



2015 CHAPTER 9

PART 2

COMMITTAL FOR TRIAL

CHAPTER 2

DIRECT COMMITTAL FOR TRIAL IN CERTAIN CASES

*Direct committal for trial: procedures*

**Direct committal: procedures**

**13.—**(1) The court committing a person for trial to the Crown Court under this Chapter shall specify in a notice (“the notice of committal”)—

- (a) the charge or charges on which the person is committed for trial;
- (b) the place (determined under section 48(1) of the Judicature (Northern Ireland) Act 1978) at which that person is to be tried;
- (c) such other matters as magistrates’ court rules under subsection (2)(b) may require.

(2) Magistrates’ court rules—

- (a) shall provide that, where a person is committed for trial under this Chapter on any charge or charges—
  - (i) a copy of the notice of committal is given to that person and to the Crown Court sitting at the specified place of trial; and
  - (ii) copies of the documents containing the evidence on which the charge or charges are based are given to that person and to that court, either

at the same time as the copy of the notice of committal or as soon as practicable thereafter; and

- (b) may make such further provision in relation to notices of committal, including provision as to the matters to be included in such notices and the duties of a court in relation to such notices.

(3) Paragraphs (3) and (4) of Article 37 of the Magistrates' Court (Northern Ireland) Order 1981 and Articles 51(3) and 134 of that Order (which relate to committal for trial on bail or in custody) apply in relation to a person committed for trial under this Chapter as they apply in relation to a person committed for trial under paragraph (1) or (2) of Article 37 of that Order (committal for trial after committal proceedings).

#### **Specified offences: application to dismiss**

**14.—**(1) A person who is committed for trial on any charge or charges under section 11 or 12 may, at any time—

- (a) after that person is served with copies of the documents containing the evidence on which the charge or charges are based; and
- (b) before that person is arraigned (and whether or not an indictment has been presented against that person),

apply orally or in writing to the Crown Court sitting at the specified place of trial for the charge, or any of the charges, in the case to be dismissed.

(2) The judge shall dismiss a charge (and accordingly quash any count relating to it in any indictment presented against the applicant) if it appears to the judge that the evidence against the applicant would not be sufficient for the applicant to be properly convicted.

(3) No oral application may be made under subsection (1) unless the applicant has given the Crown Court sitting at the specified place of trial written notice of intention to make the application.

(4) Oral evidence may be given on such an application only with the leave of the judge or by order of the judge; and the judge shall give leave or make an order only if it appears to the judge, having regard to any matters stated in the application for leave, that the interests of justice require it.

(5) If the judge gives leave permitting, or makes an order requiring, a person to give oral evidence, but that person does not do so, the judge may disregard any document indicating the evidence that that person might have given.

(6) Dismissal of the charge, or all the charges, against the applicant has the same effect as a refusal by a magistrates' court to commit for trial; except that no further proceedings may be brought on a dismissed charge except by means of the presentment of an indictment such as is specified in paragraph (c), (d) or (e) of section 2(2) of the Grand Jury (Abolition) Act (Northern Ireland) 1969.

(7) Crown Court rules may make provision for the purposes of this section and may in particular make provision—

- (a) as to the time or stage in the proceedings at which anything required to be done is to be done (unless the court grants leave to do it at some other time or stage);
- (b) as to the contents and form of notices or other documents;
- (c) as to the manner in which evidence is to be submitted; and
- (d) as to persons to be served with notices or other material.

### **Restrictions on reporting applications for dismissal**

**15.—**(1) Except as provided by this section—

- (a) no written report of an application under section 14(1) shall be published in Northern Ireland;
- (b) no report of such an application shall be included in a relevant programme for reception in Northern Ireland.

(2) The judge dealing with an application under section 14(1) may order that subsection (1) shall not apply, or shall not apply to a specified extent, to a report of the application.

(3) Where an accused objects to the making of an order under subsection (2), the judge shall make the order if (and only if) satisfied after hearing the representations of the accused that it is in the interests of justice to do so; and if the order is made it shall not apply to the extent that a report deals with any such objection or representations.

(4) Subsection (1) does not apply where the application is successful.

(5) Where—

- (a) two or more persons are jointly charged, and
- (b) applications under section 14(1) are made by more than one of them,

subsection (4) shall have effect as if for the words “the application is” there were substituted “all the applications are”.

(6) Subsection (1) does not apply to—

- (a) the publication of a report of an unsuccessful application made under section 14(1),
- (b) the inclusion in a relevant programme of a report of an unsuccessful application made under section 14(1),

at the conclusion of the trial of the accused or of the last of the accused to be tried.

(7) Subsection (1) does not apply to a report which contains only one or more of the following matters—

- (a) the identity of the court and the name of the judge;

- (b) the names, ages, home addresses and occupations of the accused and witnesses;
- (c) the offence or offences, or a summary of them, with which the accused is or are charged;
- (d) the names of counsel and solicitors in the proceedings;
- (e) where the proceedings are adjourned, the date and place to which they are adjourned;
- (f) any arrangements as to bail;
- (g) whether legal aid was granted to the accused or any of the accused.

(8) The addresses that may be published or included in a relevant programme under subsection (7) are addresses—

- (a) at any relevant time, and
- (b) at the time of their publication or inclusion in a relevant programme;

and “relevant time” here means a time when events giving rise to the charges to which the proceedings relate occurred.

(9) Nothing in this section affects any prohibition or restriction imposed by virtue of any other statutory provision on a publication or on matter included in a programme.

(10) If a report is published or included in a relevant programme in contravention of this section each of the following persons is guilty of an offence—

- (a) in the case of a publication of a written report as part of a newspaper or periodical, any proprietor, editor or publisher of the newspaper or periodical;
- (b) in the case of a publication of a written report otherwise than as part of a newspaper or periodical, the person who publishes it;
- (c) in the case of the inclusion of a report in a relevant programme, any body corporate which is engaged in providing the service in which the programme is included and any person having functions in relation to the programme corresponding to those of an editor of a newspaper.

(11) A person guilty of an offence under this section is liable on summary conviction to a fine of an amount not exceeding level 5 on the standard scale.

(12) Proceedings for an offence under this section shall not be instituted otherwise than by or with the consent of the Director of Public Prosecutions for Northern Ireland.

(13) In this section—

- (a) “publish”, in relation to a report, means publish the report, either by itself or as part of a newspaper or periodical, for distribution to the public;

- (b) “relevant programme” means a programme included in a programme service, within the meaning of the Broadcasting Act 1990.

### **Supplementary and consequential provisions**

**16.—**(1) Schedule 2 (which contains amendments consequential on the preceding provisions of this Chapter) has effect.

(2) Subject to subsection (3), any statutory provision which applies to a person who has been committed for trial under the Magistrates’ Courts (Northern Ireland) Order 1981 applies also to a person who has been committed for trial under this Chapter.

(3) Subsection (2) does not apply—

- (a) to a provision in the Magistrates’ Courts (Northern Ireland) Order 1981 (except as provided by section 13(3));
- (b) to a provision which is amended by Schedule 2 to make express provision for persons committed for trial under this Chapter.

(4) In this Chapter, in relation to a person committed for trial, references to the specified place of trial are references to the place specified in the notice of committal under section 13(1) or such other place as is substituted for it by a direction under section 48(2) or (3) of the Judicature (Northern Ireland) Act 1978.