Criminal Justice Act (Northern Ireland) 1945

1945 CHAPTER 15

An Act to amend the law with respect to the administration of criminal justice and for certain purposes connected therewith. [13th December 1945]

PART I

JURISDICTION AND PROCEDURE

Ss.1#6 rep. by SLR (NI) 1952; SLR (NI) 1953; 1964 c.21 (NI); 1967 c.18 (NI)

VENUE

7 Venue in indictable offences.

[F1](1) A person charged with the commission in Northern Ireland of any indictable offence [[F2] or with the commission of an indictable offence cognisable under the law of Northern Ireland] may be proceeded against, indicted, tried and punished in any …[F3] 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 …[F3] 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 …[F3] place:

Proviso rep. by 1978 c.23

Subs.(2) rep. by 1978 c.23

(3) Nothing in this section shall affect the laws relating to the government of His Majesty's naval, military or air forces.

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F1 1967 c.18 (NI); 1964 c.21 (NI)
F2 1967 c.18 (NI)
F3 1978 c.23

S.8 rep. by 1964 c.21 (NI)

CASES STATED

S.9 rep. by 1964 c.3 (NI)

S.10 rep. by 1964 c.21 (NI)

11 Suspension of sentence on appeal by case stated.

Where a person who has been sentenced to imprisonment appeals by case stated …[F4] under Part VII[F5] of the Act of 1935, the time during which, in consequence of such appeal, he is not detained in custody shall not, unless the Court for whose opinion such a case is stated (in this section referred to as "the Superior Court") otherwise direct, count as part of any term of imprisonment to which he has been sentenced and any such term shall, unless the Superior Court otherwise direct, be deemed to be resumed or begin to run, as the case requires, as from the day on which he is received into prison under the sentence after the determination by the Superior Court of the question or questions raised by the case stated.

F4 1964 c.21 (NI)
F5 1964 c.3 (NI)

Ss.12#17 rep. by SLR (NI) 1952; 1953 c.18 (NI); 1964 c.21 (NI)

PROCEDURE

[F6]18 Procedure on charge.

Subs.(1)(2) rep. by 1964 c.21 (NI)

(3) Where[F7] [[F8] an indictment has been presented] against a corporation in respect of any offence, the corporation may, on arraignment before the court, enter in writing by its representative a plea of guilty or not guilty, and if either the corporation does not appear by a representative or, though it does so appear, fails to enter as aforesaid any plea, the court shall order a plea of not guilty to be entered and the trial shall proceed as though the corporation had duly entered a plea of not guilty.

(4) Any summons or other document to be served on any corporation charged with an indictable offence may be served upon the corporation by leaving it at, or sending it by post to, the registered office of the corporation or, if there be no such office in Northern Ireland, by leaving it at or sending it to the corporation at any place in Northern Ireland at which it trades or conducts its business.

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(5) In this section the expression "representative" in relation to a corporation means a person duly appointed by the corporation to represent it for the purpose of doing any act or thing which the representative of a corporation is by this section authorised to do, but a person so appointed shall not, by virtue only of being so appointed, be qualified to act on behalf of the corporation before any court for any other purpose.

A representative for the purposes of this section need not be appointed under the seal of the corporation, and a statement in writing purporting to be signed by a managing director of the corporation, or by any person (by whatever name called) having, or being one of the persons having, the management of the affairs of the corporation, to the effect that the person named in the statement has been appointed as the representative of the corporation for the purposes of this section shall be admissible without further proof as prima facie evidence that that person has been so appointed.

Subs.(6) rep. by 1964 c.21 (NI)

F6 1974 c.49 (ext. to NI by 1980 c.25); 1979 c.37
F7 continue to am. 2002 c.26
F8 1972 NI 1

Modifications etc. (not altering text)

C1 S. 18 applied (20.1.2007 for specified purposes and 6.4.2007 for further specified purposes and 1.10.2007 for further specified purposes and 6.4.2008 for further specified purposes and 1.10.2008 for further specified purposes and otherwise 1.10.2009) by Companies Act 2006 (c. 46), **ss. 1130(2)(b)(iii)**, 1300(2) (with s. 1133); S.I. 2006/3428, **art. 3(2)(b)** (with transitional provisions and savings in art. 8, Sch. 5); S.I. 2007/1093, **art. 2(2)(c)** (with art. 11); S.I. 2007/2194, **arts. 2(1)(l)**, **2(3)(h)** (with art. 12); S.I. 2007/3495, **arts. 3(3)(g)**, **5(3)(a)** (with arts. 7, 12); S.I. 2008/2860, **art. 3(s)** (with arts. 5, 7, 8, Sch. 2)

C2 S. 18 applied (6.4.2008) by Companies Act 2006 (c. 46), **ss. 1257(4)**, 1300(2); S.I. 2007/3495, **art. 3(1)(u)** (with arts. 7, 9, 12Sch. 4 paras. 37-42)

C3 S. 18 applied (30.4.2007) by Smoking (Northern Ireland) Order 2006 (S.I. 2006/2957 (N.I. 20)), **art. 13(8)(a)** (with art. 16); S.R. 2007/118, **art. 2**

C4 S. 18 applied (6.4.2008) by Serious Crime Act 2007 (c. 27), **ss. 31(6)(b)(iii)**, 94(1); S.I. 2008/755, **art. 15(1)(f)**

C5 S. 18 applied (6.4.2008) by Serious Crime Act 2007 (c. 27), **ss. 32(5)(b)(iii)**, 94(1); S.I. 2008/755, **art. 15(1)(f)**

C6 S. 18 applied (15.12.2007) by Money Laundering Regulations 2007 (S.I. 2007/2157), **reg. 47(8)(c)**

C7 S. 18 applied (15.12.2007) by Transfer of Funds (Information on the Payer) Regulations 2007 (S.I. 2007/3298), **reg. 16(8)(c)**

C8 S. 18 applied (27.11.2008) by Counter-Terrorism Act 2008 (c. 28), ss. 62, 100(2), **Sch. 7 para. 37(2)(c)** (with s. 101(2), Sch. 7 para. 43)

C9 S. 18 applied (E.W.S.) (9.3.2009) by Ozone-Depleting Substances (Qualifications) Regulations 2009 (S.I. 2009/216), **reg. 10(6)(b)(iii)**

C10 S. 18 applied (9.3.2009) by Fluorinated Greenhouse Gases Regulations 2009 (S.I. 2009/261), regs. 1(1)(b)(3)(5), **52(6)(b)(iii)**

C11 S. 18 applied (27.4.2009) by Organic Products Regulations 2009 (S.I. 2009/842), **reg. 28(4)(c)**

C12 S. 18 applied (1.5.2009) by Payment Services Regulations 2009 (S.I. 2009/209), regs. 1(2)(b)(xiii), **118(4)(c)**

C13 S. 18 applied (1.1.2010) by Common Agricultural Policy Single Payment and Support Schemes (Integrated Administration and Control System) Regulations 2009 (S.I. 2009/3263), **reg. 12(2)(b)(iii)**

C14 S. 18 applied (8.3.2010) by Mercury Export and Data (Enforcement) Regulations 2010 (S.I. 2010/265), regs. 2, **7(7)(b)(iii)**

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C15 S. 18 applied (31.3.2010) by Horse Passports Regulations (Northern Ireland) 2010 (S.R. 2010/40), **reg. 22(2)(b)**

C16 S. 18 applied (6.4.2010) by Detergents Regulations 2010 (S.I. 2010/740), **reg. 24(2)(b)(iii)**

C17 S. 18 applied (25.6.2010) by Marketing of Fresh Horticulture Produce Regulations (Northern Ireland) 2010 (S.R. 2010/198), **reg. 21(7)(b)**

C18 S. 18 applied (17.9.2010 with application as mentioned in reg. 3 of the amending Regulations) by Marketing of Fruit Plant Material Regulations 2010 (S.I. 2010/2079), **reg. 22(4)**

C19 S. 18 applied (1.7.2011) by Bribery Act 2010 (c. 23), **ss. 15(2)(b)(ii)**, 19(1) (with ss. 16, 19(5)); S.I. 2011/1418, **art. 2**

C20 S. 18 applied (with modifications) (30.12.2011) by Wine Regulations 2011 (S.I. 2011/2936), **reg. 16(2)(d)** (with reg. 3(9))

C21 S. 18 applied (1.2.2007 for W. for specified purposes, 2.4.2007 for W. for specified purposes, 1.7.2007 for E. for specified purposes, 22.4.2008 for E.W.S. for specified purposes, 13.12.2008 for W. for specified purposes, 1.8.2012 for N.I. for specified purposes) by Health Act 2006 (c. 28), **ss. 77(4)(c)**, 83(4)(a)(6)(b)(7); S.I. 2007/204, arts. 2(c), 3(c); S.I. 2007/1375, art. 2(b); S.I. 2008/1147, art. 3(b)(c); S.I. 2008/3171, art. 2(b); S.R. 2012/307, art. 2(b)

C22 S. 18 applied (3.3.2013) by The Timber and Timber Products (Placing on the Market) Regulations 2013 (S.I. 2013/233), regs. 1(2), **6(2)(b)(ii)**

C23 S. 18 applied (31.8.2013) by The Electricity and Gas (Market Integrity and Transparency) (Enforcement etc.) Regulations (Northern Ireland) 2013 (S.R. 2013/208), regs. 1, **49(4)** (with Sch. 1)

C24 S. 18 applied (with modifications) (1.3.2014) by The Olive Oil (Marketing Standards) Regulations 2014 (S.I. 2014/195), regs. 1, **15(2)(d)**

C25 S. 18 applied (1.4.2014) by Energy Act 2013 (c. 32), s. 156(1), **Sch. 10 para. 8(3)(b)**; S.I. 2014/251, art. 4

C26 S. 18 applied (12.12.2014) by The Immigration Act 2014 (Bank Accounts) Regulations 2014 (S.I. 2014/3085), regs. 1, **23(4)(c)**

C27 S. 18 applied (1.1.2015) by The Common Agricultural Policy (Control and Enforcement, Cross-Compliance, Scrutiny of Transactions and Appeals) Regulations 2014 (S.I. 2014/3263), regs. 1(1), **26(2)(b)(ii)**

19 Fiats and consents of Attorney General to be admissible in evidence.

F9 . . . . . .

F9 S. 19 repealed (12.4.2010) by Justice (Northern Ireland) Act 2002 (c. 26), ss. 86, 87, Sch. 13; S.R. 2010/113, **art. 2**, Sch. paras. 18, 21(a)

S.20 rep. by 1964 c.21 (NI)

21 Amendment as to summary proceedings under the Towns Improvement (Ireland) Act, 1854.

Notwithstanding anything contained in section ninety-two of the Towns Improvement (Ireland) Act, 1854 , proceedings for the recovery of any penalty which under the provisions of that Act may be recovered summarily may be taken by a police officer or constable without the consent of the Attorney General for Northern Ireland.

S.22 substitutes s.4(1) of 1889 c.69 and s.2(1) of 1906 c.34

S.23 rep. by 1964 c.21 (NI)

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PART II

PROVISIONS AS TO OFFENCES, SENTENCES, PENALTIES AND COSTS

OFFENCES

S.24 rep. by 1969 c.15 (NI)

25 Punishment for child destruction.

(1) Subject as hereafter in this sub-section provided, any person who, with intent to destroy the life of a child then capable of being born alive, by any wilful act causes a child to die before it has an existence independent of its mother, shall be guilty of felony, to wit, of child destruction, and shall be liable on conviction thereof on indictment to penal servitude[F10] for life:

Provided that no person shall be found guilty of an offence under this section unless it is proved that the act which caused the death of the child was not done in good faith for the purpose only of preserving the life of the mother.

(2) For the purposes of this and the next succeeding section, evidence that a woman had at any material time been pregnant for a period of twenty-eight weeks or more shall be prima facie proof that she was at that time pregnant of a child then capable of being born alive.

F10 1953 c.14 (NI)

26 Provisions as to prosecution of offence of child destruction.

(1) Where upon the trial of any person for the murder or manslaughter of any child, or for infanticide, or for an offence under section fifty-eight of the Offences against the Person Act, 1861 (which relates to administering drugs or using instruments to procure abortion), the jury are of opinion that the person charged is not guilty of murder, manslaughter or infanticide, or of an offence under the said section fifty-eight, as the case may be, but that he is shown by the evidence to be guilty of the [[F11] offence] of child destruction, the jury may find him guilty of that [[F11] offence], and thereupon the person convicted shall be liable to be punished as if he had been convicted upon an indictment for child destruction.

(2) Where upon the trial of any person for the [[F11] offence] of child destruction the jury are of opinion that the person charged is not guilty of that [[F11] offence], but that he is shown by the evidence to be guilty of an offence under the said section fifty-eight of the Offences against the Person Act, 1861 , the jury may find him guilty of that offence, and thereupon the person convicted shall be liable to be punished as if he had been convicted upon an indictment under that section.

Subs.(3) rep. by 1967 c.18 (NI)

Subs.(4) rep. by 1989 NI 12

F11 1967 c.18 (NI)

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S. 27 rep. by 1981 c. 45

S.28 rep. by SLR (NI) 1952; 1953 c.14 (NI)

29 Prohibition on taking photographs, etc., in court.

(1) No person shall—

(a) take or attempt to take in any court any photograph, or with a view to publication make or attempt to make in any court any portrait or sketch of any person, being a judge of the court or a juror or a witness in or a party to any proceedings before the court, whether civil or criminal; or

(b) publish any photograph, portrait or sketch taken or made in contravention of the foregoing provisions of this section or any reproduction of such photograph, portrait or sketch;

and if any person acts in contravention of this section he shall, on summary conviction, be liable in respect of each offence to a fine not exceeding**[**[F12] level 3 on the standard scale**]**.

(2) For the purposes of this section—

[[F13](a) the expression "court" means any court of justice (including the court of a coroner), apart from the Supreme Court;**]**

(b) the expression "judge" includes recorder, registrar, resident magistrate, justice of the peace sitting out of petty sessions and coroner;

(c) a photograph, portrait or sketch shall be deemed to be a photograph, portrait or sketch taken or made in court if it is taken or made in the court-room or in the building or in the precincts of the building in which the court is held, or if it is a photograph, portrait or sketch taken or made of the person while he is entering or leaving the court-room or any such building or precincts as aforesaid.

F12 1984 NI 3
F13 S. 29(2)(a) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 47(2), 148(1); S.I. 2009/1604, **art. 2(b)**

S.30 rep. by 1978 c.23; SLR 1980

S.31 rep. by 1950 c.5 (NI)

Ss. 32, 33 rep. by 1998 c. 37

PENALTIES AND COSTS

S.34 rep. by 1964 c.21 (NI)

35 Powers of Crown Court or county court in relation to fines and forfeited recognizances.

(1) Subject to the provisions of this section, where a fine is imposed by, or a recognizance is forfeited before, [[F14] the Crown Court or a county court], the court may by order—

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(a) allow time for the payment of the amount of the fine or the amount due under the recognizance;

(b) direct such payment to be made by instalments of such amounts and on such dates respectively as may be specified in the order;

(c) fix a term of imprisonment which the person liable to make the payment is to undergo if any sum which he is liable to pay is not duly paid or recovered;

(d) in the case of a recognizance, discharge the recognizance or reduce the amount due thereunder.

[[F15](e) on the application of the person liable to make the payment, allow further time for payment or vary an order for payment by instalments.**]**

[[F16](2) The periods set out in the second column of the following Table shall be the maximum periods of imprisonment or detention which may be fixed under subsection (1)(c) applicable respectively to the amounts set out opposite thereto—

TABLE

An amount not exceeding £200	7 days
An amount exceeding £200 but not exceeding £500	14 days
An amount exceeding £500 but not exceeding £1,000	28 days
An amount exceeding £1,000 but not exceeding £2,500	45 days
An amount exceeding £2,500 but not exceeding £5,000	3 months
An amount exceeding £5,000 but not exceeding £10,000	6 months
An amount exceeding £10,000 but not exceeding £20,000	12 months
An amount exceeding £20,000 but not exceeding £50,000	18 months
An amount exceeding £50,000 but not exceeding £100,000	2 years
An amount exceeding £100,000 but not exceeding £250,000	3 years
An amount exceeding £250,000 but not exceeding £1 million	5 years
An amount exceeding £1 million	10 years**]**

(3) Where any person liable for the payment of a fine or a sum due under a recognizance to which this section applies is sentenced by the court to a term of imprisonment, the court may order that any term of imprisonment fixed under paragraph (*c*) of sub-section (1) of this section shall commence at the expiration of that term of imprisonment.

(4) The following provisions shall have effect in relation to any order made under this section:—

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(a) where the order allows time for the payment of the amount of the fine or recognizance, or directs payment of the said amount by instalments, the officer responsible for the recovery of the fine or the amount due under the recognizance shall only exercise his powers if and when there is a default in complying with the order;

(b) where the order directs payment by instalments of a fine or the amount due under a recognizance, and default is made in the payment of any one instalment, the same proceedings may be taken as if default had been made in payment of all the instalments then remaining unpaid;

(c) where the order fixes a term of imprisonment in default of payment of a fine or the amount due under a recognizance, then—

(i) on payment of the fine or the said amount to the officer responsible for the recovery thereof, or to the governor of the prison, the order shall cease to have effect and, if the person in respect of whom it was made is in prison, he shall forthwith be discharged;

(ii) on payment to the said officer or to the governor of the prison of a part of the fine or part of the amount due under the recognizance, the total number of days in the term of imprisonment shall be reduced proportionately, that is to say, by a number of days bearing as nearly as possible the same proportion to the total number of days in the term as the sum paid bears to the amount of the fine or the amount due under the recognizance:

Provided that, in reckoning the number of days by which any term of imprisonment would be so reduced, the first day of imprisonment shall not be taken into account, and that, in reckoning the sum which will secure the reduction of the term of imprisonment, fractions of a penny shall be omitted.

[[F16](4A) Where—

(a) the Crown Court has imposed a fine on a company; and

(b) the court has issued a warrant of distress under section 3 of the Fines Act (Ireland) 1851 for the purpose of levying the amount of the fine; and

(c) it appears on the return to the warrant that the money and goods of the company are insufficient to satisfy the amount of the fine with the costs and charges of levying the same,

the chief clerk may make an application in relation to the company under**[**[F17]Article 104 of, or paragraph 13 of Schedule B1 to, the Insolvency (Northern Ireland) Order 1989 (winding up or administration)**]**.**]**

(5) Any sums received by a governor of a prison under paragraph (*c*) of the last foregoing sub-section shall be transmitted by him to the officer responsible for the recovery of sums due in respect of the fine or the recognizance.

(6) The powers conferred by this section in relation to fines or recognizances shall be in addition to, and not in derogation of, the powers conferred by any other enactment relating to the imposition and recovery of fines or the discharge, cancellation, mitigation or reduction of recognizances or sums forfeited thereunder.

(7) This section shall not apply to a fine imposed by a [[F14] county court] on appeal against a decision of a court of summary jurisdiction.

F14 1978 c.23
F15 1996 NI 24

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F16 1994 NI 15

F17 Words in s. 35(4A) substituted (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 3(3), Sch. 2 para. 5; S.R. 2006/21, **art. 2** (with transitional provisions and savings in S.R. 2006/22, arts. 2 - 7)

S.36 rep. by 1968 c.10 (NI)

PART III

MISCELLANEOUS

COERCION

37 Abolition of presumption of coercion of married woman by husband.

Any presumption of law that an offence committed by a wife in the presence of her husband is committed under the coercion of the husband is hereby abolished, but on a charge against a wife for any offence other than treason or murder it shall be a good defence to prove that the offence was committed in the presence of, and under the coercion of, the husband.

SEARCH WARRANTS

38 Power to issue search warrant in respect of offences under s.13 of Criminal Law Amendment Act, 1885.

If a resident magistrate or a justice of the peace is satisfied by information on oath that there is reasonable ground for suspecting that an offence under section thirteen of the Criminal Law Amendment Act, 1885 [M1] (which relates to summary proceedings against brothel keepers and others) has been, is being, or is about to be committed in any premises or place, he may grant a search warrant authorising any police officer or constable named therein to enter such premises or place at any time, if necessary by force, and to search the premises or place and to examine and seize any article found therein which he has reasonable ground for believing to be evidence of the commission of an offence.

Marginal Citations

M1 1885 c. 69

Ss. 39, 40 rep. by 1996 NI 6

Ss. 41#43 rep. by 1965 c.8 (NI)

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PART IV

SUPPLEMENTAL

44 Saving for pending proceedings.

Nothing in this Act shall affect any proceedings taken or had in any court before the commencement of this Act, and any such proceedings may be continued as if this Act had not been passed.

45 Interpretation.

(1) In this Act unless the contrary intention appears the following expressions have the meanings hereby assigned to them, that is to say:—

"Act of 1851 [F18]" has the meaning assigned to it by section two of this Act;

"Act of 1935 [F19]" has the meaning assigned to it by section two of this Act;

"capital offence" means an offence for which the punishment imposed might, apart from this Act, be death;

"court of summary jurisdiction" includes a resident magistrate or justice of the peace sitting out of petty sessions to hear or determine any matter he has power so to hear or determine or conducting the preliminary investigation of an indictable offence;

"magistrate" means any person who acts as a member of a court of summary jurisdiction;

Definition rep. by SLR 1980

"resident magistrate" means a resident magistrate within the meaning of the Act of 1935[F20];

Definition rep. by SLR 1980

(2) In this Act and in the Act of 1935 the expression "constable" shall be construed as including a head-constable[F21] and a sergeant.

Subs.(3)(4) rep. by 1954 c.33 (NI)

F18 1851 (c.93)
F19 1935 (c.13)
F20 1964 c.21 (NI)
F21 SRO (NI) 1970/111

S.46 rep. by SLR (NI) 1952

47 Short title and citation.

(1) This Act may be cited as the Criminal Justice Act (Northern Ireland), 1945.

(2) Sections two to eighteen, sections twenty to twenty-three, …[F22] of this Act shall be included among the enactments which may be cited together as the Summary Jurisdiction Acts (Northern Ireland).

Subs.(3) rep. by SLR (NI) 1952

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F22 SLR 1976

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First Schedule rep. by 1958 c.9 (NI); 1964 c.21 (NI)

Second Schedule rep. by 1964 c.21 (NI)

Third Schedule rep. by 1969 c.15 (NI)

Fourth Schedule rep. by SLR (NI) 1952

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