Criminal Justice Act 1987

1987 CHAPTER 38

PART I

FRAUD

Serious Fraud Office

1 The Serious Fraud Office.

(1) A Serious Fraud Office shall be constituted for England and Wales and Northern Ireland.

(2) The Attorney General shall appoint a person to be the Director of the Serious Fraud Office (referred to in this Part of this Act as "the Director"), and he shall discharge his functions under the superintendence of the Attorney General.

(3) The Director may investigate any suspected offence which appears to him on reasonable grounds to involve serious or complex fraud.

(4) The Director may, if he thinks fit, conduct any such investigation in conjunction either with the police or with any other person who is, in the opinion of the Director, a proper person to be concerned in it.

(5) The Director may—

(a) institute and have the conduct of any criminal proceedings which appear to him to relate to such fraud; and

(b) take over the conduct of any such proceedings at any stage.

(6) The Director shall discharge such other functions in relation to fraud as may from time to time be assigned to him by the Attorney General.

[[F1](6A) The Director has the functions conferred on him by, or in relation to, **[**[F2]Part 2, 4, 5, 7**]** or 8 of the Proceeds of Crime Act 2002 (c. 29) (**[**[F3]confiscation proceedings in England and Wales and Northern Ireland, civil recovery proceedings, money laundering and investigations**]**).**]**

(7) The Director may designate for the purposes of subsection (5) above any member of the Serious Fraud Office who is—

(a) a barrister in England and Wales or Northern Ireland;

(b) a solicitor of the **[**[F4]Senior Courts**]**; or

(c) a **[**[F5]solicitor of the Court of Judicature of Northern Ireland**]**.

(8) Any member so designated shall, without prejudice to any functions which may have been assigned to him in his capacity as a member of that Office, have all the powers of the Director as to the institution and conduct of proceedings but shall exercise those powers under the direction of the Director.

[F6](9) . . . . . .

[F6](10) . . . . . .

[F6](11) . . . . . .

(12) Any member so designated who is a barrister in Northern Ireland or a **[**[F5]solicitor of the Court of Judicature of Northern Ireland**]** shall have—

(a) in any court the rights of audience enjoyed by **[**[F5]solicitors of the Court of Judicature of Northern Ireland**]** and, in the Crown Court in Northern Ireland, such additional rights of audience as may be given by virtue of subsection (14) below; and

(b) in the Crown Court in Northern Ireland, the rights of audience enjoyed by barristers employed by the Director of Public Prosecutions for Northern Ireland.

(13) Subject to subsection (14) below, the reference in subsection (12)(a) above to rights of audience enjoyed by **[**[F5]solicitors of the Court of Judicature of Northern Ireland**]** is a reference to such rights enjoyed in the Crown Court in Northern Ireland as restricted by any direction given by the Lord Chief Justice of Northern Ireland under section 50 of the [M1]Judicature (Northern Ireland) Act 1978.

(14) For the purpose of giving any member so designated who is a barrister in Northern Ireland or a **[**[F5]solicitor of the Court of Judicature of Northern Ireland**]** additional rights of audience in the Crown Court in Northern Ireland, the Lord Chief Justice of Northern Ireland may direct that any direction given by him under the said section 50 shall not apply to such members.

(15) Schedule 1 to this Act shall have effect.

(16) For the purposes of this section (including that Schedule) references to the conduct of any proceedings include references to the proceedings being discontinued and to the taking of any steps (including the bringing of appeals and making of representations in respect of applications for bail) which may be taken in relation to them.

(17) In the application of this section (including that Schedule) to Northern Ireland references to the Attorney General are to be construed as references to him in his capacity as **[**[F7]Advocate General for Northern Ireland**]**.

Textual Amendments

F1 S. 1(6A) inserted (1.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 8 para. 152**; S.I. 2008/755, art. 2(1)(a) (with arts. 3-14)

F2 Words in s. 1(6A) substituted (27.4.2017 for specified purposes, 31.1.2018 for E.W. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(5)(6), **Sch. 5 para. 4(a)**; S.I. 2018/78, reg. 5(1)(b)

F3 Words in s. 1(6A) substituted (27.4.2017 for specified purposes, 31.1.2018 for E.W. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(5)(6), **Sch. 5 para. 4(b)**; S.I. 2018/78, reg. 5(1)(b)

F4 Words in s. 1(7)(b) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), s. 148(1), **Sch. 11 para. 4**; S.I. 2009/1604, art. 2(d)

F5 Words in Act substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), s. 148(1), **Sch. 11 para. 5**; S.I. 2009/1604, art. 2(d)

F6 S. 1(9)-(11) repealed (31.7.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt II** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/1920, **art. 2(c)**

F7 Words in s. 1(17) substituted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 26 para. 21**; S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(h)

Marginal Citations

M1 1978 c. 23.

2 Director's investigation powers.

(1) The powers of the Director under this section shall be exercisable, but only for the purposes of an investigation under section 1 above, **[**[F8]or, on a request made by the Attorney General of the Isle of Man, Jersey or Guernsey, under legislation corresponding to that section and having effect in the Island whose **[**[F9] an authority entitled to make such a request**],]** in any case in which it appears to him that there is good reason to do so for the purpose of investigating the affairs, or any aspect of the affairs, of any person.

[[F10](1A) The authorities entitled to request the Director to exercise his powers under this section are—

(a) the Attorney-General of the Isle of Man, Jersey or Guernsey, acting under legislation corresponding to section 1 of this Act and having effect in the Island whose Attorney-General makes the request; and

[[F11](b) the Secretary of State, acting—

(i) under section 15(2) of the Crime (International Co-operation) Act 2003, in response to a request received from a person mentioned in section 13(2) of that Act, or

(ii) under regulation 51 of the Criminal Justice (European Investigation Order) Regulations 2017, on a referral under that regulation of a European investigation order issued by an authority in a participating State (within the meaning of Part 3 of those Regulations).**]**

(1B) The Director shall not exercise his powers on a request from the Secretary of State acting in response to a request received from an overseas authority within subsection (1A)(b) above unless it appears to the Director on reasonable grounds that the offence in respect of which he has been requested to obtain evidence involves serious or complex fraud.**]**

(2) The Director may by notice in writing require the person whose affairs are to be investigated ("the person under investigation") or any other person whom he has reason to believe has relevant information to **[**[F12]answer questions or otherwise furnish

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information with respect to any matter relevant to the investigation at a specified place and either at a specified time or forthwith**]**.

(3) The Director may by notice in writing require the person under investigation or any other person to produce at **[**[F13]such place as may be specified in the notice and either forthwith or at such time as may be so specified,**]** any specified documents which appear to the Director to relate to any matter relevant to the investigation or any documents of a specified **[**[F13]description**]** which appear to him so to relate; and—

(a) if any such documents are produced, the Director may—

(i) take copies or extracts from them;

(ii) require the person producing them to provide an explanation of any of them;

(b) if any such documents are not produced, the Director may require the person who was required to produce them to state, to the best of his knowledge and belief, where they are.

(4) Where, on information on oath laid by a member of the Serious Fraud Office, a justice of the peace is satisfied, in relation to any documents, that there are reasonable grounds for believing—

(a) that—

(i) a person has failed to comply with an obligation under this section to produce them;

(ii) it is not practicable to serve a notice under subsection (3) above in relation to them; or

(iii) the service of such a notice in relation to them might seriously prejudice the investigation; and

(b) that they are on premises specified in the information,

he may issue such a warrant as is mentioned in subsection (5) below.

(5) The warrant referred to above is a warrant authorising any constable—

(a) to enter (using such force as is reasonably necessary for the purpose) and search the premises, and

(b) to take possession of any documents appearing to be documents of the description specified in the information or to take in relation to any documents so appearing any other steps which may appear to be necessary for preserving them and preventing interference with them.

(6) Unless it is not practicable in the circumstances, a constable executing a warrant issued under subsection (4) above shall be accompanied by an appropriate person.

[[F14](6A) Where an appropriate person accompanies a constable, he may exercise the powers conferred by subsection (5) but only in the company, and under the supervision, of the constable.**]**

(7) In **[**[F15]this section**]** "appropriate person" means—

(a) a member of the Serious Fraud Office; or

(b) some person who is not a member of that Office but whom the Director has authorised to accompany the constable.

(8) A statement by a person in response to a requirement imposed by virtue of this section may only be used in evidence against him—

(a) on a prosecution for an offence under subsection (14) below; or

(b) on a prosecution for some other offence where in giving evidence he makes a statement inconsistent with it.

[[F16](8AA) However, the statement may not be used against that person by virtue of paragraph (b) of subsection (8) unless evidence relating to it is adduced, or a question relating to it is asked, by or on behalf of that person in the proceedings arising out of the prosecution.**]**

[[F17](8A) Any evidence obtained by the Director for use by an overseas authority shall be **[**[F18]given to the overseas authority which requested it or given to the Secretary of State for forwarding to that overseas authority)**]**.

[F19](8B) . . . . . .

(8C) Where any evidence obtained by the Director for use by an overseas authority consists of a document the original or a copy shall be **[**[F20]forwarded**]**, and where it consists of any other article the article itself or a description, photograph or other representation of it shall be **[**[F20]forwarded**]**, as may be necessary in order to comply with the request of the overseas authority.**]**

[[F21](8D) The references in subsections (8A) to (8C) above to evidence obtained by the Director include references to evidence obtained by him by virtue of the exercise by a constable **[**[F22]or by an appropriate person**]**, in the course of a search authorised by a warrant issued under subsection (4) above, of powers conferred by section 50 of the Criminal Justice and Police Act 2001.**]**

(9) A person shall not under this section be required to disclose any information or produce any document which he would be entitled to refuse to disclose or produce on grounds of legal professional privilege in proceedings in the High Court, except that a lawyer may be required to furnish the name and address of his client.

(10) A person shall not under this section be required to disclose information or produce a document in respect of which he owes an obligation of confidence by virtue of carrying on any banking business unless—

(a) the person to whom the obligation of confidence is owed consents to the disclosure or production; or

(b) the Director has authorised the making of the requirement or, if it is impracticable for him to act personally, a member of the Serious Fraud Office designated by him for the purposes of this subsection has done so.

[[F23](10A) Nothing in this section is to be read as enabling a person to secure the disclosure by a telecommunications operator or postal operator of communications data without the consent of the operator.

(10B) In subsection (10A) "communications data", "postal operator" and "telecommunications operator" have the same meanings as in the Investigatory Powers Act 2016 (see sections 261 and 262 of that Act).**]**

(11) Without prejudice to the power of the Director to assign functions to members of the Serious Fraud Office, the Director may authorise any competent investigator (other than a constable) who is not a member of that Office to exercise on his behalf all or any of the powers conferred by this section, but no such authority shall be granted except for the purpose of investigating the affairs, or any aspect of the affairs, of a person specified in the authority.

(12) No person shall be bound to comply with any requirement imposed by a person exercising powers by virtue of any authority granted under subsection (11) above unless he has, if required to do so, produced evidence of his authority.

(13) Any person who without reasonable excuse fails to comply with a requirement imposed on him under this section shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale or to both.

(14) A person who, in purported compliance with a requirement under this section—

(a) makes a statement which he knows to be false or misleading in a material particular; or

(b) recklessly makes a statement which is false or misleading in a material particular,

shall be guilty of an offence.

(15) A person guilty of an offence under subsection (14) above shall—

(a) on conviction on indictment, be liable to imprisonment for a term not exceeding two years or to a fine or to both; and

(b) on summary conviction, be liable to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both.

(16) Where any person—

(a) knows or suspects that an investigation by the police or the Serious Fraud Office into serious or complex fraud is being or is likely to be carried out; and

(b) falsifies, conceals, destroys or otherwise disposes of, or causes or permits the falsification, concealment, destruction or disposal of documents which he knows or suspects are or would be relevant to such an investigation,

he shall be guilty of an offence unless he proves that he had no intention of concealing the facts disclosed by the documents from persons carrying out such an investigation.

(17) A person guilty of an offence under subsection (16) above shall—

(a) on conviction on indictment, be liable to imprisonment for a term not exceeding 7 years or to a fine or to both; and

(b) on summary conviction, be liable to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum or to both.

[[F24](18) In this section—

"documents" includes information recorded in any form and, in relation to information recorded otherwise than in legible form, references to its production include references to producing a copy of the information in legible form;

"evidence", in relation to subsections (1B), (8A) and (8C) above, includes documents and other articles;

"overseas authority" means a person mentioned in subsection (1A)(b)(i) or an authority mentioned in subsection (1A)(b)(ii).**]**

(19) In the application of this section to Scotland, the reference to a justice of the peace is to be construed as a reference to the sheriff; and in the application of this section to Northern Ireland, subsection (4) above shall have effect as if for the references to information there were substituted references to a complaint.

Textual Amendments

F8 Words inserted by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 143, **Sch. 8 para. 16**

F9 Words in s. 2(1) substituted (3.2.1995) by 1994 c. 33, **s. 164(2)(a)**; S.I. 1995/127, art. 2(1), **Sch. 1**

F10 S. 2(1A)(1B) inserted (3.2.1995) by 1994 c. 33, **s. 164(2)(b)**; S.I. 1995/127, art. 2, **Sch. 1**

F11 S. 2(1A)(b) substituted (31.7.2017) by The Criminal Justice (European Investigation Order) Regulations 2017 (S.I. 2017/730), reg. 1(1), **Sch. 3 para. 1(1)(a)** (with reg. 3)

F12 Words substituted by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 170, Sch. 8 para. 16, **Sch. 15 para. 113**

F13 Words substituted by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 170, Sch. 8 para. 16, **Sch. 15 para. 113(2)**

F14 S. 2(6A) inserted (20.1.2004) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 1 para. 11**; S.I. 2004/81, art. 2(1)(2)(a)

F15 Words in s. 2(7) substituted (20.1.2004) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 1 para. 12**; S.I. 2004/81, art. 2(1)(2)(a)

F16 S. 2(8AA) inserted (14.4.2000 for E.W.N.I., 1.1.2001 for S.) by 1999 c. 23, s. 59, **Sch. 3 para. 20** (with s. 63(2), Sch. 7 paras. 3(3), 5(2)); S.I. 2000/1034, **art. 2(a)**; S.S.I. 2000/445, **art. 2**

F17 S. 2(8A)-(8C) inserted (3.2.1995) by 1994 c. 33, **s. 164(2)(c)**; S.I. 1995/127, art. 2, **Sch. 1**

F18 Words in s. 2(8A) substituted (26.4.2004) by Crime (International Co-operation) Act 2003 (c. 32), s. 94(1), **Sch. 5 para. 12(b)**; S.I. 2004/786, art. 3(1)(2) (with savings in S.I. 2004/787, art. 3)

F19 S. 2(8B) repealed (26.4.2004) by Crime (International Co-operation) Act 2003 (c. 32), s. 94(1), Sch. 5 para. 12(c), **Sch. 6**; S.I. 2004/786, art. 3 (with savings in S.I. 2004/787, art. 3)

F20 Word in s. 2(8C) substituted (26.4.2004) by Crime (International Co-operation) Act 2003 (c. 32), s. 94(1), **Sch. 5 para. 12(d)**; S.I. 2004/786, art. 3(1)(2) (with savings in S.I. 2004/787, art. 3)

F21 S. 2(8D) inserted (1.4.2003) by Criminal Justice and Police Act 2001 (c. 16), s. 138(2), **Sch. 2 para. 23**; S.I. 2003/708, art. 2(k)

F22 Words in s. 2(8D) inserted (20.1.2004) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 1 para. 13**; S.I. 2004/81, art. 2(1)(2)(a)

F23 S. 2(10A)(10B) inserted (22.7.2020) by Investigatory Powers Act 2016 (c. 25), s. 272(1), **Sch. 2 para. 2** (with Sch. 9 paras. 7, 8, 10); S.I. 2020/766, reg. 2(d)

F24 S. 2(18) substituted (31.7.2017) by The Criminal Justice (European Investigation Order) Regulations 2017 (S.I. 2017/730), reg. 1(1), **Sch. 3 para. 1(1)(b)** (with reg. 3)

Modifications etc. (not altering text)

C1 S. 2(5): powers of seizure extended (1.4.2003) by Criminal Justice and Police Act 2001 (c. 16), ss. 50, 138(2), **Sch. 1 para. 44** (with ss. 52-54, 68); S.I. 2003/708, art. 2(a)

[F25 2A Director's pre-investigation powers in relation to bribery and corruption: foreign officers etc

(1) The powers of the Director under section 2 are also exercisable for the purpose of enabling him to determine whether to start an investigation under section 1 in a case where it appears to him that conduct to which this section applies may have taken place.

(2) But—

(a) the power under subsection (2) of section 2 is so exercisable only if it appears to the Director that for the purpose of enabling him to make that determination it is expedient to require any person appearing to him to have relevant information to do as mentioned in that subsection, and

(b) the power under subsection (3) of that section is so exercisable only if it appears to the Director that for that purpose it is expedient to require any person to do as mentioned in that subsection.

(3) Accordingly, where the powers of the Director under section 2 are exercisable in accordance with subsections (1) and (2) above—

(a) the reference in subsection (2) of that section to the person under investigation or any other person whom the Director has reason to believe has relevant information is to be read as a reference to any such person as is mentioned in subsection (2)(a) above,

(b) the reference in subsection (3) of that section to the person under investigation or any other person is to be read as a reference to any such person as is mentioned in subsection (2)(b) above, and

(c) any reference in subsection (2), (3) or (4) of that section to the investigation is to be read as a reference to the making of any such determination as is mentioned in subsection (1) above.

(4) Any reference in section 2(16) to the carrying out of an investigation by the Serious Fraud Office into serious or complex fraud includes a reference to the making of any such determination as is mentioned in subsection (1) above.

[[F26](5) This section applies to any conduct—

(a) which, as a result of section 3(6) of the Bribery Act 2010, constitutes an offence under section 1 or 2 of that Act under the law of England and Wales or Northern Ireland, or

(b) which constitutes an offence under section 6 of that Act under the law of England and Wales or Northern Ireland.**]]**

Textual Amendments

F25 S. 2A inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), **ss. 59(2)**, 153(7); S.I. 2008/1586, art. 2(1), Sch. 1 para. 33

F26 S. 2A(5) substituted for s. 2A(5)(6) (1.7.2011) by Bribery Act 2010 (c. 23), s. 19(1), **Sch. 1 para. 2** (with ss. 16, 19(5)); S.I. 2011/1418, art. 2

3 Disclosure of information.

(1) Where any information **[**[F27]to which section 18 of the Commissioners for Revenue and Customs Act 2005 would apply but for section 18(2)**]** has been disclosed by **[**[F28]Her Majesty's Revenue and Customs**]** to any member of the Serious Fraud Office for the purposes of any prosecution of **[**[F29]an offence relating to a former Inland Revenue matter**]**, that information may be disclosed by any member of the Serious Fraud Office—

(a) for the purposes of any prosecution of which that Office has the conduct;

(b) to **[**[F30]the Crown Prosecution Service**]** for the purposes of any prosecution of **[**[F29]an offence relating to a former Inland Revenue matter**]**; [F31]...

(c) to the Director of Public Prosecutions for Northern Ireland for the purposes of any prosecution of **[**[F29]an offence relating to a former Inland Revenue matter**][**[F32]; and

(d) in order to comply with a requirement imposed under paragraph 7 of the Schedule to the Crown Prosecution Service Inspectorate Act 2000,**]**

but not otherwise.

(2) Where the Serious Fraud Office has the conduct of any prosecution of an offence which does not relate to inland revenue, the court may not prevent the prosecution from relying on any evidence under section 78 of the [M2]Police and Criminal Evidence Act 1984 (discretion to exclude unfair evidence) by reason only of the fact that the information concerned was disclosed by **[**[F28]Her Majesty's Revenue and Customs**]** for the purposes of any prosecution of **[**[F29]an offence relating to a former Inland Revenue matter**]**.

(3) Where any information is subject to an obligation of secrecy imposed by or under any enactment other than an enactment contained in the [M3]Taxes Management Act 1970, the obligation shall not have effect to prohibit the disclosure of that information to any person in his capacity as a member of the Serious Fraud Office but any information disclosed by virtue of this subsection may only be disclosed **[**[F33]by a member of the Serious Fraud Office—

(a) for the purposes of any prosecution in England and Wales, Northern Ireland or elsewhere, or

(b) in order to comply with a requirement imposed under paragraph 7 of the Schedule to the Crown Prosecution Service Inspectorate Act 2000,

and**]** may only be disclosed by such a member if he is designated by the Director for the purposes of this subsection.

(4) Without prejudice to his power to enter into agreements apart from this subsection, the Director may enter into a written agreement for the supply of information to or by him subject, in either case, to an obligation not to disclose the information concerned otherwise than for a specified purpose.

(5) Subject to subsections (1) and (3) above and to any provision of an agreement for the supply of information which restricts the disclosure of the information supplied, information obtained by any person in his capacity as a member of the Serious Fraud Office may be disclosed by any member of that Office designated by the Director for the purposes of this subsection—

(a) to any government department or Northern Ireland department or other authority or body discharging its functions on behalf of the Crown (including the Crown in right of Her Majesty's Government in Northern Ireland);

(b) to any competent authority;

[[F34](c) for the purposes of any criminal investigation or criminal proceedings, whether in the United Kingdom or elsewhere**]**

(d) for the purposes of assisting any public or other authority for the time being designated for the purposes of this paragraph by an order made by the Secretary of State to discharge any functions which are specified in the order.

(6) The following are competent authorities for the purposes of subsection (5) above—

(a) an inspector appointed under Part XIV of the [M4]Companies Act 1985 [F35]...;

(b) an Official Receiver;

(c) the Accountant in Bankruptcy;

[[F36](d) the official receiver for Northern Ireland;**]**

[[F37](e) a person appointed under—

(i) section 167 of the Financial Services and Markets Act 2000 (general investigations),

(ii) section 168 of that Act (investigations in particular cases),

(iii) section 169(1)(b) of that Act (investigation in support of overseas regulator),

(iv) section 284 of that Act (investigations into affairs of certain collective investment schemes), or

(v) regulations made as a result of section 262(2)(k) of that Act (investigations into open-ended investment companies),

to conduct an investigation;

(f) a body corporate established in accordance with section 212(1) of the Financial Services and Markets Act 2000 (compensation scheme manager);**]**

(l) any body having supervisory, regulatory or disciplinary functions in relation to any profession or any area of commercial activity; [F38]...

(m) any person or body having, under the law of any country or territory outside the United Kingdom, functions corresponding to any of the functions of any person or body mentioned in any of the foregoing paragraphs.

[[F39](n) any person or body having, under the Treaty on European Union or any other treaty to which the United Kingdom is a party, the function of receiving information of the kind in question,

(o) any person or body having, under the law of any country or territory outside the United Kingdom, the function of receiving information relating to the proceeds of crime**]**

(7) An order under subsection (5)(d) above may impose conditions subject to which, and otherwise restrict the circumstances in which, information may be disclosed under that paragraph.

[[F40](8) In subsections (1) and (2) "former Inland Revenue matter" means a matter listed in Schedule 1 to the Commissioners for Revenue and Customs Act 2005 except for paragraphs 2, 10, 13, 14, 15, 17, 19, 28, 29 and 30.**]**

Textual Amendments

F27 Words in s. 3(1) substituted (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), s. 53(1), **Sch. 4 para. 35(1)(a)**; S.I. 2005/1126, art. 2(2)(h); S.I. 2005/1126, art. 2(2)(h)

F28 Words in s. 3(1)(2) substituted (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), s. 53(1), **Sch. 4 para. 35(1)(b)**; S.I. 2005/1126, art. 2(2)(h); S.I. 2005/1126, art. 2(2)(h)

F29 Words in s. 3(1)(2) substituted (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), s. 53(1), **Sch. 4 para. 35(1)(c)**; S.I. 2005/1126, art. 2(2)(h); S.I. 2005/1126, art. 2(2)(h)

F30 Words in s. 3(1)(b) substituted (27.3.2014) by The Public Bodies (Merger of the Director of Public Prosecutions and the Director of Revenue and Customs Prosecutions) Order 2014 (S.I. 2014/834), art. 1(1), **Sch. 2 para. 7**

F31 Word in s. 3(1) omitted (2.6.2014) by virtue of Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), **ss. 149(2)(a)**, 185(1)(2)(d)(5) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/1226, art. 2

F32 S. 3(1)(d) and word inserted (2.6.2014) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), **ss. 149(2)(b)**, 185(1)(2)(d)(5) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/1226, art. 2

F33 Words in s. 3(3) substituted (2.6.2014) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), **ss. 149(2)(c)**, 185(1)(2)(d)(5) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/1226, art. 2

F34 S. 3(5)(c) substituted (26.4.2004) by Crime (International Co-operation) Act 2003 (c. 32), **ss. 80(a)**, 94(1); S.I. 2004/786, art. 3(1)(2)

F35 Words in s. 3(6)(a) omitted (1.10.2009) by virtue of The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 1(2), **Sch. 1 para. 89** (with art. 10)

F36 S. 3(6)(d) substituted (N.I.) (1.10.1991) by S.I. 1989/2405 (N.I. 19), arts. 1(2), 381, **Sch. 9 Pt. II para. 57**; S.R. 1991/411, **art. 2**.
F37 S. 3(6)(e)(f) substituted (1.12.2001) for s. 3(6)(e)-(k) by S.I. 2001/3649, **arts. 1**, 308
F38 Word in s. 3(6)(l) repealed (26.4.2004) by Crime (International Co-operation) Act 2003 (c. 32), ss. 80, 94(1), **Sch. 6**; S.I. 2004/786, **art. 3(1)-(3)**
F39 S. 3(6)(n)(o) inserted (26.4.2004) by Crime (International Co-operation) Act 2003 (c. 32), **ss. 80(b)**, 94(1); S.I. 2004/786, art. 3(1)(2)
F40 S. 3(8) added (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), s. 53(1), **Sch. 4 para. 35(2)**; S.I. 2005/1126, art. 2(2)(h)

Marginal Citations
M2 1984 c. 60.
M3 1970 c. 9.
M4 1985 c. 6.

Transfer of cases to Crown Court

F41 4 Notices of transfer and designated authorities.

. . . . . .

Textual Amendments
F41 Ss. 4-6 repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 3 para. 58(2), **Sch. 37 Pt. 4**; S.I. 2012/1320, art. 4(1)(c)(d)(2)(3) (with art. 5); S.I. 2012/2574, art. 2(2)(3)(c)(d), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2); S.I. 2013/1103, art. 2(1)(c)(d)(2)(3) (with arts. 3, 4)

F41 5 Notices of transfer— procedure.

. . . . . .

Textual Amendments
F41 Ss. 4-6 repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 3 para. 58(2), **Sch. 37 Pt. 4**; S.I. 2012/1320, art. 4(1)(c)(d)(2)(3) (with art. 5); S.I. 2012/2574, art. 2(2)(3)(c)(d), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2); S.I. 2013/1103, art. 2(1)(c)(d)(2)(3) (with arts. 3, 4)

F41 6 Applications for dismissal.

. . . . . .

Textual Amendments
F41 Ss. 4-6 repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 3 para. 58(2), **Sch. 37 Pt.**

4; S.I. 2012/1320, art. 4(1)(c)(d)(2)(3) (with art. 5); S.I. 2012/2574, art. 2(2)(3)(c)(d), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2); S.I. 2013/1103, art. 2(1)(c)(d)(2)(3) (with arts. 3, 4)

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 **[**[F42]seriousness or complexity**]** that substantial benefits are likely to accrue from a hearing (in this Act referred to as a "preparatory hearing") before **[**[F43]the time when the jury are sworn**]**, for the purpose of—

[[F44](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; **[**[F45]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.

[[F46](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.**]**

[[F47](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 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

F42 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

F43 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)

F44 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)

F45 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))

F46 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)

F47 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)

C2 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—

[F48](a) . . . . . .

[[F49](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; **[**[F50]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 **[**[F51]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—

[F52](i) . . . . . .

(ii) to give the court and the prosecution notice of any objections that he has to the case statement;

[F52](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) **[**[F53]Criminal Procedure Rules**]** may provide that except to the extent that disclosure is required—

(a) by **[**[F54]section 5(7) of the Criminal Procedure and Investigations Act 1996**]** (alibi); or

(b) by **[**[F55]such rules made by virtue of**]** section 81 of the [M5]Police and Criminal Evidence Act 1984 (expert evidence),

a summary required by virtue of subsection (5) above need not disclose who will give evidence.

(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 **[**[F56](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 **[**[F57]Criminal Procedure Rules**]** may make provision as to the minimum or maximum time that may be specified for compliance.

(10) An order or ruling made **[**[F58]under 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) **[**[F59](c) or (d)**]** above **[**[F60]from 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 [F61]... 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 [M6]**[**[F62]Senior 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 **[**[F63]the 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

F48 S. 9(3)(a) repealed by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 170, Sch. 8 para. 16, **Sch. 16**

F49 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**

F50 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))

F51 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)

F52 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))

F53 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))

F54 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)**

F55 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))

F56 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**

F57 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))

F58 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**

F59 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))

F60 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)

F61 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)

F62 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)

F63 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)

C3 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)**

C4 S. 9(3) modified (4.9.1998) by 1977 c. 45 s. 1A(10) (as inserted by 1998 c. 40, **s. 5(1)**).

C5 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

M5 1984 c. 60.

M6 1981 c. 54.

[F64 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.**]**

Textual Amendments

F64 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**

[F65 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 **[**[F66]or, in the case of a trial without a jury, the judge**]** may draw such inference as appears proper.

(3) In **[**[F67]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) **[**[F68]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

F65 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**

F66 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)

F67 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)

F68 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)

Reporting restrictions

[[F69]**11 Restrictions on reporting.**

(1) Except as provided by this section—

(a) no written report of proceedings falling within subsection (2) below shall be published in **[**[F70]the United Kingdom**]**;

(b) no report of proceedings falling within subsection (2) below shall be included in a relevant programme for reception in **[**[F71]the United Kingdom**]**.

(2) The following proceedings fall within this subsection—

[F72](a) . . . . . .

(b) a preparatory hearing;

(c) an application for leave to appeal in relation to such a hearing;

(d) an appeal in relation to such a hearing.

[F73](3) . . . . . .

(4) The judge dealing with a preparatory hearing may order that subsection (1) above shall not apply, or shall not apply to a specified extent, to a report of—

(a) the preparatory hearing, or

(b) an application to the judge for leave to appeal to the Court of Appeal under section 9(11) above in relation to the preparatory hearing.

(5) The Court of Appeal may order that subsection (1) above shall not apply, or shall not apply to a specified extent, to a report of—

(a) an appeal to the Court of Appeal under section 9(11) above in relation to a preparatory hearing,

(b) an application to that Court for leave to appeal to it under section 9(11) above in relation to a preparatory hearing, or

(c) an application to that Court for leave to appeal to the **[**[F74]Supreme Court**]** under Part II of the [M7]Criminal Appeal Act 1968 in relation to a preparatory hearing.

(6) **[**[F75]The Supreme Court**]** may order that subsection (1) above shall not apply, or shall not apply to a specified extent, to a report of—

(a) an appeal to **[**[F76]the Supreme Court**]** under Part II of the Criminal Appeal Act 1968 in relation to a preparatory hearing, or

(b) an application to **[**[F76]the Supreme Court**]** for leave to appeal to it under Part II of the [M8]Criminal Appeal Act 1968 in relation to a preparatory hearing.

(7) Where there is only one accused and he objects to the making of an order under subsection [F77]... (4), (5) or (6) above the judge or the Court of Appeal or the **[**[F78]Supreme Court**]** shall make the order if (and only if) satisfied after hearing the representations of the accused that it is in the interests of justice to do so; and if the order is made it shall not apply to the extent that a report deals with any such objection or representations.

(8) Where there are two or more accused and one or more of them objects to the making of an order under subsection [F79]... (4), (5) or (6) above the judge or the Court of Appeal or the **[**[F78]Supreme Court**]** shall make the order if (and only if) satisfied after hearing the representations of each of the accused that it is in the interests of justice to do so; and if the order is made it shall not apply to the extent that a report deals with any such objection or representations.

[F80](9) . . . . . .

[F81](10) . . . . . .

(11) Subsection (1) above does not apply to—

[F82](a) . . . . . .

(b) the publication of a report of a preparatory hearing,

(c) the publication of a report of an appeal in relation to a preparatory hearing or of an application for leave to appeal in relation to such a hearing,

[F83](d) . . . . . .

(e) the inclusion in a relevant programme of a report of a preparatory hearing, or

(f) the inclusion in a relevant programme of a report of an appeal in relation to a preparatory hearing or of an application for leave to appeal in relation to such a hearing,

at the conclusion of the trial of the accused or of the last of the accused to be tried.

(12) Subsection (1) above does not apply to a report which contains only one or more of the following matters—

(a) the identity of the court and the name of the judge;

(b) the names, ages, home addresses and occupations of the accused and witnesses;

(c) any relevant business information;

(d) the offence or offences, or a summary of them, with which the accused is or are charged;

(e) the names of counsel and solicitors in the proceedings;

(f) where the proceedings are adjourned, the date and place to which they are adjourned;

(g) any arrangements as to bail;

[[F84](h) whether, for the purposes of the proceedings, representation was provided to the accused or any of the accused under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.**]**

(13) The addresses that may be published or included in a relevant programme under subsection (12) above are addresses—

(a) at any relevant time, and

(b) at the time of their publication or inclusion in a relevant programme;

and "relevant time" here means a time when events giving rise to the charges to which the proceedings relate occurred.

(14) The following is relevant business information for the purposes of subsection (12) above—

(a) any address used by the accused for carrying on a business on his own account;

(b) the name of any business which he was carrying on on his own account at any relevant time;

(c) the name of any firm in which he was a partner at any relevant time or by which he was engaged at any such time;

(d) the address of any such firm;

(e) the name of any company of which he was a director at any relevant time or by which he was otherwise engaged at any such time;

(f) the address of the registered or principal office of any such company;

(g) any working address of the accused in his capacity as a person engaged by any such company;

and here "engaged" means engaged under a contract of service or a contract for services, and "relevant time" has the same meaning as in subsection (13) above.

(15) Nothing in this section affects any prohibition or restriction imposed by virtue of any other enactment on a publication or on matter included in a programme.

(16) In this section—

(a) "publish", in relation to a report, means publish the report, either by itself or as part of a newspaper or periodical, for distribution to the public;

(b) expressions cognate with "publish" shall be construed accordingly;

(c) "relevant programme" means a programme included in a programme service, within the meaning of the [M9]Broadcasting Act 1990.**]**

Textual Amendments

F69 Ss. 11, 11A substituted for s. 11 (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. 6 (with s. 78); S.I. 1997/1019, **art. 2**

F70 Words in s. 11(1)(a) substituted (4.4.2005) by Criminal Justice Act 2003 (c. 44), **ss. 311(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))

F71 Words in s. 11(1)(b) substituted (4.4.2005) by Criminal Justice Act 2003 (c. 44), **ss. 311(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))

F72 S. 11(2)(a) repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 3 para. 58(3)(a), **Sch. 37 Pt. 4**; S.I. 2012/1320, art. 4(1)(c)(d)(2)(3) (with art. 5); S.I. 2012/2574, art. 2(2)(3)(c)(d), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2); S.I. 2013/1103, art. 2(1)(c)(d)(2)(3) (with arts. 3, 4)

F73 S. 11(3) repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 3 para. 58(3)(b), **Sch. 37 Pt. 4**; S.I. 2012/1320, art. 4(1)(c)(d)(2)(3) (with art. 5); S.I. 2012/2574, art. 2(2)(3)(c)(d), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2); S.I. 2013/1103, art. 2(1)(c)(d)(2)(3) (with arts. 3, 4)

F74 Words in s. 11(5)(c) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), s. 148(1), **Sch. 9 para. 46(a)**; S.I. 2009/1604, art. 2(d)

F75 Words in s. 11(6) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), s. 148(1), **Sch. 9 para. 46(b)(i)**; S.I. 2009/1604, art. 2(d)

F76 Words in s. 11(6) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), s. 148(1), **Sch. 9 para. 46(b)(ii)**; S.I. 2009/1604, art. 2(d)

F77 Word in s. 11(7) repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 3 para. 58(3)(c), **Sch. 37 Pt. 4**; S.I. 2012/1320, art. 4(1)(c)(d)(2)(3) (with art. 5); S.I. 2012/2574, art. 2(2)(3)(c)(d), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2); S.I. 2013/1103, art. 2(1)(c)(d)(2)(3) (with arts. 3, 4)

F78 Words in s. 11(7)(8) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), s. 148(1), **Sch. 9 para. 46(c)**; S.I. 2009/1604, art. 2(d)

F79 Word in s. 11(8) repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 3 para. 58(3)(d), **Sch. 37 Pt. 4**; S.I. 2012/1320, art. 4(1)(c)(d)(2)(3) (with art. 5); S.I. 2012/2574, art. 2(2)(3)(c)(d), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2); S.I. 2013/1103, art. 2(1)(c)(d)(2)(3) (with arts. 3, 4)

F80 S. 11(9) repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 3 para. 58(3)(e), **Sch. 37 Pt. 4**; S.I. 2012/1320, art. 4(1)(c)(d)(2)(3) (with art. 5); S.I. 2012/2574, art. 2(2)(3)(c)(d), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2); S.I. 2013/1103, art. 2(1)(c)(d)(2)(3) (with arts. 3, 4)

F81 S. 11(10) repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 3 para. 58(3)(e), **Sch. 37 Pt. 4**; S.I. 2012/1320, art. 4(1)(c)(d)(2)(3) (with art. 5); S.I. 2012/2574, art. 2(2)(3)(c)(d), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2); S.I. 2013/1103, art. 2(1)(c)(d)(2)(3) (with arts. 3, 4)

F82 S. 11(11)(a) repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 3 para. 58(3)(f), **Sch. 37 Pt. 4**; S.I. 2012/1320, art. 4(1)(c)(d)(2)(3) (with art. 5); S.I. 2012/2574, art. 2(2)(3)(c)(d), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2); S.I. 2013/1103, art. 2(1)(c)(d)(2)(3) (with arts. 3, 4)

F83 S. 11(11)(d) repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 3 para. 58(3)(f), **Sch. 37 Pt. 4**; S.I. 2012/1320, art. 4(1)(c)(d)(2)(3) (with art. 5); S.I. 2012/2574, art. 2(2)(3)(c)(d), Sch. (with

arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2); S.I. 2013/1103, art. 2(1)(c)(d)(2)(3) (with arts. 3, 4)

F84 S. 11(12)(h) substituted (1.4.2013) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 5 para. 36**; S.I. 2013/453, art. 3(h) (with savings and transitional provisions in S.I. 2013/534, art. 6)

Marginal Citations

M7 1968 c. 19.

M8 1968 c. 19.

M9 1990 c. 42.

[F85 11A Offences in connection with reporting.

(1) If a report is published or included in a relevant programme in contravention of section 11 above each of the following persons is guilty of an offence—

(a) in the case of a publication of a written report as part of a newspaper or periodical, any proprietor, editor or publisher of the newspaper or periodical;

(b) in the case of a publication of a written report otherwise than as part of a newspaper or periodical, the person who publishes it;

(c) in the case of the inclusion of a report in a relevant programme, any body corporate which is engaged in providing the service in which the programme is included and any person having functions in relation to the programme corresponding to those of an editor of a newspaper.

(2) A person guilty of an offence under this section is liable on summary conviction to a fine of an amount not exceeding level 5 on the standard scale.

(3) Proceedings for an offence under this section shall not be instituted in England and Wales otherwise than by or with the consent of the Attorney General.

F86 **[** (3A) Proceedings for an offence under this section shall not be instituted in Northern Ireland otherwise than by or with the consent of the Attorney General for Northern Ireland.**]**

(4) Subsection (16) of section 11 above applies for the purposes of this section as it applies for the purposes of that.**]**

Textual Amendments

F85 Ss. 11, 11A substituted for s. 11 (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. 6 (with s. 78); S.I. 1997/1019, **art. 2**

F86 S. 11A(3A) inserted (4.4.2005) by Criminal Justice Act 2003 (c. 44), **ss. 311(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))

Conspiracy to defraud

12 Charges of and penalty for conspiracy to defraud.

(1) If—

(a) a person agrees with any other person or persons that a course of conduct shall be pursued; and

(b) that course of conduct will necessarily amount to or involve the commission of any offence or offences by one or more of the parties to the agreement if the agreement is carried out in accordance with their intentions,

the fact that it will do so shall not preclude a charge of conspiracy to defraud being brought against any of them in respect of the agreement.

(2) In section 5(2) of the Criminal Law [M10]Act 1977, the words from "and" to the end are hereby repealed.

(3) A person guilty of conspiracy to defraud is liable on conviction on indictment to imprisonment for a term not exceeding 10 years or a fine or both.

Marginal Citations

M10 1977 c. 45.

Status:
Point in time view as at 22/07/2020.

Changes to legislation:
There are currently no known outstanding effects for the Criminal Justice Act 1987, Part I.