



Domestic Violence, Crime and Victims Act 2004

2004 CHAPTER 28

PART 2

CRIMINAL JUSTICE

Trial by jury of sample counts only

17 Application by prosecution for certain counts to be tried without a jury

- (1) The prosecution may apply to a judge of the Crown Court for a trial on indictment to take place on the basis that the trial of some, but not all, of the counts included in the indictment may be conducted without a jury.
- (2) If such an application is made and the judge is satisfied that the following three conditions are fulfilled, he may make an order for the trial to take place on the basis that the trial of some, but not all, of the counts included in the indictment may be conducted without a jury.
- (3) The first condition is that the number of counts included in the indictment is likely to mean that a trial by jury involving all of those counts would be impracticable.
- (4) The second condition is that, if an order under subsection (2) were made, each count or group of counts which would accordingly be tried with a jury can be regarded as a sample of counts which could accordingly be tried without a jury.
- (5) The third condition is that it is in the interests of justice for an order under subsection (2) to be made.
- (6) In deciding whether or not to make an order under subsection (2), the judge must have regard to any steps which might reasonably be taken to facilitate a trial by jury.

Changes to legislation: Domestic Violence, Crime and Victims Act 2004, Section 17 is up to date with all changes known to be in force on or before 21 April 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) [View outstanding changes](#)

- (7) But a step is not to be regarded as reasonable if it could lead to the possibility of a defendant in the trial receiving a lesser sentence than would be the case if that step were not taken.
- (8) An order under subsection (2) must specify the counts which may be tried without a jury.
- (9) For the purposes of this section and sections 18 to 20, a count may not be regarded as a sample of other counts unless the defendant in respect of each count is the same person.

Commencement Information

II S. 17 wholly in force at 8.1.2007, see s. 60 and S.I. 2006/3423, **art. 2** (subject to **art. 3**)

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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):

- Sch. 9 para. 26A inserted by [2015 c. 2 Sch. 3 para. 12](#)