
STATUTORY INSTRUMENTS

2011 No. 1709

The Criminal Procedure Rules 2011

PART 15

PREPARATORY HEARINGS IN THE CROWN COURT

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When this Part applies

15.1. This Part applies where the Crown Court—

- (a) can order a preparatory hearing, under—
 - (i) section 7 of the Criminal Justice Act 1987⁽¹⁾ (cases of serious or complex fraud), or
 - (ii) section 29 of the Criminal Procedure and Investigations Act 1996⁽²⁾ (other complex, serious or lengthy cases);
- (b) must order such a hearing, to determine an application for a trial without a jury, under—
 - (i) section 44 of the Criminal Justice Act 2003⁽³⁾ (danger of jury tampering), or
 - (ii) section 17 of the Domestic Violence, Crime and Victims Act 2004⁽⁴⁾ (trial of sample counts by jury, and others by judge alone);
- (c) must order such a hearing, under section 29 of the 1996 Act, where section 29(1B) or (1C) applies (cases in which a terrorism offence is charged, or other serious cases with a terrorist connection).

[Note. See also section 45(2) of the 2003 Act and section 18(1) of the 2004 Act.]

(1) 1987 c. 38; section 7 is amended by paragraph 30 of Schedule 9 to the Criminal Justice and Public Order Act 1994 (c. 33), sections 72 and 80 of, paragraph 2 of Schedule 3 to, and Schedule 5 to, the Criminal Procedure and Investigations Act 1996 (c. 25) and sections 45 and 310 of, and paragraphs 52 and 53 of Schedule 36 to, the Criminal Justice Act 2003 (c. 44).

(2) 1996 c. 25; section 29 is amended by sections 45, 309 and 310 of, and paragraphs 65 and 66 of Schedule 36 to, the Criminal Justice Act 2003 (c. 44) and section 16 of the Terrorism Act 2006 (c. 11).

(3) 2003 c. 44.

(4) 2004 c. 28.

At a preparatory hearing, the court may—

- (a) *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 (if there is one) to understand, to prepare a list of agreed facts, and to amend the case statement following representations from the defence (section 9(4) of the 1987 Act, section 31(4) of the 1996 Act); and*
- (b) *require the defence to give notice of any objection to the prosecution case statement, and to give notice stating the extent of agreement with the prosecution as to documents and other matters and the reason for any disagreement (section 9(5) of the 1987 Act, section 31(6), (7), (9) of the 1996 Act).*

Under section 10 of the 1987 Act(5), and under section 34 of the 1996 Act(6), if either party later departs from the case or objections disclosed by that party, then the court, or another party, may comment on that, and the court may draw such inferences as appear proper.]

Exercise of court's powers

15.2. The court may decide whether to order a preparatory hearing—

- (a) on an application or on its own initiative;
- (b) at a hearing, in public or in private, or without a hearing;
- (c) in a party's absence, if that party—
 - (i) applied for the order, or
 - (ii) has had at least 14 days in which to make representations.

Application for preparatory hearing

15.3.—(1) A party who wants the court to order a preparatory hearing must—

- (a) apply in writing—
 - (i) as soon as reasonably practicable, and in any event
 - (ii) not more than 14 days after the defendant pleads not guilty;
 - (b) serve the application on—
 - (i) the court officer, and
 - (ii) each other party.
- (2) The applicant must—
- (a) if relevant, explain what legislation requires the court to order a preparatory hearing;
 - (b) otherwise, explain—
 - (i) what makes the case complex or serious, or makes the trial likely to be long,
 - (ii) why a substantial benefit will accrue from a preparatory hearing, and
 - (iii) why the court's ordinary powers of case management are not adequate.
- (3) A prosecutor who wants the court to order a trial without a jury must explain—
- (a) where the prosecutor alleges a danger of jury tampering—
 - (i) what evidence there is of a real and present danger that jury tampering would take place,
 - (ii) what steps, if any, reasonably might be taken to prevent jury tampering, and

(5) 1987 c. 38; section 10 is amended by section 72 of, and paragraph 5 of Schedule 3 to, the Criminal Procedure and Investigations Act 1996 (c. 25), and paragraphs 52 and 55 of Schedule 36 to the Criminal Justice Act 2003 (c. 44).

(6) 1996 c. 25; section 34 is amended by paragraphs 65 and 68 of Schedule 36 to the Criminal Justice Act 2003 (c. 44).

- (iii) why, notwithstanding such steps, the likelihood of jury tampering is so substantial as to make it necessary in the interests of justice to order such a trial; or
- (b) where the prosecutor proposes trial without a jury on some counts on the indictment—
 - (i) why a trial by jury involving all the counts would be impracticable,
 - (ii) how the counts proposed for jury trial can be regarded as samples of the others, and
 - (iii) why it would be in the interests of justice to order such a trial.

Application containing information withheld from a defendant

- 15.4.**—(1) This rule applies where—
- (a) the prosecutor applies for an order for a trial without a jury because of a danger of jury tampering; and
 - (b) the application includes information that the prosecutor thinks ought not be revealed to a defendant.
- (2) The prosecutor must—
- (a) omit that information from the part of the application that is served on that defendant;
 - (b) mark the other part to show that, unless the court otherwise directs, it is only for the court; and
 - (c) in that other part, explain why the prosecutor has withheld that information from that defendant.
- (3) The hearing of an application to which this rule applies—
- (a) must be in private, unless the court otherwise directs; and
 - (b) if the court so directs, may be, wholly or in part, in the absence of a defendant from whom information has been withheld.
- (4) At the hearing of an application to which this rule applies—
- (a) the general rule is that the court will receive, in the following sequence—
 - (i) representations first by the prosecutor and then by each defendant, in all the parties' presence, and then
 - (ii) further representations by the prosecutor, in the absence of a defendant from whom information has been withheld; but
 - (b) the court may direct other arrangements for the hearing.
- (5) Where, on an application to which this rule applies, the court orders a trial without a jury—
- (a) the general rule is that the trial will be before a judge other than the judge who made the order; but
 - (b) the court may direct other arrangements.

Representations in response

- 15.5.**—(1) This rule applies where a party wants to make representations about—
- (a) an application for a preparatory hearing;
 - (b) an application for a trial without a jury.
- (2) Such a party must—
- (a) serve the representations on—
 - (i) the court officer, and

- (ii) each other party;
 - (b) do so not more than 14 days after service of the application;
 - (c) ask for a hearing, if that party wants one, and explain why it is needed.
- (3) Where representations include information that the person making them thinks ought not be revealed to another party, that person must—
- (a) omit that information from the representations served on that other party;
 - (b) mark the information to show that, unless the court otherwise directs, it is only for the court; and
 - (c) with that information include an explanation of why it has been withheld from that other party.
- (4) Representations against an application for an order must explain why the conditions for making it are not met.

Commencement of preparatory hearing

15.6. At the beginning of a preparatory hearing, the court must—

- (a) announce that it is such a hearing; and
- (b) take the defendant's plea (unless already done).

[Note. See section 8 of the Criminal Justice Act 1987(7) and section 30 of the Criminal Procedure and Investigations Act 1996(8).]

Court's power to vary requirements

15.7.—(1) The court may—

- (a) shorten or extend (even after it has expired) a time limit under this Part; and
 - (b) allow an application or representations to be made orally.
- (2) A person who wants an extension of time must—
- (a) apply when serving the application or representations for which it is needed; and
 - (b) explain the delay.

(7) 1987 c. 38.

(8) 1996 c. 25.