



# Criminal Law Act 1977

## 1977 CHAPTER 45

### PART III

#### CRIMINAL PROCEDURE, PENALTIES, ETC.

##### *Other provisions*

**41, 42.** ..... <sup>F1</sup>

**Textual Amendments**

**F1** Ss. 41, 42, 45 repealed by [Magistrates' Courts Act 1980 \(c. 43, SIF 82\)](#), **Sch. 9**

**43** ..... <sup>F2</sup>

**Textual Amendments**

**F2** S. 43 repealed by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 170, Sch. 8 para. 16, **Sch. 16**

**44 Appeals against conviction.** <sup>X1</sup>

In section 2 of the <sup>M1</sup>Criminal Appeal Act 1968 . . . <sup>F3</sup> (grounds for allowing appeals) in subsection (1)(a) (cases where the verdict of the jury is unsafe or unsatisfactory) for the words “verdict of the jury” there shall be substituted the word “conviction”.

*Status: Point in time view as at 01/02/1991.*

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**Editorial Information**

**X1** The text of ss. 15(3), 37, 44, 53, 58, Schs. 1, 5, 6, 7, 9, 11, 12 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Textual Amendments**

**F3** Words repealed by [Criminal Appeal \(Northern Ireland\) Act 1980 \(c. 47, SIF 38\)](#), **Sch. 5**

**Marginal Citations**

**M1** [1968 c. 19](#)

**45** ..... **F4**

**Textual Amendments**

**F4** [S. 39\(3\)\(b\)](#) added by [Criminal Justice \(Scotland\) Act 1980 \(c. 62, SIF 39:1\)](#), **Sch. 7 para. 79(b)**

**46** **Committal for sentence for offences tried summarily.** <sup>X2</sup>

For section 56(1) of the <sup>M2</sup>Criminal Justice Act 1967 (powers of magistrates’ courts as regards committal for sentence in respect of offences tried summarily) there shall be substituted—

- “(1) Where a magistrates’ court (“the committing court”) commits a person in custody or on bail to the Crown Court under any enactment to which this section applies to be sentenced or otherwise dealt with in respect of an offence (“the relevant offence”), the committing court—
- (a) if the relevant offence is an offence triable either way, may also commit him, in custody or on bail as the case may require, to the Crown Court to be dealt with in respect of any other offence whatsoever in respect of which the committing court has power to deal with him (being an offence of which he has been convicted by that or any other court); or
  - (b) if the relevant offence is a summary offence, may commit him, as aforesaid, to the Crown Court, to be dealt with in respect of—
    - (i) any other offence which the committing court has convicted him, being either an offence punishable with imprisonment or an offence in respect of which the committing court has a power or duty to order him to be disqualified under section 93 of the Road Traffic Act 1972 (disqualification for certain motoring offences); or
    - (ii) any suspended sentence in respect of which the the committing court has under section 24(1) of the Powers of the Criminal Courts Act 1973 power to deal with him.”

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#### Editorial Information

- X2** The text of ss. 5(10)(11), 15(2), 17, 30(1)(2), 31(10), 32(3), 46, 49, 52, 57, 63(1), 65(4)(5), Sch. 13 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### Marginal Citations

- M2** 1967 c. 80.

### 47 Prison sentence partly served and partly suspended.

- (1) [<sup>F5</sup>Subject to subsection (1A) below, where] a court passes on an adult a sentence of imprisonment for a term of not less than [<sup>F6</sup>three] months and not more than two years, it may order that, after he has served part of the sentence in prison, the remainder of it shall be held in suspense.
- [<sup>F7</sup>(1A) A court shall not make an order under this section unless the case appears to the court to be one in which an order under section 22 of the Powers of Criminal Courts Act 1973 (sentences wholly suspended) would be inappropriate.
- (1B) Subsection (1A) above is without prejudice to section 20 of the Powers of Criminal Courts Act 1973 (restriction on imposing sentences of imprisonment on persons who have not previously served prison sentences).]
- (2) [<sup>F8</sup>The part of the sentence to be served in prison shall be not less than twenty-eight days and the part to be held in suspense shall be not less than one-quarter of the whole term, and the offender shall not be required to serve the latter] part unless it is restored under subsection (3) below; and this shall be explained to him by the court, using ordinary language and stating the substantial effect of that subsection.
- (3) If at any time after the making of the order he is convicted of an offence punishable with imprisonment and committed during the whole period of the original sentence, then (subject to [<sup>F9</sup>subsections (4) and (4A)] below) a court which is competent under this subsection may restore the part of the sentence held in suspense and order him to serve it.
- (4) If a court, considering the offender's case with a view to exercising the powers of subsection (3) above, is of opinion that (in view of all the circumstances, including the facts of the subsequent offence) it would be unjust fully to restore the part of the sentence held in suspense, it shall either restore a lesser part or declare, with reasons given, its decision to make no order under the subsection.
- [<sup>F9</sup>(4A) If an order restoring part of a sentence has been made under subsection (3) above, no order restoring any further part of it may be made.]
- (5) Where a court exercises those powers, it may direct that the restored part of the original sentence is to take effect as a term to be served either immediately or on the expiration of another term of imprisonment passed on the offender by that or another court.
- (6) "Adult" in this section means a person who has attained the age of twenty-one; and "the whole period" of a sentence is the time which the offender would have had to serve in prison if the sentence had been passed without an order under subsection (1) above and he had no remission under section 25(1) of the <sup>M3</sup>Prison Act 1952 (industry and good conduct in prison).

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- (7) Schedule 9 to this Act has effect with respect to procedural, sentencing and miscellaneous matters ancillary to those dealt with above in this section, including in particular the courts which are competent under subsection (3) above.
- (8) This section and paragraphs 1 to 6 of Schedule 9 to this Act and the <sup>M4</sup>Powers of Criminal Courts Act 1973 shall be construed and have effect as if this section and those paragraphs of the Schedule were contained in that Act.
- [<sup>F10</sup>(9) The Secretary of State may by order made by statutory instrument vary—
- (a) the minimum term of imprisonment for the time being specified in subsection (1) above;
  - (b) the minimum part of the sentence to be served in prison for the time being specified in subsection (2) above.
- (10) An order made by virtue of subsection (9)(b) above may provide that the minimum part of the sentence to be served in prison shall be a specified length of time or a specified fraction of the whole sentence.
- (11) An order shall not be made under subsection (9) above unless a draft of the order has been laid before Parliament and approved by a resolution of each House of Parliament.]

#### Textual Amendments

- F5** Words substituted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 30\(2\)](#)
- F6** Word substituted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 30\(3\)](#)
- F7** [S. 47\(1A\)\(1B\)](#) inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 30\(4\)](#)
- F8** Words substituted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 30\(5\)](#)
- F9** Words substituted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 30\(6\)](#)
- F10** [S. 47\(9\)\(10\)\(11\)](#) added by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 30\(8\)](#)

#### Marginal Citations

- M3** [1952 c. 52.](#)
- M4** [1973 c. 62.](#)

## 48 Power to make rules as to furnishing of information by prosecutor in criminal proceedings.

- (1) The power to make rules conferred by [<sup>F11</sup>section 144 of the Magistrates' Courts Act 1980] shall, without prejudice to the generality of subsection (1) of that section, include power to make, with respect to proceedings against any person for a prescribed offence or an offence of any prescribed class, provision—
- (a) for requiring the prosecutor to do such things as may be prescribed for the purpose of securing that the accused or a person representing him is furnished with, or can obtain, advance information concerning all, or any prescribed class of, the facts and matters of which the prosecutor proposes to adduce evidence; and
  - (b) for requiring a magistrates' court, if satisfied that any requirement imposed by virtue of paragraph (a) above has not been complied with, to adjourn the proceedings pending compliance with that requirement unless the court is satisfied that the conduct of the case for the accused will not be substantially prejudiced by non-compliance with the requirement.

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- (2) Rules made by virtue of subsection (1)(a) above—
- (a) may require the prosecutor to do as provided in the rules either—
    - (i) in all cases; or
    - (ii) only if so requested by or on behalf of the accused;
  - (b) may exempt facts and matters of any prescribed description from any requirement imposed by the rules, and may make the opinion of the prosecutor material for the purposes of any such exemption; and
  - (c) may make different provision with respect to different offences or offences of different classes.
- (3) It shall not open to person convicted of an offence to appeal against the conviction on the ground that a requirement imposed by virtue of subsection (1) above was not complied with by the prosecutor.

#### Textual Amendments

**F11** Words substituted by [Magistrates' Courts Act 1980 \(c. 43, SIF 82\)](#), [Sch. 7 para. 151](#)

#### 49 Power to order search of persons before Crown Court. <sup>X3</sup>

After section 34 of the <sup>M5</sup>Powers of Criminal Courts Act 1973 there shall be inserted—

##### “34A Power of Crown Court to order search of persons before it.

- (1) Where—
- (a) the Crown Court imposes a fine on a person or forfeits his recognizance;
  - (b) the Crown Court makes against a person any such order as is mentioned in paragraphs 3, 4 or 9 of Schedule 9 to the Administration of Justice Act 1970 (orders for the payment of costs);
  - (c) the Crown Court makes against a person any such order as is mentioned in paragraph 12 of that Schedule (fines etc. payable by parents or guardians) other than an order under section 35 of this Act; or
  - (d) on determination of an appeal brought by a person under section 83 of the Magistrates' Courts Act 1952 a sum is payable by him, whether by virtue of an order of the Crown Court or by virtue of a conviction or order of the magistrates' court against whose decision the appeal was brought,
- then, if that person is before it, the Crown Court may order him to be searched.
- (2) Any money found on a person in a search under this section may be applied, unless the court otherwise directs, towards payment of the fine or other sum payable by him; and the balance, if any, shall be returned to him.”

#### Editorial Information

**X3** The text of ss. 5(10)(11), 15(2), 17, 30(1)(2), 31(10), 32(3), 46, 49, 52, 57, 63(1), 65(4)(5), Sch. 13 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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**Marginal Citations**

**M5** [1973 c. 62](#)

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