



# Criminal Justice Act 1948

## 1948 CHAPTER 58

### PART I

#### POWERS AND PROCEEDINGS OF COURTS.

*Miscellaneous provisions relating to procedure, appeals, evidence, etc.*

#### **30 Abolition of privilege of peerage in criminal proceedings.**

- (1) Privilege of peerage in relation to criminal proceedings is hereby abolished.
- (2) In any criminal proceedings the jurisdiction to be had and the procedure to be followed, the punishments which may be inflicted, the orders which may be made, and the appeals which may be brought shall, whatever the offence and where-ever the trial is to take place, be the same in the case of persons who would but for this section be entitled to privilege of peerage as in the case of any other of His Majesty's subjects.

#### **31 Jurisdiction and procedure in respect of certain indictable offences committed in foreign countries.**

- (1) Any British subject employed under His Majesty's Government in the United Kingdom in the service of the Crown who commits, in a foreign country, when acting or purporting to act in the course of his employment, any offence which, if committed in England, would be punishable on indictment, shall be guilty of an offence of the same nature, and subject to the same punishment, as if the offence had been committed in England.
- (2) A person may be proceeded against, indicted, tried and punished for an offence under this section in any county or place in England in which he is apprehended or is in custody as if the offence had been committed in that county or place; and the offence shall, for all purposes incidental to or consequential on the trial or punishment thereof, be deemed to have been committed in that county or place.

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- (3) Subsection (4) of section one of the Administration of Justice (Miscellaneous Provisions) Act, 1933 (which continues the procedure by way of indictment preferred before a grand jury of the County of London and County of Middlesex in the case of indictments under the enactments specified in the First Schedule to that Act) shall cease to have effect; and subsection (2) of this section shall apply to any offence in respect of which a bill of indictment could, but for this subsection, have been so preferred as it applies to an offence under this section.

**32 Issue of single summons on more than one information.**

- (1) Where two or more informations are laid under the Summary Jurisdiction Acts against the same person or persons, a single summons may be issued under these Acts against that person or each of those persons in respect of all the informations:

Provided that the matter of each information shall be separately stated in the summons.

- (2) Any such summons as aforesaid shall be treated for the purpose of the Summary Jurisdiction Acts as if it were a separate summons in respect of each information.
- (3) The foregoing provisions of this section shall apply to complaints as they apply to informations.

**33 Supply of copies of informations to persons committed for trial.**

Where any person is entitled to copies of depositions taken under the Indictable Offences Act, 1848, he shall be entitled also to copies of the written information (if any) required by section twenty of that Act to be transmitted with the depositions; and any enactment relating to the furnishing of copies of depositions shall accordingly apply to any such information as it applies to depositions.

**34 Amendment of Summary Jurisdiction (Appeals) Act, 1933.**

For paragraph (a) of subsection (3) of section seven of the Summary Jurisdiction (Appeals) Act, 1933, (which regulates the appointment of appeal committees of quarter sessions) there shall be substituted the following paragraph:—

- “(a) in appointing members of the committee, quarter sessions shall, so far as practicable, select justices having special qualifications for the hearing of appeals, including justices specially qualified for dealing with juvenile cases.”

**35 Challenge of jurors and separation of juries.**

- (1) A person arraigned on an indictment for any felony or misdemeanour may challenge not more than seven jurors without cause and any juror or jurors for cause.
- (2) Upon the trial of any person for an offence on indictment, any challenge to jurors for cause shall be tried by the judge, chairman of quarter sessions, recorder or other person before whom the accused is to be tried.
- (3) Upon the trial of any person on indictment for felony or misdemeanour, the whole or any two or more of the jury may be sworn together:

Provided that an opportunity to challenge each of them separately shall be furnished to the prosecutor and the accused before the oath is administered.

- (4) Upon the trial of any person for an offence on indictment the court may, if it thinks fit, at any time before the jury consider their verdict, permit them to separate.

### **36 Appeals from courts of summary jurisdiction to quarter sessions.**

- (1) A person convicted by a court of summary jurisdiction shall have a right of appeal—
- (a) if he pleaded guilty or admitted the truth of the information, against his sentence;
  - (b) in any other case, against the conviction or sentence,
- to a court of quarter sessions in manner provided by the Summary Jurisdiction Acts; and a person sentenced by a court of summary jurisdiction in respect of an offence of which he was convicted by another court of summary jurisdiction shall have a like right of appeal against his sentence.
- (2) For the purpose of the last foregoing subsection, the expression " sentence " includes any order made on conviction by a court of summary jurisdiction, not being—
- (a) a probation order or an order for conditional discharge ;
  - (b) an order for the payment of costs;
  - (c) an order under section two of the Protection of Animals Act, 1911 (which enables the court to order the destruction of an animal) ;
  - (d) an order made in pursuance of any enactment under which the court has no discretion as to the making of the order or the terms thereof.
- (3) Where a court of summary jurisdiction has adjourned a case after conviction, the day on which the court sentences or otherwise deals with the offender shall, for the purposes of section thirty-one of the Summary Jurisdiction Act, 1879, be deemed to be the day on which the decision of the court is given.
- (4) Where it appears to a court of quarter sessions, on application made in accordance with the following provisions of this section, that any person desiring to appeal to that court in accordance with section thirty-one of the Summary Jurisdiction Act, 1879, has failed to give the notice of appeal required by paragraph (ii) of subsection (1) of that section within the period of fourteen days prescribed by that paragraph, the court may, if it thinks fit, direct that any such notice of appeal previously given by the applicant after the expiration of the said period, or any such notice to be given by him within such further time as may be specified in the direction, shall be treated as if given within the said period.
- (5) An application for a direction under the last foregoing subsection shall be made in writing and shall be sent by the applicant to the clerk of the peace; and where any such direction is given by the court, the clerk of the peace shall give notice thereof to the applicant and to the clerk to the court of summary jurisdiction against whose decision the appeal is to be brought, and the applicant shall give notice thereof to the other party to the proceedings.
- (6) The powers of a court of quarter sessions under subsection (4) of this section shall be exercised—
- (a) in the case of quarter sessions for a county other than the County of London, by the chairman or a deputy chairman of the appeal committee of the quarter sessions;

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- (b) in the case of quarter sessions for a borough, by the recorder or any deputy recorder ;
- (c) in the case of quarter sessions for the County of London, by the paid chairman or a paid deputy chairman of quarter sessions (including any person appointed under section two of the Quarter Sessions (London) Act, 1896, or under section fifty-four of the London County Council (General Powers) Act, 1947, to act temporarily in the office of paid chairman or deputy chairman, or as an additional deputy chairman) ;

and may be exercised either within or outside the county or borough for which the quarter sessions are held.

- (7) Paragraph (iii) of subsection (1) of section thirty-one of the Summary Jurisdiction Act, 1879 (which requires an appellant to quarter sessions from a decision of a court of summary jurisdiction to enter into recognizances conditioned to prosecute his appeal with diligence) shall cease to have effect.
- (8) The powers of a court of summary jurisdiction under paragraph (iv) of the said subsection (1) (which relates to the grant of bail to an appellant to quarter sessions from a decision of a court of summary jurisdiction) may be exercised by any justice acting for the petty sessional division or place for which that court acts.

### **37 Bail on appeal, case stated or application for certiorari.**

- (1) Without prejudice to the powers vested before the commencement of this Act in any court to admit or direct the admission of a person to bail—
  - (a) the High Court may release from custody a person who has given notice of appeal to a court of quarter sessions against a conviction or sentence of a court of summary jurisdiction, on his entering into a recognizance conditioned for his appearance at the hearing of the appeal;
  - (b) the High Court or a court of quarter sessions may release from custody a person who, having appealed to the court of quarter sessions against such a conviction or sentence as aforesaid, has applied to that court under section twenty of the Criminal Justice Act, 1925, to have a case stated for the opinion of the High Court on the point of law, on his entering into a recognizance conditioned for his appearance (unless the judgment of the High Court otherwise directs) at the sessions at which, under section twenty-five of the Supreme Court of Judicature (Consolidation) Act, 1925, that judgment is entered, or the appeal to quarter sessions is entered for re-hearing, as the case may be;
  - (c) the High Court may release from custody a person who, having been convicted or sentenced by a court of summary jurisdiction, has applied to the ' court of summary jurisdiction for the statement of a case for the opinion of the High Court on a point of law, on his entering into a recognizance conditioned for his appearance, within ten days after the judgment of the High Court shall have been given, before a court of summary jurisdiction acting for the same petty sessional division or place as the court which convicted or sentenced that person, unless the determination in respect of which the case is stated is reversed by that judgment;
  - (d) the High Court may release from custody a person who has been convicted or sentenced by a court of summary jurisdiction and has applied to the High Court for an order of certiorari to remove the proceedings of the court of summary jurisdiction into the High Court, or has applied to the High

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Court for leave to make such application, on his entering into a recognizance conditioned for his appearance, within ten days after the judgment of the High Court shall have been given, before a court of summary jurisdiction acting for the same petty sessional division or place as the court which convicted or sentenced that person, unless the conviction or sentence is quashed by that judgment.

- (2) A recognizance entered into for the purposes of the last foregoing subsection shall be in such reasonable sum as the court thinks necessary to fix, and the court may require the recognizance to be entered into with or without sureties and may, in lieu of requiring a person to enter into a recognizance, consent to his giving other security.
- (3) The High Court may, in exercising any power conferred on it by this section to release a person from custody, direct that a recognizance shall be entered into or other security given before a court of quarter sessions or a court of summary jurisdiction or a justice of the peace.
- (4) Rules of court may be made under section ninety-nine of the Supreme Court of Judicature (Consolidation) Act, 1925.—
  - (a) for prescribing the manner in which a recognizance shall be entered into or other security given for the purposes of this section and the persons by whom and the manner in which any such recognizance or security as aforesaid may be enforced;
  - (b) for authorising the recommitment, in such cases and by such courts or justices as may be prescribed by the rules, of persons released from custody under this section ;

and the powers conferred by this subsection shall be in addition to the powers conferred by the said section ninety-nine.

- (5) The power conferred by paragraph (b) of subsection (1) of this section on a court of quarter sessions may be exercised—
  - (a) in the case of quarter sessions for a county other than the County of London, by the chairman or a deputy chairman of the appeal committee of the quarter sessions;
  - (b) in the case of quarter sessions for a borough, by the recorder or any deputy recorder;
  - (c) in the case of quarter sessions for the County of London, by the paid chairman or a paid deputy chairman of quarter sessions (including any person appointed under section two of the Quarter Sessions (London) Act, 1896, or under section fifty-four of the London County Council (General Powers) Act, 1947, to act temporarily in the office of paid chairman or deputy chairman or as an additional deputy chairman);

and may be exercised either within or outside the county or borough for which the quarter sessions are held.

- (6) The time during which a person is admitted to bail under paragraph (b), (c) or (d) of subsection (1) of this section shall not count as part of any term of imprisonment under his sentence; and any sentence of imprisonment imposed by a court of summary jurisdiction, or, on appeal, by a court of quarter sessions, after the imposition of which a person is so admitted to bail, shall be deemed to begin to run or to be resumed as from the day on which he is received in prison under the sentence; and for the purposes of this subsection the expression " prison " shall be deemed to include a detention centre and remand home and the expression " imprisonment " shall be construed accordingly.

### **38 Amendment of Criminal Appeal Act, 1907.**

- (1) Where an appellant within the meaning of the Criminal Appeal Act, 1907, is admitted to bail under that Act, the time during which he is at large after being so admitted shall be disregarded in computing the term of any sentence to which he is for the time being subject.
- (2) Subject as hereinafter provided, six weeks of the time during which any such appellant, when in custody, is specially treated as such in pursuance of rules made under section fifty-two of this Act, or the whole of that time if it is less than six weeks, shall be disregarded in computing the term of any such sentence as aforesaid:

Provided that—

- (a) the foregoing provisions of this subsection shall not apply where leave to appeal is granted under the Criminal Appeal Act, 1907, or any such certificate as is mentioned in paragraph (b) of section three of that Act has been given for the purposes of the appeal; and
  - (b) in any other case, the Court of Criminal Appeal may direct that no part of the said time, or such part thereof as the court thinks fit (whether shorter or longer than six weeks) shall be disregarded as aforesaid.'
- (3) Subject to the foregoing provisions of this section, the term of any sentence passed by the Court of Criminal Appeal under the Criminal Appeal Act, 1907, in substitution for a sentence passed on the appellant in the proceedings from which the appeal is brought shall, unless the court otherwise directs, begin to run from the time when it would have begun to run if passed in those proceedings, and references in this section to any sentence to which an appellant is for the time being subject shall be construed accordingly.
  - (4) In relation to a person sentenced to Borstal training, any reference in this section to the term of that sentence shall be construed as a reference to the periods during which, under the Second Schedule to this Act, he may be detained in a Borstal institution; and nothing in this section shall be construed as affecting any period during which a person so sentenced is liable to supervision under the said Second Schedule.
  - (5) The Court of Criminal Appeal may, when they dismiss an appeal or application for leave to appeal, order the appellant or applicant as the case may be to pay the whole or any part of the costs of the appeal or application, including the cost of any transcript of the shorthand notes of the proceedings at the trial made in accordance with a direction given by the registrar under section sixteen of the Criminal Appeal Act, 1907; and any order under this subsection may be enforced by the person to whom the costs are ordered to be paid in the same manner as an order for the payment of costs made by the High Court in civil proceedings.
  - (6) The power of the Secretary of State under section nineteen of the Criminal Appeal Act, 1907, to refer the case, or any point arising on the case, of a person convicted on indictment to the Court of Criminal Appeal shall be exercisable whether or not that person has petitioned for the exercise of His Majesty's mercy.

### **39 Proof of previous convictions by finger-prints.**

- (1) A previous conviction may be proved against any person in any criminal proceedings by the production of such evidence of the conviction as is mentioned in this section, and by showing that his finger-prints and those of the person convicted are the finger-prints of the same person.

- (2) A certificate purporting to be signed by or on behalf of the Commissioner of Police of the Metropolis, containing particulars relating to a conviction extracted from the criminal records kept by him, and certifying that the copies of the finger-prints exhibited to the certificate are copies of the finger-prints appearing from the said records to have been taken in pursuance of section eight of the Penal Servitude Act, 1891, from the person convicted on the occasion of the conviction, shall be evidence of the conviction and evidence that the copies of the finger-prints exhibited to the certificate are copies of the finger-prints of the person convicted.
- (3) A certificate purporting to be signed by or on behalf of the governor of a prison or remand centre in which any person has been detained in connection with any criminal proceedings, certifying that the finger-prints exhibited thereto were taken from him while he was so detained, shall be evidence in those proceedings that the finger-prints exhibited to the certificate are the finger-prints of that person.
- (4) A certificate, purporting to be signed by or on behalf of the Commissioner of Police of the Metropolis, and certifying that the finger-prints, copies of which are certified as aforesaid by or on behalf of the Commissioner to be copies of the finger-prints of a person previously convicted and the finger-prints certified by or on behalf of the governor as aforesaid, or otherwise shown, to be the finger-prints of the person against whom the previous conviction is sought to be proved are the finger-prints of the same person shall be evidence of the matter so certified.
- (5) The method of proving a previous conviction authorised by this section shall be in addition to any other method of proving the conviction.

#### **40 Taking of finger-prints by order of justices.**

- (1) Where any person not less than fourteen years of age who has been taken into custody is charged with an offence before a court of summary jurisdiction, the court may, if it thinks fit, on the application of an officer of police not below the rank of inspector, order that the finger-prints of that person shall be taken by a constable.
- (2) Finger-prints taken in pursuance of an order made under this section shall be taken either at the court or if the person to whom the order relates is remanded in custody, at any place to which he is committed; and a constable may use such reasonable force as may be necessary for that purpose.
- (3) The provisions of this section shall be in addition to the provisions of any other enactment under which the fingerprints of any person may be taken.
- (4) Where the fingerprints of any person have been taken in pursuance of an order made under this section, then if that person is acquitted or discharged under section twenty-five of the Indictable Offences Act, 1848, or if the information against him is dismissed, the fingerprints and all copies and records thereof shall be destroyed.

#### **41 Evidence by certificate.**

- (1) In any criminal proceedings, a certificate purporting to be signed by a constable, or by a person having the prescribed qualifications, and certifying that a plan or drawing exhibited thereto is a plan or drawing made by him of the place or object specified in the certificate, and that the plan or drawing is correctly drawn to a scale so specified, shall be evidence of the relative position of the things shown on the plan or drawing.

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- (2) In any proceedings for an offence under the Road Traffic Acts, 1930 to 1947, or under any other enactment relating to the use of vehicles on roads, a certificate in the prescribed form, purporting to be signed by a constable and certifying that a person specified in the certificate stated to the constable—
- (a) that a particular motor vehicle was being driven by, or belonged to, that person on a particular occasion; or
  - (b) that a particular motor vehicle belonged on a particular occasion to a firm in which that person also stated that he was at the time of the statement a partner; or
  - (c) that a particular motor vehicle belonged on a particular occasion to a corporation of which that person also stated that he was at the time of the statement a director, officer or employee,
- shall be admissible as evidence for the purpose of determining by whom the vehicle was being driven, or to whom it belonged, as the case may be, on that occasion.
- (3) In any proceedings for an offence consisting of the stealing of goods in the possession of the British Transport Commission or any Executive (other than the Hotels Executive) constituted under section five of the Transport Act, 1947, or of receiving goods so stolen knowing them to have been stolen, or for an offence under section twelve or eighteen or subsection (2) of section thirty-three of the Larceny Act, 1916, or sections fifty to fifty-six of the Post Office Act, 1908, a statutory declaration made by any person—
- (a) that he dispatched or received or failed to receive any goods or postal packet or that any goods or postal packet when dispatched or received by him were in a particular state or condition; or
  - (b) that a vessel, vehicle or aircraft was at any time employed by or under the Post Office for the transmission of postal packets under contract,
- shall be admissible as evidence of the facts stated in the declaration.
- (4) Nothing in this section shall be deemed to make a certificate or statutory declaration admissible as evidence in proceedings for an offence except in a case where and to the extent to which oral evidence to the like effect would have been admissible in those proceedings.
- (5) Nothing in this section shall be deemed to make a certificate or statutory declaration admissible as evidence in proceedings for any offence—
- (a) unless a copy thereof has, not less than seven days before the hearing or trial, been served in the prescribed manner on the person charged with the offence; or
  - (b) if that person, not later than three days before the hearing or trial or within such further time as the court may in special circumstances allow, serves notice in the prescribed form and manner on the prosecutor requiring the attendance at the trial of the person who signed the certificate or the person by whom the declaration was made, as the case may be.
- (6) In this section the expression " prescribed " means prescribed by rules made by the Secretary of State.

#### **42 Order of speeches.**

- (1) Notwithstanding anything in section two of the Criminal Procedure Act, 1865, as amended by section three of the Criminal Evidence Act, 1898, the prosecution shall



not be entitled to the right of reply upon the trial of any person on indictment on the ground only that documents have been put in evidence for the defence.

- (2) Notwithstanding anything in section two of the Criminal Evidence Act, 1898, or in section fourteen of the Summary Jurisdiction Act, 1848, a person charged with an offence before a court of summary jurisdiction or his counsel or his solicitor shall be entitled to address the court either at the conclusion of the case for the prosecution or at the conclusion of the evidence, at his discretion; and where oral evidence is given by witnesses for the defence in addition to the evidence of the person charged, the court may allow him or his counsel or solicitor to address the court both at the conclusion of the case for the prosecution and at the conclusion of the evidence, but in that case the prosecutor shall be entitled to the right of reply.
- (3) The provisions of the last foregoing subsection shall not apply to proceedings before examining justices.

#### **43 Reports of probation officers.**

Where a report by a probation officer is made to any court (other than a juvenile court) with a view to assisting the court in determining the most suitable method of dealing with any person in respect of an offence, a copy of the report shall be given by the court to the offender or his counsel or solicitor:

Provided that if the offender is under seventeen years of age and is not represented by counsel or a solicitor, a copy of the report need not be given to him but shall be given to his parent or guardian if present in court.

#### **44 Payment of costs of defence on acquittal, etc.**

- (1) If in any such proceedings as are mentioned in section one of the Costs in Criminal Cases Act, 1908, the accused is acquitted or discharged under section twenty-five of the Indictable Offences Act, 1848, or the information is dismissed, the court may, if it thinks fit, direct the payment out of local funds in accordance with the provisions of that Act of such sums as appear to the court reasonably sufficient to compensate the accused for the expenses properly incurred by him in carrying on his defence.
- (2) Without prejudice to the provisions of subsection (2) of section thirteen of the Criminal Appeal Act, 1907, where an appeal to the Court of Criminal Appeal against a conviction is allowed, the court may, if it thinks fit, direct the payment out of local funds in accordance with the provisions of the Costs in Criminal Cases Act, 1908, of such sums as appear to the court reasonably sufficient to compensate the appellant for any expenses properly incurred in the prosecution of his appeal (including any proceedings preliminary or incidental thereto) or in carrying on his defence.
- (3) Where an appeal to the House of Lords brought under subsection (6) of section one of the Criminal Appeal Act, 1907, is determined in favour of the defendant, the House of Lords may, if they think fit, direct the payment out of local funds in accordance with the provisions of the Costs in Criminal Cases Act, 1908, of such sums as appear to them reasonably sufficient to compensate the defendant for any expenses properly incurred by him in the appeal to the House of Lords or in the prosecution of his appeal to the Court of Criminal Appeal or in carrying on his defence.
- (4) In relation to a person tried before a court of assize or quarter sessions, references in this section to the carrying on of his defence shall be construed as references to the

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carrying on of his defence before that court, before the examining justices by whom he was committed for trial, and before any other court of assize or quarter sessions before which proceedings for the offence in respect of which he was committed were begun but not concluded.

- (5) The amount of any costs directed to be paid to any person under subsection (1) or subsection (2) of this section shall be ascertained as soon as practicable by the proper "officer of the court by which the direction is given; and where the direction is given by the Court of Criminal Appeal, the proper officer shall make out and deliver to the said person, or to any person who appears to the proper officer to be acting on behalf of that person, an order on the treasurer of the county or borough out of the funds of which the costs are payable under the Costs in Criminal Cases Act, 1908, for the payment of that amount.
- (6) The amount of any costs directed to be paid under subsection (3) of this section shall be ascertained, and an order on the treasurer of the county or borough aforesaid may be made for the payment of any amount so ascertained, by such officer or officers, and in such manner, as may be prescribed by order of the House of Lords.
- (7) This section shall be construed as one with the Costs in Criminal Cases Act, 1908, and references in any enactment to costs payable under the Costs in Criminal Cases Act, 1908, shall be construed as including references to costs payable by virtue of the provisions of this section.