Criminal Justice Act 1925

1925 CHAPTER 86

PART II

JURISDICTION AND PROCEDURE

Indictable Offences generally

11 Venue in indictable offences

(1) A person charged with any indictable offence may be proceeded against, indicted, tried and punished in any county or place in which he was apprehended, or is in custody on a charge for the offence, or has appeared in answer to a summons lawfully issued charging the offence, 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 prosecution, trial or punishment thereof, be deemed to have been committed in that county or place:

Provided that, if at any time during the course of any proceedings taken against any person before any examining justices in pursuance of this subsection—

(a) it appears to the examining justices that the accused would suffer hardship if he were indicted and tried in the county or place aforesaid, the examining justices shall forthwith (but without prejudice to their powers under section twenty-two of the Indictable Offences Act, 1848), cease to proceed further in the matter under this subsection ; and

(b) if the accused applies to the justices to discontinue further proceedings under this subsection on the ground that he will otherwise suffer hardship and the justices refuse to comply with the application, the accused may appeal to the High Court against the decision of the justices, and the justices shall, on being informed by the accused of his intention so to appeal, suspend further proceedings under this subsection pending the decision of the High Court.

On an appeal to the High Court under the foregoing provision the High Court shall either direct the examining justices to cease proceedings under this subsection or shall disallow the appeal, as it thinks proper.

(2) Where any person is charged with two or more indictable offences, he may be proceeded against, indicted, tried and punished in respect of all those offences in any county or place in which he could be proceeded against, indicted, tried or punished in respect of any one of those offences, and all the offences with which that person is charged shall, for all purposes incidental to or consequential on the prosecution, trial or punishment thereof, be deemed to have been committed in that county or place.

(3) Where a person is charged with an offence against the Forgery Act, 1913, or with an offence indictable at common law or under any Act for the time being in force, consisting in the forging or altering of any matter whatsoever, or in offering, uttering, disposing of or putting off any matter whatsoever, knowing the same to be forged or altered, and the offence relates to documents made for the purpose of any Act relating to the suppression of the slave trade, the offence shall for the purposes of jurisdiction and trial be treated as an offence against the Slave Trade Act, 1873.

(4) Nothing in this section shall affect the laws relating to the government of His Majesty's Naval, Military or Air Forces.

12 Provisions as to taking of depositions, and caution to and statement of accused on proceedings before examining justices

(1) Where any person is charged before examining justices with an indictable offence, the justices shall, as soon as may be after the examination of each witness for the prosecution has been concluded, cause the deposition of that witness to be read to him in the presence and hearing of the accused, and shall cause him to sign the deposition, and shall forthwith bind him over to attend the trial in manner directed by section twenty of the Indictable Offences Act, 1848, as amended by this Act.

(2) Immediately after the last witness for the prosecution has been bound over to attend the trial, the examining justices shall read the charge to the accused and explain the nature thereof to him in ordinary language, and inform him that he has the right to call witnesses and, if he so desires, to give evidence on his own behalf. After so doing the examining justices shall then address to him the following words or words to the like effect—

"Do you wish to say anything in answer to the charge r You are not obliged to say anything unless you desire to do so, but whatever you say will be taken down in writing and may be given in evidence upon your trial."

(3) Before the accused makes any statement in answer to the charge, the examining justices shall state to him and give him clearly to understand that he has nothing to hope from any promise of favour and nothing to fear from any threat which may have been held out to him to induce him to make any admission or confession of his guilt, but that whatsoever he then says may be given in evidence on his trial notwithstanding the promise or threat.

(4) Whatever the accused states in answer to the charge shall be taken down in manner shown in a form to be prescribed by rules made under this Act in substitution for Form N. in the Schedule to the Indictable Offences Act, 1848, and shall be read over to the accused, and signed by the examining justices and also, if he so desires, by him, and shall be transmitted to the court of trial with the depositions of the witnesses in manner provided in section twenty of the said Act.

On the trial the statement of the accused taken down as aforesaid, and whether signed by him or not, may be given in evidence without further proof thereof, unless it is proved that the examining justices purporting to sign the statement did not in fact sign it.

(5) Immediately after complying with the requirements of this section relating to the statement of the accused, and whether the accused has or has not made a statement, the examining justices shall ask the accused whether he desires to give evidence on his own behalf and whether he desires to call witnesses.

If the accused in answer to the question states that he wishes to give evidence but not to call witnesses, the justices shall proceed to take forthwith the evidence of the accused, and after the conclusion of the evidence of the accused his counsel or solicitor shall be heard on his behalf if he so desires.

If the accused in answer to the question states that he desires to give evidence on his own behalf and to call witnesses, or to call witnesses only, the justices shall proceed to take either forthwith, or, if a speech is to be made by counsel or solicitor on behalf of the accused, after the conclusion of that speech, the evidence of the accused, if he desires to give evidence himself, and of any witness called by him who knows anything relating to the facts and circumstances of the case or anything tending to prove the innocence of the accused.

All statements made by the accused and all evidence given by him or any such witness as aforesaid (not being a witness merely to the character of the accused) under this subsection shall be taken down in writing and shall be transmitted to the court of trial, together with the depositions of the witnesses for the prosecution, and the provisions of subsection (1) of this section shall apply in the case of witnesses for the defence as they apply in the case of witnesses for the prosecution, except that the justices shall not bind over to attend the trial any witness who is a witness merely to the character of the accused.

(6) Nothing contained in this section shall prevent the prosecutor in any case from giving in evidence at the trial any admission or confession or other statement of the accused made at any time which is by law admissible as evidence against the accused.

(7) The depositions taken in connection with any charge for an indictable offence shall be signed by the justices before whom they are taken in such manner as may be directed by rules made under this Act, and where any such charge is enquired into by two or more examining justices, the deposition of a witness or the statement of the accused shall for all purposes be deemed to be sufficiently signed if signed by any one of those justices.

(8) The examining justices shall, notwithstanding anything in the Indictable Offences Act, 1848, before determining whether they will or will not commit an accused person for trial, take into consideration his statement or any such evidence as is given in pursuance of this section by him or his witnesses.

13 Binding over of witnesses conditionally and reading of depositions at trial

(1) Where any person charged before examining justices with an indictable offence is committed for trial and it appears to the justices, after taking into account anything which may be said with reference thereto by the accused or the prosecutor, that the attendance at the trial of any witness who has been examined before them is

unnecessary by reason of anything contained in any statement by the accused, or of the accused having pleaded guilty to the charge or of the evidence of the witness being merely of a formal nature, the justices shall, if the witness has not already been bound over, bind him over to attend the trial conditionally upon notice given to him and not otherwise, or shall, if the witness has already been bound over, direct that he shall be treated as having been bound over to attend only conditionally as aforesaid, and shall transmit to the court of trial a statement in writing of the names, addresses and occupations of the witnesses who are, or who are to be treated as having been bound over to attend the trial conditionally.

(2) Where a witness has been, or is to be treated as having been bound over conditionally to attend the trial, the prosecutor or the person committed for trial may give notice at any time before the opening of the assizes or quarter sessions to the clerk to the examining justices and at any time thereafter to the clerk of assize or the clerk of the peace, as the case may be, that he desires the witness to attend at the trial, and any such clerk to whom any such notice is given shall forthwith notify the witness that he is required so to attend in pursuance of his recognizance.

The examining justices shall on committing the accused for trial inform him of his right to require the attendance at the trial of any such witness as aforesaid, and of the steps which he must take for the purpose of enforcing such attendance.

(3) Where any person has been committed for trial for any offence, the deposition of any person taken before the examining justices may, if the conditions hereinafter set out are satisfied, without further proof be read as evidence on the trial of that person, whether for that offence or for any other offence arising out of the same transaction, or set of circumstances, as that offence.

The conditions hereinbefore referred to are the following:—

(a) The deposition must be the deposition either of a witness whose attendance at the trial is stated to be unnecessary in accordance with the provisions of this section, or of a witness who is proved at the trial by the oath of a credible witness to be dead or insane, or so ill as not to be able to travel, or to be kept out of the way by means of the procurement of the accused or on his behalf :

(b) It must be proved at the trial, either by a certificate purporting to be signed by the justice before whom the deposition purports to have been taken or by the clerk to the examining justices, or by the oath of a credible witness, that the deposition was taken in the presence of the accused and that the accused or his counsel or solicitor had full opportunity of cross-examining the witness :

(c) The deposition must purport to be signed by the justice before whom it purports to have been taken:

Provided that the provisions of this subsection shall not have effect in any case in which it is proved—

(i) That the deposition, or, where the proof required by paragraph (b) of this subsection is given by means of a certificate, that the certificate, was not in fact signed by the justice by whom it purports to have been signed; or

(ii) Where the deposition is the deposition of a witness whose attendance at the trial is stated to be unnecessary as aforesaid, that the witness has been duly notified that he is required to attend the trial.

(4) A witness whose attendance at the trial is stated to be unnecessary in accordance with the provisions of this section shall not be required to attend before the grand jury, and his deposition may be read as evidence before the grand jury.

(5) Any documents or articles produced in evidence before the examining justices by any witness whose attendance at the trial is stated to be unnecessary in accordance with the provisions of this section and marked as exhibits shall, subject to the provisions of section five of the Prosecution of Offences Act, 1879 (which relates to delivery of documents to the Director of Public Prosecutions), and unless in any particular case the justices otherwise order, be retained by the justices and forwarded with the depositions to the court of trial.

14 Power of justices to commit to, and of court to direct re-trial at, convenient assizes or quarter sessions

(1) The justices before whom any person is charged with an indictable offence, may, instead of committing him to be tried at the assizes or quarter sessions for a place to which but for this section he might have been committed, commit him to be tried at the assizes for some other place or (if the offence is within the jurisdiction of a court of quarter sessions) at the quarter sessions for some other place if it appears to them, having regard to the time when and the place where the last-mentioned assizes or quarter sessions are to be held, to be more convenient to commit the accused person to those assizes or quarter sessions with a view either to expediting his trial or saving expense :

Provided that the power given by this subsection shall not be exercised—

(a) unless the examining justices are satisfied at the date of the committal that the next assizes or quarter sessions to which but for this section he might have been committed will not be held within one month from that date ; or

(b) in any case in which the accused satisfies the examining justices that he would, if the power were exercised, suffer hardship.

(2) Where for any reason whatsoever the trial of a person who has been committed to be tried for an indictable offence before a court of assize or quarter sessions for any place is either not proceeded with or not brought to a final conclusion before that court, it shall be lawful for that court, if in its discretion it thinks it convenient so to do with a view either to expediting the trial or re-trial or the saving of expense or otherwise and is satisfied that the accused will not thereby suffer hardship, to direct that the trial or re-trial of the accused shall take place before a court of assize, or (if the offence is within the jurisdiction of a court of quarter sessions) before a court of quarter sessions, for some other place.

(3) His Majesty may from time to time by Order in Council make such provisions as to the jurisdiction of the court of trial and the attendance, jurisdiction, authority and duty of sheriffs, coroners, justices, gaolers, officers, jurors and persons, the use of any prison, the removal of prisoners, the alteration of any commissions, writs, precepts, indictments, recognizances, proceedings and documents, the transmission of recognizances, inquisitions, depositions (including exhibits thereto), and documents, and the expenses of maintaining and removing prisoners, as seem necessary or expedient for the purposes of the foregoing provisions of this section.

(4) Where a person is to be tried or re-tried by any court by which he could not have been tried but for the foregoing provisions of this section, any costs payable in the case under the Costs in Criminal Cases Act, 1908, shall in the first instance be paid in the same manner as if the offence had been committed in the county or borough in which the offender is tried, but shall be recoverable by the treasurer of that county or borough from the treasurer of the county or borough in which the offence was committed.

(5) Where any person who is to be committed for trial before any court of quarter sessions for any county or borough is to be admitted to bail, the examining justices may, if the next quarter sessions for that county or borough are to be held within five days of the date of committal, commit the accused person to the next quarter sessions hut one:

Provided that the power given by this subsection shall not be exercised unless the next quarter sessions but one are due to be held, within eight weeks of the date of committal.

15 Provision for continuance of criminal trial where a juror dies or becomes incapable

Where in the course of a Criminal trial any member of the jury dies or is discharged by the court as being through illness incapable of continuing to act or for any other reason, the jury shall nevertheless, subject to assent being given in writing by or on behalf of both the prosecutor and the accused and so long as the number of its members is not reduced below ten, be considered as remaining for all the purposes of that trial properly constituted, and the trial shall proceed and a verdict may be given accordingly.

16 Amendments of Criminal Appeal Act, 1907

(1) An application to the Attorney-General under subsection (6) of section one of the Criminal Appeal Act, 1907, for a certificate authorising an appeal to the House of Lords from the decision of the Court of Criminal Appeal, shall be made within a period of seven days from the date when the decision of the court was given.

(2) Where the Court of Criminal Appeal has allowed an appeal against conviction and the prosecutor gives notice to the court immediately after the decision of the court has been given on the appeal that he intends to apply to the Attorney-General for such a certificate as aforesaid, the court may make an order providing for the detention of the defendant, or directing that the defendant shall not be released except on bail, until either the Attorney-General has refused to grant the certificate or a decision on the appeal has been given by the House of Lords, as the case may be.

(3) The power to make rules of court conferred by section eighteen of the Criminal Appeal Act, 1907, shall include power to make rules for the purpose of carrying this section into effect.

17 Rules with respect to procedure of examining justices

The Lord Chancellor may, subject to the express provisions of this and of any other Act, make rules for regulating the practice and procedure of examining justices on or in relation to proceedings for indictable offences, and with respect to the forms to be used in connection with any such proceedings, and generally for carrying into effect the enactments relating to such proceedings, and provision may be made by such rules for revoking or amending any forms which are directed or authorised by any statute to be used in connection with any such proceedings, and for substituting new forms for any of such forms.