

Criminal Justice (Committal Reform) Bill

[AS AMENDED AT CONSIDERATION STAGE]

LEGISLATIVE COMPETENCE

At Introduction the Minister of Justice had made the following statement under section 9 of the Northern Ireland Act 1998:

“In my view the Criminal Justice (Committal Reform) Bill would be within the legislative competence of the Northern Ireland Assembly.”

SECRETARY OF STATE’S CONSENT

The Secretary of State had consented under section 8 of the Northern Ireland Act 1998 to the Assembly considering this Bill.

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CONTENTS

Abolition of preliminary investigations and mixed committals

1. Abolition of preliminary investigations
2. Abolition of mixed committals: evidence on oath not to be given at preliminary inquiry
3. Consequential amendments and repeals

Direct committal for trial: miscellaneous amendments

4. Direct committal for trial: miscellaneous amendments

Final provisions

5. Commencement and transitional provisions, etc.
6. Short title

Schedule Amendments and repeals: Abolition of preliminary investigations and mixed committals

A

BILL

TO

Amend the law relating to committal for trial.

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

Abolition of preliminary investigations and mixed committals

Abolition of preliminary investigations

1. Article 30 of the Magistrates' Courts (Northern Ireland) Order 1981 (which enables a magistrates' court to conduct a preliminary investigation of an indictable offence) is repealed; and accordingly all committal proceedings in a magistrates' court shall be by way of preliminary inquiry under that Order.

Abolition of mixed committals: evidence on oath not to be given at preliminary inquiry

2. Article 34(2) of the Magistrates' Courts (Northern Ireland) Order 1981 (which enables witnesses to give evidence on oath at a preliminary inquiry) is repealed.

Consequential amendments and repeals

3. The Schedule (which contains amendments and repeals consequential on sections 1 and 2) has effect.

Direct committal for trial: miscellaneous amendments

Direct committal for trial: miscellaneous amendments

4.—(1) Chapter 2 of Part 2 of the Justice Act (Northern Ireland) 2015 (direct committal for trial) is amended as follows.

(2) For section 9 substitute—

Criminal Justice (Committal Reform)

“Application of this Chapter

9.—(1) Subject to subsection (3), this Chapter applies where a person (“the accused”) appears or is brought before a magistrates’ court charged with an offence and one of the conditions mentioned in subsection (2) is satisfied.

(2) Those conditions are—

- (a) that the offence is an offence triable only on indictment;
- (b) that the offence is an indictable offence to which Article 45 of the Magistrates’ Courts (Northern Ireland) Order 1981 applies (summary trial of certain indictable offences), and the court has decided under that Article not to deal summarily with the offence;
- (c) that the offence is an indictable offence to which Article 17 of the Criminal Justice (Children) (Northern Ireland) Order 1998 applies (summary trial of child charged with indictable offence), and the court has decided under that Article not to deal summarily with the offence;
- (d) that the offence is a summary offence and—
 - (i) the accused claims, in accordance with Article 29 of the Magistrates’ Courts (Northern Ireland) Order 1981 or any other statutory provision, to be tried on indictment;
 - (ii) the prosecutor exercises any right conferred by any statutory provision to claim that the accused is to be tried on indictment; or
 - (iii) it is otherwise determined that the accused is to be tried on indictment.

(3) But this Chapter does not apply where notice has been given in relation to the offence under Article 3 of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988 or Article 4 of the Children’s Evidence (Northern Ireland) Order 1995.

(4) In this Chapter—

- (a) references to an offence triable only on indictment are to be construed without reference to Article 29(5) of the Magistrates’ Courts (Northern Ireland) Order 1981 (certain summary offences to be treated as if they were triable on indictment only);
- (b) “summary offence” has the meaning given by Article 2(3) of the Magistrates’ Courts (Northern Ireland) Order 1981.”.

(3) Section 10 (direct committal where indication by accused of intention to plead guilty) and the cross-heading immediately before it are repealed.

(4) For sections 11 and 12 (direct committal for specified and related offences) and the cross-headings immediately before each of those sections substitute—

“Direct committal for trial of certain offences

Direct committal of certain offences

11.—(1) Where—

Criminal Justice (Committal Reform)

(a) this Chapter applies in relation to an accused charged with an offence, and

(b) the offence is—

(i) an offence which, in the case of an adult, is triable only on indictment, or

(ii) any other offence which is for the time being designated for the purposes of this subsection by an order made by the Department,

the court shall forthwith commit the accused to the Crown Court for trial for the offence.

(2) For the purposes of this section—

(a) “a relevant offence” is an offence mentioned in subsection (1)(b);

(b) an offence is related to a relevant offence if a count charging the offence could be included in the same indictment as a count charging the relevant offence.

(3) Where the court commits a person for trial under subsection (1) for a relevant offence, it shall at the same time commit that person to the Crown Court for trial for any other offence with which that person is charged and which appears to the court to be related to the relevant offence.

(4) Where—

(a) this Chapter applies in relation to an accused (“A”) who—

(i) is charged with an offence (“offence A”) which is not a relevant offence, and

(ii) is not also charged with a relevant offence,

(b) A appears or is brought before the court on the same occasion as another person (“B”) charged with a relevant offence,

(c) the court commits B for trial for the relevant offence under subsection (1), and

(d) offence A appears to the court to be related to the relevant offence for which the court commits B for trial,

the court shall forthwith commit A to the Crown Court for trial for offence A.

(5) Where—

(a) this Chapter applies in relation to an accused (“A”) who—

(i) is charged with an offence (“offence A”) which is not a relevant offence, and

(ii) is not also charged with a relevant offence,

(b) on a previous occasion another person (“B”) has appeared or been brought before the court charged with a relevant offence,

(c) the court has on that occasion committed B for trial for the relevant offence under subsection (1), and

(d) offence A appears to the court to be related to the relevant offence for which the court committed B for trial,

Criminal Justice (Committal Reform)

the court may forthwith commit A to the Crown Court for trial for offence A if the court considers that it is necessary or appropriate in the interests of justice to do so.

5 (6) Where the court commits the accused for trial for an offence under this section—

(a) it shall accordingly not conduct committal proceedings in relation to that offence; and

(b) the functions of the court in relation to the conduct of committal proceedings for that offence then cease, except as provided by—

10 (i) section 13; or

(ii) Article 29(2)(a) of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 or any regulations under Article 26(3) of the Access to Justice (Northern Ireland) Order 2003.”.

(5) In section 13 (direct committal: procedures) for subsection (2) insert—

15 “(2) Magistrates’ court rules—

(a) shall provide that, where a person is committed for trial under this Chapter on any charge or charges, a copy of the notice of committal is given to that person and to the Crown Court sitting at the specified place of trial;

20 (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.

(2A) Magistrates’ court rules and Crown Court Rules shall make provision to ensure that, where a person is committed for trial under this Chapter on any charge or charges, copies of the documents containing the evidence on which the charge or charges are based are given to that person and to the Crown Court sitting at the specified place of trial, either at the same time as the copy of the notice of committal or as soon as practicable thereafter.”.

30 (6) In section 13 (direct committal: procedures) at the end add—

“(4) Where—

(a) a court commits an accused for trial for an offence under this Chapter, and

35 (b) the accused has indicated to the court an intention to plead guilty to the offence,

the court may order the making of such inquiries and the preparation, and sending to the Crown Court sitting at the specified place of trial, of such reports as appear to the court to be appropriate in connection with the sentencing of the accused for that offence (should the accused plead guilty to that offence on arraignment in the Crown Court).

40 (5) Before making an order under subsection (4) the court must afford an opportunity to the accused and the prosecution to make representations to the court.”.

(7) After section 13 insert—

“Discontinuance of proceedings after accused has been committed for trial

13A.—(1) This section applies where—

- (a) the Director of Public Prosecutions for Northern Ireland has the conduct of proceedings for an offence; and
- (b) the accused (“A”) has been committed for trial under this Chapter for the offence.

(2) Where, at any time before the indictment is presented, the Director gives notice under this section to the Crown Court sitting at the specified place of trial that the Director does not want the proceedings to continue, the proceedings shall be discontinued with effect from the giving of that notice.

(3) The Director shall, in any notice given under subsection (2), give reasons for not wanting the proceedings to continue.

(4) On giving any notice under subsection (2) the Director shall inform A of the notice; but the Director shall not be obliged to give A any indication of the reasons for not wanting the proceedings to continue.

(5) Where proceedings against A in relation to an offence are discontinued under this section—

- (a) if A is in detention in connection with the offence, A must be released unless the detention is justified otherwise than by reason of the offence;
- (b) if A is subject to a requirement to appear before a court, or attend at a police station, in connection with the offence, the requirement ceases to have effect.

(6) The discontinuance under this section of proceedings against A in relation to an offence does not prevent the subsequent institution of proceedings against A in relation to the offence (or any other offence).”.

(8) In section 14 (application to dismiss)—

- (a) for the heading substitute “**Application to dismiss**”;
- (b) in subsection (1) for “section 11 or 12” substitute “this Chapter”;
- (c) for subsections (4) and (5) (which permit oral evidence to be given in limited circumstances) substitute—

“(4) Oral evidence may not be given on an application under subsection (1).”.

(9) In Schedule 2 to the Justice Act (Northern Ireland) 2015 (amendments relating to direct committal)—

- (a) in paragraph 1(3), in the inserted subsection (5ZA)(b), for “section 13(2)(a)” substitute “section 13(2A)”;
- (b) in paragraph 1 for sub-paragraph (4) substitute—

“(4) In subsections (2)(b) and (6) after “subsection (5)” insert “, (5ZA) or (5A)”.”;
- (c) in paragraph 3, in the inserted paragraph (2A), for the word “documents” substitute “copy of the notice of committal”;

Criminal Justice (Committal Reform)

- (d) in paragraph 5(1)(b), (2)(b) and (3)(b), in the substituted provisions, for “section 11 or 12” substitute “Chapter 2 of Part 2”;
- (e) in paragraph 6(1)(b), (2)(b) and (3)(b), in the substituted or inserted provisions, for “section 11 or 12” substitute “Chapter 2 of Part 2”;
- 5 (f) in paragraph 8—
- (i) renumber the existing provision as sub-paragraph (1) of that paragraph;
- (ii) in that sub-paragraph, in the inserted subsection (1A), for “section 13(2)(a)” (twice) substitute “section 13(2A)”;
- (iii) after that sub-paragraph insert—
- 10 “(2) In section 13(1) (time limits for disclosure by prosecution) for paragraph (b) substitute—
- “ba) the documents mentioned in section 13(2A) of the Justice Act (Northern Ireland) 2015 are given to the accused (where this Part applies by virtue of section 1(2)(a) and the accused has
- 15 been committed for trial under Chapter 2 of Part 2 of that Act),
- (b) the accused is committed for trial (in any other case where this Part applies by virtue of section 1(2)(a)),”;
- (g) in paragraph 9 for “section 13(2)(a)” substitute “section 13(2A)”;
- (h) in paragraph 11, in the inserted sub-paragraph (aa), for “section 11 or 12” substitute “Chapter 2 of Part 2”.
- 20 (10) In section 102(7)(a) of the Justice Act (Northern Ireland) 2015 (regulations, orders, etc.) for “11(4)” substitute “11(1)(b)(ii)”.
- (11) Section 57 of the Justice Act (Northern Ireland) 2016 (which is superseded by this section) is repealed.

25 *Final provisions*

Commencement and transitional provisions, etc.

5.—(1) This section and section 6 come into operation on the day after the day on which this Act receives Royal Assent.

30 (2) The other provisions of this Act come into operation on such day or days as the Department of Justice may by order appoint.

(3) Paragraph 4 of Schedule 8 to the Justice Act (Northern Ireland) 2015 (provision in Part 2 of that Act (committal for trial) not to apply to proceedings instituted before the coming into operation of that provision) applies for the purposes of the provisions mentioned in subsection (2) as it applies for the

35 purposes of the provisions in that Part.

(4) An order under subsection (2) may contain further transitional provisions or savings.

Short title

40 6. This Act may be cited as the Criminal Justice (Committal Reform) Act (Northern Ireland) 2020.

SCHEDULE

Section 3.

AMENDMENTS AND REPEALS: ABOLITION OF PRELIMINARY
INVESTIGATIONS AND MIXED COMMITTALS

5 *The Criminal Justice Act (Northern Ireland) 1945 (c. 15)*

1. In section 45(1) in the definition of “court of summary jurisdiction” for “investigation of” substitute “inquiry into”.

The Electoral Law Act (Northern Ireland) 1962 (c. 14)

2. In section 110(1) for “investigation of” substitute “inquiry into”.

10 *The Costs in Criminal Cases Act (Northern Ireland) 1968 (c. 10)*

3. In section 3(1) for “investigation of” (twice) substitute “inquiry into”.

The Criminal Justice (Miscellaneous Provisions) Act (Northern Ireland) 1968 (c. 28)

4. In section 1(9) for “investigation of” substitute “inquiry into”.

15 *The Criminal Jurisdiction Act 1975 (c. 59)*

5. Sections 4(3) and 10 are repealed.

The Criminal Appeal (Northern Ireland) Act 1980 (c. 47)

6. In section 41(2)(b) the words “preliminary investigation or” are repealed.

The Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 (NI 8)

20 7. In Article 29(2)(b) the words “the depositions taken at the preliminary investigation or, as the case may be,” and “, and any depositions taken,” are repealed.

The Magistrates’ Courts (Northern Ireland) Order 1981 (NI 26)

8.—(1) The following provisions are repealed—

25 (a) in Article 2(3), in the definition of “summary proceeding”, the words “a preliminary investigation or” and “investigation or”;

(b) in Article 16(1)(a) the words “or a preliminary investigation”;

(c) Article 31.

30 (2) In Article 32(1) for the words from the beginning to “together with” in subparagraph (a) substitute—

 “(1) Where a preliminary inquiry into an indictable offence is to be held by a magistrates’ court, the prosecution shall—

(a) send”.

(3) The following provisions are repealed—

35 (a) in Article 32(1)(b) the words “a copy of that notice together with”;

(b) Article 32(3) and (4)(a);

- (c) in Article 33(1) the words “to the like extent as oral evidence to the like effect by that person”;
- (d) in Article 35 the words “a preliminary investigation or” and “investigation or”;
- 5 (e) Article 37(1);
- (f) in Article 37(5) the words “investigation or”;
- (g) in Article 39(1) the words “investigation or”;
- (h) in Article 42(1) the words from “or the deposition taken” to “on his behalf”;
- 10 (i) in Article 42(3) the words “(other than a statement which is to be disregarded under Article 34(2))”;
- (j) in Article 44(1) and (2) the words “investigation or”;
- (k) in Article 46(1) the words “whether any evidence shall then have been given or not”;
- 15 (l) in Article 46(2) the words “depositions shall be taken or, as the case may require,”;
- (m) in Schedule 4 in paragraphs 1 and 3 the words “the preliminary investigation or”;
- (n) in Schedule 5, paragraph 3.

20 *The Mental Health (Northern Ireland) Order 1986 (NI 4)*

9. In Article 58(7) the words “preliminary investigation or” are repealed.

The Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988 (NI 16)

10. Article 3(1)(c)(i) is repealed.

The Police and Criminal Evidence (Northern Ireland) Order 1989 (NI 12)

25 11. The following provisions are repealed—

- (a) Article 80A(4)(a);
- (b) in Article 81(1A)—
 - (i) in sub-paragraph (a) the words “to preliminary investigations or preliminary inquiries into indictable offences,”;
 - 30 (ii) sub-paragraph (c) and the word “and” immediately before it;
- (c) in Article 81(7) the words “at a preliminary investigation or a preliminary inquiry into an indictable offence or”;
- (d) Article 81A(10).

The Children’s Evidence (Northern Ireland) Order 1995 (NI 3)

35 12. Article 4(2)(a) is repealed.

The Road Traffic Offenders (Northern Ireland) Order 1996 (NI 10)

13. In Article 9(1) the words “investigation or” are repealed.

The Criminal Justice (Children) (Northern Ireland) Order 1998 (NI 9)

14. The following provisions are repealed—

- (a) Article 23;
- (b) in Article 29(2)(b)(i) the words “preliminary investigation or”;
- (c) in Schedule 5, paragraph 18.

The Criminal Evidence (Northern Ireland) Order 1999 (NI 8)

5 15. The following provisions are repealed—

- (a) Article 15(10);
- (b) in Article 29(3)(a) the words “preliminary investigation or”.

The Criminal Justice (Northern Ireland) Order 2004 (NI 9)

16. Article 10(2)(c) is repealed.

10 *The Justice and Security (Northern Ireland) Act 2007 (c. 6)*

17. Section 3 is repealed.

The Justice Act (Northern Ireland) 2015 (c. 9)

18. The following provisions are repealed—

- (a) Chapter 1 of Part 2;
- 15 (b) in section 13(3) the words “(1) or”;
- (c) section 49(12);
- (d) in Schedule 9, Part 2.

Criminal Justice (Committal Reform) Bill

[AS AMENDED AT CONSIDERATION STAGE]

A Bill to amend the law relating to committal for trial.

Introduced by: Mrs Naomi Long, Minister of Justice

On: 03 November 2020

As amended at
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ACCOMPANYING DOCUMENTS

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