



Criminal Justice Act 1988

1988 CHAPTER 33

^{F1F1}PART II

DOCUMENTARY EVIDENCE IN CRIMINAL PROCEEDINGS

26 Statements in documents that appear to have been prepared for purposes of criminal proceedings or investigations.

Where a statement which is admissible in criminal proceedings by virtue of section 23 or 24 above appears to the court to have been prepared, otherwise than in accordance with [^{F1}section 7 of the Crime (International Co-operation) Act 2003] or an order under paragraph 6 of Schedule 13 to this Act or under section 30 or 31 below, for the purposes—

- (a) of pending or contemplated criminal proceedings; or
- (b) of a criminal investigation,

the statement shall not be given in evidence in any criminal proceedings without the leave of the court, and the court shall not give leave unless it is of the opinion that the statement ought to be admitted in the interests of justice; and in considering whether its admission would be in the interests of justice, it shall be the duty of the court to have regard—

- (i) to the contents of the statement;
- (ii) to any risk, having regard in particular to whether it is likely to be possible to controvert the statement if the person making it does not attend to give oral evidence in the proceedings, that its admission or exclusion will result in unfairness to the accused or, if there is more than one, to any of them; and
- (iii) to any other circumstances that appear to the court to be relevant.

^{F2F3}[This section shall not apply to proceedings before a magistrates' court inquiring into an offence as examining justices.]

Status: Point in time view as at 05/11/2012. This version of this provision has been superseded.

Changes to legislation: Criminal Justice Act 1988, Section 26 is up to date with all changes known to be in force on or before 02 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

- F1** Words in s. 26 substituted (26.4.2004) by **Crime (International Co-operation) Act 2003 (c. 32), ss. 91, 94, Sch. 5 para. 15; S.I. 2004/786, art. 3(2)** (with S.I. 2004/787, **art. 3(3)**)
- F2** Words in s. 26 inserted (4.7.1996 with effect as mentioned in **Sch. 1 Pt. III para. 39** of the amending Act) by 1996 c. 25, s. 47, **Sch. 1 Pt. II para.30, Pt. III para. 39** (with s. 78(1)); S.I. 1997/683, **art. 1(2)**
- F3** Words in s. 26 repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by **Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 3 para. 60(4), Sch. 37 Pt. 4; S.I. 2012/1320, art. 4(1)(c)(d)(2)(3)** (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3)(c)(d), **Sch. (with arts. 3, 4)** (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(c)

Status:

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