



Criminal Justice (Scotland) Act 1949

1949 CHAPTER 94

PART I

POWERS AND PROCEEDINGS OF COURTS

Adjournment, remand, etc.

26 Power of courts to adjourn a case after conviction and before sentence

It is hereby declared that the power of a court to adjourn the hearing of a case includes power, after a person has been convicted or the court has found that he committed the offence and before he has been sentenced or otherwise dealt with, to adjourn the case for the purpose of enabling inquiries to be made or of determining the most suitable method of dealing with his case:

Provided that a court shall not for the purpose aforesaid adjourn the hearing of a case for any single period exceeding three weeks.

27 Remand for inquiry into physical or mental condition

- (1) Without prejudice to any powers exercisable by a court under the last foregoing section, where a person is charged before a court with an offence punishable with imprisonment, and the court is satisfied that he committed the offence but is of opinion that an inquiry ought to be made into his physical or mental condition before the method of dealing with him is determined, the court shall remand him in custody or on bail for such period or periods, no single period exceeding three weeks, as the court thinks necessary to enable a medical examination and report to be made.
- (2) Where a person is remanded on bail under this section, bail shall be found by bail bond, and it shall be a condition of the bond that he shall undergo medical examination by a registered medical practitioner at such institution or place as may be specified in the bond or by such registered medical practitioner as may be so specified; and, if arrangements have been made for his reception, it may be a condition of the bond that the person shall, for the purpose of the examination, reside, for such period as may

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

be specified, in an institution or place so specified, not being an institution or place to which he could have been remanded in custody.

- (3) Where a person remanded on bail under this section fails to comply with any such condition of the bond as is mentioned in the last foregoing subsection, the bail may be forfeited.
- (4) On exercising the powers conferred by this section the court shall—
- (a) where the person is remanded in custody, send to the institution or place in which he is detained; and
 - (b) where the person is released on bail, send to the institution or place at which or the person by whom he is to be examined,

a statement of the reasons for which the court is of opinion that an inquiry ought to be made into his physical or mental condition, and of any information before the court about his physical or mental condition.

- (5) Notwithstanding anything in the Lunacy (Scotland) Acts, 1857 to 1913, or the Mental Deficiency (Scotland) Acts, 1913 and 1940, a person who has been remanded on bail under this section may be received for the purposes of medical examination in a mental hospital within the meaning of the Lunacy (Scotland) Acts, 1857 to 1913, or in an institution for defectives within the meaning of the Mental Deficiency (Scotland) Acts, 1913 and 1940:

Provided that a person received under this section in a private mental hospital or in an institution shall, for the purposes of section twenty-eight of the Lunacy (Scotland) Act, 1857 or of any regulations under section thirty-one of the Mental Deficiency and Lunacy (Scotland) Act, 1913, relating to the number of patients who may be so received, as the case may be, be reckoned as a patient.

28 Remand and committal of persons under 21

- (1) Where a court remands or commits for trial or for sentence a person under twenty-one years of age who is charged with or convicted of an offence and is not released on bail, then, except as otherwise expressly provided by this section, the following provisions shall have effect, that is to say—
- (a) if he is under fourteen years of age, he shall be committed to a remand home;
 - (b) if he is not less than fourteen but under seventeen years of age, he shall be committed to a remand home unless the court certifies that he is of so unruly a character that he cannot safely be detained in a remand home or of so depraved a character that he is not fit to be so detained;
 - (c) if he is not less than seventeen years of age, or if the court certifies as mentioned in the last foregoing paragraph, and the court has been notified by the Secretary of State that a remand centre is available for the reception from that court of persons of his class or description, he shall be committed to a remand centre,
- instead of being committed to prison.
- (2) Where a person being not less than fourteen but under seventeen years of age is remanded in custody under the last foregoing section of this Act for an inquiry into his physical or mental condition, and the court is satisfied that facilities for such an inquiry during his detention in the remand home to which he would, but for this subsection, have been committed are not provided or otherwise made available under this Act, then if the court has been notified that a remand centre is available for the reception

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

from that court of persons of his class or description, he shall be committed to a remand centre.

- (3) Where any person is committed to a remand home or a remand centre under any provision of this Act, the home or centre shall be specified in the warrant and he shall there be detained for the period for which he is remanded or until he is liberated in due course of law.
- (4) Where any person has been committed to a remand home under any provision of this Act, the court by which he was committed, or, if application cannot conveniently be made to that court, the sheriff having jurisdiction in the place where that court sat, may vary the commitment by substituting another remand home for that remand home; and if the person so committed is not less than fourteen years of age and it appears to the court that he is of so unruly a character that he cannot safely be detained in a remand home, or to be of so depraved a character that he is not a fit person to be so detained, the court may revoke the commitment and commit the said person—
 - (a) if the court has been notified that a remand centre is available for the reception from that court of persons of his class or description, to a remand centre; and
 - (b) if the court has not been so notified, to a prison.