



# Criminal Justice Act 1948

## 1948 CHAPTER 58

### PART I

#### POWERS AND PROCEEDINGS OF COURTS.

*Offences punishable on summary conviction or on indictment.*

#### **28 Procedure in respect of offences punishable on summary conviction or on indictment.**

- (1) Subject to the provisions of this section, where a person who is not less than fourteen years of age is charged before a court of summary jurisdiction with an offence which, by virtue of any enactment, is punishable either on summary conviction or on conviction on indictment, then if application in that behalf is made by the prosecutor before the charge has been entered upon, the court may then determine to try the case summarily; but if the court does not so determine it shall proceed to hear the case as if the offence were punishable on conviction on indictment only.
- (2) Where the court has begun, in accordance with the last foregoing subsection, to hear a case as if the offence were punishable on conviction on indictment only, then if at any time during the hearing it appears to the court, having regard to any representations made in the presence of the accused by or on behalf of the prosecutor, or made by or on behalf of the accused, and to the nature of the case, that it is proper to do so, the court may then determine (subject to the following provisions of this section) to try the case summarily:

Provided that where the prosecution is being carried on by the Director of Public Prosecutions, the court shall not try the case summarily under this subsection without the consent of the Director.

- (3) Where the court proposes to try a case summarily under the last foregoing subsection, the court shall cause the charge to be reduced to writing and read to the accused, and call on him to plead thereto; and unless he pleads guilty the court shall recall for cross-examination any witnesses who have given evidence (except any not required by the accused or by the prosecutor, as the case may be, to be recalled for that purpose), but

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subject as aforesaid any such evidence shall be deemed to have been given in and for the purposes of the summary trial of the offence.

- (4) Where the court proposes to try a case summarily under subsection (1) or subsection (2) of this section and the accused is entitled, under section seventeen of the Summary Jurisdiction Act, 1879, to claim to be tried by a jury, the court shall, after the charge has been read to the accused, address him in the manner required by that section as amended by this Act; and if he then claims to be so tried, the court shall not deal with the case summarily, but shall proceed therewith in the manner required by the said section seventeen.
- (5) For the avoidance of doubt it is hereby declared that this section does not apply—
- (a) to any offence which is indictable by virtue only of section seventeen of the Summary Jurisdiction Act, 1879; or
  - (b) to any offence which is triable summarily only with the consent of the accused under section eleven of that Act or section twenty-four of the Criminal Justice Act, 1925;

and nothing in this section shall be construed as affecting any other enactment by virtue of which the consent of any person is required for the summary trial of an indictable offence, or the accused is entitled to object to be tried summarily in respect of such an offence, or as authorising a court to deal summarily with any offence unless the proceedings were commenced within the period prescribed in that behalf by section eleven of the Summary Jurisdiction Act, 1848, or by any other enactment applicable to the offence in question.

- (6) Where, under subsection (.1) of this section, a court of summary jurisdiction has begun to deal summarily with an offence which is punishable on conviction on indictment, the court may, at any time before the conclusion of the case for the prosecution, discontinue the summary trial and proceed to hear the charge as for an indictable offence; but except as aforesaid a court, having begun to deal summarily with such an offence, whether under this section or under any other enactment, shall not thereafter proceed to hear the charge as for an indictable offence.

## **29 Committal for sentence in respect of indictable offences tried summarily.**

- (1) Where, under subsection (2) of section twenty-eight of this Act or section twenty-four of the Criminal Justice Act, 1925, a person who is not less than seventeen years of age is tried summarily by a court of summary jurisdiction for an indictable offence, and is convicted by that court of that offence, then if, on obtaining information as to his character and antecedents, the court is of opinion that they are such that greater punishment should be inflicted in respect of the offence than that court has power to inflict, the court may, in lieu of dealing with him in any manner in which the court has power to deal with him, commit him in custody to quarter sessions for sentence in accordance with the following provisions of this section.
- (2) An offender so committed as aforesaid shall be committed—
- (a) where the court of summary jurisdiction acts for a county other than the County of London or for a borough not having a separate court of quarter sessions, to the appeal committee of the quarter sessions for that county or for the county in which that borough is situated, as the case may be;
  - (b) in any other case, to the next court of quarter sessions having jurisdiction in the county, borough or place for which the court of summary jurisdiction acts;

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and where the offender is so committed to an appeal committee, the clerk to the court of summary jurisdiction shall notify the clerk of the peace, and the clerk of the peace shall give notice to the prosecutor and to the governor of the prison or remand centre to which the offender is committed of the date on which the case will be dealt with by the appeal committee, being the next available sitting of a court consisting of members of that committee.

- (3) Where an offender is so committed for sentence as aforesaid, the following provisions shall have effect, that is to say:—
- (a) the appeal committee or court of quarter sessions shall inquire into the circumstances of the case, and shall have power to deal with the offender in any manner in which he could be dealt with by a court of quarter sessions before which he had just been convicted of the offence on indictment;
  - (b) the Poor Prisoners Defence Act, 1930, shall apply as if the offender were committed for trial for an indictable offence, subject to the modifications that in subsection (2) of section one the words " after reading the depositions," and in subsection (2) of section three the words " and the costs of a copy of the depositions " shall be omitted;
  - (c) the Costs in Criminal Cases Act, 1908, shall apply in relation to the proceedings before the appeal committee or court of quarter sessions as it applies in relation to the prosecution of an offence before a court of quarter sessions; and
  - (d) if the appeal committee or court of quarter sessions passes a sentence which the court of summary jurisdiction would not have had power to pass, the offender may appeal against the sentence to the Court of Criminal Appeal as if he had been convicted on indictment; and the provisions of the Criminal Appeal Act, 1907, shall apply accordingly.
- (4) References to a court of quarter sessions or a court in any enactment as applied by the last foregoing subsection or in any other enactment relating to persons dealt with by quarter sessions (including any such enactment contained in this Act) shall be construed as including references to an appeal committee of quarter sessions by whom an offender is dealt with under that subsection.
- (5) In relation to an offender committed for sentence under this section, subsection (1) of section twenty-three of this Act shall have effect as if for the words " by the verdict of a jury," there were substituted the words " by the appeal committee or the court of quarter sessions, as the case may be, and not by the verdict of a jury. "