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## SCHEDULES

### SCHEDULE 3 **E+W**

Section 45

#### PRE-TRIAL HEARINGS IN MAGISTRATES' COURTS

After section 8 of the 1980 Act, insert—

#### *“Pre-trial hearings*

#### **8A Power to make rulings at pre-trial hearing**

- (1) For the purposes of this section a hearing is a pre-trial hearing if—
  - (a) it relates to an information—
    - (i) which is to be tried summarily, and
    - (ii) to which the accused has pleaded not guilty, and
  - (b) it takes place before the start of the trial.
- (2) For the purposes of subsection (1)(b), the start of a summary trial occurs when the court begins—
  - (a) to hear evidence from the prosecution at the trial, or
  - (b) to consider whether to exercise its power under section 37(3) of the Mental Health Act 1983 (power to make hospital order without convicting the accused).
- (3) At a pre-trial hearing, a magistrates' court may make a ruling as to any matter mentioned in subsection (4) if—
  - (a) the condition in subsection (5) is met,
  - (b) the court has given the parties an opportunity to be heard, and
  - (c) it appears to the court that it is in the interests of justice to make the ruling.
- (4) The matters are—
  - (a) any question as to the admissibility of evidence;
  - (b) any other question of law relating to the case.
- (5) The condition is that, if the accused is not legally represented, the court must—
  - (a) ask whether he wishes to be granted a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service, and
  - (b) if he does, decide whether or not to grant him that right.
- (6) A ruling may be made under this section—
  - (a) on an application by a party to the case, or
  - (b) of the court's own motion.
- (7) For the purposes of this section and section 8B, references to the prosecutor are to any person acting as prosecutor, whether an individual or body.

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## **8B Effect of rulings at pre-trial hearing**

- (1) Subject to subsections (3) and (6), a ruling under section 8A has binding effect from the time it is made until the case against the accused or, if there is more than one, against each of them, is disposed of.
- (2) The case against an accused is disposed of if—
  - (a) he is acquitted or convicted,
  - (b) the prosecutor decides not to proceed with the case against him, or
  - (c) the information is dismissed.
- (3) A magistrates' court may discharge or vary (or further vary) a ruling under section 8A if—
  - (a) the condition in section 8A(5) is met,
  - (b) the court has given the parties an opportunity to be heard, and
  - (c) it appears to the court that it is in the interests of justice to do so.
- (4) The court may act under subsection (3)—
  - (a) on an application by a party to the case, or
  - (b) of its own motion.
- (5) No application may be made under subsection (4)(a) unless there has been a material change of circumstances since the ruling was made or, if a previous application has been made, since the application (or last application) was made.
- (6) A ruling under section 8A is discharged in relation to an accused if—
  - (a) the magistrates' court commits or sends him to the Crown Court for trial for the offence charged in the information, or
  - (b) a count charging him with the offence is included in an indictment by virtue of section 40 of the Criminal Justice Act 1988.

## **8C Restrictions on reporting**

- (1) Except as provided by this section no report of matters falling within subsection (2) may be published in England and Wales.
- (2) The following matters fall within this subsection—
  - (a) a ruling under section 8A;
  - (b) proceedings on an application for a ruling under section 8A;
  - (c) an order under section 8B that a ruling under section 8A be discharged, varied or further varied;
  - (d) proceedings on an application under section 8B for a ruling under section 8A to be discharged, varied or further varied.
- (3) A magistrates' court dealing with any matter falling within subsection (2) may order that subsection (1) does not apply, or does not apply to a specified extent, to a report of the matter.
- (4) Where there is only one accused and he objects to the making of an order under subsection (3)—
  - (a) the court may 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

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- (b) if the order is made, it shall not apply to the extent that a report deals with any such objection or representations.
- (5) Where there are two or more accused and one or more of them objects to the making of an order under subsection (3)—
- (a) the court may 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
  - (b) if the order is made, it shall not apply to the extent that a report deals with any such objection or representations.
- (6) Subsection (1) does not apply to the publication of a report of matters after the case against the accused or, if more than one, against each of them, is disposed of.
- (7) 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 names of the justices;
  - (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 or any of the accused 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;
  - (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.
- (8) The addresses that may be included in a report by virtue of subsection (7) are addresses—
- (a) at any relevant time, and
  - (b) at the time of their inclusion in the publication.
- (9) In subsection (8), “relevant time” means a time when events giving rise to the charges to which the proceedings relate are alleged to have occurred.
- (10) Nothing in this section affects any prohibition or restriction imposed by virtue of any other enactment on the publication of a report of any matter.
- (11) In this section and in section 8D—
- (a) references to publication of a report of matters falling within subsection (2)—
    - (i) include references to inclusion of those matters in any speech, writing, relevant programme or other communication in whatever form which is addressed to the public at large or any section of the public (and for this purpose every relevant programme is to be taken to be so addressed), but
    - (ii) do not include references to inclusion of those matters in a document prepared for use in particular legal proceedings;
  - (b) “relevant programme” means a programme included in a programme service, within the meaning of the Broadcasting Act 1990.

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## **8D Offences in connection with reporting**

- (1) If a report is published in contravention of section 8C each of the following persons is guilty of an offence—
  - (a) in the case of a publication of a report as part of a newspaper or periodical, any proprietor, editor or publisher of the newspaper or periodical;
  - (b) 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;
  - (c) in the case of any other publication, any person publishing it.
- (2) If an offence under this section committed by a body corporate is proved—
  - (a) to have been committed with the consent or connivance of, or
  - (b) to be attributable to any neglect on the part of,  
an officer, the officer as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.
- (3) In subsection (2), “officer” means a director, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity.
- (4) If the affairs of a body corporate are managed by its members, “director” in subsection (3) means a member of that body.
- (5) 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.
- (6) Proceedings for an offence under this section may not be instituted otherwise than by or with the consent of the Attorney General.”

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 75(6) inserted by [2022 c. 35 Sch. 4 para. 3\(2\)](#)
- s. 76(2B) inserted by [2010 c. 26 Sch. 3 para. 14](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 3 Pt. 2 repealed (4.9.2013) without ever being in force by [2013 c. 22](#), s. 17(4) ; S.I. 2013/2200 art. 2(a))
- s. 81(6) inserted by [2022 c. 35 Sch. 4 para. 3\(3\)](#)
- s. 85EA(5) words substituted by [2022 c. 32 Sch. 11 para. 29](#)
- Sch. 5 para. 13(1)(ca) inserted by [2013 c. 22 s. 26\(3\)](#)

**Commencement Orders yet to be applied to the Courts Act 2003**

Commencement Orders bringing provisions within this Act into force:

- [S.I. 2005/547 art. 2](#) commences ([2003 c. 39](#))