



Representation of the People Act 1983

1983 CHAPTER 2

PART III

LEGAL PROCEEDINGS

Prosecutions for corrupt or illegal practices

168 Prosecutions for corrupt practices

- (1) A corrupt practice shall be punishable on conviction on indictment or on summary conviction (including conviction under section 171 below by an election court), but a person shall not be prosecuted summarily where there may be occasion to exercise the powers conferred by subsections (1) and (2) of section 174 below.
- (2) A person convicted on indictment of a corrupt practice, other than personation or aiding, abetting, counselling or procuring the commission of the offence of personation, shall be liable—
 - (a) except in Northern Ireland, to imprisonment for a term not exceeding one year or to a fine ;
 - (b) in Northern Ireland, to imprisonment for a term not exceeding one year or to a fine not exceeding £200.
- (3) A person who commits the offence of personation or of aiding, abetting, counselling or procuring the commission of the offence of personation shall be guilty of an offence and if convicted of it on indictment shall be liable to imprisonment for a term not exceeding two years.
- (4) A person shall be liable if summarily convicted of a corrupt practice—
 - (a) by a magistrates' court in England and Wales or a court of summary jurisdiction in Scotland, to imprisonment for a term not exceeding 3 months or to a fine not exceeding the statutory maximum or to both ;
 - (b) by a court of summary jurisdiction in Northern Ireland, to imprisonment for a term not exceeding 3 months or to a fine not exceeding £100 or to both ;

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- (c) by an election court, to imprisonment for a term not exceeding 6 months, or, in England and Wales or in Scotland, to a fine not exceeding the statutory maximum, or in Northern Ireland, to a fine not exceeding £200.
- (5) In England and Wales and Northern Ireland a person charged with personation shall not be convicted by a magistrates' court or, save under section 171 below, committed for trial, except on the evidence of not less than two credible witnesses.
- (6) In Scotland, a person charged with personation shall not be convicted except on the evidence of not less than two credible witnesses.
- (7) If it appears to the court by which any person holding a licence or certificate under the Licensing Acts is convicted of the offence of bribery or treating that the offence was committed on his licensed premises—
 - (a) the court shall direct the conviction to be entered in the proper register of licences, and
 - (b) the entry shall be taken into consideration by the licensing authority in determining whether they will or will not grant a renewal of the licence or certificate, and may be a ground, if the authority think fit, for refusing its renewal.

169 Prosecutions for illegal practices

A person guilty of an illegal practice shall on summary conviction (including conviction under section 171 below by an election court) be liable to a fine not exceeding level 3 on the standard scale, or, in Northern Ireland, to a fine not exceeding £100; and on a prosecution for an illegal practice it shall be sufficient to allege that the person charged was guilty of an illegal practice.

170 Conviction of illegal practice on charge of corrupt practice etc.

A person charged with a corrupt practice may, if the circumstances warrant such finding, be found guilty of an illegal practice (which offence shall for that purpose be an indictable offence), and a person charged with an illegal practice may be found guilty of that offence notwithstanding that the act constituting the offence amounted to a corrupt practice.

171 Election petition offences in England and Wales and Northern Ireland

- (1) The Director of Public Prosecutions shall obey any direction given to him by an election court with respect to the prosecution by him of offenders, and if it appears to him that a person who has not received a certificate of indemnity has been guilty of a corrupt or illegal practice, he shall—
 - (a) without any such direction, prosecute that person for that offence before the election court, or
 - (b) if he thinks it expedient in the interests of justice, prosecute him before any other competent court.
- (2) Where a person prosecuted before an election court appears before the court, the court shall proceed to try him summarily unless the court thinks it expedient in the interests of justice that he should be tried before some other court, but in the case of a corrupt practice, the court before proceeding to try him summarily shall give him the option of being tried by a jury.

- (3) The Magistrates' Courts Act 1980 (or, in Northern Ireland, the Magistrates' Courts (Northern Ireland) Order 1981) shall, in principle and so far as practicable, apply to the prosecution of an offence summarily before an election court in like manner as if it were an offence punishable only on summary conviction, and accordingly—
- (a) the attendance of any person may be enforced,
 - (b) the case heard and determined,
 - (c) any summary conviction by such court carried into effect and enforced,
 - (d) the case's costs paid, and
 - (e) the case's record dealt with,
- under that Act or Order in like manner as if the court were a magistrates' court for the county or place in which the conviction took place, but no appeal lies against a conviction by an election court.
- (4) Where—
- (a) the person prosecuted does not appear before the court, or
 - (b) the court thinks it expedient in the interests of justice that he should be tried before some other court, or
 - (c) the person prosecuted elects under subsection (2) above to be tried by a jury, and the court is of opinion that the evidence is sufficient to put that person on trial for the offence, the court shall order that person to be prosecuted either on indictment or before a magistrates' court, as the case may require, for the offence and thereupon shall proceed as directed by subsection (6), (7) or (8) below, but, except where the accused has elected to be tried by a jury, a corrupt practice shall not for the purposes of the following provisions of this section be deemed to be an indictable offence if the election court think that it should be prosecuted summarily.
- (5) The court may name the court before whom the person is to be prosecuted and for all purposes preliminary to and of and incidental to the prosecution the offence shall be deemed to have been committed within the jurisdiction of the court so named.
- (6) If the accused is present before the court and the offence is an indictable offence, the enactments relating to charges before justices against persons for indictable offences shall in principle and so far as practicable apply and the court shall commit him for trial.
- (7) If the accused is present before the court and the offence is not an indictable offence, the election court—
- (a) shall order him to be brought before the magistrates' court before whom he is to be prosecuted ; or
 - (b) grant him bail in accordance with the Bail Act 1976 subject to a duty (or, in Northern Ireland, cause him to give bail) to appear before that magistrates' court.
- (8) If the accused is not present before the court, the court shall as circumstances require issue a summons for his attendance, or a warrant to apprehend him and bring him before a magistrates' court.
- (9) The magistrates' court before whom he attends or is brought shall—
- (a) if the offence is an indictable offence, on proof only of the summons or warrant and the identity of the accused, commit him for trial; and

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(b) if the offence is not an indictable offence, proceed to try the case or, if the magistrates' court is not the court before which he is directed to be prosecuted, order him to be brought before that court,
and sections 18 to 23 and 25 and 26 of the Magistrates' Courts Act 1980 shall (in either case) not apply.

(10) This section does not apply in Scotland.

172 Election petition offences in Scotland

- (1) If at the trial in Scotland of an election petition the election court grants a-warrant for the apprehension, commitment or citation of any person suspected of being guilty of a corrupt or illegal practice, the case shall be reported to the Lord Advocate in order that that person may be brought to trial before the High Court of Justiciary or the sheriff principal according to the nature of the case.
- (2) It is the duty of the advocate depute or, in his absence, the procurator-fiscal, if it appears to him that a corrupt or illegal practice has been committed by any person who has not received a certificate of indemnity, to report the case to the Lord Advocate with a view to that person being brought to trial before the proper court, although no warrant may have been issued by the election court.
- (3) All prosecutions directed to be tried in the sheriff court shall be tried by the sheriff principal.
- (4) Any criminal court in Scotland, before which a prosecution is instituted on indictment for a corrupt practice, may order the accused to pay to the prosecutor the prosecutor's reasonable costs of the prosecution.

173 Incapacities on conviction of corrupt or illegal practice

Subject to the provisions of section 174 below, but in addition to any punishment as provided by the above provisions—

- (a) a person convicted of a corrupt practice on indictment or by an election court shall be subject to the incapacities imposed by section 160(4) above as if at the date of the conviction he had been reported personally guilty of that corrupt practice ; and
- (b) a person convicted of an illegal practice shall be subject to the incapacities imposed by section 160(5) as if at the date of the conviction he had been reported personally guilty of that illegal practice.