
STATUTORY INSTRUMENTS

2005 No. 384

The Criminal Procedure Rules 2005

PART 15

PREPARATORY HEARINGS IN CASE OF SERIOUS FRAUD AND OTHER COMPLEX OR LENGTHY CASES IN THE CROWN COURT

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Application for a preparatory hearing

15.1.—(1) An application under section 7(2) of the Criminal Justice Act 1987⁽¹⁾ or section 29(4) of the Criminal Procedure and Investigations Act 1996⁽²⁾ (for an order that a preparatory hearing be held) shall be made in the form set out in the Practice Direction, shall be served on the Crown Court officer, and shall include a concise statement of the grounds, having regard to the matters specified in section 7(1) of the 1987 Act⁽³⁾, or section 29(1) and (2) of the 1996 Act⁽⁴⁾, for the making of the application.

(2) The person making the application shall, at the same time as he serves the application on the Crown Court officer, as referred to in paragraph (1), serve a copy of the application on the other party or, if there is more than one, each of the other parties in the case.

[Note. Formerly rule 3 of the Criminal Justice Act 1987 (Preparatory Hearings) Rules 1997⁽⁵⁾ and rule 3 of the Criminal Procedure and Investigations Act 1996 (Preparatory Hearings) Rules

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- (1) 1987 c. 38.
(2) 1996 c. 25; section 29(4) is amended by section 45 of the Criminal Justice Act 2003 (c. 44) with effect from a date to be appointed.
(3) Section 7(1) was amended by section 168(1) of, and paragraph 30 of Schedule 9 to, the Criminal Justice and Public Order Act 1994 (c. 33), and is further amended by sections 45 and 310 of, and paragraphs 52 and 53 of Schedule 36 to, the Criminal Justice Act 2003 (c. 44) with effect from a date to be appointed.
(4) Section 29(1) is amended by section 309 of, and paragraphs 65 and 66 of Schedule 36 to, the Criminal Justice Act 2003 (c. 44) with effect from a date to be appointed; section 29(2) is amended by sections 45 and 310 of the Criminal Justice Act 2003 (c. 44) with effect from a date to be appointed.
(5) S.I. 1997/1051.

1997(6). See also sections 7 to 9A of the Criminal Justice Act 1987 and sections 29 to 32 of the Criminal Procedure and Investigations Act 1996. On the coming into force of section 309 of the Criminal Justice Act 2003(7)seriousness will be added to length and complexity as grounds for holding a preparatory hearing in cases other than fraud.]

Time for making application

15.2.—(1) Subject to paragraphs (2) and (3), an application under section 7(2) of the Criminal Justice Act 1987 or section 29(4) of the Criminal Procedure and Investigations Act 1996 shall be made within 28 days of—

- (a) committal for trial;
- (b) transfer of proceedings for trial; or
- (c) preferment of a bill of indictment under the authority of section 2(2)(b) of the Administration of Justice (Miscellaneous Provisions) Act 1933(8).

(2) Where paragraph (1)(b) above would otherwise apply and an application for dismissal of the offence charged is made within 28 days of the transfer of proceedings for trial, then an application under section 7(2) of the 1987 Act or section 29(4) of the 1996 Act shall be made—

- (a) within 28 days of the transfer of proceedings for trial; or
- (b) no later than 7 days after the said application for dismissal is determined or withdrawn, if the last mentioned period expires later than the period referred to in paragraph (2)(a).

(3) The time for making an application under section 7(2) of the 1987 Act or section 29(4) of the 1996 Act may be extended by the Crown Court, either before or after it expires, on an application made in accordance with paragraph (4).

(4) An application for an extension of time under paragraph (3) shall be made in the form set out in the Practice Direction, specifying the grounds of the application and shall be served on the Crown Court officer, and a copy of the application shall at the same time as it is served on that officer be served on the other party, or if there is more than one, each of the other parties in the case.

(5) An application for an extension of time under paragraph (3) shall be determined by a judge of the Crown Court without a hearing unless the judge otherwise directs, and the Crown Court officer shall serve notice on the parties in the case of the time and place of any such hearing.

(6) The Crown Court officer shall serve notice of the judge's decision on an application under paragraph (3) on the parties in the case.

[Note. Formerly rule 4 of the Criminal Justice Act 1987 (Preparatory Hearings) Rules 1997 and rule 4 of the Criminal Procedure and Investigations Act 1996 (Preparatory Hearings) Rules 1997.]

Representations concerning an application

15.3. Where a party receives a copy of an application as referred to in rule 15.1 (made under section 7(2) of the Criminal Justice Act 1987 or section 29(4) of the Criminal Procedure and Investigations Act 1996) and proposes to make written representations to the Crown Court concerning the application, he shall serve any such representations on the Crown Court officer within 7 days of receipt of the copy application, and shall, at the same time as he serves the representations on the court officer, serve a copy thereof on the other party, or if there is more than one, each of the other parties in the case.

(6) S.I. 1997/1052.

(7) 2003 c. 44.

(8) 1933 c. 36; section 2(2)(b) was amended by section 152(1) of, and Schedule 5 to, the Supreme Court Act 1981 (c. 54) and section 31(6) of, and Schedule 2 to, the Prosecution of Offences Act 1985 (c. 23).

[Note. Formerly rule 5 of the Criminal Justice Act 1987 (Preparatory Hearings) Rules 1997 and rule 5 of the Criminal Procedure and Investigations Act 1996 (Preparatory Hearings) Rules 1997.]

Determination of application

15.4.—(1) An application under section 7(2) of the Criminal Justice Act 1987 or section 29(4) of the Criminal Procedure and Investigations Act 1996 shall be determined without a hearing unless a judge of the Crown Court otherwise directs, and the Crown Court officer shall serve notice on the parties in the case of the time and place of any such hearing.

(2) The Crown Court officer shall serve notice of the determination of an application, or of an order for a preparatory hearing made of a judge's own motion, in the form set out in the Practice Direction, on the parties in the case.

[Note. Formerly rule 6 of the Criminal Justice Act 1987 (Preparatory Hearings) Rules 1997 and rule 6 of the Criminal Procedure and Investigations Act 1996 (Preparatory Hearings) Rules 1997.]

Disclosure of prosecution case

15.5. Where an order is made under section 9(4) of the Criminal Justice Act 1987⁽⁹⁾ or section 31(4) of the Criminal Procedure and Investigations Act 1996⁽¹⁰⁾ for the prosecution to prepare and serve any documents, the order shall identify the documents to be served and require the prosecution to serve a copy of each such document on the other party, or if there is more than one, each of the other parties in the case, and the Crown Court officer shall serve notice of the order on the parties in the case.

[Note. Formerly rule 7 of the Criminal Justice Act 1987 (Preparatory Hearings) Rules 1997 and rule 7 of the Criminal Procedure and Investigations Act 1996 (Preparatory Hearings) Rules 1997. Under section 9(4) of the 1987 Act and section 31(4) of the 1996 Act the judge can require the prosecution to set out its case in a written statement, to arrange its evidence in a form that will be easiest for the jury to understand, to prepare a list of agreed facts, and to amend the case statement as directed by the judge following representations from the defence.]

Defence disclosure

15.6.—(1) Where an order is made under section 9(5) of the Criminal Justice Act 1987 or section 31(6) or (7) of the Criminal Procedure and Investigations Act 1996, or a requirement is imposed under section 31(9) of the 1996 Act in relation to an order made under section 31(7) of that Act, the Crown Court officer shall serve notice of the order in the form set out in the Practice Direction on each party to whom the order applies and on the prosecution.

(2) Except to the extent that disclosure is required—

- (a) by section 5(7) of the 1996 Act⁽¹¹⁾ (alibi); or
- (b) by rules under section 81 of the Police and Criminal Evidence Act 1984⁽¹²⁾ (expert evidence),

⁽⁹⁾ Section 9 was amended by section 170(2) of, and Schedule 16 to, the Criminal Justice Act 1988 (c. 33), section 6(8) of the Criminal Justice Act 1993 (c. 36), sections 72, 74 and 80 of, and paragraph 3 of Schedule 3, and Schedule 5 to, the Criminal Procedure and Investigations Act 1996 (c. 25), and is further amended by sections 45 and 310(2) of, and paragraphs 18, 52 and 54 of Schedule 36 and Part 3 of Schedule 37 to, the Criminal Justice Act 2003 (c. 44), with effect from a date to be appointed.

⁽¹⁰⁾ Section 31 is amended by section 310(5) of, and paragraphs 20, 36, 65 and 67 of Schedule 36 and Part 3 of Schedule 37 to the Criminal Justice Act 2003 (c. 44) with effect from a date to be appointed.

⁽¹¹⁾ Section 5 is repealed by paragraphs 20 and 23 of Schedule 36 and Part 3 of Schedule 37 to the Criminal Justice Act 2003 (c. 44), with effect from a date to be appointed.

⁽¹²⁾ 1984 c. 60; section 81 was amended by section 109(1) of, and paragraph 286 of Schedule 8 to, the Courts Act 2003 (c. 39).

a statement required by virtue of an order under section 9(5)(i) of the 1987 Act or section 31(6)(a) of the 1996 Act, or a notice required by virtue of an order under section 9(5)(ii) or (iv) of the 1987 Act or section 31(6)(b) or section 31(7) of the 1996 Act (including a requirement imposed under section 31(9) of that Act in relation to such an order), need not disclose who will give evidence; and the notice referred to in paragraph (1) shall include a statement to that effect.

(3) The notice referred to in paragraph (1) shall include a warning that if any party departs from the case he disclosed in pursuance of an order made under section 9 of the 1987 Act or section 31 of the 1996 Act or fails to comply with such an order—

- (a) the judge or, with the leave of the judge, any other party may make such comment as appears to him appropriate and the jury may draw such inference as appears proper; and
- (b) where the court is satisfied that any such departure or failure by a party constitutes an unnecessary or improper act or omission on his part, and that another party to the proceedings has incurred costs as a result thereof, the court may make an order as to the payment of those costs by the party concerned under the Costs in Criminal Cases (General) Regulations 1986⁽¹³⁾.

[Note. Formerly rule 8 of the Criminal Justice Act 1987 (Preparatory Hearings) Rules 1997 and rule 8 of the Criminal Procedure and Investigations Act 1996 (Preparatory Hearings) Rules 1997. Under section 9(5) of the 1987 Act and section 31(6) and (7) of the 1996 Act the judge can require the defence to set out its case in a written statement, to make any objection to the prosecution case statement in writing, to give written notice of any points of law that will be taken, and to agree the facts listed by the prosecution or explain why they cannot be agreed.]

Content of order

15.7. Where a judge makes an order under section 9 of the Criminal Justice Act 1987 or section 31(4), (6) or (7) of the Criminal Procedure and Investigations Act 1996, the order shall so far as practicable express the matters required to be done thereunder by reference to the relevant provisions of section 9(4) or, as the case may be, (5) of the 1987 Act or section 31(4) or, as the case may be, (6) or (7) of the 1996 Act.

[Note. Formerly rule 9 of the Criminal Justice Act 1987 (Preparatory Hearings) Rules 1997 and rule 9 of the Criminal Procedure and Investigations Act 1996 (Preparatory Hearings) Rules 1997.]

Service of documents

15.8.—(1) Any notice or other document which is required by this Part to be served on any person may be served personally on that person or sent to him by post in a letter addressed to him at his usual or last known residence or place of business in England or Wales; in the case of a company, such a letter may also be addressed to the company at its registered office in England or Wales (if it has such a registered office).

(2) If the person to be served is acting by a solicitor, the notice or other document may be served by delivering it, or sending it by post, to the solicitor's address for service.

(3) Where there is inscribed on the writing paper of the person to be served with a notice or other document or on the writing paper of his solicitor (where the person to be served is acting by a solicitor) a document exchange box number, and that person or his solicitor (as the case may be) has not indicated in writing to the person serving the document that he is unwilling to accept service through a document exchange, service of the notice or document may be effected by leaving the notice or document addressed to the numbered box of that person or his solicitor at the document exchange in question or at a document exchange which transmits documents every business day to

(13) S.I. 1986/1335.

that document exchange; and any document which is left at a document exchange in accordance with this paragraph shall, unless the contrary is proved, be deemed to have been served on the second business day following the day on which it is left.

(4) In this rule:

“document exchange” means any document exchange for the time being approved by the Lord Chancellor for the purposes of the service of documents;

“business day” means a day other than a day which is to be excluded for the purposes of reckoning a period of 7 days or less; and

“solicitor” includes a body corporate which is recognised by the Council of the Law Society under section 9 of the Administration of Justice Act 1985⁽¹⁴⁾ (a “recognised body”) and, in the case of a recognised body, (notwithstanding anything in the Solicitors' Incorporated Practices Order 1991⁽¹⁵⁾), the reference in paragraph (2) to the solicitor’s address for service shall be construed as a reference to the address specified by the recognised body as its address for the purposes of the proceedings relating to the application for a preparatory hearing under section 7(2) of the Criminal Justice Act 1987 and/or the order for such a hearing under section 7(1) of that Act (including an address specified for the general purposes of the criminal proceedings in relation to which the application or order for a preparatory hearing is made), or, in the absence of such a specified address, to its registered office.

[Note. Formerly rule 10 of the Criminal Justice Act 1987 (Preparatory Hearings) Rules 1997 and rule 10 of the Criminal Procedure and Investigations Act 1996 (Preparatory Hearings) Rules 1997.]

⁽¹⁴⁾ 1985 c. 61; section 9 was amended by paragraph 54 of Schedule 18 to the Courts and Legal Services Act 1990 and Part II of Schedule 15 to the Access to Justice Act 1999 (there are other amendments not relevant to this rule).

⁽¹⁵⁾ S.I. 1991/2684.