuing a warrant for the arrest of any person, may endorse the warrant for bail, and in any such case—
- (a) the person arrested under the warrant shall, unless the Crown Court otherwise directs, be taken to a police station, and
 - (b) the officer in charge of the station shall release him from custody if he, and any sureties required by the endorsement and approved by the officer, enter into recognizances of such amount as may be fixed by the endorsement.
- (8) A person in custody in pursuance of a warrant issued by the Crown Court with a view to his appearance before the Crown Court shall be brought forthwith before either the Crown Court or any magistrates' court, and if he is brought before a magistrates' court—
- (a) the court shall commit him in custody or release him on bail until he can be brought or appear before the Crown Court at the time and place appointed by the Crown Court; and
 - (b) if the warrant is endorsed for bail but the person in custody is unable to satisfy the conditions endorsed, the magistrates' court may vary those conditions if satisfied that it is proper to do so.

52 Crown Court rules

- (1) Subject to any statutory provision, the Crown Court Rules Committee appointed under section 53 may, with the concurrence of the Lord Chancellor, make Crown Court rules for the purpose of regulating and prescribing—
- (a) the practice and procedure to be followed in the Crown Court; and
 - (b) the form and content of indictments,
- and in this or any other statutory provision having effect in Northern Ireland " Crown Court rules " means rules so made.
- (2) Sections 1 and 2 of the Indictments Act (Northern Ireland) 1945 shall cease to have effect on such date as may be appointed in Crown Court rules made for the purpose mentioned in subsection (1)(b).

53 Crown Court Rules Committee

- (1) There shall be a committee known as the Northern Ireland Crown Court Rules Committee (in this Act referred to as the Crown Court Rules Committee) which, subject to section 54(2), shall consist of—
- (a) the Lord Chief Justice who shall be chairman ;
 - (b) two judges of the High Court or the Court of Appeal nominated from time to time by the Lord Chief Justice ;
 - (c) two county court judges nominated by the Lord Chancellor after consultation with the Lord Chief Justice;
 - (d) a resident magistrate nominated by the Lord Chancellor after consultation with the Lord Chief Justice ;
 - (e) the Master (Queen's Bench and Appeals);
 - (f) a practising member of the Bar of Northern Ireland nominated by the Lord Chancellor;
 - (g) one other practising member of the Bar of Northern Ireland nominated by the Council thereof;
 - (h) the president of the Incorporated Law Society of Northern Ireland or a member of the Council thereof nominated by him;
 - (i) a practising solicitor nominated by that Council;
- and shall have the functions conferred on it in relation to the making of Crown Court rules by section 52.
- (2) The secretary to the Crown Court Rules Committee shall be such person as the Lord Chancellor may from time to time designate and such secretary shall, in relation to Crown Court rules, be the responsible officer within the meaning of sections 2 and 4 of the Statutory Rules Act (Northern Ireland) 1958.
- (3) Sections 54(2), (3), (4) and (6), 55(3) and 56(1), (2) and (3) shall apply to the Crown Court Rules Committee and Crown Court rules as if references in those provisions to the Rules Committee and rules of court included references to the Crown Court Rules Committee and Crown Court rules respectively.