



# Criminal Procedure and Investigations Act 1996

## 1996 CHAPTER 25

### PART III

#### PREPARATORY HEARINGS

##### *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, [<sup>F1</sup>a case of such seriousness] or a case whose trial is likely to be of such length, that substantial benefits are likely to accrue from a hearing—

- (a) before [<sup>F2</sup>the time when 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.

[<sup>F3</sup>(1A) A judge of the Crown Court may also order that a preparatory hearing shall be held if an application to which section 45 of the Criminal Justice Act 2003 applies (application for trial without jury) is made.]

[<sup>F4</sup>(1B) An order that a preparatory hearing shall be held must be made by a judge of the Crown Court in every case which (whether or not it falls within subsection (1) or (1A)) is a case in which at least one of the offences charged by the indictment against at least one of the persons charged is a terrorism offence.

(1C) An order that a preparatory hearing shall be held must also be made by a judge of the Crown court in every case which (whether or not it falls within subsection (1) or (1A)) is a case in which—

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- (a) at least one of the offences charged by the indictment against at least one of the persons charged is an offence carrying a maximum of at least 10 years' imprisonment; and
  - (b) it appears to the judge that evidence on the indictment reveals that conduct in respect of which that offence is charged had a terrorist connection.]
- (2) The purposes are those of—
- [<sup>F5</sup>(a) identifying issues which are likely to be material to the determinations and findings which are likely to be required during the trial,
  - (b) if there is to be a jury, assisting their comprehension of those issues and expediting the proceedings before them,
  - (c) determining an application to which section 45 of the Criminal Justice Act 2003 applies,]
  - (d) assisting the judge's management of the trial.
  - [<sup>F6</sup>(e) considering questions as to the severance or joinder of charges,]
- [<sup>F7</sup>(3) In a case in which it appears to a judge of the Crown Court that evidence on an indictment reveals a case of fraud of such seriousness or complexity as is mentioned in section 7 of the Criminal Justice Act 1987 (preparatory hearings in cases of serious or complex fraud)—
- (a) the judge may make an order for a preparatory hearing under this section only if he is required to do so by subsection (1B) or (1C);
  - (b) before making an order in pursuance of either of those subsections, he must determine whether to make an order for a preparatory hearing under that section; and
  - (c) he is not required by either of those subsections to make an order for a preparatory hearing under this section if he determines that an order should be made for a preparatory hearing under that section;
- and, in a case in which an order is made for a preparatory hearing under that section, requirements imposed by those subsections apply only if that order ceases to have effect.]
- (4) [<sup>F8</sup>An order that a preparatory hearing shall be held may be made—]
- (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.
- [<sup>F9</sup>(5) The reference in subsection (1)(a) to the time when the jury are sworn includes the time when the jury would be sworn but for the making of an order under Part 7 of the Criminal Justice Act 2003.]
- [<sup>F10</sup>(6) In this section 'terrorism offence' means—
- (a) an offence under section 11 or 12 of the Terrorism Act 2000 (c. 11)(offences relating to proscribed organisations);
  - (b) an offence under any of sections 15 to 18 of that Act (offences relating to terrorist property);
  - (c) an offence under section 38B of that Act (failure to disclose information about acts of terrorism);
  - (d) an offence under section 54 of that Act (weapons training);

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- (e) an offence under any of sections 56 to 59 of that Act (directing terrorism, possessing things and collecting information for the purposes of terrorism and inciting terrorism outside the United Kingdom);
  - (f) an offence in respect of which there is jurisdiction by virtue of section 62 of that Act (extra-territorial jurisdiction in respect of certain offences committed outside the United Kingdom for the purposes of terrorism etc.);
  - (g) an offence under Part 1 of the Terrorism Act 2006 (miscellaneous terrorist related offences);
  - (h) conspiring or attempting to commit a terrorism offence;
  - (i) incitement to commit a terrorism offence.
- (7) For the purposes of this section an offence carries a maximum of at least 10 years' imprisonment if—
- (a) it is punishable, on conviction on indictment, with imprisonment; and
  - (b) the maximum term of imprisonment that may be imposed on conviction on indictment of that offence is 10 years or more or is imprisonment for life.
- (8) For the purposes of this section conduct has a terrorist connection if it is or takes place in the course of an act of terrorism or is for the purposes of terrorism.
- (9) In subsection (8) 'terrorism' has the same meaning as in the Terrorism Act 2000 (see section 1 of that Act).]

#### Textual Amendments

- F1** Words in s. 29(1) inserted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), **ss. 309**, 336; S.I. 2005/950, **art. 2**
- F2** Words in s. 29(1)(a) substituted (24.7.2006) by [Criminal Justice Act 2003 \(c. 44\)](#), **ss. 331**, 336, **Sch. 36 Pt. 4 para. 66(1)(2)**; S.I. 2006/1835, **art. 2(h)** (subject to [art. 3](#))
- F3** S. 29(1A) inserted (24.7.2006) by [Criminal Justice Act 2003 \(c. 44\)](#), **ss. 45(6)**, 336; S.I. 2006/1835, **art. 2(c)** (subject to [art. 3](#))
- F4** S. 29(1B)(1C) inserted (13.4.2006) by [Terrorism Act 2006 \(c. 11\)](#), **ss. 16(2)**, 39(2); S.I. 2006/1013, **art. 2**
- F5** S. 29(2)(a)-(c) substituted (24.7.2006) by [Criminal Justice Act 2003 \(c. 44\)](#), **ss. 45(7)**, 336; S.I. 2006/1835, **art. 2(c)** (subject to [art. 3](#))
- F6** S. 29(2)(e) inserted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), **ss. 310(4)**, 336; S.I. 2005/950, **art. 2**
- F7** S. 29(3) substituted (13.4.2006) by [Terrorism Act 2006 \(c. 11\)](#), **ss. 16(3)**, 39(2); S.I. 2006/1013, **art. 2**
- F8** Words in s. 29(4) substituted (13.4.2006) by [Terrorism Act 2006 \(c. 11\)](#), **ss. 16(4)**, 39(2); S.I. 2006/1013, **art. 2**
- F9** S. 29(5) inserted (24.7.2006) by [Criminal Justice Act 2003 \(c. 44\)](#), **ss. 331**, 336, **Sch. 36 Pt. 4 para. 66(1)(3)**; S.I. 2006/1835, **art. 2(h)** (subject to [art. 3](#))
- F10** S. 29(6)-(9) inserted (13.4.2006) by [Terrorism Act 2006 \(c. 11\)](#), **ss. 16(5)**, 39(2); S.I. 2006/1013, **art. 2**

#### Modifications etc. (not altering text)

- C1** S. 29(1) modified (8.1.2007) by [Domestic Violence, Crime and Victims Act 2004 c. 28](#), **ss. 18(3)**, 60 (with **ss. 19(7)** and **21(2)**); S.I. 2006/3423, **art. 2(a)** (subject to [art. 3](#))
- C2** S. 29(2) modified (8.1.2007) by [Domestic Violence, Crime and Victims Act 2004 c. 28](#), **ss. 18(2)**, 60 (with **ss. 19(7)** and **21(2)**); S.I. 2006/3423, **art. 2(a)** (subject to [art. 3](#))
- C3** S. 29(6)(i) modified (1.10.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), **Sch. 6 para. 29** (with [Sch. 13 para. 5](#)); S.I. 2008/2504, **art. 2(a)**
- C4** S. 29(6)(i) modified (prosp.) by [Serious Crime Act 2007 \(c. 27\)](#), s. 63(1), **Sch. 6 para. 29**

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**30 Start of trial and arraignment.**

If a judge orders a preparatory hearing—

- (a) the trial shall start with that hearing, and
- (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.
  - [<sup>F11</sup>(c) any question as to the severance or joinder of charges.]
- (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 [<sup>F12</sup>a 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) <sup>F13</sup> .....
  - (b) to give the court and the prosecutor written notice of any objections that he has to the case statement;
  - (c) <sup>F13</sup> .....

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- (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 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.

#### Textual Amendments

- F11** S. 31(3)(c) inserted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), **ss. 310(5)**, 336; S.I. 2005/950, **art. 2**
- F12** Words in s. 31(4)(b) substituted (24.7.2006) by [Criminal Justice Act 2003 \(c. 44\)](#), **ss. 331**, **Sch. 36 Pt. 4 para. 67**, 336; S.I. 2006/1835, **art. 2** (subject to **art. 3**)
- F13** S. 31(6)(a)(c) repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), **ss. 331**, 332, **Sch. 36 Pt. 3 para. 36**, **Sch. 37**, 336; S.I. 2005/950, **art. 2**

#### Modifications etc. (not altering text)

- C5** 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 [<sup>F14</sup>Criminal Procedure Rules].

- (1) [<sup>F15</sup>Criminal Procedure Rules] may provide that except to the extent that disclosure is required—

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- (a) by rules under section 81 of the <sup>M1</sup>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) [<sup>F15</sup>Criminal Procedure Rules] may make provision as to the minimum or maximum time that may be specified under section 31(10).

#### Textual Amendments

- F14** S. 33 heading substituted (1.9.2004) by Courts Act 2003 (c. 39), ss. 109(1), 110, Sch. 8 para. 379(b); S.I. 2004/2066, art. 2, {with art. 3}
- F15** Words in s. 33(1)(2) substituted (1.9.2004) by Courts Act 2003 (c. 39), ss. 109(1), 110, Sch. 8 para. 379(a); S.I. 2004/2066, art. 2 (with art. 3)

#### Marginal Citations

- M1** 1984 c. 60.

### 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 [<sup>F16</sup>or, in the case of a trial without a jury, the judge] may draw such inference as appears proper.
- (3) In [<sup>F17</sup>doing anything under subsection (2) or in deciding whether to do anything under it] 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) [<sup>F18</sup>Except as provided by this section, in the case of a trial with a jury]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.

#### Textual Amendments

- F16** Words in s. 34(2) inserted (24.7.2006) by Criminal Justice Act 2003 (c. 44), ss. 331, 336, Sch. 36 Pt. 4 para. 68(1)(2); S.I. 2006/1835, {art. 2h} (subject to art. 3)

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- F17** Words in s. 34(3) substituted (24.7.2006) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 331, 336, [Sch. 36 Pt. 4 para. 68\(1\)\(3\)](#); S.I. 2006/1835, {art. 2h} (subject to art. 3)
- F18** Words in s. 34(4) substituted (24.7.2006) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 331, 336, [Sch. 36 Pt. 4 para. 68\(1\)\(4\)](#); S.I. 2006/1835, {art. 2h} (subject to art. 3)

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