



Criminal Procedure and Investigations Act 1996

1996 CHAPTER 25

PART III

PREPARATORY HEARINGS

Introduction

28 Introduction.

- (1) This Part applies in relation to an offence if—
 - (a) on or after the appointed day the accused is committed for trial [F¹, or sent for trial under section 51 of the Crime and Disorder Act 1998,] for the offence concerned,
 - (b) proceedings for the trial on the charge concerned are transferred to the Crown Court on or after the appointed day, or
 - (c) a bill of indictment relating to the offence is preferred on or after the appointed day under the authority of section 2(2)(b) of the ^{M1}Administration of Justice (Miscellaneous Provisions) Act 1933 (bill preferred by direction of Court of Appeal, or by direction or with consent of a judge).
- (2) References in subsection (1) to the appointed day are to such day as is appointed for the purposes of this section by the Secretary of State by order.
- (3) If an order under this section so provides, this Part applies only in relation to the Crown Court sitting at a place or places specified in the order.
- (4) References in this Part to the prosecutor are to any person acting as prosecutor, whether an individual or a body.

Status: Point in time view as at 05/04/2004.

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Subordinate Legislation Made

P1 S. 28(2) power wholly exercised (21.3.1997): 15.4.1997 appointed day by [S.I. 1997/1019](#).

Textual Amendments

F1 Words in [s. 28\(1\)\(a\)](#) inserted by [1998 c. 37, s. 119](#), [Sch. 8 para.128](#) (the insertion being in force 4.1.1999 for the purposes as referred to in [S.I. 1998/2327, art. 4\(2\)\(c\)](#), [Sch. 2](#) and being otherwise *prosp.*).

Marginal Citations

M1 [1933 c. 36](#).

Preparatory hearings

29 Power to order preparatory hearing.

- (1) Where it appears to a judge of the Crown Court that an indictment reveals a case of such complexity, or a case whose trial is likely to be of such length, that substantial benefits are likely to accrue from a hearing—
 - (a) before the jury are sworn, and
 - (b) for any of the purposes mentioned in subsection (2),
 he may order that such a hearing (in this Part referred to as a preparatory hearing) shall be held.
- (2) The purposes are those of—
 - (a) identifying issues which are likely to be material to the verdict of the jury;
 - (b) assisting their comprehension of any such issues;
 - (c) expediting the proceedings before the jury;
 - (d) assisting the judge’s management of the trial.
- (3) No order may be made under subsection (1) where it appears to a judge of the Crown Court that the evidence on an indictment reveals a case of fraud of such seriousness or complexity as is mentioned in section 7(1) of the ^{M2}Criminal Justice Act 1987 (preparatory hearings in cases of serious or complex fraud).
- (4) A judge may make an order under subsection (1)—
 - (a) on the application of the prosecutor,
 - (b) on the application of the accused or, if there is more than one, any of them, or
 - (c) of the judge’s own motion.

Marginal Citations

M2 [1987 c. 38](#).

30 Start of trial and arraignment.

- If a judge orders a preparatory hearing—
- (a) the trial shall start with that hearing, and

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- (b) arraignment shall take place at the start of that hearing, unless it has taken place before then.

31 The preparatory hearing.

- (1) At the preparatory hearing the judge may exercise any of the powers specified in this section.
- (2) The judge may adjourn a preparatory hearing from time to time.
- (3) He may make a ruling as to—
 - (a) any question as to the admissibility of evidence;
 - (b) any other question of law relating to the case.
- (4) He may order the prosecutor—
 - (a) to give the court and the accused or, if there is more than one, each of them a written statement (a case statement) of the matters falling within subsection (5);
 - (b) to prepare the prosecution evidence and any explanatory material in such a form as appears to the judge to be likely to aid comprehension by the jury and to give it in that form to the court and to the accused or, if there is more than one, to each of them;
 - (c) to give the court and the accused or, if there is more than one, each of them written notice of documents the truth of the contents of which ought in the prosecutor's view to be admitted and of any other matters which in his view ought to be agreed;
 - (d) to make any amendments of any case statement given in pursuance of an order under paragraph (a) that appear to the judge to be appropriate, having regard to objections made by the accused or, if there is more than one, by any of them.
- (5) The matters referred to in subsection (4)(a) are—
 - (a) the principal facts of the case for the prosecution;
 - (b) the witnesses who will speak to those facts;
 - (c) any exhibits relevant to those facts;
 - (d) any proposition of law on which the prosecutor proposes to rely;
 - (e) the consequences in relation to any of the counts in the indictment that appear to the prosecutor to flow from the matters falling within paragraphs (a) to (d).
- (6) Where a judge has ordered the prosecutor to give a case statement and the prosecutor has complied with the order, the judge may order the accused or, if there is more than one, each of them—
 - (a) to give the court and the prosecutor a written statement setting out in general terms the nature of his defence and indicating the principal matters on which he takes issue with the prosecution;
 - (b) to give the court and the prosecutor written notice of any objections that he has to the case statement;
 - (c) to give the court and the prosecutor written notice of any point of law (including any point as to the admissibility of evidence) which he wishes to take, and any authority on which he intends to rely for that purpose.
- (7) Where a judge has ordered the prosecutor to give notice under subsection (4)(c) and the prosecutor has complied with the order, the judge may order the accused or, if

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there is more than one, each of them to give the court and the prosecutor a written notice stating—

- (a) the extent to which he agrees with the prosecutor as to documents and other matters to which the notice under subsection (4)(c) relates, and
 - (b) the reason for any disagreement.
- (8) A judge making an order under subsection (6) or (7) shall warn the accused or, if there is more than one, each of them of the possible consequence under section 34 of not complying with it.
- (9) If it appears to a judge that reasons given in pursuance of subsection (7) are inadequate, he shall so inform the person giving them and may require him to give further or better reasons.
- (10) An order under this section may specify the time within which any specified requirement contained in it is to be complied with.
- (11) An order or ruling made under this section shall have effect throughout the trial, unless it appears to the judge on application made to him that the interests of justice require him to vary or discharge it.

Modifications etc. (not altering text)

C1 S. 31(3) modified (4.9.1998) by 1977 c. 45, s. 1A(10)(b) (as inserted (4.9.1998) by 1998 c. 40, s. 5(1))

32 Orders before preparatory hearing.

- (1) This section applies where—
- (a) a judge orders a preparatory hearing, and
 - (b) he decides that any order which could be made under section 31(4) to (7) at the hearing should be made before the hearing.
- (2) In such a case—
- (a) he may make any such order before the hearing (or at the hearing), and
 - (b) section 31(4) to (11) shall apply accordingly.

33 Crown Court Rules.

- (1) Crown Court Rules may provide that except to the extent that disclosure is required—
- (a) by rules under section 81 of the ^{M3}Police and Criminal Evidence Act 1984 (expert evidence), or
 - (b) by section 5(7) of this Act,
- anything required to be given by an accused in pursuance of a requirement imposed under section 31 need not disclose who will give evidence.
- (2) Crown Court Rules may make provision as to the minimum or maximum time that may be specified under section 31(10).

Marginal Citations

M3 1984 c. 60.

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34 Later stages of trial.

- (1) Any party may depart from the case he disclosed in pursuance of a requirement imposed under section 31.
- (2) Where—
 - (a) a party departs from the case he disclosed in pursuance of a requirement imposed under section 31, or
 - (b) a party fails to comply with such a requirement,the judge or, with the leave of the judge, any other party may make such comment as appears to the judge or the other party (as the case may be) to be appropriate and the jury may draw such inference as appears proper.
- (3) In deciding whether to give leave the judge shall have regard—
 - (a) to the extent of the departure or failure, and
 - (b) to whether there is any justification for it.
- (4) Except as provided by this section no part—
 - (a) of a statement given under section 31(6)(a), or
 - (b) of any other information relating to the case for the accused or, if there is more than one, the case for any of them, which was given in pursuance of a requirement imposed under section 31,may be disclosed at a stage in the trial after the jury have been sworn without the consent of the accused concerned.

Appeals

35 Appeals to Court of Appeal.

- (1) An appeal shall lie to the Court of Appeal from any ruling of a judge under section 31(3), but only with the leave of the judge or of the Court of Appeal.
- (2) The judge may continue a preparatory hearing notwithstanding that leave to appeal has been granted under subsection (1), but no jury shall be sworn until after the appeal has been determined or abandoned.
- (3) On the termination of the hearing of an appeal, the Court of Appeal may confirm, reverse or vary the decision appealed against.
- (4) Subject to rules of court made under section 53(1) of the ^{M4}Supreme Court Act 1981 (power by rules to distribute business of Court of Appeal between its civil and criminal divisions)—
 - (a) the jurisdiction of the Court of Appeal under subsection (1) above shall be exercised by the criminal division of the court;
 - (b) references in this Part to the Court of Appeal shall be construed as references to that division.

Marginal Citations

M4 1981 c. 54.

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36 Appeals to House of Lords.

- (1) In the ^{M5}Criminal Appeal Act 1968, in—
 - (a) section 33(1) (right of appeal to House of Lords), and
 - (b) section 36 (bail),
 after “1987” there shall be inserted “ or section 35 of the Criminal Procedure and Investigations Act 1996 ”.
- (2) The judge may continue a preparatory hearing notwithstanding that leave to appeal has been granted under Part II of the Criminal Appeal Act 1968, but no jury shall be sworn until after the appeal has been determined or abandoned.

Marginal Citations

M5 1968 c. 19.

Reporting restrictions

37 Restrictions on reporting.

- (1) Except as provided by this section—
 - (a) no written report of proceedings falling within subsection (2) shall be published in Great Britain;
 - (b) no report of proceedings falling within subsection (2) shall be included in a relevant programme for reception in Great Britain.
- (2) The following proceedings fall within this subsection—
 - (a) a preparatory hearing;
 - (b) an application for leave to appeal in relation to such a hearing;
 - (c) an appeal in relation to such a hearing.
- (3) The judge dealing with a preparatory hearing may order that subsection (1) shall not apply, or shall not apply to a specified extent, to a report of—
 - (a) the preparatory hearing, or
 - (b) an application to the judge for leave to appeal to the Court of Appeal under section 35(1) in relation to the preparatory hearing.
- (4) The Court of Appeal may order that subsection (1) shall not apply, or shall not apply to a specified extent, to a report of —
 - (a) an appeal to the Court of Appeal under section 35(1) in relation to a preparatory hearing,
 - (b) an application to that Court for leave to appeal to it under section 35(1) in relation to a preparatory hearing, or
 - (c) an application to that Court for leave to appeal to the House of Lords under Part II of the ^{M6}Criminal Appeal Act 1968 in relation to a preparatory hearing.
- (5) The House of Lords may order that subsection (1) shall not apply, or shall not apply to a specified extent, to a report of—
 - (a) an appeal to that House under Part II of the Criminal Appeal Act 1968 in relation to a preparatory hearing, or

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- (b) an application to that House for leave to appeal to it under Part II of the Criminal Appeal Act 1968 in relation to a preparatory hearing.
- (6) Where there is only one accused and he objects to the making of an order under subsection (3), (4) or (5) the judge or the Court of Appeal or the House of Lords shall make the order if (and only if) satisfied after hearing the representations of the accused that it is in the interests of justice to do so; and if the order is made it shall not apply to the extent that a report deals with any such objection or representations.
- (7) Where there are two or more accused and one or more of them objects to the making of an order under subsection (3), (4) or (5) the judge or the Court of Appeal or the House of Lords shall make the order if (and only if) satisfied after hearing the representations of each of the accused that it is in the interests of justice to do so; and if the order is made it shall not apply to the extent that a report deals with any such objection or representations.
- (8) Subsection (1) does not apply to—
- (a) the publication of a report of a preparatory hearing,
 - (b) the publication of a report of an appeal in relation to a preparatory hearing or of an application for leave to appeal in relation to such a hearing,
 - (c) the inclusion in a relevant programme of a report of a preparatory hearing, or
 - (d) the inclusion in a relevant programme of a report of an appeal in relation to a preparatory hearing or of an application for leave to appeal in relation to such a hearing,
- at the conclusion of the trial of the accused or of the last of the accused to be tried.
- (9) Subsection (1) does not apply to a report which contains only one or more of the following matters—
- (a) the identity of the court and the name of the judge;
 - (b) the names, ages, home addresses and occupations of the accused and witnesses;
 - (c) the offence or offences, or a summary of them, with which the accused is or are charged;
 - (d) the names of counsel and solicitors in the proceedings;
 - (e) where the proceedings are adjourned, the date and place to which they are adjourned;
 - (f) any arrangements as to bail;
 - [^{F2}(g) whether a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service was granted to the accused or any of the accused.]
- (10) The addresses that may be published or included in a relevant programme under subsection (9) are addresses—
- (a) at any relevant time, and
 - (b) at the time of their publication or inclusion in a relevant programme;
- and “relevant time” here means a time when events giving rise to the charges to which the proceedings relate occurred.
- (11) Nothing in this section affects any prohibition or restriction imposed by virtue of any other enactment on a publication or on matter included in a programme.
- (12) In this section—

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- (a) “publish”, in relation to a report, means publish the report, either by itself or as part of a newspaper or periodical, for distribution to the public;
- (b) expressions cognate with “publish” shall be construed accordingly;
- (c) “relevant programme” means a programme included in a programme service, within the meaning of the ^{M7}Broadcasting Act 1990.

Textual Amendments

F2 S. 37(9)(g) substituted (2.4.2001) by 1999 c. 22, s. 24, **Sch. 4 para. 49** (with Sch. 14 para. 14(2)); S.I. 2001/916, **art. 3(a)(ii)** (with transitional provisions and savings in Sch. 2 para. 2)

Marginal Citations

M6 1968 c. 19.

M7 1990 c. 42.

38 Offences in connection with reporting.

- (1) If a report is published or included in a relevant programme in contravention of section 37 each of the following persons is guilty of an offence—
 - (a) in the case of a publication of a written report as part of a newspaper or periodical, any proprietor, editor or publisher of the newspaper or periodical;
 - (b) in the case of a publication of a written report otherwise than as part of a newspaper or periodical, the person who publishes it;
 - (c) in the case of the inclusion of a report in a relevant programme, any body corporate which is engaged in providing the service in which the programme is included and any person having functions in relation to the programme corresponding to those of an editor of a newspaper.
- (2) A person guilty of an offence under this section is liable on summary conviction to a fine of an amount not exceeding level 5 on the standard scale.
- (3) Proceedings for an offence under this section shall not be instituted in England and Wales otherwise than by or with the consent of the Attorney General.
- (4) Subsection (12) of section 37 applies for the purposes of this section as it applies for the purposes of that.

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