

Status: Point in time view as at 21/03/2005. This version of this schedule contains provisions that are not valid for this point in time.

Changes to legislation: Domestic Violence, Crime and Victims Act 2004, SCHEDULE 1 is up to date with all changes known to be in force on or before 04 September 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)

SCHEDULES

VALID FROM 08/01/2007

SCHEDULE 1

Section 21

MODIFICATION OF SECTIONS 17 TO 20 FOR NORTHERN IRELAND

1 For section 18 substitute—

“18 Procedure for applications under section 17

- (1) An application under section 17 must be determined—
 - (a) at a preparatory hearing (within the meaning of the 1988 Order), or
 - (b) at a hearing specified in, or for which provision is made by, Crown Court rules.
- (2) The parties to a hearing mentioned in subsection (1) at which an application under section 17 is to be determined must be given an opportunity to make representations with respect to the application.
- (3) Article 6(1) of the 1988 Order (which sets out the purposes of preparatory hearings) is to have effect as if the purposes there mentioned included the purpose of determining an application under section 17.
- (4) Article 8(11) of the 1988 Order (appeal to Court of Appeal) is to have effect as if it also provided for an appeal to the Court of Appeal to lie from the determination by a judge of an application under section 17.
- (5) In this section “the 1988 Order” means the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988.

18A Appeals in respect of hearings under section 18(1)(b)

- (1) An appeal shall lie to the Court of Appeal from the refusal by a judge at a hearing mentioned in section 18(1)(b) of an application under section 17 or from an order of a judge at such a hearing under section 17(2) which is made on the determination of such an application.
- (2) Such an appeal may be brought only with the leave of the judge or the Court of Appeal.
- (3) An order or a refusal of an application from which an appeal under this section lies is not to take effect—
 - (a) before the expiration of the period for bringing an appeal under this section, or

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- (b) if such an appeal is brought, before the appeal is finally disposed of or abandoned.
- (4) On the termination of the hearing of an appeal under this section, the Court of Appeal may—
 - (a) where the appeal is from an order, confirm or revoke the order, or
 - (b) where the appeal is from a refusal of an application, confirm the refusal or make the order which is the subject of the application.
- (5) In section 31(1) of the Criminal Appeal (Northern Ireland) Act 1980 (right of appeal to House of Lords) for “Act or” substitute “ Act, section 18A of the Domestic Violence, Crime and Victims Act 2004, ”.
- (6) In section 35 of that Act (bail) after “appeal under” insert “ section 18A of the Domestic Violence, Crime and Victims Act 2004, ”.
- (7) The Secretary of State may make an order containing provision, in relation to proceedings before the Court of Appeal under this section, which corresponds to any provision, in relation to appeals or other proceedings before that court, which is contained in the Criminal Appeal (Northern Ireland) Act 1980 (subject to any specified modifications).
- (8) A statutory instrument containing an order under subsection (7) is subject to annulment in pursuance of a resolution of either House of Parliament.

18B Reporting restrictions

- (1) Sections 41 and 42 of the Criminal Procedure and Investigations Act 1996 are to apply in relation to—
 - (a) a hearing of the kind mentioned in section 18(1)(b), and
 - (b) any appeal or application for leave to appeal relating to such a hearing,
 as they apply in relation to a ruling under section 40 of that Act, but subject to the following modifications.
- (2) Section 41(2) of that Act is to have effect as if for paragraphs (a) to (d) there were substituted—
 - “(a) a hearing of the kind mentioned in section 18(1)(b) of the Domestic Violence, Crime and Victims Act 2004;
 - (b) any appeal or application for leave to appeal relating to such a hearing.”
- (3) Section 41(3) of that Act is to have effect as if—
 - (a) for “(2)” there were substituted “ (2)(a) or an application to that judge for leave to appeal to the Court of Appeal ”, and
 - (b) after “matter”, in the second place where it occurs, there were inserted “ or application ”.
- (4) Section 41 of that Act is to have effect as if after subsection (3) there were inserted—
 - “(3A) 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 that Court, or

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(b) an application to that Court for leave to appeal.

(3B) 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, or

(b) an application to that House for leave to appeal.”

(5) Section 41(4) of that Act is to have effect as if for “(3) the judge” there were substituted “ (3), (3A) or (3B), the judge, the Court of Appeal or the House of Lords ”.

(6) Section 41(5) of that Act is to have effect as if for “(3) the judge” there were substituted “ (3), (3A) or (3B), the judge, the Court of Appeal or the House of Lords ”.”

2 In section 19(3) after “enactment” insert “ (including any provision of Northern Ireland legislation) ”.

3 In section 19(4)(b) for the words from “section” to “etc” substitute “ section 16(1) of the Criminal Appeal (Northern Ireland) Act 1980 (notice of appeal or application for leave) ”.

4 In section 19(5) for “section 18(2) of the Criminal Appeal Act 1968” substitute “ section 16(1) of the Criminal Appeal (Northern Ireland) Act 1980 ”.

5 For section 19(7) substitute—

“(7) Nothing in this section or section 17, 18, 18A, 18B or 20 affects the requirement under Article 49A of the Mental Health (Northern Ireland) Order 1986 that any question, finding or verdict mentioned in that Article be determined, made or returned by a jury.”

6 For section 20(2) substitute—

“(2) Without limiting subsection (1), rules of court may in particular make provision—

(a) for time limits within which applications under section 17 must be made or within which other things in connection with that section or sections 18 to 19 must be done;

(b) in relation to hearings of the kind mentioned in section 18(1)(b).”

7 In section 20(3)—

(a) after “section” insert “ or section 18(1)(b) ”;

(b) after “enactment” insert “ (including any provision of Northern Ireland legislation) ”.

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