



Criminal Justice Act 1987

1987 CHAPTER 38

PART I

FRAUD

Preparatory hearings

7 Power to order preparatory hearing.

(1) Where it appears to a judge of the Crown Court that the evidence on an indictment reveals a case of fraud of such [^{F1}seriousness or complexity] that substantial benefits are likely to accrue from a hearing (in this Act referred to as a “preparatory hearing”) before [^{F2}the time when the jury are sworn], for the purpose of—

- [^{F3}(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; [^{F4}or
- (e) considering questions as to the severance or joinder of charges,]

he may order that such a hearing shall be held.

(2) A judge may make an order under subsection (1) above on the application either of the prosecution or of the person indicted or, if the indictment charges a number of persons, any of them, or of his own motion.

[^{F5}(2A) The reference in subsection (1) above 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.]

[^{F6}(3) If a judge orders a preparatory hearing, he may also order the prosecution to prepare and serve any documents that appear to him to be relevant and whose service could

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be ordered at the preparatory hearing by virtue of this Part of this Act or Crown Court Rules.

(4) Where—

- (a) a judge has made an order under subsection (3) above; and
- (b) the prosecution have complied with it,

the judge may order the person indicted or, if the indictment charges a number of persons, any of them to prepare and serve any documents that appear to him to be relevant and whose service could be so ordered at the preparatory hearing.

(5) An order under this section may specify the time within which it is to be complied with, but Crown Court Rules may make provision as to the minimum or maximum time that may be specified for compliance.]

Textual Amendments

- F1** Words in s. 7(1) substituted (3.2.1995) by 1994 c. 33, s. 168(1), **Sch. 9 para. 30**; S.I. 1995/127, art. 2(1), **Sch. Appendix A**
- F2** Words in s. 7(1) substituted (24.7.2006) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 36 para. 53(2)**; S.I. 2006/1835, art. 2(h)
- F3** S. 7(1)(a)-(c) substituted (24.7.2006 for specified purposes) by Criminal Justice Act 2003 (c. 44), **ss. 45(4)**, 336(3)(4) (with s. 48(4)); S.I. 2006/1835, art. 2(c)
- F4** S. 7(1)(e) and word inserted (4.4.2005) by Criminal Justice Act 2003 (c. 44), **ss. 310(1)**, 336(3)(4); S.I. 2005/950, art. 2(1), **Sch. 1 para. 25** (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))
- F5** S. 7(2A) inserted (24.7.2006) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 36 para. 53(3)**; S.I. 2006/1835, art. 2(h)
- F6** S. 7(3)-(5) repealed (4.7.1996 with application (15.4.1997) as mentioned in Sch. 3 para. 8 of the repealing Act) by 1996 c. 25, **ss. 72, 80**, Sch. 3 para. 2, **Sch. 5 para. 2**, Table 12 (with s. 78(1)); S.I. 1997/1019, **art. 2**

Modifications etc. (not altering text)

- C1** S. 7(1) modified (8.1.2007) by Domestic Violence, Crime and Victims Act 2004 (c. 28), **ss. 18(2)**, 60 (with **ss. 19(7)**, 21(2)); S.I. 2006/3423, art. 2(a) (with art. 3)

8 Commencement of trial and arraignment.

- (1) If a judge orders a preparatory hearing, the trial shall begin with that hearing.
- (2) Arraignment shall accordingly take place at the start of the preparatory hearing.

9 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 determine—
 - ^{F7}(a)

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- [^{F8}(aa) a question arising under section 6 of the Criminal Justice Act 1993 (relevance of external law to certain charges of conspiracy, attempt and incitement);
 - (b) any question as to the admissibility of evidence; and
 - (c) any other question of law relating to the case; [^{F9}and
 - (d) any question as to the severance or joinder of charges.]
- (4) He may order the prosecution—
- (a) to supply the court and the defendant or, if there is more than one, each of them with a statement (a “case statement”) of the following—
 - (i) the principal facts of the prosecution case;
 - (ii) the witnesses who will speak to those facts;
 - (iii) any exhibits relevant to those facts;
 - (iv) any proposition of law on which the prosecution proposes to rely; and
 - (v) the consequences in relation to any of the counts in the indictment that appear to the prosecution to flow from the matters stated in pursuance of sub-paragraphs (i) to (iv) above;
 - (b) to prepare their evidence and other explanatory material in such a form as appears to him to be likely to aid comprehension by [^{F10}a jury] and to supply it in that form to the court and to the defendant or, if there is more than one, to each of them;
 - (c) to give the court and the defendant or, if there is more than one, each of them notice of documents the truth of the contents of which ought in the prosecution’s view to be admitted and of any other matters which in their view ought to be agreed;
 - (d) to make any amendments of any case statement supplied in pursuance of an order under paragraph (a) above that appear to the court to be appropriate, having regard to objections made by the defendant or, if there is more than one, by any of them.
- (5) Where—
- (a) a judge has ordered the prosecution to supply a case statement; and
 - (b) the prosecution have complied with the order,
- he may order the defendant or, if there is more than one, each of them—
- ^{F11}(i)
 - (ii) to give the court and the prosecution notice of any objections that he has to the case statement;
 - ^{F11}(iii)
 - (iv) to give the court and the prosecution a notice stating the extent to which he agrees with the prosecution as to documents and other matters to which a notice under subsection (4)(c) above relates and the reason for any disagreement.
- (6) [^{F12}Criminal Procedure Rules] may provide that except to the extent that disclosure is required—
- (a) by [^{F13}section 5(7) of the Criminal Procedure and Investigations Act 1996] (alibi); or
 - (b) by [^{F14}such rules made by virtue of] section 81 of the ^{M1}Police and Criminal Evidence Act 1984 (expert evidence),
- a summary required by virtue of subsection (5) above need not disclose who will give evidence.

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- (7) A judge making an order under subsection (5) above shall warn the defendant or, if there is more than one, all of them of the possible consequence under section 10 [F15(1)] below of not complying with it.
- (8) If it appears to a judge that reasons given in pursuance of subsection (5)(iv) above are inadequate, he shall so inform the person giving them, and may require him to give further or better reasons.
- (9) An order under this section may specify the time within which any specified requirement contained in it is to be complied with, but [F16Criminal Procedure Rules] may make provision as to the minimum or maximum time that may be specified for compliance.
- (10) An order or ruling made [F17under this section] shall have effect during the trial, unless it appears to the judge, on application made to him during the trial, that the interests of justice require him to vary or discharge it.
- (11) An appeal shall lie to the Court of Appeal from any order or ruling of a judge under subsection (3)(b) [F18(c) or (d)] above [F19from the refusal by a judge of an application to which section 45 of the Criminal Justice Act 2003 applies or from an order of a judge under section F20... 44 of that Act which is made on the determination of such an application,], but only with the leave of the judge or of the Court of Appeal.
- (12) Subject to rules of court made under section 53(1) of the M2[F21Senior Courts Act 1981] (power by rules to distribute business of Court of Appeal between its civil and criminal divisions), the jurisdiction of the Court of Appeal under subsection (11) above shall be exercised by the criminal division of the court; and the reference in that subsection to the Court of Appeal shall be construed as a reference to that division.
- (13) The judge may continue a preparatory hearing notwithstanding that leave to appeal has been granted under subsection (11) above, but [F22the preparatory hearing shall not be concluded] until after the appeal has been determined or abandoned.
- (14) On the termination of the hearing of an appeal, the Court of Appeal may confirm, reverse or vary the decision appealed against.

Textual Amendments

- F7** S. 9(3)(a) repealed by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 170, Sch. 8 para. 16, **Sch. 16**
- F8** S. 9(3)(aa) inserted (1.6.1999 with application as mentioned in s. 1(1) of the amending Act) by [1993 c. 36, s. 6\(8\)](#) (with s. 78(5)); [S.I. 1999/1189](#), **art. 2**
- F9** S. 9(3)(d) and word inserted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), **ss. 310(2)**, 336(3)(4); [S.I. 2005/950](#), **art. 2(1)**, **Sch. 1** para. 25 (with **Sch. 2**) (as explained (29.7.2005) by [S.I. 2005/2122](#), **art. 2**; and as amended: (14.7.2008) by [2008 c. 4](#), **Sch. 26** para. 78, **Sch. 28 Pt. 2**; [S.I. 2008/1586](#), **Sch. 1** paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), **art. 2**; (3.12.2012) by [S.I. 2012/2905](#), **art. 4**; (3.12.2012) by [2012 c. 10](#), **Sch. 14** para. 17; [S.I. 2012/2906](#), **art. 2(l)**)
- F10** Words in s. 9(4)(b) substituted (24.7.2006) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), **Sch. 36 para. 54(2)**; [S.I. 2006/1835](#), **art. 2(h)**
- F11** S. 9(5)(i)(iii) repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), **Sch. 36** para. 18, **Sch. 37 Pt. 3**; [S.I. 2005/950](#), **art. 2(1)**, **Sch. 1** paras. 43(a)44(2) (with **Sch. 2**) (as explained (29.7.2005) by [S.I. 2005/2122](#), **art. 2**; and as amended: (14.7.2008) by [2008 c. 4](#), **Sch. 26** para. 78, **Sch. 28 Pt. 2**; [S.I. 2008/1586](#), **Sch. 1** paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), **art. 2**; (3.12.2012) by [S.I. 2012/2905](#), **art. 4**; (3.12.2012) by [2012 c. 10](#), **Sch. 14** para. 17; [S.I. 2012/2906](#), **art. 2(l)**)

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- F12** Words in s. 9(6) substituted (1.9.2004) by [The Courts Act 2003 \(Consequential Amendments\) Order 2004 \(S.I. 2004/2035\)](#), art. 2(1), [Sch. para. 23\(2\)\(a\)](#) (with art. 2(2))
- F13** Words in s. 9(6)(a) substituted (4.7.1996 with application (1.4.1997) as mentioned in s. 74(5) of the amending Act) by [1996 c. 25, s. 74\(4\)](#) (with s. 78(1)); [S.I. 1997/682](#), [art. 2\(1\)\(a\)](#)
- F14** Words in s. 9(6)(b) substituted (1.9.2004) by [The Courts Act 2003 \(Consequential Amendments\) Order 2004 \(S.I. 2004/2035\)](#), art. 2(1), [Sch. para. 23\(2\)\(b\)](#) (with art. 2(2))
- F15** Word in s. 9(7) repealed (4.7.1996 with application (15.4.1997) as mentioned in Sch. 3 para. 8 of the repealing Act) by [1996 c. 25, s. 72, 80, Sch. 3 para. 3\(2\)](#), [Sch. 5 para. 2](#) Table 12 (with s. 78(1)); [S.I. 1997/1019](#), [art. 2](#)
- F16** Words in s. 9(9) substituted (1.9.2004) by [The Courts Act 2003 \(Consequential Amendments\) Order 2004 \(S.I. 2004/2035\)](#), art. 2(1), [Sch. para. 23\(3\)](#) (with art. 2(2))
- F17** Words in s. 9(10) substituted (4.7.1996 with application (15.4.1997) as mentioned in Sch. 3 para. 8 of the amending Act) by [1996 c. 25, s. 72, Sch. 3 para. 3\(3\)](#) (with s. 78(1)); [S.I. 1997/1019](#), [art. 2](#)
- F18** Words in s. 9(11) substituted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), [ss. 310\(3\)](#), [336\(3\)\(4\)](#); [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 25](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), [Sch. 26 para. 78](#), [Sch. 28 Pt. 2](#); [S.I. 2008/1586](#), [Sch. 1 paras. 48\(s\)](#), [50\(2\)\(d\)](#); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), [Sch. 14 para. 17](#); [S.I. 2012/2906](#), art. 2(l))
- F19** Words in s. 9(11) inserted (24.7.2006 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\)](#), [ss. 45\(5\)](#), [336\(3\)\(4\)](#) (with s. 48(4)); [S.I. 2006/1835](#), art. 2(c)
- F20** Words in s. 9(11) repealed (1.5.2012) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, [Sch. 10 Pt. 10](#) (with s. 97)
- F21** Words in Act substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), s. 148(1), [Sch. 11 para. 1\(2\)](#); [S.I. 2009/1604](#), art. 2(d)
- F22** Words in s. 9(13) substituted (24.7.2006) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 36 para. 54\(3\)](#); [S.I. 2006/1835](#), art. 2(h)

Modifications etc. (not altering text)

- C2** S. 9 amended (4.7.1996 with application (1.4.1997) as mentioned in s. 1(5) of the amending Act) by [1996 c. 25, ss. 1, 20\(2\)](#) (with s. 78(1)); [S.I. 1997/682](#), [art. 2\(1\)\(a\)](#)
- C3** S. 9(3) modified (4.9.1998) by [1977 c. 45 s. 1A\(10\)](#) (as inserted by [1998 c. 40, s. 5\(1\)](#)).
- C4** S. 9(11) modified (8.1.2007) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), [ss. 18\(5\)](#), 60 (with [ss. 19\(7\)](#), [21\(2\)](#)); [S.I. 2006/3423](#), art. 2(a) (with art. 3)

Marginal Citations

- M1** [1984 c. 60](#).
- M2** [1981 c. 54](#).

[^{F23}9A Orders before preparatory hearing.

- (1) Subsection (2) below applies where—
- (a) a judge orders a preparatory hearing, and
 - (b) he decides that any order which could be made under section 9(4) or (5) above 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) subsections (4) to (10) of section 9 above shall apply accordingly.]

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Textual Amendments

- F23** S. 9A inserted (4.7.1996 with application (15.4.1997) as mentioned in Sch. 3 para. 8) by 1996 c. 25, s. 72, Sch. 3 paras. 4, 8(with s. 78(1)); S.I. 1997/1019, **art.2**

[^{F24}10 Later stages of trial.

- (1) Any party may depart from the case he disclosed in pursuance of a requirement imposed under section 9 above.
- (2) Where—
 - (a) a party departs from the case he disclosed in pursuance of a requirement imposed under section 9 above, 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 [^{F25}or, in the case of a trial without a jury, the judge] may draw such inference as appears proper.
- (3) In [^{F26}doing anything under subsection (2) above 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) [^{F27}Except as provided by this section, in the case of a trial with a jury] no part—
 - (a) of a statement given under section 9(5) above, 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 9 above,
 may be disclosed at a stage in the trial after the jury have been sworn without the consent of the accused concerned.]

Textual Amendments

- F24** S. 10 substituted (4.7.1996 with application (15.4.1997) as mentioned in Sch. 3 para. 8 of the amending Act) by 1996 c. 25, s. 72, Sch. 3 para. 5; S.I. 1997/1019, **art. 2**
- F25** Words in s. 10(2) inserted (24.7.2006) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 36 para. 55(2)**; S.I. 2006/1835, art. 2(h)
- F26** Words in s. 10(3) substituted (24.7.2006) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 36 para. 55(3)**; S.I. 2006/1835, art. 2(h)
- F27** Words in s. 10(4) substituted (24.7.2006) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 36 para. 55(4)**; S.I. 2006/1835, art. 2(h)

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