| **Area** | **Appeal from** | **Appeal to** | **Circumstances** | **Leave requirement** | **Reference** |
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| Criminal – Overview | Remember: All preliminary inquiries are in the OCJ; and there are never preliminary inquiries for OCJ trials.Bail pending appeal: application is made to single judge of the CA – see 395-c/d, 396-a/b, 397-d  |  |
| Criminal | **Indictable proceedings**, whether tried in Court of Justice or SCJ | CA | **By accused** – **conviction** Law alone | No – by right | s. 675(1)(a)(i) |
| Criminal | **Indictable proceedings**, whether tried in Court of Justice or SCJ | CA | **By accused** – **conviction** Fact or mixed fact or law | With leave - CA (court) or CA (judge) | s. 675(1)(a)(ii) |
| Criminal | **Indictable proceedings**, whether tried in Court of Justice or SCJ | CA | **By accused** – **conviction** “any ground that appears sufficient” | With leave - CA (court) | s. 675(1)(a)(iii) |
| Criminal | **Indictable proceedings**, whether tried in Court of Justice or SCJ | CA | **By accused** – **sentence** (unless sentence fixed by law) | With leave - CA (court) or CA (judge) | s. 675(1)(b) |
| Criminal | **Indictable proceedings**, whether tried in Court of Justice or SCJ | CA | **By crown – acquittal**Law alone *only*; acquittal includes conviction on lesser included offence | No – by right | ss. 676(1)(a), 676(2) |
| Criminal | **Indictable proceedings**, whether tried in Court of Justice or SCJ | CA | **By crown – order**Where order quashing, or failing to exercise jurisdiction on, indictment | No – by right | s. 676(1)(b) |
| Criminal | **Indictable proceedings**, whether tried in Court of Justice or SCJ | CA | **By crown – order**Where order by trial court quashing, or staying proceedings on, indictment | No – by right | s. 676(1)(c) |
| Criminal | **Indictable proceedings**, whether tried in Court of Justice or SCJ | CA | **By crown – sentence**(unless sentence fixed by law) | With leave - CA (court) or CA (judge) | s. 676(1)(d) |
| Criminal | From **CA** appeal of **Indictable proceedings**, whether tried in Court of Justice or SCJ | SCC | Law alone | With leave (‘vast majority of cases’) or without leave (‘very limited circumstances’) | ss. 691-695 |
| Criminal | **Summary proceedings**, when tried and appealed along with an **indictable offence** | CA | **By accused- convictions or sentences**- from both summary and indictable offences that arose out of the same circumstances and were dealt with before the same judge | With leave - CA court or CA judge | s. 675(1.1) |
| Criminal | **Summary** (Court of Justice) | SCJ | **By accused –** conviction, order, or sentence; on anything (fact, mixed fact & law, law) | No – by right | s. 813(a) |
| Criminal | **Summary** (Court of Justice) | SCJ | **By Crown –** acquittal, stay of proceedings, or sentence; on anything (fact, mixed fact & law, law) | No – by right | s. 813(b) |
| Criminal | **Summary** (Court of Justice) | SCJ | **By Crown *or* accused** – law alone, excess of jurisdiction, or refusal or failure to exercise jurisdiction by trial judge-by doing so, deemed to have abandoned right of appeal under s. 813 | No – by right  | s. 830 |
| Criminal | From **SCJ** appeal of **Summary** (Court of Justice) | CA | **By Crown *or* accused** – law alone | With leave - CA (court) or CA (judge) | s. 839 |
| Criminal - Timing | OCJ → SCJ: Serve NoApp w/in 30 days after **final** orderSCJ → *x*: File NoApp w/in 30 days after **final** order + must perfect w/in 90 days after delivery of the transcript to the CA |  |

Reviews / applications to quash etc. (not appeal)

 Justice = JP or Ont. Court of Justice judge

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| **Review of** | **Review by** | **Issue** | ***Code* section** |
| JP | SCJ | Swearing of an information – (1) does informant have reasonable grounds; (2) summons or warrant | - |
| Justice | SCJ | Issuance of search warrants (to quash) | - |
| SCJ | SCJ | Application to set aside (rare) search warrant issued by SCJ (b/c quashing not available to SCJ judge) | - |
| Justice | SCJ | Bail for non-469 offence | s. 520 (review by accused)s. 521 (review by prosecutor) |
| SCJ | CA | 522(2) bail for 469 offence- application for direction must be made to the CJ of the OCA; can also be reviewed by the TJ or a judge of the SCJ on consent of Cr and accused | s. 680 |
| Justice | SCJ | Committal order (to stand trial) from preliminary inquiry or Discharge – application to quash (based on justice exceeding jurisdiction) – must be brought within 30 days of order to stand | - |
| CA judge | CA | Bail pending appeal – application to CJ of CA; if allowed then by CA panel. | s. 680 |

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| **s. 469**.Trial w/ judge and jury unless AG consents to judge alone**Every court of criminal jurisdiction** has jurisdiction to try an indictable offence **other than**(a) an offence under any of the following sections: (i) section 47 (**treason**), (ii) section 49 (**alarming Her Majesty**), (iii) section 51 (**intimidating Parliament or a legislature**), (iv) section 53 (**inciting to mutiny**), (v) section 61 (**seditious offences**), (vi) section 74 (**piracy**), (vii) section 75 (**piratical acts**), or (viii) section 235 (**murder**);*Accessories*(b) the offence of being an accessory after the fact to high treason or treason or murder;(c) an offence under section 119 (bribery) by the holder of a judicial office;*Crimes against humanity*(c.1) an offence under any of sections 4 to 7 of the Crimes Against Humanity and War Crimes Act;*Attempts*(d) the offence of attempting to commit any offence mentioned in subparagraphs (a)(i) to (vii); or*Conspiracy*(e) the offence of conspiring to commit any offence mentioned in paragraph (a). | **s. 553**.If subject matter is testamentary instrument or value in excess of $5,000, accused must have option of preliminary hearing and trial before SCJThe **jurisdiction** of a **provincial court judge**, or in Nunavut, of a judge of the Nunavut Court of Justice, to try an accused **is absolute** and does not depend on the consent of the accused where the accused is charged in an information(a) with(i) theft, other than theft of cattle,(ii) obtaining money or property by false pretences,(iii) unlawfully having in his possession any property or thing or any proceeds of any property or thing knowing that all or a part of the property or thing or of the proceeds was obtained by or derived directly or indirectly from the commission in Canada of an offence punishable by indictment or an act or omission anywhere that, if it had occurred in Canada, would have constituted an offence punishable by indictment,(iv) having, by deceit, falsehood or other fraudulent means, defrauded the public or any person, whether ascertained or not, of any property, money or valuable security, or(v) mischief under subsection 430(4),where the subject-matter of the offence is not a testamentary instrument and the alleged value of the subject-matter of the offence *does not exceed five thousand dollars*;(b) with counselling or with a conspiracy or attempt to commit or with being an accessory after the fact to the commission of(i) any offence referred to in paragraph (a) in respect of the subject-matter and value thereof referred to in that paragraph, or(ii) any offence referred to in paragraph (c); or(c) with an offence under(i) section 201 (keeping gaming or betting house),(ii) section 202 (betting, pool-selling, book-making, etc.),(iii) section 203 (placing bets),(iv) section 206 (lotteries and games of chance),(v) section 209 (cheating at play),(vi) section 210 (keeping common bawdy-house),(vii) [Repealed, 2000, c. 25, s. 4](viii) section 393 (fraud in relation to fares),(viii.01) section 490.031 (failure to comply with order or obligation),(viii.02) section 490.0311 (providing false or misleading information),(viii.1) section 811 (breach of recognizance),(ix) subsection 733.1(1) (failure to comply with probation order),(x) paragraph 4(4)(a) of the Controlled Drugs and Substances Act, or(xi) subsection 5(4) of the Controlled Drugs and Substances Act. |
| Residual - Trial by **provincial court** judge **with consent**OCJ (w/ accused consent) → no prelim.No election (accused) → deemed trial & jury in SCJElection (accused) for SCJ → accused & Cr have option of OCJ prelim inquiry**s. 554**. (1) Subject to subsection (2), if an accused is charged in an information with an indictable offence **other than an offence that is mentioned in section 469**, and the **offence is not one over which a provincial court judge has absolute jurisdiction** under section **553**, a provincial court judge may try the accused **if the accused elects** to be tried by a provincial court judge.... |