Status: *Point in time view as at 02/10/2000. This version of this Act contains provisions that are not valid for this point in time.*
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Criminal Procedure and Investigations Act 1996

1996 CHAPTER 25

An Act to make provision about criminal procedure and criminal investigations. [4th July 1996]

[F1]Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Extent Information

E1 Act extends to Northern Ireland but the operation of Sch. 4 is limited by application as mentioned in s.79(4)

Textual Amendments

F1 Act: for the words "Supreme Court Act 1981" wherever they occur there is substituted (prosp.) the words "Senior Courts Act 1981" by virtue of Constitutional Reform Act 2005 (c. 4), ss. 59, 148(1), **Sch. 11 para. 1(2)** [Editorial Note: this amendment will be carried through into the text of the Act at the same time as any other effects on the Act for the year in which the relevant commencement order (or first such order) is made]

PART I

DISCLOSURE

Modifications etc. (not altering text)

C1 Pt I: Power to modify conferred (27.7.1999 for specified purposes and otherwise (4.9.2000) by 1999 c. 23, s. 38(7)(a) (with s. 63(2), Sch. 7 paras. 3(3), 4, **5(2)**); S.I. 2000/2091, **art. 2(c)**

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Pt. I: Power to modify conferred (1.12.2003) by S.I. 1999/2789 (N.I. 8), **art. 26(7)**; S.R. 2003/476, **art. 4(a)**

Introduction

1 Application of this Part.

(1) This Part applies where—

(a) a person is charged with a summary offence in respect of which a court proceeds to summary trial and in respect of which he pleads not guilty,

(b) a person who has attained the age of 18 is charged with an offence which is triable either way, in respect of which a court proceeds to summary trial and in respect of which he pleads not guilty, or

(c) a person under the age of 18 is charged with an indictable offence in respect of which a court proceeds to summary trial and in respect of which he pleads not guilty.

(2) This Part also applies where—

(a) a person is charged with an indictable offence and he is committed for trial for the offence concerned,

(b) a person is charged with an indictable offence and proceedings for the trial of the person on the charge concerned are transferred to the Crown Court by virtue of a notice of transfer given under section 4 of the [M1]Criminal Justice Act 1987 (serious or complex fraud),

(c) a person is charged with an indictable offence and proceedings for the trial of the person on the charge concerned are transferred to the Crown Court by virtue of a notice of transfer served on a magistrates' court under section 53 of the [M2]Criminal Justice Act 1991 (certain cases involving children),

[[F2](cc) a person is charged with an offence for which he is sent for trial under section 51 (no committal proceedings for indictable-only offences) of the Crime and Disorder Act 1998,**]**

(d) a count charging a person with a summary offence is included in an indictment under the authority of section 40 of the [M3]Criminal Justice Act 1988 (common assault etc.), or

(e) a bill of indictment charging a person with an indictable offence is preferred under the authority of section 2(2)(b) of the [M4]Administration of Justice (Miscellaneous Provisions) Act 1933 (bill preferred by direction of Court of Appeal, or by direction or with consent of a judge) **[**[F3]or

(f) a bill of indictment charging a person with an indictable offence is preferred under section 22B(3)(a) of the [M5]Prosecution of Offences Act 1985.**]**

(3) This Part applies in relation to alleged offences into which no criminal investigation has begun before the appointed day.

(4) For the purposes of this section a criminal investigation is an investigation which police officers or other persons have a duty to conduct with a view to it being ascertained—

(a) whether a person should be charged with an offence, or

(b) whether a person charged with an offence is guilty of it.

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(5) The reference in subsection (3) to the appointed day is to such day as is appointed for the purposes of this Part by the Secretary of State by order.

Extent Information

E2 In its application to Northern Ireland, this section has effect subject to the modifications set out in Schedule 4; see s. 79

Subordinate Legislation Made

P1 S. 1(5) power wholly exercised (8.3.1997 and 29.12.1997): 1.4.1997 appointed day (E.W.) by S.I. 1997/682; 1.1.1998 appointed day (N.I.) by S.I. 1997/3108.

Textual Amendments

F2 S. 1(2)(cc) inserted (E.W.) (4.1.1999 for the purpose of sending any person for trial under 1998 c. 37, **s. 51** from any area specified in S.I. 1998/2327, **Sch. 2** and 15.1.2001 as specified in S.I. 2000/3283, **arts. 2**, 3) by 1998 c. 37, s. 119, **Sch. 8 para. 125(a)**; S.I. 1998/2327, art. 4(2)(c), **Sch. 2**; S.I. 2000/3283, **art. 2** (subject to art. 3)

F3 S. 1(2)(f) and the word "or" immediately preceding inserted (E.W.) (1.6.1999) by 1998 c. 37, ss. 119, **Sch. 8 para. 125(b)**; S.I. 1999/1279, **art. 2(f)**

Marginal Citations

M1 1987 c. 38.
M2 1991 c. 53.
M3 1988 c. 33.
M4 1933 c. 36.
M5 1985 c.23.

2 General interpretation.

(1) References to the accused are to the person mentioned in section 1(1) or (2).

(2) Where there is more than one accused in any proceedings this Part applies separately in relation to each of the accused.

(3) References to the prosecutor are to any person acting as prosecutor, whether an individual or a body.

(4) References to material are to material of all kinds, and in particular include references to—

(a) information, and

(b) objects of all descriptions.

(5) References to recording information are to putting it in a durable or retrievable form (such as writing or tape).

(6) This section applies for the purposes of this Part.

The main provisions

3 Primary disclosure by prosecutor.

(1) The prosecutor must—

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(a) disclose to the accused any prosecution material which has not previously been disclosed to the accused and which in the prosecutor's opinion might undermine the case for the prosecution against the accused, or

(b) give to the accused a written statement that there is no material of a description mentioned in paragraph (a).

(2) For the purposes of this section prosecution material is material—

(a) which is in the prosecutor's possession, and came into his possession in connection with the case for the prosecution against the accused, or

(b) which, in pursuance of a code operative under Part II, he has inspected in connection with the case for the prosecution against the accused.

(3) Where material consists of information which has been recorded in any form the prosecutor discloses it for the purposes of this section—

(a) by securing that a copy is made of it and that the copy is given to the accused, or

(b) if in the prosecutor's opinion that is not practicable or not desirable, by allowing the accused to inspect it at a reasonable time and a reasonable place or by taking steps to secure that he is allowed to do so;

and a copy may be in such form as the prosecutor thinks fit and need not be in the same form as that in which the information has already been recorded.

(4) Where material consists of information which has not been recorded the prosecutor discloses it for the purposes of this section by securing that it is recorded in such form as he thinks fit and—

(a) by securing that a copy is made of it and that the copy is given to the accused, or

(b) if in the prosecutor's opinion that is not practicable or not desirable, by allowing the accused to inspect it at a reasonable time and a reasonable place or by taking steps to secure that he is allowed to do so.

(5) Where material does not consist of information the prosecutor discloses it for the purposes of this section by allowing the accused to inspect it at a reasonable time and a reasonable place or by taking steps to secure that he is allowed to do so.

(6) Material must not be disclosed under this section to the extent that the court, on an application by the prosecutor, concludes it is not in the public interest to disclose it and orders accordingly.

(7) Material must not be disclosed under this section to the extent that **[**[F4]it is material the disclosure of which is prohibited by section 17 of the Regulation of Investigatory Powers Act 2000.**]**

(8) The prosecutor must act under this section during the period which, by virtue of section 12, is the relevant period for this section.

Textual Amendments

F4 Words in s. 3(7) substituted for s. 3(7)(a)(b) (2.10.2000) by 2000 c. 23, s. 82(1), **Sch. 4 para. 7(1)** (with s. 82(3)); S.I. 2000/2543, **art. 3**

Modifications etc. (not altering text)

C2 S. 3(3)-(5) excluded (E.W.) (*prosp.*) by 1997 c. 39, **ss. 9(2)**, 11(2).

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4 Primary disclosure: further provisions.

(1) This section applies where—
- (a) the prosecutor acts under section 3, and
- (b) before so doing he was given a document in pursuance of provision included, by virtue of section 24(3), in a code operative under Part II.

(2) In such a case the prosecutor must give the document to the accused at the same time as the prosecutor acts under section 3.

5 Compulsory disclosure by accused.

(1) Subject to subsections (2) to (4), this section applies where—
- (a) this Part applies by virtue of section 1(2), and
- (b) the prosecutor complies with section 3 or purports to comply with it.

(2) Where this Part applies by virtue of section 1(2)(b), this section does not apply unless—
- (a) a copy of the notice of transfer, and
- (b) copies of the documents containing the evidence,

have been given to the accused under regulations made under section 5(9) of the [M6]Criminal Justice Act 1987.

(3) Where this Part applies by virtue of section 1(2)(c), this section does not apply unless—
- (a) a copy of the notice of transfer, and
- (b) copies of the documents containing the evidence,

have been given to the accused under regulations made under paragraph 4 of Schedule 6 to the [M7]Criminal Justice Act 1991.

[[F5](3A) Where this Part applies by virtue of section 1(2)(cc), this section does not apply unless—
- (a) copies of the documents containing the evidence have been served on the accused under regulations made under paragraph 1 of Schedule 3 to the Crime and Disorder Act 1998; and
- (b) a copy of the notice under subsection (7) of section 51 of that Act has been served on him under that subsection.**]**

(4) Where this Part applies by virtue of section 1(2)(e), this section does not apply unless the prosecutor has served on the accused a copy of the indictment and a copy of the set of documents containing the evidence which is the basis of the charge.

(5) Where this section applies, the accused must give a defence statement to the court and the prosecutor.

(6) For the purposes of this section a defence statement is a written statement—
- (a) setting out in general terms the nature of the accused's defence,
- (b) indicating the matters on which he takes issue with the prosecution, and
- (c) setting out, in the case of each such matter, the reason why he takes issue with the prosecution.

(7) If the defence statement discloses an alibi the accused must give particulars of the alibi in the statement, including—

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(a) the name and address of any witness the accused believes is able to give evidence in support of the alibi, if the name and address are known to the accused when the statement is given;

(b) any information in the accused's possession which might be of material assistance in finding any such witness, if his name or address is not known to the accused when the statement is given.

(8) For the purposes of this section evidence in support of an alibi is evidence tending to show that by reason of the presence of the accused at a particular place or in a particular area at a particular time he was not, or was unlikely to have been, at the place where the offence is alleged to have been committed at the time of its alleged commission.

(9) The accused must give a defence statement under this section during the period which, by virtue of section 12, is the relevant period for this section.

Extent Information

E3 In its application to Northern Ireland, this section has effect subject to the modifications set out in Schedule 4; see s. 79

Textual Amendments

F5 S. 5(3A) inserted (E.W.) (4.1.1999 for certain purposes and 15.1.2001 otherwise) by 1998 c. 37, s. 119, **Sch. 8 para.126**; S.I. 1998/2327, art. 4(2)(c), **Sch. 2**; S.I. 2000/3283, **art. 2**

Marginal Citations

M6 1987 c. 38.

M7 1991 c. 53.

6 Voluntary disclosure by accused.

(1) This section applies where—

(a) this Part applies by virtue of section 1(1), and

(b) the prosecutor complies with section 3 or purports to comply with it.

(2) The accused—

(a) may give a defence statement to the prosecutor, and

(b) if he does so, must also give such a statement to the court.

(3) Subsections (6) to (8) of section 5 apply for the purposes of this section as they apply for the purposes of that.

(4) If the accused gives a defence statement under this section he must give it during the period which, by virtue of section 12, is the relevant period for this section.

VALID FROM 04/04/2005

[F6 6A Contents of defence statement

(1) For the purposes of this Part a defence statement is a written statement—

(a) setting out the nature of the accused's defence, including any particular defences on which he intends to rely,

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(b) indicating the matters of fact on which he takes issue with the prosecution,

(c) setting out, in the case of each such matter, why he takes issue with the prosecution, and

(d) indicating any point of law (including any point as to the admissibility of evidence or an abuse of process) which he wishes to take, and any authority on which he intends to rely for that purpose.

(2) A defence statement that discloses an alibi must give particulars of it, including—

(a) the name, address and date of birth of any witness the accused believes is able to give evidence in support of the alibi, or as many of those details as are known to the accused when the statement is given;

(b) any information in the accused's possession which might be of material assistance in identifying or finding any such witness in whose case any of the details mentioned in paragraph (a) are not known to the accused when the statement is given.

(3) For the purposes of this section evidence in support of an alibi is evidence tending to show that by reason of the presence of the accused at a particular place or in a particular area at a particular time he was not, or was unlikely to have been, at the place where the offence is alleged to have been committed at the time of its alleged commission.

(4) The Secretary of State may by regulations make provision as to the details of the matters that, by virtue of subsection (1), are to be included in defence statements.**]**

Textual Amendments

F6 S. 6A inserted (4.4.2005 for E.W., 15.7.2005 for N.I.) by Criminal Justice Act 2003 (c. 44), **ss. 33(2)**, 336; S.I. 2005/950, art. 2, **Sch. 1**; S.I. 2005/1817, **art. 2**

PROSPECTIVE

[F7 6B Updated disclosure by accused

(1) Where the accused has, before the beginning of the relevant period for this section, given a defence statement under section 5 or 6, he must during that period give to the court and the prosecutor either—

(a) a defence statement under this section (an "updated defence statement"), or

(b) a statement of the kind mentioned in subsection (4).

(2) The relevant period for this section is determined under section 12.

(3) An updated defence statement must comply with the requirements imposed by or under section 6A by reference to the state of affairs at the time when the statement is given.

(4) Instead of an updated defence statement, the accused may give a written statement stating that he has no changes to make to the defence statement which was given under section 5 or 6.

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(5) Where there are other accused in the proceedings and the court so orders, the accused must also give either an updated defence statement or a statement of the kind mentioned in subsection (4), within such period as may be specified by the court, to each other accused so specified.

(6) The court may make an order under subsection (5) either of its own motion or on the application of any party.**]**

Textual Amendments

F7 S. 6B inserted (prosp.) by Criminal Justice Act 2003 (c. 44), **ss. 33(3)**, 336

VALID FROM 01/05/2010

[F8 6C Notification of intention to call defence witnesses

(1) The accused must give to the court and the prosecutor a notice indicating whether he intends to call any persons (other than himself) as witnesses at his trial and, if so—

(a) giving the name, address and date of birth of each such proposed witness, or as many of those details as are known to the accused when the notice is given;

(b) providing any information in the accused's possession which might be of material assistance in identifying or finding any such proposed witness in whose case any of the details mentioned in paragraph (a) are not known to the accused when the notice is given.

(2) Details do not have to be given under this section to the extent that they have already been given under section 6A(2).

(3) The accused must give a notice under this section during the period which, by virtue of section 12, is the relevant period for this section.

(4) If, following the giving of a notice under this section, the accused—

(a) decides to call a person (other than himself) who is not included in the notice as a proposed witness, or decides not to call a person who is so included, or

(b) discovers any information which, under subsection (1), he would have had to include in the notice if he had been aware of it when giving the notice,

he must give an appropriately amended notice to the court and the prosecutor.**]**

Textual Amendments

F8 S. 6C inserted (prosp.) by Criminal Justice Act 2003 (c. 44), **ss. 34**, 336

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PROSPECTIVE

[F9 6D Notification of names of experts instructed by accused

(1) If the accused instructs a person with a view to his providing any expert opinion for possible use as evidence at the trial of the accused, he must give to the court and the prosecutor a notice specifying the person's name and address.

(2) A notice does not have to be given under this section specifying the name and address of a person whose name and address have already been given under section 6C.

(3) A notice under this section must be given during the period which, by virtue of section 12, is the relevant period for this section.]

Textual Amendments

F9 S. 6D inserted (prosp.) by Criminal Justice Act 2003 (c. 44), **ss. 35**, 336

VALID FROM 04/04/2005

[F10 6E Disclosure by accused: further provisions

(1) Where an accused's solicitor purports to give on behalf of the accused—
  (a) a defence statement under section 5, 6 or 6B, or
  (b) a statement of the kind mentioned in section 6B(4),

the statement shall, unless the contrary is proved, be deemed to be given with the authority of the accused.

(2) If it appears to the judge at a pre-trial hearing that an accused has failed to comply fully with section 5, 6B or 6C, so that there is a possibility of comment being made or inferences drawn under section 11(5), he shall warn the accused accordingly.

(3) In subsection (2) "pre-trial hearing" has the same meaning as in Part 4 (see section 39).

(4) The judge in a trial before a judge and jury—
  (a) may direct that the jury be given a copy of any defence statement, and
  (b) if he does so, may direct that it be edited so as not to include references to matters evidence of which would be inadmissible.

(5) A direction under subsection (4)—
  (a) may be made either of the judge's own motion or on the application of any party;
  (b) may be made only if the judge is of the opinion that seeing a copy of the defence statement would help the jury to understand the case or to resolve any issue in the case.

(6) The reference in subsection (4) to a defence statement is a reference—
  (a) where the accused has given only an initial defence statement (that is, a defence statement given under section 5 or 6), to that statement;

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(b) where he has given both an initial defence statement and an updated defence statement (that is, a defence statement given under section 6B), to the updated defence statement;

(c) where he has given both an initial defence statement and a statement of the kind mentioned in section 6B(4), to the initial defence statement.**]**

Textual Amendments

F10 S. 6E inserted (4.4.2005 for E.W. and 15.7.2005 for N.I.) by Criminal Justice Act 2003 (c. 44), **ss. 33(2)**, 336; S.I. 2005/950, **art. 2**, Sch. 1; S.I.2005/1817, **art. 2**

7 Secondary disclosure by prosecutor.

(1) This section applies where the accused gives a defence statement under section 5 or 6.

(2) The prosecutor must—

(a) disclose to the accused any prosecution material which has not previously been disclosed to the accused and which might be reasonably expected to assist the accused's defence as disclosed by the defence statement given under section 5 or 6, or

(b) give to the accused a written statement that there is no material of a description mentioned in paragraph (a).

(3) For the purposes of this section prosecution material is material—

(a) which is in the prosecutor's possession and came into his possession in connection with the case for the prosecution against the accused, or

(b) which, in pursuance of a code operative under Part II, he has inspected in connection with the case for the prosecution against the accused.

(4) Subsections (3) to (5) of section 3 (method by which prosecutor discloses) apply for the purposes of this section as they apply for the purposes of that.

(5) Material must not be disclosed under this section to the extent that the court, on an application by the prosecutor, concludes it is not in the public interest to disclose it and orders accordingly.

(6) Material must not be disclosed under this section to the extent that **[**[F11]it is material the disclosure of which is prohibited by section 17 of the Regulation of Investigatory Powers Act 2000.**]**

(7) The prosecutor must act under this section during the period which, by virtue of section 12, is the relevant period for this section.

Textual Amendments

F11 Words in s. 7(6) substituted for s. 7(6)(a)(b) (2.10.2000) by 2000 c. 23, s. 82(1), **Sch. 4 para. 7(1)** (with s. 82(3)); S.I. 2000/2543, **art. 3**

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VALID FROM 04/04/2005

[F12 7A Continuing duty of prosecutor to disclose

(1) This section applies at all times—
- (a) after the prosecutor has complied with section 3 or purported to comply with it, and
- (b) before the accused is acquitted or convicted or the prosecutor decides not to proceed with the case concerned.

(2) The prosecutor must keep under review the question whether at any given time (and, in particular, following the giving of a defence statement) there is prosecution material which—
- (a) might reasonably be considered capable of undermining the case for the prosecution against the accused or of assisting the case for the accused, and
- (b) has not been disclosed to the accused.

(3) If at any time there is any such material as is mentioned in subsection (2) the prosecutor must disclose it to the accused as soon as is reasonably practicable (or within the period mentioned in subsection (5)(a), where that applies).

(4) In applying subsection (2) by reference to any given time the state of affairs at that time (including the case for the prosecution as it stands at that time) must be taken into account.

(5) Where the accused gives a defence statement under section 5, 6 or 6B—
- (a) if as a result of that statement the prosecutor is required by this section to make any disclosure, or further disclosure, he must do so during the period which, by virtue of section 12, is the relevant period for this section;
- (b) if the prosecutor considers that he is not so required, he must during that period give to the accused a written statement to that effect.

(6) For the purposes of this section prosecution material is material—
- (a) which is in the prosecutor's possession and came into his possession in connection with the case for the prosecution against the accused, or
- (b) which, in pursuance of a code operative under Part 2, he has inspected in connection with the case for the prosecution against the accused.

(7) Subsections (3) to (5) of section 3 (method by which prosecutor discloses) apply for the purposes of this section as they apply for the purposes of that.

(8) Material must not be disclosed under this section to the extent that the court, on an application by the prosecutor, concludes it is not in the public interest to disclose it and orders accordingly.

(9) Material must not be disclosed under this section to the extent that it is material the disclosure of which is prohibited by section 17 of the Regulation of Investigatory Powers Act 2000 (c. 23).**]**

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Textual Amendments

F12 S. 7A inserted (4.4.2005 for E.W. and 15.7.2005 for N.I.) by Criminal Justice Act 2003 (c. 44), **ss. 37**, 336; S.I. 2005/950, **art. 2**, Sch. 1; S.I. 2005/1817, **art. 2**

8 Application by accused for disclosure.

(1) This section applies where the accused gives a defence statement under section 5 or 6 and the prosecutor complies with section 7 or purports to comply with it or fails to comply with it.

(2) If the accused has at any time reasonable cause to believe that—

(a) there is prosecution material which might be reasonably expected to assist the accused's defence as disclosed by the defence statement given under section 5 or 6, and

(b) the material has not been disclosed to the accused,

the accused may apply to the court for an order requiring the prosecutor to disclose such material to the accused.

(3) For the purposes of this section prosecution material is material—

(a) which is in the prosecutor's possession and came into his possession in connection with the case for the prosecution against the accused,

(b) which, in pursuance of a code operative under Part II, he has inspected in connection with the case for the prosecution against the accused, or

(c) which falls within subsection (4).

(4) Material falls within this subsection if in pursuance of a code operative under Part II the prosecutor must, if he asks for the material, be given a copy of it or be allowed to inspect it in connection with the case for the prosecution against the accused.

(5) Material must not be disclosed under this section to the extent that the court, on an application by the prosecutor, concludes it is not in the public interest to disclose it and orders accordingly.

(6) Material must not be disclosed under this section to the extent that **[**[F13]it is material the disclosure of which is prohibited by section 17 of the Regulation of Investigatory Powers Act 2000.**]**

Textual Amendments

F13 Words in s. 8(6) substituted for s. 8(6)(a)(b) (2.10.2000) by 2000 c. 23, s. 82(1), **Sch.4 para. 7(1)** (with s. 82(3)); S.I. 2000/2543, **art. 3**

9 Continuing duty of prosecutor to disclose.

(1) Subsection (2) applies at all times—

(a) after the prosecutor complies with section 3 or purports to comply with it, and

(b) before the accused is acquitted or convicted or the prosecutor decides not to proceed with the case concerned.

Status: *Point in time view as at 02/10/2000. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Criminal Procedure and Investigations Act 1996 is up to date with all changes known to be in force on or before 26 June 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)*

(2) The prosecutor must keep under review the question whether at any given time there is prosecution material which—
  (a) in his opinion might undermine the case for the prosecution against the accused, and
  (b) has not been disclosed to the accused;

and if there is such material at any time the prosecutor must disclose it to the accused as soon as is reasonably practicable.

(3) In applying subsection (2) by reference to any given time the state of affairs at that time (including the case for the prosecution as it stands at that time) must be taken into account.

(4) Subsection (5) applies at all times—
  (a) after the prosecutor complies with section 7 or purports to comply with it, and
  (b) before the accused is acquitted or convicted or the prosecutor decides not to proceed with the case concerned.

(5) The prosecutor must keep under review the question whether at any given time there is prosecution material which—
  (a) might be reasonably expected to assist the accused's defence as disclosed by the defence statement given under section 5 or 6, and
  (b) has not been disclosed to the accused;

and if there is such material at any time the prosecutor must disclose it to the accused as soon as is reasonably practicable.

(6) For the purposes of this section prosecution material is material—
  (a) which is in the prosecutor's possession and came into his possession in connection with the case for the prosecution against the accused, or
  (b) which, in pursuance of a code operative under Part II, he has inspected in connection with the case for the prosecution against the accused.

(7) Subsections (3) to (5) of section 3 (method by which prosecutor discloses) apply for the purposes of this section as they apply for the purposes of that.

(8) Material must not be disclosed under this section to the extent that the court, on an application by the prosecutor, concludes it is not in the public interest to disclose it and orders accordingly.

(9) Material must not be disclosed under this section to the extent that **[**[F14]it is material the disclosure of which is prohibited by section 17 of the Regulation of Investigatory Powers Act 2000.**]**

Textual Amendments

F14 Words in s. 9(9) substituted for s. 9(9)(a)(b) (2.10.2000) by 2000 c. 23, s. 82(1), **Sch. 4 para. 7(1)** (with s. 82(3)); S.I. 2000/2543, **art. 3**

10 Prosecutor's failure to observe time limits.

(1) This section applies if the prosecutor—

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(a) purports to act under section 3 after the end of the period which, by virtue of section 12, is the relevant period for section 3, or
(b) purports to act under section 7 after the end of the period which, by virtue of section 12, is the relevant period for section 7.

(2) Subject to subsection (3), the failure to act during the period concerned does not on its own constitute grounds for staying the proceedings for abuse of process.

(3) Subsection (2) does not prevent the failure constituting such grounds if it involves such delay by the prosecutor that the accused is denied a fair trial.

11 Faults in disclosure by accused.

(1) This section applies where section 5 applies and the accused—
(a) fails to give a defence statement under that section,
(b) gives a defence statement under that section but does so after the end of the period which, by virtue of section 12, is the relevant period for section 5,
(c) sets out inconsistent defences in a defence statement given under section 5,
(d) at his trial puts forward a defence which is different from any defence set out in a defence statement given under section 5,
(e) at his trial adduces evidence in support of an alibi without having given particulars of the alibi in a defence statement given under section 5, or
(f) at his trial calls a witness to give evidence in support of an alibi without having complied with subsection (7)(a) or (b) of section 5 as regards the witness in giving a defence statement under that section.

(2) This section also applies where section 6 applies, the accused gives a defence statement under that section, and the accused—
(a) gives the statement after the end of the period which, by virtue of section 12, is the relevant period for section 6,
(b) sets out inconsistent defences in the statement,
(c) at his trial puts forward a defence which is different from any defence set out in the statement,
(d) at his trial adduces evidence in support of an alibi without having given particulars of the alibi in the statement, or
(e) at his trial calls a witness to give evidence in support of an alibi without having complied with subsection (7)(a) or (b) of section 5 (as applied by section 6) as regards the witness in giving the statement.

(3) Where this section applies—
(a) the court or, with the leave of the court, any other party may make such comment as appears appropriate;
(b) the court or jury may draw such inferences as appear proper in deciding whether the accused is guilty of the offence concerned.

(4) Where the accused puts forward a defence which is different from any defence set out in a defence statement given under section 5 or 6, in doing anything under subsection (3) or in deciding whether to do anything under it the court shall have regard—
(a) to the extent of the difference in the defences, and
(b) to whether there is any justification for it.

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(5) A person shall not be convicted of an offence solely on an inference drawn under subsection (3).

(6) Any reference in this section to evidence in support of an alibi shall be construed in accordance with section 5.

Time limits

12 Time limits.

(1) This section has effect for the purpose of determining the relevant period for sections 3, 5, 6 and 7.

(2) Subject to subsection (3), the relevant period is a period beginning and ending with such days as the Secretary of State prescribes by regulations for the purposes of the section concerned.

(3) The regulations may do one or more of the following—
- (a) provide that the relevant period for any section shall if the court so orders be extended (or further extended) by so many days as the court specifies;
- (b) provide that the court may only make such an order if an application is made by a prescribed person and if any other prescribed conditions are fulfilled;
- (c) provide that an application may only be made if prescribed conditions are fulfilled;
- (d) provide that the number of days by which a period may be extended shall be entirely at the court's discretion;
- (e) provide that the number of days by which a period may be extended shall not exceed a prescribed number;
- (f) provide that there shall be no limit on the number of applications that may be made to extend a period;
- (g) provide that no more than a prescribed number of applications may be made to extend a period;

and references to the relevant period for a section shall be construed accordingly.

(4) Conditions mentioned in subsection (3) may be framed by reference to such factors as the Secretary of State thinks fit.

(5) Without prejudice to the generality of subsection (4), so far as the relevant period for section 3 or 7 is concerned—
- (a) conditions may be framed by reference to the nature or volume of the material concerned;
- (b) the nature of material may be defined by reference to the prosecutor's belief that the question of non-disclosure on grounds of public interest may arise.

(6) In subsection (3) "prescribed" means prescribed by regulations under this section.

13 Time limits: transitional.

(1) As regards a case in relation to which no regulations under section 12 have come into force for the purposes of section 3, section 3(8) shall have effect as if it read—

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"(8) The prosecutor must act under this section as soon as is reasonably practicable after—

(a) the accused pleads not guilty (where this Part applies by virtue of section 1(1)),

(b) the accused is committed for trial (where this Part applies by virtue of section 1(2)(a)),

(c) the proceedings are transferred (where this Part applies by virtue of section 1(2)(b) or (c)),

[[F15](ca) copies of the documents containing the evidence on which the charge or charges are based are served on the accused (where this Part applies by virtue of section 1(2)(cc)),**]**

(d) the count is included in the indictment (where this Part applies by virtue of section 1(2)(d)), or

(e) the bill of indictment is preferred (where this Part applies by virtue of section 1(2)(e) **[**[F16]or (f)**]**)."

(2) As regards a case in relation to which no regulations under section 12 have come into force for the purposes of section 7, section 7(7) shall have effect as if it read—

"(7) The prosecutor must act under this section as soon as is reasonably practicable after the accused gives a defence statement under section 5 or 6."

Extent Information

E4 In its application to Northern Ireland, this section has effect subject to the modifications set out in Schedule 4; see s. 79

Textual Amendments

F15 Words in s. 13(1) inserted (27.9.1999 for certain areas and otherwise 8.1.2001) by 1999 c. 22, **ss. 67(2)**, 108(1) (with Sch. 14 para. 7(2)); S.I. 1999/2657, art. 2(b), **Sch. 1**; S.I.2000/3280, **art. 2**

F16 Words in s. 13(1) inserted (E.W.) (1.6.1999) by 1998 c. 37, s. 119, **Sch. 8 para. 127(b)**; S.I. 1999/1279, **art. 2(f)**

Public interest

14 Public interest: review for summary trials.

(1) This section applies where this Part applies by virtue of section 1(1).

(2) At any time—

(a) after a court makes an order under section 3(6), 7(5), 8(5) or 9(8), and

(b) before the accused is acquitted or convicted or the prosecutor decides not to proceed with the case concerned,

the accused may apply to the court for a review of the question whether it is still not in the public interest to disclose material affected by its order.

(3) In such a case the court must review that question, and if it concludes that it is in the public interest to disclose material to any extent—

(a) it shall so order, and

(b) it shall take such steps as are reasonable to inform the prosecutor of its order.

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(4) Where the prosecutor is informed of an order made under subsection (3) he must act accordingly having regard to the provisions of this Part (unless he decides not to proceed with the case concerned).

15 Public interest: review in other cases.

(1) This section applies where this Part applies by virtue of section 1(2).

(2) This section applies at all times—
- (a) after a court makes an order under section 3(6), 7(5), 8(5) or 9(8), and
- (b) before the accused is acquitted or convicted or the prosecutor decides not to proceed with the case concerned.

(3) The court must keep under review the question whether at any given time it is still not in the public interest to disclose material affected by its order.

(4) The court must keep the question mentioned in subsection (3) under review without the need for an application; but the accused may apply to the court for a review of that question.

(5) If the court at any time concludes that it is in the public interest to disclose material to any extent—
- (a) it shall so order, and
- (b) it shall take such steps as are reasonable to inform the prosecutor of its order.

(6) Where the prosecutor is informed of an order made under subsection (5) he must act accordingly having regard to the provisions of this Part (unless he decides not to proceed with the case concerned).

Extent Information

E5 In its application to Northern Ireland, this section has effect subject to the modifications set out in Schedule 4; see s. 79

16 Applications: opportunity to be heard.

Where—
- (a) an application is made under section 3(6), 7(5), 8(5), 9(8), 14(2) or 15(4),
- (b) a person claiming to have an interest in the material applies to be heard by the court, and
- (c) he shows that he was involved (whether alone or with others and whether directly or indirectly) in the prosecutor's attention being brought to the material,

the court must not make an order under section 3(6), 7(5), 8(5), 9(8), 14(3) or 15(5) (as the case may be) unless the person applying under paragraph (b) has been given an opportunity to be heard.

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Extent Information

E6 In its application to Northern Ireland, this section has effect subject to the modifications set out in Schedule 4; see s. 79

Confidentiality

17 Confidentiality of disclosed information.

(1) If the accused is given or allowed to inspect a document or other object under—

(a) section 3, 4, 7, 9, 14 or 15, or

(b) an order under section 8,

then, subject to subsections (2) to (4), he must not use or disclose it or any information recorded in it.

(2) The accused may use or disclose the object or information—

(a) in connection with the proceedings for whose purposes he was given the object or allowed to inspect it,

(b) with a view to the taking of further criminal proceedings (for instance, by way of appeal) with regard to the matter giving rise to the proceedings mentioned in paragraph (a), or

(c) in connection with the proceedings first mentioned in paragraph (b).

(3) The accused may use or disclose—

(a) the object to the extent that it has been displayed to the public in open court, or

(b) the information to the extent that it has been communicated to the public in open court;

but the preceding provisions of this subsection do not apply if the object is displayed or the information is communicated in proceedings to deal with a contempt of court under section 18.

(4) If—

(a) the accused applies to the court for an order granting permission to use or disclose the object or information, and

(b) the court makes such an order,

the accused may use or disclose the object or information for the purpose and to the extent specified by the court.

(5) An application under subsection (4) may be made and dealt with at any time, and in particular after the accused has been acquitted or convicted or the prosecutor has decided not to proceed with the case concerned; but this is subject to rules made by virtue of section 19(2).

(6) Where—

(a) an application is made under subsection (4), and

(b) the prosecutor or a person claiming to have an interest in the object or information applies to be heard by the court,

the court must not make an order granting permission unless the person applying under paragraph (b) has been given an opportunity to be heard.

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(7) References in this section to the court are to—
  (a) a magistrates' court, where this Part applies by virtue of section 1(1);
  (b) the Crown Court, where this Part applies by virtue of section 1(2).

(8) Nothing in this section affects any other restriction or prohibition on the use or disclosure of an object or information, whether the restriction or prohibition arises under an enactment (whenever passed) or otherwise.

Extent Information

E7 In its application to Northern Ireland, this section has effect subject to the modifications set out in Schedule 4; see s. 79

Modifications etc. (not altering text)

C3 Ss. 17, 18 excluded (E.W.) (prosp.) by 1997 c. 39, **ss. 9(3)**, 11(2)

18 Confidentiality: contravention.

(1) It is a contempt of court for a person knowingly to use or disclose an object or information recorded in it if the use or disclosure is in contravention of section 17.

(2) The following courts have jurisdiction to deal with a person who is guilty of a contempt under this section—
  (a) a magistrates' court, where this Part applies by virtue of section 1(1);
  (b) the Crown Court, where this Part applies by virtue of section 1(2).

(3) A person who is guilty of a contempt under this section may be dealt with as follows—
  (a) a magistrates' court may commit him to custody for a specified period not exceeding six months or impose on him a fine not exceeding £5,000 or both;
  (b) the Crown Court may commit him to custody for a specified period not exceeding two years or impose a fine on him or both.

(4) If—
  (a) a person is guilty of a contempt under this section, and
  (b) the object concerned is in his possession,

  the court finding him guilty may order that the object shall be forfeited and dealt with in such manner as the court may order.

(5) The power of the court under subsection (4) includes power to order the object to be destroyed or to be given to the prosecutor or to be placed in his custody for such period as the court may specify.

(6) If—
  (a) the court proposes to make an order under subsection (4), and
  (b) the person found guilty, or any other person claiming to have an interest in the object, applies to be heard by the court,

  the court must not make the order unless the applicant has been given an opportunity to be heard.

(7) If—
  (a) a person is guilty of a contempt under this section, and

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(b) a copy of the object concerned is in his possession,

the court finding him guilty may order that the copy shall be forfeited and dealt with in such manner as the court may order.

(8) Subsections (5) and (6) apply for the purposes of subsection (7) as they apply for the purposes of subsection (4), but as if references to the object were references to the copy.

(9) An object or information shall be inadmissible as evidence in civil proceedings if to adduce it would in the opinion of the court be likely to constitute a contempt under this section; and "the court" here means the court before which the civil proceedings are being taken.

(10) The powers of a magistrates' court under this section may be exercised either of the court's own motion or by order on complaint.

Extent Information

E8 In its application to Northern Ireland, this section has effect subject to the modifications set out in Schedule 4; see s. 79

Modifications etc. (not altering text)

C4 Ss. 17, 18 excluded (E.W.) (prosp.) by 1997 c. 39, **ss. 9(3)**, 11(2)

Other provisions

19 Rules of court.

(1) Without prejudice to the generality of subsection (1) of—

(a) section 144 of the [M8]Magistrates' Courts Act 1980 (magistrates' court rules), and

(b) section 84 of the [M9]Supreme Court Act 1981 (rules of court),

the power to make rules under each of those sections includes power to make provision mentioned in subsection (2).

(2) The provision is provision as to the practice and procedure to be followed in relation to—

(a) proceedings to deal with a contempt of court under section 18;

(b) an application under section 3(6), 7(5), 8(2) or (5), 9(8), 14(2) , 15(4), 16(b), 17(4) or (6)(b) or 18(6);

(c) an application under regulations made under section 12;

(d) an order under section 3(6), 7(5), 8(2) or (5), 9(8), 14(3), 17(4) or 18(4) or (7);

(e) an order under section 15(5) (whether or not an application is made under section 15(4));

(f) an order under regulations made under section 12.

(3) Rules made under section 144 of the Magistrates' Courts Act 1980 by virtue of subsection (2)(a) above may contain or include provision equivalent to Schedule 3 to the [M10]Contempt of Court Act 1981 (proceedings for disobeying magistrates' court order) with any modifications which the Lord Chancellor considers appropriate on the advice of or after consultation with the rule committee for magistrates' courts.

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(4) Rules made by virtue of subsection (2)(b) in relation to an application under section 17(4) may include provision—
  (a) that an application to a magistrates' court must be made to a particular magistrates' court;
  (b) that an application to the Crown Court must be made to the Crown Court sitting at a particular place;
  (c) requiring persons to be notified of an application.

(5) Rules made by virtue of this section may make different provision for different cases or classes of case.

Extent Information

E9 In its application to Northern Ireland, this section has effect subject to the modifications set out in Schedule 4; see s. 79

Marginal Citations

M8 1980 c. 43.
M9 1981 c. 54.
M10 1981 c. 49.

20 Other statutory rules as to disclosure.

(1) A duty under any of the disclosure provisions shall not affect or be affected by any duty arising under any other enactment with regard to material to be provided to or by the accused or a person representing him; but this is subject to subsection (2).

(2) In making an order under section 9 of the [M11]Criminal Justice Act 1987 or section 31 of this Act (preparatory hearings) the judge may take account of anything which—
  (a) has been done,
  (b) has been required to be done, or
  (c) will be required to be done,

  in pursuance of any of the disclosure provisions.

(3) Without prejudice to the generality of section 144(1) of the [M12]Magistrates' Courts Act 1980 (magistrates' court rules) the power to make rules under that section includes power to make, with regard to any proceedings before a magistrates' court which relate to an alleged offence, provision for—
  (a) requiring any party to the proceedings to disclose to the other party or parties any expert evidence which he proposes to adduce in the proceedings;
  (b) prohibiting a party who fails to comply in respect of any evidence with any requirement imposed by virtue of paragraph (a) from adducing that evidence without the leave of the court.

(4) Rules made by virtue of subsection (3)—
  (a) may specify the kinds of expert evidence to which they apply;
  (b) may exempt facts or matters of any description specified in the rules.

(5) For the purposes of this section—
  (a) the disclosure provisions are sections 3 to 9;

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(b) "enactment" includes an enactment comprised in subordinate legislation (which here has the same meaning as in the [M13]Interpretation Act 1978).

Extent Information

E10 In its application to Northern Ireland, this section has effect subject to the modifications set out in Schedule 4; see s. 79

Modifications etc. (not altering text)

C5 S. 20(1) excluded (E.W.) (prosp.) by 1997 c. 39, **ss. 9(2)**, 11(2)

Marginal Citations

M11 1987 c. 38.
M12 1980 c. 43.
M13 1978 c. 30.

21 Common law rules as to disclosure.

(1) Where this Part applies as regards things falling to be done after the relevant time in relation to an alleged offence, the rules of common law which—
  (a) were effective immediately before the appointed day, and
  (b) relate to the disclosure of material by the prosecutor,

  do not apply as regards things falling to be done after that time in relation to the alleged offence.

(2) Subsection (1) does not affect the rules of common law as to whether disclosure is in the public interest.

(3) References in subsection (1) to the relevant time are to the time when—
  (a) the accused pleads not guilty (where this Part applies by virtue of section 1(1)),
  (b) the accused is committed for trial (where this Part applies by virtue of section 1(2)(a))
  (c) the proceedings are transferred (where this Part applies by virtue of section 1(2)(b) or (c)),
  (d) the count is included in the indictment (where this Part applies by virtue of section 1(2)(d)), or
  (e) the bill of indictment is preferred (where this Part applies by virtue of section 1(2)(e)).

(4) The reference in subsection (1) to the appointed day is to the day appointed under section 1(5).

Extent Information

E11 In its application to Northern Ireland, this section has effect subject to the modifications set out in Schedule 4; see s. 79

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VALID FROM 05/04/2004

[F17 21A Code of practice for police interviews of witnesses notified by accused

(1) The Secretary of State shall prepare a code of practice which gives guidance to police officers, and other persons charged with the duty of investigating offences, in relation to the arranging and conducting of interviews of persons—
- (a) particulars of whom are given in a defence statement in accordance with section 6A(2), or
- (b) who are included as proposed witnesses in a notice given under section 6C.

(2) The code must include (in particular) guidance in relation to—
- (a) information that should be provided to the interviewee and the accused in relation to such an interview;
- (b) the notification of the accused's solicitor of such an interview;
- (c) the attendance of the interviewee's solicitor at such an interview;
- (d) the attendance of the accused's solicitor at such an interview;
- (e) the attendance of any other appropriate person at such an interview taking into account the interviewee's age or any disability of the interviewee.

(3) Any police officer or other person charged with the duty of investigating offences who arranges or conducts such an interview shall have regard to the code.

(4) In preparing the code, the Secretary of State shall consult—
- (a) to the extent the code applies to England and Wales—
  - (i) any person who he considers to represent the interests of chief officers of police;
  - (ii) the General Council of the Bar;
  - (iii) the Law Society of England and Wales;
  - (iv) the Institute of Legal Executives;
- (b) to the extent the code applies to Northern Ireland—
  - (i) the Chief Constable of the Police Service of Northern Ireland;
  - (ii) the General Council of the Bar of Northern Ireland;
  - (iii) the Law Society of Northern Ireland;
- (c) such other persons as he thinks fit.

(5) The code shall not come into operation until the Secretary of State by order so provides.

(6) The Secretary of State may from time to time revise the code and subsections (4) and (5) shall apply to a revised code as they apply to the code as first prepared.

(7) An order bringing the code into operation may not be made unless a draft of the order has been laid before each House of Parliament and approved by a resolution of each House.

(8) An order bringing a revised code into operation shall be laid before each House of Parliament if the order has been made without a draft having been so laid and approved by a resolution of each House.

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(9) When an order or a draft of an order is laid in accordance with subsection (7) or (8), the code to which it relates shall also be laid.

(10) No order or draft of an order may be laid until the consultation required by subsection (4) has taken place.

(11) A failure by a person mentioned in subsection (3) to have regard to any provision of a code for the time being in operation by virtue of an order under this section shall not in itself render him liable to any criminal or civil proceedings.

(12) In all criminal and civil proceedings a code in operation at any time by virtue of an order under this section shall be admissible in evidence.

(13) If it appears to a court or tribunal conducting criminal or civil proceedings that—
(a) any provision of a code in operation at any time by virtue of an order under this section, or
(b) any failure mentioned in subsection (11),
is relevant to any question arising in the proceedings, the provision or failure shall be taken into account in deciding the question.**]**

Textual Amendments

F17 S. 21A inserted (5.4.2004) by Criminal Justice Act 2003 (c. 44), **ss. 40**, 336; S.I. 2004/829, **art. 2(1)** (subject to art. 2(3)-(6))

PART II

CRIMINAL INVESTIGATIONS

22 Introduction.

(1) For the purposes of this Part a criminal investigation is an investigation conducted by police officers with a view to it being ascertained—
(a) whether a person should be charged with an offence, or
(b) whether a person charged with an offence is guilty of it.

(2) In this Part references to material are to material of all kinds, and in particular include references to—
(a) information, and
(b) objects of all descriptions.

(3) In this Part references to recording information are to putting it in a durable or retrievable form (such as writing or tape).

23 Code of practice.

(1) The Secretary of State shall prepare a code of practice containing provisions designed to secure—

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(a) that where a criminal investigation is conducted all reasonable steps are taken for the purposes of the investigation and, in particular, all reasonable lines of inquiry are pursued;

(b) that information which is obtained in the course of a criminal investigation and may be relevant to the investigation is recorded;

(c) that any record of such information is retained;

(d) that any other material which is obtained in the course of a criminal investigation and may be relevant to the investigation is retained;

(e) that information falling within paragraph (b) and material falling within paragraph (d) is revealed to a person who is involved in the prosecution of criminal proceedings arising out of or relating to the investigation and who is identified in accordance with prescribed provisions;

(f) that where such a person inspects information or other material in pursuance of a requirement that it be revealed to him, and he requests that it be disclosed to the accused, the accused is allowed to inspect it or is given a copy of it;

(g) that where such a person is given a document indicating the nature of information or other material in pursuance of a requirement that it be revealed to him, and he requests that it be disclosed to the accused, the accused is allowed to inspect it or is given a copy of it;

(h) that the person who is to allow the accused to inspect information or other material or to give him a copy of it shall decide which of those (inspecting or giving a copy) is appropriate;

(i) that where the accused is allowed to inspect material as mentioned in paragraph (f) or (g) and he requests a copy, he is given one unless the person allowing the inspection is of opinion that it is not practicable or not desirable to give him one;

(j) that a person mentioned in paragraph (e) is given a written statement that prescribed activities which the code requires have been carried out.

(2) The code may include provision—

(a) that a police officer identified in accordance with prescribed provisions must carry out a prescribed activity which the code requires;

(b) that a police officer so identified must take steps to secure the carrying out by a person (whether or not a police officer) of a prescribed activity which the code requires;

(c) that a duty must be discharged by different people in succession in prescribed circumstances (as where a person dies or retires).

(3) The code may include provision about the form in which information is to be recorded.

(4) The code may include provision about the manner in which and the period for which—

(a) a record of information is to be retained, and

(b) any other material is to be retained;

and if a person is charged with an offence the period may extend beyond a conviction or an acquittal.

(5) The code may include provision about the time when, the form in which, the way in which, and the extent to which, information or any other material is to be revealed to the person mentioned in subsection (1)(e).

(6) The code must be so framed that it does not apply to material intercepted in obedience to a warrant issued under section 2 of the [M14]Interception of Communications Act 1985

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[[F18]or under the authority of an interception warrant under section 5 of the Regulation of Investigatory Powers Act 2000**]**.

(7) The code may—

(a) make different provision in relation to different cases or descriptions of case;

(b) contain exceptions as regards prescribed cases or descriptions of case.

(8) In this section "prescribed" means prescribed by the code.

Textual Amendments

F18 Words in s. 23(6) inserted (2.10.2000) by 2000 c. 23, s. 82(1), **Sch. 4 para. 7(2)** (with s. 82(3)); S.I. 2000/2543, **arts. 3**, 6

Marginal Citations

M14 1985 c. 56.

24 Examples of disclosure provisions.

(1) This section gives examples of the kinds of provision that may be included in the code by virtue of section 23(5).

(2) The code may provide that if the person required to reveal material has possession of material which he believes is sensitive he must give a document which—

(a) indicates the nature of that material, and

(b) states that he so believes.

(3) The code may provide that if the person required to reveal material has possession of material which is of a description prescribed under this subsection and which he does not believe is sensitive he must give a document which—

(a) indicates the nature of that material, and

(b) states that he does not so believe.

(4) The code may provide that if—

(a) a document is given in pursuance of provision contained in the code by virtue of subsection (2), and

(b) a person identified in accordance with prescribed provisions asks for any of the material,

the person giving the document must give a copy of the material asked for to the person asking for it or (depending on the circumstances) must allow him to inspect it.

(5) The code may provide that if—

(a) a document is given in pursuance of provision contained in the code by virtue of subsection (3),

(b) all or any of the material is of a description prescribed under this subsection, and

(c) a person is identified in accordance with prescribed provisions as entitled to material of that description,

the person giving the document must give a copy of the material of that description to the person so identified or (depending on the circumstances) must allow him to inspect it.

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(6) The code may provide that if—
- (a) a document is given in pursuance of provision contained in the code by virtue of subsection (3),
- (b) all or any of the material is not of a description prescribed under subsection (5), and
- (c) a person identified in accordance with prescribed provisions asks for any of the material not of that description,

the person giving the document must give a copy of the material asked for to the person asking for it or (depending on the circumstances) must allow him to inspect it.

(7) The code may provide that if the person required to reveal material has possession of material which he believes is sensitive and of such a nature that provision contained in the code by virtue of subsection (2) should not apply with regard to it—
- (a) that provision shall not apply with regard to the material,
- (b) he must notify a person identified in accordance with prescribed provisions of the existence of the material, and
- (c) he must allow the person so notified to inspect the material.

(8) For the purposes of this section material is sensitive to the extent that its disclosure under Part I would be contrary to the public interest.

(9) In this section "prescribed" means prescribed by the code.

25 Operation and revision of code.

(1) When the Secretary of State has prepared a code under section 23—
- (a) he shall publish it in the form of a draft,
- (b) he shall consider any representations made to him about the draft, and
- (c) he may modify the draft accordingly.

(2) When the Secretary of State has acted under subsection (1) he shall lay the code before each House of Parliament, and when he has done so he may bring it into operation on such day as he may appoint by order.

(3) A code brought into operation under this section shall apply in relation to suspected or alleged offences into which no criminal investigation has begun before the day so appointed.

(4) The Secretary of State may from time to time revise a code previously brought into operation under this section; and the preceding provisions of this section shall apply to a revised code as they apply to the code as first prepared.

Subordinate Legislation Made

P2 S. 25(2) power partly exercised: 4.4.2005 appointed for specified provisions by {S.I. 2005/985}, art. 2; 15.7.2005 for specified provisions by {S.I. 2005/2692}, art. 2

26 Effect of code.

(1) A person other than a police officer who is charged with the duty of conducting an investigation with a view to it being ascertained—

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(a) whether a person should be charged with an offence, or
(b) whether a person charged with an offence is guilty of it,

shall in discharging that duty have regard to any relevant provision of a code which would apply if the investigation were conducted by police officers.

(2) A failure—
(a) by a police officer to comply with any provision of a code for the time being in operation by virtue of an order under section 25, or
(b) by a person to comply with subsection (1),

shall not in itself render him liable to any criminal or civil proceedings.

(3) In all criminal and civil proceedings a code in operation at any time by virtue of an order under section 25 shall be admissible in evidence.

(4) If it appears to a court or tribunal conducting criminal or civil proceedings that—
(a) any provision of a code in operation at any time by virtue of an order under section 25, or
(b) any failure mentioned in subsection (2)(a) or (b),

is relevant to any question arising in the proceedings, the provision or failure shall be taken into account in deciding the question.

27 Common law rules as to criminal investigations.

(1) Where a code prepared under section 23 and brought into operation under section 25 applies in relation to a suspected or alleged offence, the rules of common law which—
(a) were effective immediately before the appointed day, and
(b) relate to the matter mentioned in subsection (2),

shall not apply in relation to the suspected or alleged offence.

(2) The matter is the revealing of material—
(a) by a police officer or other person charged with the duty of conducting an investigation with a view to it being ascertained whether a person should be charged with an offence or whether a person charged with an offence is guilty of it;
(b) to a person involved in the prosecution of criminal proceedings.

(3) In subsection (1) "the appointed day" means the day appointed under section 25 with regard to the code as first prepared.

PART III

PREPARATORY HEARINGS

Introduction

28 Introduction.

(1) This Part applies in relation to an offence if—

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(a) on or after the appointed day the accused is committed for trial **[**[F19], or sent for trial under section 51 of the Crime and Disorder Act 1998,**]** for the offence concerned,

(b) proceedings for the trial on the charge concerned are transferred to the Crown Court on or after the appointed day, or

(c) a bill of indictment relating to the offence is preferred on or after the appointed day under the authority of section 2(2)(b) of the [M15]Administration of Justice (Miscellaneous Provisions) Act 1933 (bill preferred by direction of Court of Appeal, or by direction or with consent of a judge).

(2) References in subsection (1) to the appointed day are to such day as is appointed for the purposes of this section by the Secretary of State by order.

(3) If an order under this section so provides, this Part applies only in relation to the Crown Court sitting at a place or places specified in the order.

(4) References in this Part to the prosecutor are to any person acting as prosecutor, whether an individual or a body.

Subordinate Legislation Made

P3 S. 28(2) power wholly exercised (21.3.1997): 15.4.1997 appointed day by S.I. 1997/1019.

Textual Amendments

F19 Words in s. 28(1)(a) inserted by 1998 c. 37, s. 119, **Sch. 8 para.128** (the insertion being in force 4.1.1999 for the purposes as referred to in S.I. 1998/2327, art. 4(2)(c), **Sch. 2** and being otherwise*prosp.*).

Marginal Citations

M15 1933 c. 36.

Preparatory hearings

29 Power to order preparatory hearing.

(1) Where it appears to a judge of the Crown Court that an indictment reveals a case of such complexity, or a case whose trial is likely to be of such length, that substantial benefits are likely to accrue from a hearing—

(a) before the jury are sworn, and

(b) for any of the purposes mentioned in subsection (2),

he may order that such a hearing (in this Part referred to as a preparatory hearing) shall be held.

(2) The purposes are those of—

(a) identifying issues which are likely to be material to the verdict of the jury;

(b) assisting their comprehension of any such issues;

(c) expediting the proceedings before the jury;

(d) assisting the judge's management of the trial.

(3) No order may be made under subsection (1) where it appears to a judge of the Crown Court that the evidence on an indictment reveals a case of fraud of such seriousness

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or complexity as is mentioned in section 7(1) of the [M16]Criminal Justice Act 1987 (preparatory hearings in cases of serious or complex fraud).

(4) A judge may make an order under subsection (1)—
- (a) on the application of the prosecutor,
- (b) on the application of the accused or, if there is more than one, any of them, or
- (c) of the judge's own motion.

Marginal Citations
M16 1987 c. 38.

30 Start of trial and arraignment.

If a judge orders a preparatory hearing—
- (a) the trial shall start with that hearing, and
- (b) arraignment shall take place at the start of that hearing, unless it has taken place before then.

31 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 make a ruling as to—
- (a) any question as to the admissibility of evidence;
- (b) any other question of law relating to the case.

(4) He may order the prosecutor—
- (a) to give the court and the accused or, if there is more than one, each of them a written statement (a case statement) of the matters falling within subsection (5);
- (b) to prepare the prosecution evidence and any explanatory material in such a form as appears to the judge to be likely to aid comprehension by the jury and to give it in that form to the court and to the accused or, if there is more than one, to each of them;
- (c) to give the court and the accused or, if there is more than one, each of them written notice of documents the truth of the contents of which ought in the prosecutor's view to be admitted and of any other matters which in his view ought to be agreed;
- (d) to make any amendments of any case statement given in pursuance of an order under paragraph (a) that appear to the judge to be appropriate, having regard to objections made by the accused or, if there is more than one, by any of them.

(5) The matters referred to in subsection (4)(a) are—
- (a) the principal facts of the case for the prosecution;
- (b) the witnesses who will speak to those facts;
- (c) any exhibits relevant to those facts;
- (d) any proposition of law on which the prosecutor proposes to rely;

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(e) the consequences in relation to any of the counts in the indictment that appear to the prosecutor to flow from the matters falling within paragraphs (a) to (d).

(6) Where a judge has ordered the prosecutor to give a case statement and the prosecutor has complied with the order, the judge may order the accused or, if there is more than one, each of them—

(a) to give the court and the prosecutor a written statement setting out in general terms the nature of his defence and indicating the principal matters on which he takes issue with the prosecution;

(b) to give the court and the prosecutor written notice of any objections that he has to the case statement;

(c) to give the court and the prosecutor written notice of any point of law (including any point as to the admissibility of evidence) which he wishes to take, and any authority on which he intends to rely for that purpose.

(7) Where a judge has ordered the prosecutor to give notice under subsection (4)(c) and the prosecutor has complied with the order, the judge may order the accused or, if there is more than one, each of them to give the court and the prosecutor a written notice stating—

(a) the extent to which he agrees with the prosecutor as to documents and other matters to which the notice under subsection (4)(c) relates, and

(b) the reason for any disagreement.

(8) A judge making an order under subsection (6) or (7) shall warn the accused or, if there is more than one, each of them of the possible consequence under section 34 of not complying with it.

(9) If it appears to a judge that reasons given in pursuance of subsection (7) are inadequate, he shall so inform the person giving them and may require him to give further or better reasons.

(10) An order under this section may specify the time within which any specified requirement contained in it is to be complied with.

(11) An order or ruling made under this section shall have effect throughout the trial, unless it appears to the judge on application made to him that the interests of justice require him to vary or discharge it.

Modifications etc. (not altering text)

C6 S. 31(3) modified (4.9.1998) by 1977 c. 45, **s. 1A(10)(b)** (as inserted (4.9.1998) by 1998 c. 40, **s. 5(1)**)

32 Orders before preparatory hearing.

(1) This section applies where—

(a) a judge orders a preparatory hearing, and

(b) he decides that any order which could be made under section 31(4) to (7) 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) section 31(4) to (11) shall apply accordingly.

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33 Crown Court Rules.

(1) Crown Court Rules may provide that except to the extent that disclosure is required—
  (a) by rules under section 81 of the [M17]Police and Criminal Evidence Act 1984 (expert evidence), or
  (b) by section 5(7) of this Act,

anything required to be given by an accused in pursuance of a requirement imposed under section 31 need not disclose who will give evidence.

(2) Crown Court Rules may make provision as to the minimum or maximum time that may be specified under section 31(10).

Marginal Citations
M17 1984 c. 60.

34 Later stages of trial.

(1) Any party may depart from the case he disclosed in pursuance of a requirement imposed under section 31.

(2) Where—
  (a) a party departs from the case he disclosed in pursuance of a requirement imposed under section 31, 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 may draw such inference as appears proper.

(3) In deciding whether to give leave 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) Except as provided by this section no part—
  (a) of a statement given under section 31(6)(a), 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 31,

may be disclosed at a stage in the trial after the jury have been sworn without the consent of the accused concerned.

Appeals

35 Appeals to Court of Appeal.

(1) An appeal shall lie to the Court of Appeal from any ruling of a judge under section 31(3), but only with the leave of the judge or of the Court of Appeal.

(2) The judge may continue a preparatory hearing notwithstanding that leave to appeal has been granted under subsection (1), but no jury shall be sworn until after the appeal has been determined or abandoned.

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(3) On the termination of the hearing of an appeal, the Court of Appeal may confirm, reverse or vary the decision appealed against.

(4) Subject to rules of court made under section 53(1) of the [M18]Supreme Court Act 1981 (power by rules to distribute business of Court of Appeal between its civil and criminal divisions)—
  (a) the jurisdiction of the Court of Appeal under subsection (1) above shall be exercised by the criminal division of the court;
  (b) references in this Part to the Court of Appeal shall be construed as references to that division.

Marginal Citations
M18 1981 c. 54.

36 Appeals to House of Lords.

(1) In the [M19]Criminal Appeal Act 1968, in—
  (a) section 33(1) (right of appeal to House of Lords), and
  (b) section 36 (bail),

after "1987" there shall be inserted " or section 35 of the Criminal Procedure and Investigations Act 1996 ".

(2) The judge may continue a preparatory hearing notwithstanding that leave to appeal has been granted under Part II of the Criminal Appeal Act 1968, but no jury shall be sworn until after the appeal has been determined or abandoned.

Marginal Citations
M19 1968 c. 19.

Reporting restrictions

37 Restrictions on reporting.

(1) Except as provided by this section—
  (a) no written report of proceedings falling within subsection (2) shall be published in Great Britain;
  (b) no report of proceedings falling within subsection (2) shall be included in a relevant programme for reception in Great Britain.

(2) The following proceedings fall within this subsection—
  (a) a preparatory hearing;
  (b) an application for leave to appeal in relation to such a hearing;
  (c) an appeal in relation to such a hearing.

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

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(b) an application to the judge for leave to appeal to the Court of Appeal under section 35(1) in relation to the preparatory hearing.

(4) The Court of Appeal may order that subsection (1) 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 35(1) in relation to a preparatory hearing,
(b) an application to that Court for leave to appeal to it under section 35(1) in relation to a preparatory hearing, or
(c) an application to that Court for leave to appeal to the House of Lords under Part II of the [M20]Criminal Appeal Act 1968 in relation to a preparatory hearing.

(5) The House of Lords may order that subsection (1) shall not apply, or shall not apply to a specified extent, to a report of—
(a) an appeal to that House under Part II of the Criminal Appeal Act 1968 in relation to a preparatory hearing, or
(b) an application to that House for leave to appeal to it under Part II of the Criminal Appeal Act 1968 in relation to a preparatory hearing.

(6) Where there is only one accused and he objects to the making of an order under subsection (3), (4) or (5) the judge or the Court of Appeal or the House of Lords 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.

(7) Where there are two or more accused and one or more of them objects to the making of an order under subsection (3), (4) or (5) the judge or the Court of Appeal or the House of Lords 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.

(8) Subsection (1) does not apply to—
(a) the publication of a report of a preparatory hearing,
(b) 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,
(c) the inclusion in a relevant programme of a report of a preparatory hearing, or
(d) 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.

(9) Subsection (1) 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) the offence or offences, or a summary of them, with which the accused is or are charged;
(d) the names of counsel and solicitors in the proceedings;
(e) where the proceedings are adjourned, the date and place to which they are adjourned;

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(f) any arrangements as to bail;

(g) whether legal aid was granted to the accused or any of the accused.

(10) The addresses that may be published or included in a relevant programme under subsection (9) 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.

(11) 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.

(12) 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 [M21]Broadcasting Act 1990.

Marginal Citations

M20 1968 c. 19.

M21 1990 c. 42.

38 Offences in connection with reporting.

(1) If a report is published or included in a relevant programme in contravention of section 37 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.

(4) Subsection (12) of section 37 applies for the purposes of this section as it applies for the purposes of that.

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PART IV

RULINGS

39 Meaning of pre-trial hearing.

(1) For the purposes of this Part a hearing is a pre-trial hearing if it relates to a trial on indictment and it takes place—

(a) after the accused has been committed for trial for the offence concerned **[**[F20], after the accused has been sent for trial for the offence under section 51 of the Crime and Disorder Act 1998,**]** or after the proceedings for the trial have been transferred to the Crown Court, and

(b) before the start of the trial.

(2) For the purposes of this Part a hearing is also a pre-trial hearing if—

(a) it relates to a trial on indictment to be held in pursuance of a bill of indictment preferred under the authority of section 2(2)(b) of the [M22]Administration of Justice (Miscellaneous Provisions) Act 1933 (bill preferred by direction of Court of Appeal, or by direction or with consent of a judge), and

(b) it takes place after the bill of indictment has been preferred and before the start of the trial.

(3) For the purposes of this section the start of a trial on indictment occurs when a jury is sworn to consider the issue of guilt or fitness to plead or, if the court accepts a plea of guilty before a jury is sworn, when that plea is accepted; but this is subject to section 8 of the [M23]Criminal Justice Act 1987 and section 30 of this Act (preparatory hearings).

Extent Information

E12 In its application to Northern Ireland, this section has effect subject to the modifications set out in Schedule 4; see s. 79

Textual Amendments

F20 Words in s. 39(1)(a) inserted (E.W.) (4.1.1999 for the purpose of sending any person for trial under 1998 c. 37, **s. 51** from any area specified in S.I. 1998/2327, **Sch. 2** and 15.1.2001 as specified in S.I. 2000/3283, **art. 2**, 3, and otherwise*prosp.*) by 1998 c. 37, s. 119, **Sch. 8 para. 129**; S.I. 1998/2327, **art. 4(2)(c)**; S.I. 2000/3283, **art. 2** (subject to art. 3)

Marginal Citations

M22 1933 c. 36.

M23 1987 c. 38.

40 Power to make rulings.

(1) A judge may make at a pre-trial hearing a ruling as to—

(a) any question as to the admissibility of evidence;

(b) any other question of law relating to the case concerned.

(2) A ruling may be made under this section—

(a) on an application by a party to the case, or

(b) of the judge's own motion.

Status: *Point in time view as at 02/10/2000. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Criminal Procedure and Investigations Act 1996 is up to date with all changes known to be in force on or before 26 June 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)*

(3) Subject to subsection (4), a ruling made under this section has binding effect from the time it is made until the case against the accused or, if there is more than one, against each of them is disposed of; and the case against an accused is disposed of if—
  (a) he is acquitted or convicted, or
  (b) the prosecutor decides not to proceed with the case against him.

(4) A judge may discharge or vary (or further vary) a ruling made under this section if it appears to him that it is in the interests of justice to do so; and a judge may act under this subsection—
  (a) on an application by a party to the case, or
  (b) of the judge's own motion.

(5) No application may be made under subsection (4)(a) unless there has been a material change of circumstances since the ruling was made or, if a previous application has been made, since the application (or last application) was made.

(6) The judge referred to in subsection (4) need not be the judge who made the ruling or, if it has been varied, the judge (or any of the judges) who varied it.

(7) For the purposes of this section the prosecutor is any person acting as prosecutor, whether an individual or a body.

41 Restrictions on reporting.

(1) Except as provided by this section—
  (a) no written report of matters falling within subsection (2) shall be published in Great Britain;
  (b) no report of matters falling within subsection (2) shall be included in a relevant programme for reception in Great Britain.

(2) The following matters fall within this subsection—
  (a) a ruling made under section 40;
  (b) proceedings on an application for a ruling to be made under section 40;
  (c) an order that a ruling made under section 40 be discharged or varied or further varied;
  (d) proceedings on an application for a ruling made under section 40 to be discharged or varied or further varied.

(3) The judge dealing with any matter falling within subsection (2) may order that subsection (1) shall not apply, or shall not apply to a specified extent, to a report of the matter.

(4) Where there is only one accused and he objects to the making of an order under subsection (3) the judge 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.

(5) Where there are two or more accused and one or more of them objects to the making of an order under subsection (3) the judge 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.

Status: *Point in time view as at 02/10/2000. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Criminal Procedure and Investigations Act 1996 is up to date with all changes known to be in force on or before 26 June 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)*

(6) Subsection (1) does not apply to—
  (a) the publication of a report of matters, or
  (b) the inclusion in a relevant programme of a report of matters,
  at the conclusion of the trial of the accused or of the last of the accused to be tried.

(7) 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.

(8) 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 [M24]Broadcasting Act 1990.

Extent Information

E13 In its application to Northern Ireland, this section has effect subject to the modifications set out in Schedule 4; see s. 79

Modifications etc. (not altering text)

C7 S. 41 applied (with modifications) (8.1.2007 in force for specified purposes) by Criminal Justice Act 2003 c. 44, ss. 48A, 336 (as inserted in that Act in its application to N.I. by s. 50(14) of that Act); S.I. 2006/3422, **art. 2(a)** (which amending provision is itself amended (1.10.2009) by Constitutional Reform Act 2005 (c. 4) ss. 40, s. 148(1), Sch. 9 para. 82(2)(b)(c); S.I. 2009/1604, art. 2(d))

Marginal Citations

M24 1990 c. 42.

[F21]42 Offences in connection with reporting.

(1) If a report is published or included in a relevant programme in contravention of section 41 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.

(4) Subsection (8) of section 41 applies for the purposes of this section as it applies for the purposes of that.

Status: *Point in time view as at 02/10/2000. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Criminal Procedure and Investigations Act 1996 is up to date with all changes known to be in force on or before 26 June 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)*

Textual Amendments

F21 In its application to Northern Ireland, this section has effect subject to the modifications set out in Schedule 4; see s. 79

Modifications etc. (not altering text)

C8 S. 42 applied (with modifications) (8.1.2007 in force for certain purposes and otherwise prosp.) by Criminal Justice Act 2003 c. 44, ss. 48A (as inserted in that Act in its application to N.I. by {s. 50(14)} of that Act), 336; S.I. 2006/3422, **art. 2(a)**

43 Application of this Part.

(1) This Part applies in relation to pre-trial hearings beginning on or after the appointed day.

(2) The reference in subsection (1) to the appointed day is to such day as is appointed for the purposes of this section by the Secretary of State by order.

Subordinate Legislation Made

P4 S. 43(2) power fully exercised (7.9.1996 and 29.12.1997): 1.10.1996 appointed day (E.W.S.) by S.I. 1996/2343; 1.1.1998 appointed day (N.I.) by S.I. 1997/3108.

PART V

COMMITTAL, TRANSFER, ETC.

44 Reinstatement of certain provisions.

(1) The [M25]Criminal Justice and Public Order Act 1994 shall be amended as follows.

(2) Section 44 and Schedule 4 (which provide for transfer for trial instead of committal proceedings) shall be omitted.

(3) In each of sections 34, 36 and 37 for paragraph (a) of subsection (2) (magistrates' court proceeding with a view to transfer) there shall be substituted—

"(a) a magistrates' court inquiring into the offence as examining justices;".

(4) Sections 34(7), 36(8) and 37(7) (transitional) shall be omitted.

(5) In Schedule 11 (repeals) the entries relating to the following (which concern committal, transfer and other matters) shall be omitted—

(a) sections 13(3) and 49(2) of the [M26]Criminal Justice Act 1925;

(b) section 1 of the [M27]Criminal Procedure (Attendance of Witnesses) Act 1965;

(c) section 7 of the [M28]Criminal Justice Act 1967 and in section 36(1) of that Act the definition of "committal proceedings";

(d) in paragraph 1 of Schedule 2 to the [M29]Criminal Appeal Act 1968 the words from "section 13(3)" to "but";

(e) in section 46(1) of the [M30]Criminal Justice Act 1972 the words "Section 102 of the Magistrates' Courts Act 1980 and", "which respectively allow",

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Changes to legislation: *Criminal Procedure and Investigations Act 1996 is up to date with all changes known to be in force on or before 26 June 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)*

"committal proceedings and in other", "and section 106 of the said Act of 1980", "which punish the making of", "102 or" and ", as the case may be", and section 46(2) of that Act;

(f) in section 32(1)(b) of the [M31]Powers of Criminal Courts Act 1973 the words "tried or";

(g) in Schedule 1 to the [M32]Interpretation Act 1978, paragraph (a) of the definition of "Committed for trial";

(h) in section 97(1) of the [M33]Magistrates' Courts Act 1980 the words from "at an inquiry" to "be) or", sections 102, 103, 105, 106 and 145(1)(e) of that Act, in section 150(1) of that Act the definition of "committal proceedings", and paragraph 2 of Schedule 5 to that Act;

(i) in section 2(2)(g) of the [M34]Criminal Attempts Act 1981 the words "or committed for trial";

(j) in section 1(2) of the [M35]Criminal Justice Act 1982 the words "trial or";

(k) paragraphs 10 and 11 of Schedule 2 to the [M36]Criminal Justice Act 1987;

(l) in section 20(4)(a) of the [M37]Legal Aid Act 1988 the words "trial or", and section 20(4)(bb) and (5) of that Act;

(m) in section 1(4) of the [M38]War Crimes Act 1991 the words "England, Wales or", and Part I of the Schedule to that Act.

(6) The 1994 Act shall be treated as having been enacted with the amendments made by subsections (2) and (5).

(7) Subsections (3) and (4) apply where a magistrates' court begins to inquire into an offence as examining justices after the day on which this Act is passed.

Marginal Citations

M25 1994 c. 33.
M26 1925 c. 86.
M27 1965 c. 69.
M28 1967 c. 80.
M29 1968 c. 19.
M30 1972 c. 71.
M31 1973 c. 62.
M32 1978 c. 30.
M33 1980 c. 43.
M34 1981 c. 47.
M35 1982 c. 48.
M36 1987 c. 38.
M37 1988 c. 34.
M38 1991 c. 13.

45 Notices of transfer.

(1) Section 5 of the [M39]Criminal Justice Act 1987 (notices of transfer in cases of serious or complex fraud) shall be amended as mentioned in subsections (2) and (3).

(2) In subsection (9)(a) (regulations) for the words "a statement of the evidence" there shall be substituted "copies of the documents containing the evidence (including oral evidence)".

Status: *Point in time view as at 02/10/2000. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Criminal Procedure and Investigations Act 1996 is up to date with all changes known to be in force on or before 26 June 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)*

(3) The following subsection shall be inserted after subsection (9)—

"(9A) Regulations under subsection (9)(a) above may provide that there shall be no requirement for copies of documents to accompany the copy of the notice of transfer if they are referred to, in documents sent with the notice of transfer, as having already been supplied."

(4) In Schedule 6 to the [M40]Criminal Justice Act 1991 (notices of transfer in certain cases involving children) paragraph 4 (regulations) shall be amended as mentioned in subsections (5) and (6).

(5) In sub-paragraph (1)(a) for the words "a statement of the evidence" there shall be substituted " copies of the documents containing the evidence (including oral evidence) ".

(6) The following sub-paragraph shall be inserted after sub-paragraph (1)—

"(1A) Regulations under sub-paragraph (1)(a) above may provide that there shall be no requirement for copies of documents to accompany the copy of the notice of transfer if they are referred to, in documents sent with the notice of transfer, as having already been supplied."

(7) In paragraph 6 of Schedule 6 to the 1991 Act (reporting restrictions) in sub-paragraph (8) for the words "sub-paragraphs (5) and (6)" there shall be substituted " sub-paragraphs (5) and (7) ".

(8) This section applies where a notice of transfer is given under section 4 of the 1987 Act or served under section 53 of the 1991 Act (as the case may be) on or after the appointed day.

(9) The reference in subsection (8) to the appointed day is to such day as is appointed for the purposes of this section by the Secretary of State by order.

Extent Information

E14 In its application to Northern Ireland, this section has effect subject to the modifications set out in Schedule 4; see s. 79

Subordinate Legislation Made

P5 S. 45(9) power partly exercised (11.3.1998): 1.4.1998 appointed day (E.W.) insofar as s. 45 relates to notices of transfer served under section 53 of the Criminal Justice Act 1991 c. 53 by S.I. 1998/851, **art. 2**.

Marginal Citations

M39 1987 c. 38.
M40 1991 c. 53.

46 War crimes: abolition of transfer procedure.

(1) In the [M41]War Crimes Act 1991—

(a) in section 1(4) (which introduces the Schedule providing a procedure for use instead of committal proceedings for certain war crimes) the words "England, Wales or" shall be omitted, and

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Changes to legislation: *Criminal Procedure and Investigations Act 1996 is up to date with all changes known to be in force on or before 26 June 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)*

(b) Part I of the Schedule (procedure for use in England and Wales instead of committal proceedings) shall be omitted.

(2) In section 20(4) of the [M42]Legal Aid Act 1988 (power of magistrates' court to grant legal aid for Crown Court proceedings)—

(a) the word "or" shall be inserted at the end of paragraph (b), and

(b) paragraph (bb) (which relates to a notice of transfer under Part I of the Schedule to the War Crimes Act 1991) shall be omitted.

Extent Information

E15 In its application to Northern Ireland, this section has effect subject to the modifications set out in Schedule 4; see s. 79

Marginal Citations

M41 1991 c. 13.

M42 1988 c. 34.

47 Committal proceedings.

Schedule 1 to this Act (which contains provisions about committal proceedings and related matters) shall have effect.

PART VI

MAGISTRATES' COURTS

48 Non-appearance of accused: issue of warrant.

(1) Section 13 of the [M43]Magistrates' Courts Act 1980 (non-appearance of accused: issue of warrant) shall be amended as follows.

(2) In subsection (2) (no warrant where summons has been issued unless certain conditions fulfilled) for the words from "unless" to the end of the subsection there shall be substituted " unless the condition in subsection (2A) below or that in subsection (2B) below is fulfilled ".

(3) The following subsections shall be inserted after subsection (2)—

"(2A) The condition in this subsection is that it is proved to the satisfaction of the court, on oath or in such other manner as may be prescribed, that the summons was served on the accused within what appears to the court to be a reasonable time before the trial or adjourned trial.

(2B) The condition in this subsection is that—

(a) the adjournment now being made is a second or subsequent adjournment of the trial,

(b) the accused was present on the last (or only) occasion when the trial was adjourned, and

(c) on that occasion the court determined the time for the hearing at which the adjournment is now being made."

Status: *Point in time view as at 02/10/2000. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Criminal Procedure and Investigations Act 1996 is up to date with all changes known to be in force on or before 26 June 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)*

(4) This section applies where the court proposes to issue a warrant under section 13 on or after the appointed day.

(5) The reference in subsection (4) to the appointed day is to such day as is appointed for the purposes of this section by the Secretary of State by order.

Subordinate Legislation Made

P6 S. 48(5) power wholly exercised (7.9.1996): 1.10.1996 appointed day by S.I. 1996/2343.

Marginal Citations

M43 1980 c. 43.

49 Either way offences: accused's intention as to plea.

(1) The Magistrates' Courts Act 1980 shall be amended as follows.

(2) The following sections shall be inserted after section 17 (offences triable on indictment or summarily)—

"17A Initial procedure: accused to indicate intention as to plea.

(1) This section shall have effect where a person who has attained the age of 18 years appears or is brought before a magistrates' court on an information charging him with an offence triable either way.

(2) Everything that the court is required to do under the following provisions of this section must be done with the accused present in court.

(3) The court shall cause the charge to be written down, if this has not already been done, and to be read to the accused.

(4) The court shall then explain to the accused in ordinary language that he may indicate whether (if the offence were to proceed to trial) he would plead guilty or not guilty, and that if he indicates that he would plead guilty—

(a) the court must proceed as mentioned in subsection (6) below; and

(b) he may be committed for sentence to the Crown Court under section 38 below if the court is of such opinion as is mentioned in subsection (2) of that section.

(5) The court shall then ask the accused whether (if the offence were to proceed to trial) he would plead guilty or not guilty.

(6) If the accused indicates that he would plead guilty the court shall proceed as if—

(a) the proceedings constituted from the beginning the summary trial of the information; and

(b) section 9(1) above was complied with and he pleaded guilty under it.

(7) If the accused indicates that he would plead not guilty section 18(1) below shall apply.

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(8) If the accused in fact fails to indicate how he would plead, for the purposes of this section and section 18(1) below he shall be taken to indicate that he would plead not guilty.

(9) Subject to subsection (6) above, the following shall not for any purpose be taken to constitute the taking of a plea—
- (a) asking the accused under this section whether (if the offence were to proceed to trial) he would plead guilty or not guilty;
- (b) an indication by the accused under this section of how he would plead.

17B Intention as to plea: absence of accused.

(1) This section shall have effect where—
- (a) a person who has attained the age of 18 years appears or is brought before a magistrates' court on an information charging him with an offence triable either way,
- (b) the accused is represented by a legal representative,
- (c) the court considers that by reason of the accused's disorderly conduct before the court it is not practicable for proceedings under section 17A above to be conducted in his presence, and
- (d) the court considers that it should proceed in the absence of the accused.

(2) In such a case—
- (a) the court shall cause the charge to be written down, if this has not already been done, and to be read to the representative;
- (b) the court shall ask the representative whether (if the offence were to proceed to trial) the accused would plead guilty or not guilty;
- (c) if the representative indicates that the accused would plead guilty the court shall proceed as if the proceedings constituted from the beginning the summary trial of the information, and as if section 9(1) above was complied with and the accused pleaded guilty under it;
- (d) if the representative indicates that the accused would plead not guilty section 18(1) below shall apply.

(3) If the representative in fact fails to indicate how the accused would plead, for the purposes of this section and section 18(1) below he shall be taken to indicate that the accused would plead not guilty.

(4) Subject to subsection (2)(c) above, the following shall not for any purpose be taken to constitute the taking of a plea—
- (a) asking the representative under this section whether (if the offence were to proceed to trial) the accused would plead guilty or not guilty;
- (b) an indication by the representative under this section of how the accused would plead.

17C Intention as to plea: adjournment.

A magistrates' court proceeding under section 17A or 17B above may adjourn the proceedings at any time, and on doing so on any occasion when the accused is present may remand the accused, and shall remand him if—

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(a) on the occasion on which he first appeared, or was brought, before the court to answer to the information he was in custody or, having been released on bail, surrendered to the custody of the court; or

(b) he has been remanded at any time in the course of proceedings on the information;

and where the court remands the accused, the time fixed for the resumption of proceedings shall be that at which he is required to appear or be brought before the court in pursuance of the remand or would be required to be brought before the court but for section 128(3A) below."

(3) In section 18(1) (initial procedure) after "either way" there shall be inserted "and—

(a) he indicates under section 17A above that (if the offence were to proceed to trial) he would plead not guilty, or

(b) his representative indicates under section 17B above that (if the offence were to proceed to trial) he would plead not guilty".

(4) In section 19 (court to consider which mode of trial appears more suitable) paragraph (a) of subsection (2) (charge to be read to accused) shall be omitted.

(5) In—

(a) subsections (1A), (3A), (3C) and (3E) of section 128 (remand), and

(b) subsection (1) of section 130 (transfer of remand hearings),

after "10(1)" there shall be inserted " , 17C ".

(6) This section applies where a person appears or is brought before a magistrates' court on or after the appointed day, unless he has appeared or been brought before such a court in respect of the same offence on a previous occasion falling before that day.

(7) The reference in subsection (6) to the appointed day is to such day as is appointed for the purposes of this section by the Secretary of State by order.

Subordinate Legislation Made

P7 S. 49(7) power wholly exercised (8.9.1997): 1.10.1997 appointed day by S.I. 1997/2199.

50 Enforcement of payment of fines.

(1) In section 87 of the [M44]Magistrates' Courts Act 1980 (enforcement of fines) in subsection (3) (no proceedings unless court authorises it after inquiry into means) for the words from "authorised" to the end of the subsection there shall be substituted " there has been an inquiry under section 82 above into that person's means and he appeared to the court to have sufficient means to pay the sum forthwith. "

(2) This section applies where the clerk of a magistrates' court proposes to take proceedings by virtue of section 87(1) on or after the appointed day.

(3) The reference in subsection (2) to the appointed day is to such day as is appointed for the purposes of this section by the Secretary of State by order.

Subordinate Legislation Made

P8 S. 50(3) power wholly exercised (7.9.1996): 1.10.1996 appointed day by S.I. 1996/2343.

Status: *Point in time view as at 02/10/2000. This version of this Act contains provisions that are not valid for this point in time.*
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Marginal Citations

M44 1980 c. 43.

51 Summons to witness and warrant for his arrest.

(1) In section 97 of the Magistrates' Courts Act 1980 (summons to witness and warrant for his arrest) the following subsections shall be inserted after subsection (2A)—

"(2B) A justice may refuse to issue a summons under subsection (1) above in relation to the summary trial of an information if he is not satisfied that an application for the summons was made by a party to the case as soon as reasonably practicable after the accused pleaded not guilty.

(2C) In relation to the summary trial of an information, subsection (2) above shall have effect as if the reference to the matters mentioned in subsection (1) above included a reference to the matter mentioned in subsection (2B) above."

(2) This section applies in relation to any proceedings for the purpose of which no summons has been issued under section 97(1), and no warrant has been issued under section 97(2), before the appointed day.

(3) The reference in subsection (2) to the appointed day is to such day as is appointed for the purposes of this section by the Secretary of State by order.

Subordinate Legislation Made

P9 S. 51(3) power wholly exercised (8.3.1997): 1.4.1997 appointed day by S.I. 1997/682.

52 Remand.

(1) In section 128 of the [M45]Magistrates' Courts Act 1980 (remand in custody or on bail) paragraph (c) of subsection (1A) and paragraph (c) of subsection (3A) (which restrict certain provisions about remand to persons who have attained the age of 17) shall be omitted.

(2) In section 128A(1) of that Act (power to make order allowing remand in custody for more than 8 clear days if accused has attained the age of 17) the words "who has attained the age of 17" shall be omitted.

(3) Subsection (1) applies where the offence with which the person concerned is charged is alleged to be committed on or after the appointed day.

(4) The reference in subsection (3) to the appointed day is to such day as is appointed for the purposes of this section by the Secretary of State by order.

Subordinate Legislation Made

P10 S. 52(4) power wholly exercised (12.1.1997): 1.2.1997 appointed day by S.I. 1997/36.

Marginal Citations

M45 1980 c. 43.

Status: *Point in time view as at 02/10/2000. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Criminal Procedure and Investigations Act 1996 is up to date with all changes known to be in force on or before 26 June 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)*

53 Attachment of earnings.

(1) In section 3 of the [M46]Attachment of Earnings Act 1971 (court's power to make order) the following subsections shall be inserted after subsection (3A)—

"(3B) Where—

(a) a magistrates' court imposes a fine on a person in respect of an offence, and

(b) that person consents to an order being made under this subsection,

the court may at the time it imposes the fine, and without the need for an application, make an attachment of earnings order to secure the payment of the fine.

(3C) Where—

(a) a magistrates' court makes in the case of a person convicted of an offence an order under section 35 of the [M47]Powers of Criminal Courts Act 1973 (a compensation order) requiring him to pay compensation or to make other payments, and

(b) that person consents to an order being made under this subsection,

the court may at the time it makes the compensation order, and without the need for an application, make an attachment of earnings order to secure the payment of the compensation or other payments."

(2) This section applies in relation to—

(a) fines imposed in respect of offences committed on or after the appointed day;

(b) compensation orders made on convictions for offences committed on or after that day.

(3) The reference in subsection (2) to the appointed day is to such day as is appointed for the purposes of this section by the Secretary of State by order.

Subordinate Legislation Made

P11 S. 53(3) power wholly exercised (7.9.1996): 1.10.1996 appointed day by S.I. 1996/2343.

Marginal Citations

M46 1971 c. 32.

M47 1973 c. 62.

PART VII

MISCELLANEOUS AND GENERAL

Tainted acquittals

54 Acquittals tainted by intimidation etc.

(1) This section applies where—

(a) a person has been acquitted of an offence, and

Status: *Point in time view as at 02/10/2000. This version of this Act contains provisions that are not valid for this point in time.*
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(b) a person has been convicted of an administration of justice offence involving interference with or intimidation of a juror or a witness (or potential witness) in any proceedings which led to the acquittal.

(2) Where it appears to the court before which the person was convicted that—

(a) there is a real possibility that, but for the interference or intimidation, the acquitted person would not have been acquitted, and

(b) subsection (5) does not apply,

the court shall certify that it so appears.

(3) Where a court certifies under subsection (2) an application may be made to the High Court for an order quashing the acquittal, and the Court shall make the order if (but shall not do so unless) the four conditions in section 55 are satisfied.

(4) Where an order is made under subsection (3) proceedings may be taken against the acquitted person for the offence of which he was acquitted.

(5) This subsection applies if, because of lapse of time or for any other reason, it would be contrary to the interests of justice to take proceedings against the acquitted person for the offence of which he was acquitted.

(6) For the purposes of this section the following offences are administration of justice offences—

(a) the offence of perverting the course of justice;

(b) the offence under section 51(1) of the [M48]Criminal Justice and Public Order Act 1994 (intimidation etc. of witnesses, jurors and others);

(c) an offence of aiding, abetting, counselling, procuring, suborning or inciting another person to commit an offence under section 1 of the [M49]Perjury Act 1911.

(7) This section applies in relation to acquittals in respect of offences alleged to be committed on or after the appointed day.

(8) The reference in subsection (7) to the appointed day is to such day as is appointed for the purposes of this section by the Secretary of State by order.

Extent Information

E16 In its application to Northern Ireland, this section has effect subject to the modifications set out in Schedule 4; see s. 79

Subordinate Legislation Made

P12 S. 54(8) power wholly exercised (21.3.1997 and 9.6.1997): 15.4.1997 appointed day (E.W.S.) by S.I. 1997/1019; 30.6.1997 appointed day (N.I.) by S.I. 1997/1504.

Marginal Citations

M48 1994 c. 33.

M49 1911 c. 6.

55 Conditions for making order.

(1) The first condition is that it appears to the High Court likely that, but for the interference or intimidation, the acquitted person would not have been acquitted.

Status: *Point in time view as at 02/10/2000. This version of this Act contains provisions that are not valid for this point in time.*
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(2) The second condition is that it does not appear to the Court that, because of lapse of time or for any other reason, it would be contrary to the interests of justice to take proceedings against the acquitted person for the offence of which he was acquitted.

(3) The third condition is that it appears to the Court that the acquitted person has been given a reasonable opportunity to make written representations to the Court.

(4) The fourth condition is that it appears to the Court that the conviction for the administration of justice offence will stand.

(5) In applying subsection (4) the Court shall—
  (a) take into account all the information before it, but
  (b) ignore the possibility of new factors coming to light.

(6) Accordingly, the fourth condition has the effect that the Court shall not make an order under section 54(3) if (for instance) it appears to the Court that any time allowed for giving notice of appeal has not expired or that an appeal is pending.

56 Time limits for proceedings.

(1) Where—
  (a) an order is made under section 54(3) quashing an acquittal,
  (b) by virtue of section 54(4) it is proposed to take proceedings against the acquitted person for the offence of which he was acquitted, and
  (c) apart from this subsection, the effect of an enactment would be that the proceedings must be commenced before a specified period calculated by reference to the commission of the offence,

in relation to the proceedings the enactment shall have effect as if the period were instead one calculated by reference to the time the order is made under section 54(3).

(2) Subsection (1)(c) applies however the enactment is expressed so that (for instance) it applies in the case of—
  (a) paragraph 10 of Schedule 2 to the [M50]Sexual Offences Act 1956 (prosecution for certain offences may not be commenced more than 12 months after offence);
  (b) section 127(1) of the [M51]Magistrates' Courts Act 1980 (magistrates' court not to try information unless it is laid within 6 months from time when offence committed);
  (c) an enactment that imposes a time limit only in certain circumstances (as where proceedings are not instituted by or with the consent of the Director of Public Prosecutions).

Extent Information

E17 In its application to Northern Ireland, this section has effect subject to the modifications set out in Schedule 4; see s. 79

Marginal Citations

M50 1956 c. 69.
M51 1980 c. 43.

Status: *Point in time view as at 02/10/2000. This version of this Act contains provisions that are not valid for this point in time.*
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57 Tainted acquittals: supplementary.

(1) Section 45 of the Offences Against the [M52]Person Act 1861 (which releases a person from criminal proceedings in certain circumstances) shall have effect subject to section 54(4) of this Act.

(2) The [M53]Contempt of Court Act 1981 shall be amended as mentioned in subsections (3) and (4).

(3) In section 4 (contemporary reports of proceedings) after subsection (2) there shall be inserted—

"(2A) Where in proceedings for any offence which is an administration of justice offence for the purposes of section 54 of the [M54]Criminal Procedure and Investigations Act 1996 (acquittal tainted by an administration of justice offence) it appears to the court that there is a possibility that (by virtue of that section) proceedings may be taken against a person for an offence of which he has been acquitted, subsection (2) of this section shall apply as if those proceedings were pending or imminent."

(4) In Schedule 1 (time when proceedings are active for purposes of section 2) in paragraph 3 (period for which criminal proceedings are active) after "4" there shall be inserted " or 4A ", and after paragraph 4 there shall be inserted—

"4A Where as a result of an order under section 54 of the Criminal Procedure and Investigations Act 1996 (acquittal tainted by an administration of justice offence) proceedings are brought against a person for an offence of which he has previously been acquitted, the initial step of the proceedings is a certification under subsection (2) of that section; and paragraph 4 has effect subject to this."

Extent Information

E18 In its application to Northern Ireland, this section has effect subject to the modifications set out in Schedule 4; see s. 79

Marginal Citations

M52 1861 c. 100.
M53 1981 c. 49.
M54 1996 c. 00.

Derogatory assertions

58 Orders in respect of certain assertions.

(1) This section applies where a person has been convicted of an offence and a speech in mitigation is made by him or on his behalf before—

(a) a court determining what sentence should be passed on him in respect of the offence, or

(b) a magistrates' court determining whether he should be committed to the Crown Court for sentence.

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(2) This section also applies where a sentence has been passed on a person in respect of an offence and a submission relating to the sentence is made by him or on his behalf before—
  (a) a court hearing an appeal against or reviewing the sentence, or
  (b) a court determining whether to grant leave to appeal against the sentence.

(3) Where it appears to the court that there is a real possibility that an order under subsection (8) will be made in relation to the assertion, the court may make an order under subsection (7) in relation to the assertion.

(4) Where there are substantial grounds for believing—
  (a) that an assertion forming part of the speech or submission is derogatory to a person's character (for instance, because it suggests that his conduct is or has been criminal, immoral or improper), and
  (b) that the assertion is false or that the facts asserted are irrelevant to the sentence,

the court may make an order under subsection (8) in relation to the assertion.

(5) An order under subsection (7) or (8) must not be made in relation to an assertion if it appears to the court that the assertion was previously made—
  (a) at the trial at which the person was convicted of the offence, or
  (b) during any other proceedings relating to the offence.

(6) Section 59 has effect where a court makes an order under subsection (7) or (8).

(7) An order under this subsection—
  (a) may be made at any time before the court has made a determination with regard to sentencing;
  (b) may be revoked at any time by the court;
  (c) subject to paragraph (b), shall cease to have effect when the court makes a determination with regard to sentencing.

(8) An order under this subsection—
  (a) may be made after the court has made a determination with regard to sentencing, but only if it is made as soon as is reasonably practicable after the making of the determination;
  (b) may be revoked at any time by the court;
  (c) subject to paragraph (b), shall cease to have effect at the end of the period of 12 months beginning with the day on which it is made;
  (d) may be made whether or not an order has been made under subsection (7) with regard to the case concerned.

(9) For the purposes of subsections (7) and (8) the court makes a determination with regard to sentencing—
  (a) when it determines what sentence should be passed (where this section applies by virtue of subsection (1)(a));
  (b) when it determines whether the person should be committed to the Crown Court for sentence (where this section applies by virtue of subsection (1)(b));
  (c) when it determines what the sentence should be (where this section applies by virtue of subsection (2)(a));
  (d) when it determines whether to grant leave to appeal (where this section applies by virtue of subsection (2)(b)).

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Extent Information

E19 In its application to Northern Ireland, this section has effect subject to the modifications set out in Schedule 4; see s. 79

[F22]59 Restriction on reporting of assertions.

(1) Where a court makes an order under section 58(7) or (8) in relation to any assertion, at any time when the order has effect the assertion must not—

(a) be published in Great Britain in a written publication available to the public, or

(b) be included in a relevant programme for reception in Great Britain.

(2) In this section—

"relevant programme" means a programme included in a programme service, within the meaning of the [M55]Broadcasting Act 1990;

"written publication" includes a film, a soundtrack and any other record in permanent form but does not include an indictment or other document prepared for use in particular legal proceedings.

(3) For the purposes of this section an assertion is published or included in a programme if the material published or included—

(a) names the person about whom the assertion is made or, without naming him, contains enough to make it likely that members of the public will identify him as the person about whom it is made, and

(b) reproduces the actual wording of the matter asserted or contains its substance.

Textual Amendments

F22 In its application to Northern Ireland, this section has effect subject to the modifications set out in Schedule 4; see s. 79

Marginal Citations

M55 1990 c. 42.

60 Reporting of assertions: offences.

(1) If an assertion is published or included in a relevant programme in contravention of section 59, each of the following persons is guilty of an offence—

(a) in the case of publication in a newspaper or periodical, any proprietor, any editor and any publisher of the newspaper or periodical;

(b) in the case of publication in any other form, the person publishing the assertion;

(c) in the case of an assertion included in a relevant programme, any body corporate 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.

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(3) Where a person is charged with an offence under this section it is a defence to prove that at the time of the alleged offence—

(a) he was not aware, and neither suspected nor had reason to suspect, that an order under section 58(7) or (8) had effect at that time, or

(b) he was not aware, and neither suspected nor had reason to suspect, that the publication or programme in question was of, or (as the case may be) included, the assertion in question.

(4) Where an offence under this section committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—

(a) a director, manager, secretary or other similar officer of the body corporate, or

(b) a person purporting to act in any such capacity,

he as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.

(5) In relation to a body corporate whose affairs are managed by its members "director" in subsection (4) means a member of the body corporate.

(6) Subsections (2) and (3) of section 59 apply for the purposes of this section as they apply for the purposes of that.

61 Reporting of assertions: commencement and supplementary.

(1) Section 58 applies where the offence mentioned in subsection (1) or (2) of that section is committed on or after the appointed day.

(2) The reference in subsection (1) to the appointed day is to such day as is appointed for the purposes of this section by the Secretary of State by order.

(3) Nothing in section 58 or 59 affects any prohibition or restriction imposed by virtue of any other enactment on a publication or on matter included in a programme.

(4) Nothing in section 58 or 59 affects section 3 of the [M56]Law of Libel Amendment Act 1888 (privilege of newspaper reports of court proceedings).

(5) Section 8 of the Law of Libel Amendment Act 1888 (order of judge required for prosecution for libel published in a newspaper) does not apply to a prosecution for an offence under section 60.

(6) In section 159 of the [M57]Criminal Justice Act 1988 (appeal to Court of Appeal against orders restricting reports etc.) in subsection (1) the following paragraph shall be inserted after paragraph (a)—

"(aa) an order made by the Crown Court under section 58(7) or (8) of the [M58]Criminal Procedure and Investigations Act 1996 in a case where the Court has convicted a person on a trial on indictment;".

Subordinate Legislation Made

P13 S. 61(2) power wholly exercised (8.3.1997 and 9.6.1997): 1.4.1997 appointed day (E.W.S) by S.I. 1997/682; 30.6.1997 appointed day (N.I.) by S.I. 1997/1504.

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Marginal Citations

M56 1888 c. 64.
M57 1988 c.33.
M58 1996 c. 00.

Evidence: special provisions

62 Television links and video recordings.

(1) In section 32 of the [M59]Criminal Justice Act 1988 (evidence through television links) the following subsections shall be inserted after subsection (3B)—

"(3C) Where—

(a) the court gives leave for a person to give evidence through a live television link, and

(b) the leave is given by virtue of subsection (1)(b) above,

then, subject to subsection (3D) below, the person concerned may not give evidence otherwise than through a live television link.

(3D) In a case falling within subsection (3C) above the court may give permission for the person to give evidence otherwise than through a live television link if it appears to the court to be in the interests of justice to give such permission.

(3E) Permission may be given under subsection (3D) above—

(a) on an application by a party to the case, or

(b) of the court's own motion;

but no application may be made under paragraph (a) above unless there has been a material change of circumstances since the leave was given by virtue of subsection (1)(b) above."

(2) In section 32A of the [M60]Criminal Justice Act 1988 (video recordings of testimony from child witnesses) the following subsections shall be inserted after subsection (6)—

"(6A) Where the court gives leave under subsection (2) above the child witness shall not give relevant evidence (within the meaning given by subsection (6D) below) otherwise than by means of the video recording; but this is subject to subsection (6B) below.

(6B) In a case falling within subsection (6A) above the court may give permission for the child witness to give relevant evidence (within the meaning given by subsection (6D) below) otherwise than by means of the video recording if it appears to the court to be in the interests of justice to give such permission.

(6C) Permission may be given under subsection (6B) above—

(a) on an application by a party to the case, or

(b) of the court's own motion;

but no application may be made under paragraph (a) above unless there has been a material change of circumstances since the leave was given under subsection (2) above.

(6D) For the purposes of subsections (6A) and (6B) above evidence is relevant evidence if—

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(a) it is evidence in chief on behalf of the party who tendered the video recording, and

(b) it relates to matter which, in the opinion of the court, is dealt with in the recording and which the court has not directed to be excluded under subsection (3) above."

(3) This section applies where the leave concerned is given on or after the appointed day.

(4) The reference in subsection (3) to the appointed day is to such day as is appointed for the purposes of this section by the Secretary of State by order.

Extent Information

E20 In its application to Northern Ireland, this section has effect subject to the modifications set out in Schedule 4; see s. 79

Marginal Citations

M59 1988 c. 33.

M60 1988 c. 33.

63 Road traffic and transport: provision of specimens.

(1) In section 7(3) of the [M61]Road Traffic Act 1988 (provision of blood or urine in course of investigating whether certain road traffic offences have been committed) after paragraph (b) there shall be inserted—

"(bb) a device of the type mentioned in subsection (1)(a) above has been used at the police station but the constable who required the specimens of breath has reasonable cause to believe that the device has not produced a reliable indication of the proportion of alcohol in the breath of the person concerned, or".

(2) In section 31(4) of the [M62]Transport and Works Act 1992 (provision of blood or urine in course of investigating whether certain offences have been committed by persons working on transport systems) the word "or" at the end of paragraph (b) shall be omitted and after that paragraph there shall be inserted—

"(bb) a device of the type mentioned in subsection (1)(a) above has been used at the police station but the constable who required the specimens of breath has reasonable cause to believe that the device has not produced a reliable indication of the proportion of alcohol in the breath of the person concerned, or".

(3) This section applies where it is proposed to make a requirement mentioned in section 7(3) of the 1988 Act or section 31(3) of the 1992 Act after the appointed day.

(4) The reference in subsection (3) to the appointed day is to such day as is appointed for the purposes of this section by the Secretary of State by order.

Extent Information

E21 In its application to Northern Ireland, this section has effect subject to the modifications set out in Schedule 4; see s. 79

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Subordinate Legislation Made

P14 S. 63(4) power wholly exercised (6.3.1997 and 8.3.1997): 1.4.1997 appointed day (E.W.S.) by S.I. 1997/682 and (N.I.) by S.R. 1997/129.

Marginal Citations

M61 1988 c. 52.

M62 1992 c. 42.

64 Checks against fingerprints etc.

(1) In section 63A of the [M63]Police and Criminal Evidence Act 1984 the following subsections shall be substituted for subsection (1) (checks against fingerprints etc. where a person has been arrested on suspicion of being involved in a recordable offence)—

"(1) Where a person has been arrested on suspicion of being involved in a recordable offence or has been charged with such an offence or has been informed that he will be reported for such an offence, fingerprints or samples or the information derived from samples taken under any power conferred by this Part of this Act from the person may be checked against—

(a) other fingerprints or samples to which the person seeking to check has access and which are held by or on behalf of a police force (or police forces) falling within subsection (1A) below or are held in connection with or as a result of an investigation of an offence;

(b) information derived from other samples if the information is contained in records to which the person seeking to check has access and which are held as mentioned in paragraph (a) above.

(1A) Each of the following police forces falls within this subsection—

(a) a police force within the meaning given by section 62 of the [M64]Police Act 1964 (which relates to England and Wales);

(b) a police force within the meaning given by section 50 of the [M65]Police (Scotland) Act 1967;

(c) the Royal Ulster Constabulary and the Royal Ulster Constabulary Reserve;

(d) the States of Jersey Police Force;

(e) the salaried police force of the Island of Guernsey;

(f) the Isle of Man Constabulary."

(2) This section applies where a person—

(a) is arrested on suspicion of being involved in a recordable offence,

(b) is charged with a recordable offence, or

(c) is informed that he will be reported for a recordable offence,

after the day on which this Act is passed.

Extent Information

E22 In its application to Northern Ireland, this section has effect subject to the modifications set out in Schedule 4; see s. 79

Status: *Point in time view as at 02/10/2000. This version of this Act contains provisions that are not valid for this point in time.*
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Marginal Citations
M63 1984 c. 60.
M64 1964 c. 48.
M65 1967 c. 77.

Witness orders and summonses

65 Abolition of witness orders.

(1) Section 1 of the [M66]Criminal Procedure (Attendance of Witnesses) Act 1965 (examining justices to order witness to attend and give evidence before Crown Court) shall be omitted.

(2) In that Act the following words shall be omitted—
(a) in section 3(1) the words "witness order or";
(b) in section 4(1) the words "witness order or" and (where they next occur) "order or";
(c) in the proviso to section 4(1) the words from "in the case" (where they first occur) to "witness summons";
(d) in section 4(2) the words "a witness order or" and (where they next occur) "order or".

(3) In section 145 of the [M67]Magistrates' Courts Act 1980 (rules) subsection (1)(e) (which relates to witness orders) shall be omitted.

(4) This section shall have effect in accordance with provision made by the Secretary of State by order.

Subordinate Legislation Made
P15 S. 65(4) power exercised (8.3.1997) by S.I. 1997/683.

Marginal Citations
M66 1965 c. 69.
M67 1980 c. 43.

66 Summons to witness to attend Crown Court.

(1) The Criminal Procedure (Attendance of Witnesses) Act 1965 shall be amended as follows.

(2) The following shall be substituted for section 2 (summons to witness to attend Crown Court)—

" Issue of witness summons on application

2 Issue of witness summons on application to Crown Court.

(1) This section applies where the Crown Court is satisfied that—

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(a) a person is likely to be able to give evidence likely to be material evidence, or produce any document or thing likely to be material evidence, for the purpose of any criminal proceedings before the Crown Court, and

(b) the person will not voluntarily attend as a witness or will not voluntarily produce the document or thing.

(2) In such a case the Crown Court shall, subject to the following provisions of this section, issue a summons (a witness summons) directed to the person concerned and requiring him to—

(a) attend before the Crown Court at the time and place stated in the summons, and

(b) give the evidence or produce the document or thing.

(3) A witness summons may only be issued under this section on an application; and the Crown Court may refuse to issue the summons if any requirement relating to the application is not fulfilled.

(4) Where a person has been committed for trial for any offence to which the proceedings concerned relate, an application must be made as soon as is reasonably practicable after the committal.

(5) Where the proceedings concerned have been transferred to the Crown Court, an application must be made as soon as is reasonably practicable after the transfer.

(6) Where the proceedings concerned relate to an offence in relation to which a bill of indictment has been preferred under the authority of section 2(2)(b) of the [M68]Administration of Justice (Miscellaneous Provisions) Act 1933 (bill preferred by direction of Court of Appeal, or by direction or with consent of judge) an application must be made as soon as is reasonably practicable after the bill was preferred.

(7) An application must be made in accordance with Crown Court rules; and different provision may be made for different cases or descriptions of case.

(8) Crown Court rules—

(a) may, in such cases as the rules may specify, require an application to be made by a party to the case;

(b) may, in such cases as the rules may specify, require the service of notice of an application on the person to whom the witness summons is proposed to be directed;

(c) may, in such cases as the rules may specify, require an application to be supported by an affidavit containing such matters as the rules may stipulate;

(d) may, in such cases as the rules may specify, make provision for enabling the person to whom the witness summons is proposed to be directed to be present or represented at the hearing of the application for the witness summons.

(9) Provision contained in Crown Court rules by virtue of subsection (8)(c) above may in particular require an affidavit to—

(a) set out any charge on which the proceedings concerned are based;

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(b) specify any stipulated evidence, document or thing in such a way as to enable the directed person to identify it;

(c) specify grounds for believing that the directed person is likely to be able to give any stipulated evidence or produce any stipulated document or thing;

(d) specify grounds for believing that any stipulated evidence is likely to be material evidence;

(e) specify grounds for believing that any stipulated document or thing is likely to be material evidence.

(10) In subsection (9) above—

(a) references to any stipulated evidence, document or thing are to any evidence, document or thing whose giving or production is proposed to be required by the witness summons;

(b) references to the directed person are to the person to whom the witness summons is proposed to be directed.

2A Power to require advance production.

A witness summons which is issued under section 2 above and which requires a person to produce a document or thing as mentioned in section 2(2) above may also require him to produce the document or thing—

(a) at a place stated in the summons, and

(b) at a time which is so stated and precedes that stated under section 2(2) above,

for inspection by the person applying for the summons.

2B Summons no longer needed.

(1) If—

(a) a document or thing is produced in pursuance of a requirement imposed by a witness summons under section 2A above,

(b) the person applying for the summons concludes that a requirement imposed by the summons under section 2(2) above is no longer needed, and

(c) he accordingly applies to the Crown Court for a direction that the summons shall be of no further effect,

the court may direct accordingly.

(2) An application under this section must be made in accordance with Crown Court rules; and different provision may be made for different cases or descriptions of case.

(3) Crown Court rules may, in such cases as the rules may specify, require the effect of a direction under this section to be notified to the person to whom the summons is directed.

2C Application to make summons ineffective.

(1) If a witness summons issued under section 2 above is directed to a person who—

Status: *Point in time view as at 02/10/2000. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Criminal Procedure and Investigations Act 1996 is up to date with all changes known to be in force on or before 26 June 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)*

(a) applies to the Crown Court,

(b) satisfies the court that he was not served with notice of the application to issue the summons and that he was neither present nor represented at the hearing of the application, and

(c) satisfies the court that he cannot give any evidence likely to be material evidence or, as the case may be, produce any document or thing likely to be material evidence,

the court may direct that the summons shall be of no effect.

(2) For the purposes of subsection (1) above it is immaterial—

(a) whether or not Crown Court rules require the person to be served with notice of the application to issue the summons;

(b) whether or not Crown Court rules enable the person to be present or represented at the hearing of the application.

(3) In subsection (1)(b) above "served" means—

(a) served in accordance with Crown Court rules, in a case where such rules require the person to be served with notice of the application to issue the summons;

(b) served in such way as appears reasonable to the court to which the application is made under this section, in any other case.

(4) The Crown Court may refuse to make a direction under this section if any requirement relating to the application under this section is not fulfilled.

(5) An application under this section must be made in accordance with Crown Court rules; and different provision may be made for different cases or descriptions of case.

(6) Crown Court rules may, in such cases as the rules may specify, require the service of notice of an application under this section on the person on whose application the witness summons was issued.

(7) Crown Court rules may, in such cases as the rules may specify, require that where—

(a) a person applying under this section can produce a particular document or thing, but

(b) he seeks to satisfy the court that the document or thing is not likely to be material evidence,

he must arrange for the document or thing to be available at the hearing of the application.

(8) Where a direction is made under this section that a witness summons shall be of no effect, the person on whose application the summons was issued may be ordered to pay the whole or any part of the costs of the application under this section.

(9) Any costs payable under an order made under subsection (8) above shall be taxed by the proper officer of the court, and payment of those costs shall be enforceable in the same manner as an order for payment of costs made by the High Court in a civil case or as a sum adjudged summarily to be paid as a civil debt.

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Issue of witness summons of court's own motion

2D Issue of witness summons of Crown Court's own motion.

For the purpose of any criminal proceedings before it, the Crown Court may of its own motion issue a summons (a witness summons) directed to a person and requiring him to—

(a) attend before the court at the time and place stated in the summons, and

(b) give evidence, or produce any document or thing specified in the summons.

2E Application to make summons ineffective.

(1) If a witness summons issued under section 2D above is directed to a person who—

(a) applies to the Crown Court, and

(b) satisfies the court that he cannot give any evidence likely to be material evidence or, as the case may be, produce any document or thing likely to be material evidence,

the court may direct that the summons shall be of no effect.

(2) The Crown Court may refuse to make a direction under this section if any requirement relating to the application under this section is not fulfilled.

(3) An application under this section must be made in accordance with Crown Court rules; and different provision may be made for different cases or descriptions of case.

(4) Crown Court rules may, in such cases as the rules may specify, require that where—

(a) a person applying under this section can produce a particular document or thing, but

(b) he seeks to satisfy the court that the document or thing is not likely to be material evidence,

he must arrange for the document or thing to be available at the hearing of the application.

Other provisions".

(3) In section 3 (punishment for disobedience to witness summons) after subsection (1) there shall be inserted—

"(1A) Any person who without just excuse disobeys a requirement made by any court under section 2A above shall be guilty of contempt of that court and may be punished summarily by that court as if his contempt had been committed in the face of the court."

(4) In section 3, in subsection (2) for the words "such disobedience" there shall be substituted "any disobedience mentioned in subsection (1) or (1A) above".

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(5) In section 4 (further process to secure attendance of witness) in the proviso to subsection (1) after the word "give" there shall be inserted "evidence likely to be".

(6) Schedule 1 (application for direction that witness summons shall be of no effect) shall be omitted.

(7) This section applies in relation to any proceedings for the purpose of which no witness summons has been issued under section 2 of the 1965 Act before the appointed day.

(8) The reference in subsection (7) to the appointed day is to such day as is appointed for the purposes of this section by the Secretary of State by order.

Extent Information

E23 In its application to Northern Ireland, this section has effect subject to the modifications set out in Schedule 4; see s. 79

Subordinate Legislation Made

P16 S. 66(8) power partly exercised: 1.4.1999 (E.W) appointed for specified provision by S.I. 1999/718, **art. 2**
S. 66(8) power partly exercised: 21.8.2000 (N.I.) appointed for specified provision by S.I. 2000/1968, **art. 2**

Marginal Citations

M68 1933 c. 36.

67 Witness summons: securing attendance of witness.

(1) In section 4(1) of the [M69]Criminal Procedure (Attendance of Witnesses) Act 1965 (judge of High Court may issue warrant to arrest witness in respect of whom witness summons is in force) for the words "High Court" there shall be substituted " Crown Court ".

(2) This section shall have effect in accordance with provision made by the Secretary of State by order.

Modifications etc. (not altering text)

C9 S. 67 applied (9.3.1999) by S.I. 1999/716, **art. 2**

Commencement Information

I1 S. 67 partly in force at 9.3.1999; s.67 not in force at Royal Assent, see s. 67(2); s. 67 in force for certain purposes by S.I. 1999/716, **art. 2**

Marginal Citations

M69 1965 c. 69.

Status: *Point in time view as at 02/10/2000. This version of this Act contains provisions that are not valid for this point in time.*
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Other miscellaneous provisions

68 Use of written statements and depositions at trial.

Schedule 2 to this Act (which relates to the use at the trial of written statements and depositions admitted in evidence in committal proceedings) shall have effect.

69 Proof by written statement.

(1) In section 9 of the [M70]Criminal Justice Act 1967 (proof by written statement) in subsection (3)(a) (statement by person under 21 must give his age) for "twenty-one" there shall be substituted " eighteen ".

(2) This section applies in relation to statements tendered in evidence on or after the appointed day.

(3) The reference in subsection (2) to the appointed day is to such day as is appointed for the purposes of this section by the Secretary of State by order.

Extent Information

E24 In its application to Northern Ireland, this section has effect subject to the modifications set out in Schedule 4; see s. 79

Subordinate Legislation Made

P17 S. 69(3) power exercised (8.3.1997 and 29.12.1997): 1.4.1997 appointed day (E.W.) by S.I. 1997/682; 1.1.1998 appointed day (N.I.) by 1997/3108.

Marginal Citations

M70 1967 c. 80.

[[F23]70 Indemnification of justices and justices' clerks.

(1) In section 53 of the Justices of the [M71]Peace Act 1979 (indemnification of justices and justices' clerks) the following subsection shall be inserted after subsection (1)—

"(1A) So far as the duty mentioned in subsection (1) above relates to criminal matters, that subsection shall have effect as if—

(a) for the word "may" there were substituted "shall", and

(b) for the words following paragraph (c) there were substituted "unless it is proved, in respect of the matters giving rise to the proceedings or claim, that he acted in bad faith"."

(2) This section applies in relation to things done or omitted on or after the appointed day.

(3) The reference in subsection (2) to the appointed day is to such day as is appointed for the purposes of this section by the Secretary of State by order.**]**

Extent Information

E25 In its application to Northern Ireland, this section has effect subject to the modifications set out in Schedule 4; see s. 79

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Subordinate Legislation Made

P18 S. 70(3) power wholly exercised (7.9.1996): 1.10.1996 appointed day by S.I. 1996/2343.

Textual Amendments

F23 S. 70 repealed (E.W.) (19.6.1997) by 1997 c. 25, ss. 73(3), 74(1), **Sch. 6 Pt.I**.

Marginal Citations

M71 1979 c. 55.

71 Meaning of preliminary stage of criminal proceedings.

(1) Section 22 of the [M72]Prosecution of Offences Act 1985 (power of Secretary of State to set time limits in relation to preliminary stages of criminal proceedings) shall be amended as mentioned in subsections (2) and (3).

(2) In subsection (11) the following shall be substituted for the definition of "preliminary stage"—

""preliminary stage", in relation to any proceedings, does not include any stage after the start of the trial (within the meaning given by subsections (11A) and (11B) below);".

(3) The following subsections shall be inserted after subsection (11)—

"(11A) For the purposes of this section, the start of a trial on indictment shall be taken to occur when a jury is sworn to consider the issue of guilt or fitness to plead or, if the court accepts a plea of guilty before a jury is sworn, when that plea is accepted; but this is subject to section 8 of the [M73]Criminal Justice Act 1987 and section 30 of the [M74]Criminal Procedure and Investigations Act 1996 (preparatory hearings).

(11B) For the purposes of this section, the start of a summary trial shall be taken to occur—

(a) when the court begins to hear evidence for the prosecution at the trial or to consider whether to exercise its power under section 37(3) of the [M75]Mental Health Act 1983 (power to make hospital order without convicting the accused), or

(b) if the court accepts a plea of guilty without proceeding as mentioned above, when that plea is accepted."

(4) The [M76]Prosecution of Offences (Custody Time Limits) Regulations 1987 shall be amended as follows, but without prejudice to the power to make further regulations amending or revoking the provisions amended—

(a) in regulation 2 (interpretation) for paragraph (3) there shall be substituted—

"(3) In these Regulations any reference to the start of the trial shall be construed in accordance with section 22(11A) and (11B) of the 1985 Act.";

(b) in regulation 4 (custody time limits in magistrates' courts) in paragraphs (2) and (3) for "commencement" there shall be substituted " start ";

(c) in regulation 5 (custody time limits in Crown Court) for "his arraignment" in paragraphs (3)(a) and (b) and (6)(a) and (b), and for "the accused's

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arraignment" in paragraph (5), there shall be substituted " the start of the trial ";

(d) regulation 5(7) (when arraignment occurs) shall be omitted.

(5) This section applies in relation to—

(a) any time limit which begins to run on or after the appointed day, and

(b) any time limit which has begun to run and has not expired before that day,

except that it does not apply in relation to proceedings for an offence for which the accused has been duly arraigned in the Crown Court before that day.

(6) The reference in subsection (5) to the appointed day is to such day as is appointed for the purposes of this section by the Secretary of State by order.

Subordinate Legislation Made

P19 S. 71(6) power wholly exercised (7.9.1996): 1.10.1996 appointed day by S.I. 1996/2343.

Marginal Citations

M72 1985 c.23.
M73 1987 c. 38.
M74 1996 c. 00.
M75 1983 c. 20.
M76 S.I. 1987/299.

72 Fraud.

Schedule 3 (which amends provisions relating to serious or complex fraud) shall have effect.

73 Amendments to the Criminal Procedure (Scotland) Act 1995.

(1) The [M77]Criminal Procedure (Scotland) Act 1995 shall be amended as follows.

(2) In section 27 (breach of bail conditions: offences) the following subsection shall be inserted after subsection (4)—

"(4A) The fact that the subsequent offence was committed while the accused was on bail shall, unless challenged—

(a) in the case of proceedings on indictment, by giving notice of a preliminary objection under paragraph (b) of section 72(1) of this Act or under that paragraph as applied by section 71(2) of this Act; or

(b) in summary proceedings, by preliminary objection before his plea is recorded,

be held as admitted.".

(3) In subsection (1) of section 65 (prevention of delay in trials), for the words from "shall be discharged forthwith" to the end of the subsection there shall be substituted—

"(a) shall be discharged forthwith from any indictment as respects the offence; and

(b) shall not at any time be proceeded against on indictment as respects the offence".

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(4) In Schedule 9 (certificates as to proof of certain routine matters), in the entry relating to the [M78]Social Security Administration Act 1992, for "Section 114(4)" in column 1 there shall be substituted " Section 112(1) ".

Marginal Citations

M77 1995 c. 43.

M78 1992 c. 20.

74 Alibi.

(1) Section 11 of the [M79]Criminal Justice Act 1967 (notice of alibi) shall cease to have effect, but subject to the following provisions of this section.

(2) Subsection (1) does not affect the application of section 11 of the Criminal Justice Act 1967 to proceedings before courts martial by virtue of section 12 of that Act.

(3) The reference in section 12 of the Criminal Justice Act 1967 to section 11 as it applies to proceedings on indictment shall be construed as a reference to it as it would apply to proceedings on indictment apart from subsection (1) of this section.

(4) In section 9(6) of the [M80]Criminal Justice Act 1987 (disclosure in cases involving fraud) in paragraph (a) for the words "section 11 of the [M81]Criminal Justice Act 1967" there shall be substituted " section 5(7) of the Criminal Procedure and Investigations Act 1996 ".

(5) This section applies in relation to alleged offences into which no criminal investigation, within the meaning given by section 1(4), has begun before the day appointed under section 1(5).

Extent Information

E26 In its application to Northern Ireland, this section has effect subject to the modifications set out in Schedule 4; see s. 79

Modifications etc. (not altering text)

C10 S. 74: power to repeal conferred (4.7.1996) by 1996 c. 25, **s. 78(6)(b)** (with s. 78(1)).

Marginal Citations

M79 1967 c. 80.

M80 1987 c. 38.

M81 1967 c. 80.

General

75 Time when alleged offence committed.

(1) Subsection (2) applies for the purposes of sections 52(3) and 54(7).

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(2) Where an offence is alleged to be committed over a period of more than one day, or at some time during a period of more than one day, it must be taken to be alleged to be committed on the last of the days in the period.

(3) Subsection (2) applies for the purposes of section 61(1) as if "alleged to be" (in each place) were omitted.

Extent Information

E27 In its application to Northern Ireland, this section has effect subject to the modifications set out in Schedule 4; see s. 79

76 Power of magistrates' courts.

In section 148(2) of the [M82]Magistrates' Courts Act 1980 (power of court to act where another may act) the reference to that Act includes a reference to this Act.

Extent Information

E28 In its application to Northern Ireland, this section has effect subject to the modifications set out in Schedule 4; see s. 79

Marginal Citations

M82 1980 c. 43.

77 Orders and regulations.

(1) This section concerns the powers of the Secretary of State to make orders or regulations under this Act.

(2) Any power to make an order or regulations may be exercised differently in relation to different areas or in relation to other different cases or descriptions of case.

(3) Any order or regulations may include such supplementary, incidental, consequential or transitional provisions as appear to the Secretary of State to be necessary or expedient.

(4) Any power to make an order or regulations shall be exercisable by statutory instrument.

(5) No order under section 25 shall have effect unless approved by a resolution of each House of Parliament.

(6) A statutory instrument containing—
   (a) an order under section 78, or
   (b) regulations,

shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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Subordinate Legislation Made

P20 S. 77(2)(4) power partly exercised: 1.4.1999 (E.W.) appointed for specified provision by S.I. 1999/718, **art. 2**
S. 77(2)(4) power partly exercised: 21.8.2000 (N.I.) appointed for specified provision by S.I. 2000/1968, **art. 2**

78 Application to armed forces.

(1) Subject to subsection (2) and to section 74(2) and (3), nothing in this Act applies to—
- (a) proceedings before a court martial constituted under the [M83]Army Act 1955, the [M84]Air Force Act 1955 or the [M85]Naval Discipline Act 1957;
- (b) proceedings before a Standing Civilian Court;
- (c) any investigation conducted with a view to it being ascertained whether a person should be charged with an offence under any of those Acts or whether a person charged with such an offence is guilty of it.

(2) The Secretary of State may by order—
- (a) make as regards any proceedings falling within subsection (3) provision which is equivalent to the provisions contained in or made under Part I, subject to such modifications as he thinks fit and specifies in the order;
- (b) make as regards any investigation falling within subsection (4) provision which is equivalent to the provisions contained in or made under Part II, subject to such modifications as he thinks fit and specifies in the order.

(3) The proceedings falling within this subsection are—
- (a) proceedings before a court martial constituted under the [M86]Army Act 1955;
- (b) proceedings before a court martial constituted under the [M87]Air Force Act 1955;
- (c) proceedings before a court martial constituted under the [M88]Naval Discipline Act 1957;
- (d) proceedings before a Standing Civilian Court.

(4) An investigation falls within this subsection if it is conducted with a view to it being ascertained whether a person should be charged with an offence under any of the Acts mentioned in subsection (3) or whether a person charged with such an offence is guilty of it.

(5) An order under this section may make provision in such way as the Secretary of State thinks fit, and may in particular apply any of the provisions concerned subject to such modifications as he thinks fit and specifies in the order.

(6) Without prejudice to the generality of section 77(3), an order under this section may include provision—
- (a) repealing section 11 of the [M89]Criminal Justice Act 1967 (alibi) as it applies to proceedings before courts martial;
- (b) amending or repealing any provision of section 12 of that Act or of section 74 above.

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Extent Information

E29 For extent of s. 78 see s. 79(1)(a)(6)

Marginal Citations

M83 1955 c. 18.
M84 1955 c. 19.
M85 1957 c. 53.
M86 1955 c. 18.
M87 1955 c. 19.
M88 1957 c. 57.
M89 1967 c. 80.

79 Extent.

(1) This Act does not extend to Scotland, with the exception of—

(a) sections 37, 38, 41, 42, 59, 60, 61(3), 63, 72, 73, 74(2) and (3) and 78, this section and section 81;

(b) paragraphs 6 and 7 of Schedule 3, and paragraph 8 of that Schedule so far as it relates to paragraphs 6 and 7;

(c) paragraph 5 of Schedule 5;

(d) paragraph 12 of Schedule 5 so far as it relates to provisions amending section 11 of the [M90]Criminal Justice Act 1987.

(2) Section 73 extends only to Scotland.

(3) Parts III and VI and sections 44, 47, 65, 67, 68 and 71 do not extend to Northern Ireland.

(4) In its application to Northern Ireland, this Act has effect subject to the modifications set out in Schedule 4.

(5) Section 74(2) and (3) extend to any place where proceedings before courts martial may be held.

(6) Section 78 extends as follows—

(a) so far as it relates to proceedings, it extends to any place where such proceedings may be held;

(b) so far as it relates to investigations, it extends to any place where such investigations may be conducted.

Marginal Citations

M90 1987 c. 38.

80 Repeals.

The provisions mentioned in Schedule 5 are repealed (or revoked) to the extent specified in column 3, but subject to any provision of that Schedule.

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Extent Information

E30 In its application to Northern Ireland, this section has effect subject to the modifications set out in Schedule 4; see s. 79

81 Citation.

This Act may be cited as the Criminal Procedure and Investigations Act 1996.

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SCHEDULES

SCHEDULE 1

Section 47.

COMMITTAL PROCEEDINGS

PART I

MAGISTRATES' COURTS ACT 1980

Introduction

1 The [M91]Magistrates' Courts Act 1980 shall be amended as mentioned in this Part of this Schedule.

Marginal Citations
M91 1980 c. 43.

Amendments

2 (1) Section 4 (general nature of committal proceedings) shall be amended as follows.

(2) The following subsection shall be substituted for subsection (3)—

"(3) Subject to subsection (4) below, evidence tendered before examining justices shall be tendered in the presence of the accused."

(3) In subsection (4) for the word "given" (in each place) there shall be substituted " tendered ".

3 The following sections shall be inserted after section 5—

"**5A Evidence which is admissible.**

(1) Evidence falling within subsection (2) below, and only that evidence, shall be admissible by a magistrates' court inquiring into an offence as examining justices.

(2) Evidence falls within this subsection if it—
(a) is tendered by or on behalf of the prosecutor, and
(b) falls within subsection (3) below.

(3) The following evidence falls within this subsection—
(a) written statements complying with section 5B below;
(b) the documents or other exhibits (if any) referred to in such statements;

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(c) depositions complying with section 5C below;
(d) the documents or other exhibits (if any) referred to in such depositions;
(e) statements complying with section 5D below;
(f) documents falling within section 5E below.

(4) In this section "document" means anything in which information of any description is recorded.

5B Written statements.

(1) For the purposes of section 5A above a written statement complies with this section if—
(a) the conditions falling within subsection (2) below are met, and
(b) such of the conditions falling within subsection (3) below as apply are met.

(2) The conditions falling within this subsection are that—
(a) the statement purports to be signed by the person who made it;
(b) the statement contains a declaration by that person to the effect that it is true to the best of his knowledge and belief and that he made the statement knowing that, if it were tendered in evidence, he would be liable to prosecution if he wilfully stated in it anything which he knew to be false or did not believe to be true;
(c) before the statement is tendered in evidence a copy of the statement is given, by or on behalf of the prosecutor, to each of the other parties to the proceedings.

(3) The conditions falling within this subsection are that—
(a) if the statement is made by a person under 18 years old, it gives his age;
(b) if it is made by a person who cannot read it, it is read to him before he signs it and is accompanied by a declaration by the person who so read the statement to the effect that it was so read;
(c) if it refers to any other document as an exhibit, the copy given to any other party to the proceedings under subsection (2)(c) above is accompanied by a copy of that document or by such information as may be necessary to enable the party to whom it is given to inspect that document or a copy of it.

(4) So much of any statement as is admitted in evidence by virtue of this section shall, unless the court commits the accused for trial by virtue of section 6(2) below or the court otherwise directs, be read aloud at the hearing; and where the court so directs an account shall be given orally of so much of any statement as is not read aloud.

(5) Any document or other object referred to as an exhibit and identified in a statement admitted in evidence by virtue of this section shall be treated as if it had been produced as an exhibit and identified in court by the maker of the statement.

(6) In this section "document" means anything in which information of any description is recorded.

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5C Depositions.

(1) For the purposes of section 5A above a deposition complies with this section if—

(a) a copy of it is sent to the prosecutor under section 97A(9) below,

(b) the condition falling within subsection (2) below is met, and

(c) the condition falling within subsection (3) below is met, in a case where it applies.

(2) The condition falling within this subsection is that before the magistrates' court begins to inquire into the offence concerned as examining justices a copy of the deposition is given, by or on behalf of the prosecutor, to each of the other parties to the proceedings.

(3) The condition falling within this subsection is that, if the deposition refers to any other document as an exhibit, the copy given to any other party to the proceedings under subsection (2) above is accompanied by a copy of that document or by such information as may be necessary to enable the party to whom it is given to inspect that document or a copy of it.

(4) So much of any deposition as is admitted in evidence by virtue of this section shall, unless the court commits the accused for trial by virtue of section 6(2) below or the court otherwise directs, be read aloud at the hearing; and where the court so directs an account shall be given orally of so much of any deposition as is not read aloud.

(5) Any document or other object referred to as an exhibit and identified in a deposition admitted in evidence by virtue of this section shall be treated as if it had been produced as an exhibit and identified in court by the person whose evidence is taken as the deposition.

(6) In this section "document" means anything in which information of any description is recorded.

5D Statements.

(1) For the purposes of section 5A above a statement complies with this section if the conditions falling within subsections (2) to (4) below are met.

(2) The condition falling within this subsection is that, before the committal proceedings begin, the prosecutor notifies the magistrates' court and each of the other parties to the proceedings that he believes—

(a) that the statement might by virtue of section 23 or 24 of the [M92]Criminal Justice Act 1988 (statements in certain documents) be admissible as evidence if the case came to trial, and

(b) that the statement would not be admissible as evidence otherwise than by virtue of section 23 or 24 of that Act if the case came to trial.

(3) The condition falling within this subsection is that—

(a) the prosecutor's belief is based on information available to him at the time he makes the notification,

(b) he has reasonable grounds for his belief, and

(c) he gives the reasons for his belief when he makes the notification.

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(4) The condition falling within this subsection is that when the court or a party is notified as mentioned in subsection (2) above a copy of the statement is given, by or on behalf of the prosecutor, to the court or the party concerned.

(5) So much of any statement as is in writing and is admitted in evidence by virtue of this section shall, unless the court commits the accused for trial by virtue of section 6(2) below or the court otherwise directs, be read aloud at the hearing; and where the court so directs an account shall be given orally of so much of any statement as is not read aloud.

5E Other documents.

(1) The following documents fall within this section—

(a) any document which by virtue of any enactment is evidence in proceedings before a magistrates' court inquiring into an offence as examining justices;

(b) any document which by virtue of any enactment is admissible, or may be used, or is to be admitted or received, in or as evidence in such proceedings;

(c) any document which by virtue of any enactment may be considered in such proceedings;

(d) any document whose production constitutes proof in such proceedings by virtue of any enactment;

(e) any document by the production of which evidence may be given in such proceedings by virtue of any enactment.

(2) In subsection (1) above—

(a) references to evidence include references to prima facie evidence;

(b) references to any enactment include references to any provision of this Act.

(3) So much of any document as is admitted in evidence by virtue of this section shall, unless the court commits the accused for trial by virtue of section 6(2) below or the court otherwise directs, be read aloud at the hearing; and where the court so directs an account shall be given orally of so much of any document as is not read aloud.

(4) In this section "document" means anything in which information of any description is recorded.

5F Proof by production of copy.

(1) Where a statement, deposition or document is admissible in evidence by virtue of section 5B, 5C, 5D or 5E above it may be proved by the production of—

(a) the statement, deposition or document, or

(b) a copy of it or the material part of it.

(2) Subsection (1)(b) above applies whether or not the statement, deposition or document is still in existence.

(3) It is immaterial for the purposes of this section how many removes there are between a copy and the original.

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(4) In this section "copy", in relation to a statement, deposition or document, means anything onto which information recorded in the statement, deposition or document has been copied, by whatever means and whether directly or indirectly."

Marginal Citations
M92 1988 c. 33.

4 In section 6 (discharge or committal for trial) the following subsections shall be substituted for subsections (1) and (2)—

"(1) A magistrates' court inquiring into an offence as examining justices shall on consideration of the evidence—

(a) commit the accused for trial if it is of opinion that there is sufficient evidence to put him on trial by jury for any indictable offence;

(b) discharge him if it is not of that opinion and he is in custody for no other cause than the offence under inquiry;

but the preceding provisions of this subsection have effect subject to the provisions of this and any other Act relating to the summary trial of indictable offences.

(2) If a magistrates' court inquiring into an offence as examining justices is satisfied that all the evidence tendered by or on behalf of the prosecutor falls within section 5A(3) above, it may commit the accused for trial for the offence without consideration of the contents of any statements, depositions or other documents, and without consideration of any exhibits which are not documents, unless—

(a) the accused or one of the accused has no legal representative acting for him in the case, or

(b) a legal representative for the accused or one of the accused, as the case may be, has requested the court to consider a submission that there is insufficient evidence to put that accused on trial by jury for the offence;

and subsection (1) above shall not apply to a committal for trial under this subsection."

5 (1) Section 25 (change from summary trial to committal proceedings) shall be amended as follows.

(2) In subsections (2) and (6) for the words "may adjourn the hearing without remanding the accused" there shall be substituted " shall adjourn the hearing. "

(3) The following subsection shall be inserted after subsection (7)—

"(8) If the court adjourns the hearing under subsection (2) or (6) above it may (if it thinks fit) do so without remanding the accused."

6 Section 28 (using in summary trial evidence given in committal proceedings) shall be omitted.

7 In section 97 (summons to witness and warrant for his arrest) in subsection (1)—

(a) the words "at an inquiry into an indictable offence by a magistrates' court for that commission area or" shall be omitted;

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(b) for the words "such a court" there shall be substituted " a magistrates' court for that commission area ".

8 The following section shall be inserted after section 97—

"**97A Summons or warrant as to committal proceedings.**

(1) Subsection (2) below applies where a justice of the peace for any commission area is satisfied that—

(a) any person in England or Wales is likely to be able to make on behalf of the prosecutor a written statement containing material evidence, or produce on behalf of the prosecutor a document or other exhibit likely to be material evidence, for the purposes of proceedings before a magistrates' court inquiring into an offence as examining justices,

(b) the person will not voluntarily make the statement or produce the document or other exhibit, and

(c) the magistrates' court mentioned in paragraph (a) above is a court for the commission area concerned.

(2) In such a case the justice shall issue a summons directed to that person requiring him to attend before a justice at the time and place appointed in the summons to have his evidence taken as a deposition or to produce the document or other exhibit.

(3) If a justice of the peace is satisfied by evidence on oath of the matters mentioned in subsection (1) above, and also that it is probable that a summons under subsection (2) above would not procure the result required by it, the justice may instead of issuing a summons issue a warrant to arrest the person concerned and bring him before a justice at the time and place specified in the warrant.

(4) A summons may also be issued under subsection (2) above if the justice is satisfied that the person concerned is outside the British Islands, but no warrant may be issued under subsection (3) above unless the justice is satisfied by evidence on oath that the person concerned is in England or Wales.

(5) If—

(a) a person fails to attend before a justice in answer to a summons under this section,

(b) the justice is satisfied by evidence on oath that he is likely to be able to make a statement or produce a document or other exhibit as mentioned in subsection (1)(a) above,

(c) it is proved on oath, or in such other manner as may be prescribed, that he has been duly served with the summons and that a reasonable sum has been paid or tendered to him for costs and expenses, and

(d) it appears to the justice that there is no just excuse for the failure,

the justice may issue a warrant to arrest him and bring him before a justice at a time and place specified in the warrant.

(6) Where—

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(a) a summons is issued under subsection (2) above or a warrant is issued under subsection (3) or (5) above, and

(b) the summons or warrant is issued with a view to securing that a person has his evidence taken as a deposition,

the time appointed in the summons or specified in the warrant shall be such as to enable the evidence to be taken as a deposition before a magistrates' court begins to inquire into the offence concerned as examining justices.

(7) If any person attending or brought before a justice in pursuance of this section refuses without just excuse to have his evidence taken as a deposition, or to produce the document or other exhibit, the justice may do one or both of the following—

(a) commit him to custody until the expiration of such period not exceeding one month as may be specified in the summons or warrant or until he sooner has his evidence taken as a deposition or produces the document or other exhibit;

(b) impose on him a fine not exceeding £2,500.

(8) A fine imposed under subsection (7) above shall be deemed, for the purposes of any enactment, to be a sum adjudged to be paid by a conviction.

(9) If in pursuance of this section a person has his evidence taken as a deposition, the clerk of the justice concerned shall as soon as is reasonably practicable send a copy of the deposition to the prosecutor.

(10) If in pursuance of this section a person produces an exhibit which is a document, the clerk of the justice concerned shall as soon as is reasonably practicable send a copy of the document to the prosecutor.

(11) If in pursuance of this section a person produces an exhibit which is not a document, the clerk of the justice concerned shall as soon as is reasonably practicable inform the prosecutor of the fact and of the nature of the exhibit."

9 Section 102 (written statements before examining justices) shall be omitted.

10 (1) Section 103 (evidence of children in certain committal proceedings) shall be amended as follows.

(2) The following subsection shall be substituted for subsection (1)—

"(1) In any proceedings before a magistrates' court inquiring as examining justices into an offence to which this section applies, a statement made in writing by or taken in writing from a child shall be admissible in evidence of any matter."

(3) Subsections (3) and (4) (exclusion of subsection (1) and of section 28) shall be omitted.

11 Section 105 (deposition of person dangerously ill may be given in evidence before examining justices) shall be omitted.

12 In section 106 (false written statements tendered in evidence) in subsection (1) for "tendered" there shall be substituted " admitted " and for "section 102" there shall be substituted " section 5B ".

13 In Schedule 3 the following shall be substituted for paragraph 2(a) (representative may make statement on behalf of corporation before examining justices)—

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"(a) make before examining justices such representations as could be made by an accused who is not a corporation;".

PART II

OTHER PROVISIONS

Criminal Law Amendment Act 1867

14 Sections 6 and 7 of the [M93]Criminal Law Amendment Act 1867 (statements taken under section 105 of the [M94]Magistrates' Courts Act 1980) shall be omitted.

Marginal Citations
M93 1867 c. 35.
M94 1980 c. 43.

Bankers' Books Evidence Act 1879

15 The following shall be inserted at the end of section 4 of the [M95]Bankers' Books Evidence Act 1879—

"Where the proceedings concerned are proceedings before a magistrates' court inquiring into an offence as examining justices, this section shall have effect with the omission of the words "orally or"."

Marginal Citations
M95 1879 c. 11.

16 The following shall be inserted at the end of section 5 of the Bankers' Books Evidence Act 1879—

"Where the proceedings concerned are proceedings before a magistrates' court inquiring into an offence as examining justices, this section shall have effect with the omission of the words "either orally or"".

Administration of Justice (Miscellaneous Provisions) Act 1933

17 In section 2 of the [M96]Administration of Justice (Miscellaneous Provisions) Act 1933 (procedure for indictment of offenders) in proviso (i) to subsection (2) for the words "in any examination or deposition taken before a justice in his presence" there shall be substituted " to the magistrates' court inquiring into that offence as examining justices ".

Marginal Citations
M96 1933 c. 36.

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Criminal Justice Act 1948

18 In section 41 of the [M97]Criminal Justice Act 1948 (evidence by certificate) the following subsection shall be inserted after subsection (5)—

"(5A) Where the proceedings mentioned in subsection (1) above are proceedings before a magistrates' court inquiring into an offence as examining justices this section shall have effect with the omission of—

(a) subsection (4), and

(b) in subsection (5), paragraph (b) and the word "or" immediately preceding it."

Marginal Citations

M97 1948 c. 58.

Theft Act 1968

19 In section 27 of the [M98]Theft Act 1968 (evidence on charge of theft or handling stolen goods) the following subsection shall be inserted after subsection (4)—

"(4A) Where the proceedings mentioned in subsection (4) above are proceedings before a magistrates' court inquiring into an offence as examining justices that subsection shall have effect with the omission of the words from "subject to the following conditions" to the end of the subsection."

Marginal Citations

M98 1968 c. 60.

[F24]20 . . . . . .

Textual Amendments

F24 Sch. 1 para. 20 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168, **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

Children and Young Persons Act 1969

21 In Schedule 5 to the [M99]Children and Young Persons Act 1969, in paragraph 55 for the words "section 102" there shall be substituted " section 5B ".

Marginal Citations

M99 1969 c. 54.

Criminal Justice Act 1972

22 (1) Section 46 of the [M100]Criminal Justice Act 1972 (written statements made outside England and Wales) shall be amended as follows.

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(2) In subsection (1) the following words shall be omitted—

(a) "Section 102 of the Magistrates' Courts Act 1980 and";

(b) "which respectively allow";

(c) "committal proceedings and in other";

(d) "and section 106 of the said Act of 1980";

(e) "which punish the making of";

(f) "102 or";

(g) ", as the case may be".

(3) The following subsections shall be inserted after subsection (1)—

"(1A) The following provisions, namely—

(a) so much of section 5A of the Magistrates' Courts Act 1980 as relates to written statements and to documents or other exhibits referred to in them,

(b) section 5B of that Act, and

(c) section 106 of that Act,

shall apply where written statements are made in Scotland or Northern Ireland as well as where written statements are made in England and Wales.

(1B) The following provisions, namely—

(a) so much of section 5A of the Magistrates' Courts Act 1980 as relates to written statements and to documents or other exhibits referred to in them, and

(b) section 5B of that Act,

shall (subject to subsection (1C) below) apply where written statements are made outside the United Kingdom.

(1C) Where written statements are made outside the United Kingdom—

(a) section 5B of the Magistrates' Courts Act 1980 shall apply with the omission of subsections (2)(b) and (3A);

(b) paragraph 1 of Schedule 2 to the Criminal Procedure and Investigations Act 1996 (use of written statements at trial) shall not apply."

(4) Subsection (2) shall be omitted.

Marginal Citations

M100 1972 c. 71.

Sexual Offences (Amendment) Act 1976

23 (1) Section 3 of the [M101]Sexual Offences (Amendment) Act 1976 (application of restrictions on evidence at certain trials to committal proceedings etc.) shall be amended as follows.

(2) The following subsection shall be substituted for subsection (1)—

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"(1) Where a magistrates' court inquires into a rape offence as examining justices, then, except with the consent of the court, no restricted matter shall be raised; and for this purpose a restricted matter is a matter as regards which evidence could not be adduced and a question could not be asked without leave in pursuance of section 2 of this Act if—

(a) the inquiry were a trial at which a person is charged as mentioned in section 2(1) of this Act, and

(b) each of the accused at the inquiry were charged at the trial with the offence or offences of which he is accused at the inquiry."

(3) In subsection (2) for the words "evidence or question" (in each place) there shall be substituted " matter ".

Marginal Citations
M101 1976 c. 82.

Police and Criminal Evidence Act 1984

24 The following shall be inserted at the end of section 71 of the [M102]Police and Criminal Evidence Act 1984 (microfilm copies)—

"Where the proceedings concerned are proceedings before a magistrates' court inquiring into an offence as examining justices this section shall have effect with the omission of the words "authenticated in such manner as the court may approve.""

Marginal Citations
M102 1984 c. 60.

25 In section 76 of the Police and Criminal Evidence Act 1984 (confessions) the following subsection shall be inserted after subsection (8)—

"(9) Where the proceedings mentioned in subsection (1) above are proceedings before a magistrates' court inquiring into an offence as examining justices this section shall have effect with the omission of—

(a) in subsection (1) the words "and is not excluded by the court in pursuance of this section", and

(b) subsections (2) to (6) and (8)."

26 In section 78 of the Police and Criminal Evidence Act 1984 (exclusion of unfair evidence) the following subsection shall be inserted after subsection (2)—

"(3) This section shall not apply in the case of proceedings before a magistrates' court inquiring into an offence as examining justices."

[F25]27 . . . . . .

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Textual Amendments

F25 Sch. 1 para. 27 repealed (14.4.2000) by 1999 c. 23, s. 67, **Sch. 6** (with Sch. 7 paras. 3(3), 5(2)); S.I. 2000/1034, art. 2(c), **Sch.**

Criminal Justice Act 1988

28 In section 23 of the [M103]Criminal Justice Act 1988 (first-hand hearsay) the following subsection shall be inserted after subsection (4)—

"(5) This section shall not apply to proceedings before a magistrates' court inquiring into an offence as examining justices."

Marginal Citations

M103 1988 c. 33.

29 In section 24 of the Criminal Justice Act 1988 (business etc. documents) the following subsection shall be inserted after subsection (4)—

"(5) This section shall not apply to proceedings before a magistrates' court inquiring into an offence as examining justices."

30 The following shall be inserted at the end of section 26 of the Criminal Justice Act 1988 (statements in certain documents)—

"This section shall not apply to proceedings before a magistrates' court inquiring into an offence as examining justices."

31 The following shall be inserted at the end of section 27 of the Criminal Justice Act 1988 (proof of statements contained in documents)—

"This section shall not apply to proceedings before a magistrates' court inquiring into an offence as examining justices."

32 In section 30 of the Criminal Justice Act 1988 (expert reports) the following subsection shall be inserted after subsection (4)—

"(4A) Where the proceedings mentioned in subsection (1) above are proceedings before a magistrates' court inquiring into an offence as examining justices this section shall have effect with the omission of—

(a) in subsection (1) the words "whether or not the person making it attends to give oral evidence in those proceedings", and

(b) subsections (2) to (4)."

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33 In section 32A(10) of the Criminal Justice Act 1988 (video recordings) the words "notwithstanding that the child witness is not called at the committal proceedings" shall be omitted.

34 In section 40 of the Criminal Justice Act 1988 (power to join in indictment count for common assault etc.) in subsection (1) for the words from "in an examination" to the end of the subsection there shall be substituted " to a magistrates' court inquiring into the offence as examining justices ".

Road Traffic Offenders Act 1988

35 In section 11 of the [M104]Road Traffic Offenders Act 1988 (evidence by certificate as to driver, user or owner) the following subsection shall be inserted after subsection (3)—

"(3A) Where the proceedings mentioned in subsection (1) above are proceedings before a magistrates' court inquiring into an offence as examining justices this section shall have effect with the omission of—

(a) subsection (2), and

(b) in subsection (3), paragraph (b) and the word "or" immediately preceding it."

Marginal Citations

M104 1988 c. 53.

36 In section 13 of the Road Traffic Offenders Act 1988 (admissibility of records as evidence) the following subsection shall be inserted after subsection (6)—

"(7) Where the proceedings mentioned in subsection (2) above are proceedings before a magistrates' court inquiring into an offence as examining justices this section shall have effect as if—

(a) in subsection (2) the words "to the same extent as oral evidence of that fact is admissible in those proceedings" were omitted;

(b) in subsection (4) the word "and" were inserted at the end of paragraph (a);

(c) in subsection (4), paragraphs (c) and (d) and the words "as if the accused had appeared and admitted it" were omitted."

37 In section 16 of the Road Traffic Offenders Act 1988 (specimens) the following subsection shall be inserted after subsection (6)—

"(6A) Where the proceedings mentioned in section 15(1) of this Act are proceedings before a magistrates' court inquiring into an offence as examining justices this section shall have effect with the omission of subsection (4)."

38 In section 20 of the Road Traffic Offenders Act 1988 (speeding etc.) the following subsection shall be inserted after subsection (8)—

"(8A) Where the proceedings for an offence to which this section applies are proceedings before a magistrates' court inquiring into an offence as examining justices this section shall have effect as if in subsection (8) the words from "and nothing" to the end of the subsection were omitted."

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PART III

COMMENCEMENT

39 Parts I and II of this Schedule shall have effect in accordance with provision made by the Secretary of State by order.

Subordinate Legislation Made

P21 Sch. 1 para. 39 power exercised (8.3.1997) by S.I. 1997/683.

[F26]SCHEDULE 2

Section 68.

STATEMENTS AND DEPOSITIONS

Textual Amendments

F26 Sch. 2 repealed (prosp.) by Criminal Justice Act 2003 (c. 44), ss. 41, 332, 336, Sch. 3 Pt. 2 para. 66(8), **Sch. 37**

Statements

1 (1) Sub-paragraph (2) applies if—

(a) a written statement has been admitted in evidence in proceedings before a magistrates' court inquiring into an offence as examining justices,

(b) in those proceedings a person has been committed for trial,

(c) for the purposes of section 5A of the [M105]Magistrates' Courts Act 1980 the statement complied with section 5B of that Act prior to the committal for trial,

(d) the statement purports to be signed by a justice of the peace, and

(e) sub-paragraph (3) does not prevent sub-paragraph (2) applying.

(2) Where this sub-paragraph applies the statement may without further proof be read as evidence on the trial of the accused, whether for the offence for which he was committed for trial or for any other offence arising out of the same transaction or set of circumstances.

(3) Sub-paragraph (2) does not apply if—

(a) it is proved that the statement was not signed by the justice by whom it purports to have been signed,

(b) the court of trial at its discretion orders that sub-paragraph (2) shall not apply, or

(c) a party to the proceedings objects to sub-paragraph (2) applying.

(4) If a party to the proceedings objects to sub-paragraph (2) applying the court of trial may order that the objection shall have no effect if the court considers it to be in the interests of justice so to order.

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Modifications etc. (not altering text)

C11 Sch. 2 para. 1 excluded by 1972 c. 71, **s. 46(1C)(b)** (as inserted (4.7.1996 but with effect in accordance with S.I. 1997/683, **art. 1(2)**) by 1996 c. 25, s. 47, **Sch. 1 Pt. II para. 22(3)** (with s. 78(1)).
Sch. 2 para. 1 excluded by 1968 c. 19, s. 8, **Sch. 2 para. 1** (as substituted (4.7.1996 but with effect in accordance with S.I. 1997/683, **art. 1(2)**) by 1996 c. 25, s. 68, **Sch. 2 para.5** (with s. 78(2))).

Marginal Citations

M105 1980 c. 43.

Depositions

2 (1) Sub-paragraph (2) applies if—

(a) in pursuance of section 97A of the Magistrates' Courts Act 1980 (summons or warrant to have evidence taken as a deposition etc.) a person has had his evidence taken as a deposition for the purposes of proceedings before a magistrates' court inquiring into an offence as examining justices,

(b) the deposition has been admitted in evidence in those proceedings,

(c) in those proceedings a person has been committed for trial,

(d) for the purposes of section 5A of the Magistrates' Courts Act 1980 the deposition complied with section 5C of that Act prior to the committal for trial,

(e) the deposition purports to be signed by the justice before whom it purports to have been taken, and

(f) sub-paragraph (3) does not prevent sub-paragraph (2) applying.

(2) Where this sub-paragraph applies the deposition may without further proof be read as evidence on the trial of the accused, whether for the offence for which he was committed for trial or for any other offence arising out of the same transaction or set of circumstances.

(3) Sub-paragraph (2) does not apply if—

(a) it is proved that the deposition was not signed by the justice by whom it purports to have been signed,

(b) the court of trial at its discretion orders that sub-paragraph (2) shall not apply, or

(c) a party to the proceedings objects to sub-paragraph (2) applying.

(4) If a party to the proceedings objects to sub-paragraph (2) applying the court of trial may order that the objection shall have no effect if the court considers it to be in the interests of justice so to order.

Modifications etc. (not altering text)

C12 Sch. 2 para. 2 excluded by 1968 c. 19, s. 8, **Sch. 2 para. 1** (as substituted (4.7.1996 but with effect in accordance with S.I. 1997/683, **art. 1(2)**) by 1996 c. 25, s. 68, **Sch. 2 para.5** (with s. 78(1))).

Status: *Point in time view as at 02/10/2000. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Criminal Procedure and Investigations Act 1996 is up to date with all changes known to be in force on or before 26 June 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)*

Signatures

3 (1) A justice who signs a certificate authenticating one or more relevant statements or depositions shall be treated for the purposes of paragraphs 1 and 2 as signing the statement or deposition or (as the case may be) each of them.

(2) For this purpose—

(a) a relevant statement is a written statement made by a person for the purposes of proceedings before a magistrates' court inquiring into an offence as examining justices;

(b) a relevant deposition is a deposition made in pursuance of section 97A of the [M106]Magistrates' Courts Act 1980 for the purposes of such proceedings.

Marginal Citations
M106 1980 c. 43.

Time limit for objection

4 Without prejudice to section 84 of the [M107]Supreme Court Act 1981 (rules of court) the power to make rules under that section includes power to make provision—

(a) requiring an objection under paragraph 1(3)(c) or 2(3)(c) to be made within a period prescribed in the rules;

(b) allowing the court of trial at its discretion to permit such an objection to be made outside any such period.

Marginal Citations
M107 1981 c. 54.

Retrial

5 In Schedule 2 to the [M108]Criminal Appeal Act 1968 (procedural and other provisions applicable on order for retrial) in paragraph 1 for the words from "section 13(3)" to "before the original trial" there shall be substituted " paragraphs 1 and 2 of Schedule 2 to the Criminal Procedure and Investigations Act 1996 (use of written statements and depositions) shall not apply to any written statement or deposition read as evidence at the original trial ".

Marginal Citations
M108 1968 c. 19.

Repeals

6 (1) Section 13(3) of the [M109]Criminal Justice Act 1925 (which relates to depositions taken before examining justices and is superseded by paragraph 2 above) shall be omitted.

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(2) Section 7 of the [M110]Criminal Justice Act 1967 (which is superseded by paragraph 3 above) shall be omitted.

Marginal Citations
M109 1925 c. 86.
M110 1967 c. 80.

Commencement

7 This Schedule shall have effect in accordance with provision made by the Secretary of State by order.

Subordinate Legislation Made
P22 Sch. 2 para. 7 power exercised (8.3.1997) by S.I. 1997/683.

SCHEDULE 3

Section 72.

FRAUD

Extent Information
E31 In its application to Northern Ireland, this Schedule has effect subject to the modifications set out in Schedule 4; see s. 79

Introduction

1 The [M111]Criminal Justice Act 1987 shall be amended as provided by this Schedule.

Marginal Citations
M111 1987 c. 38.

Preparatory hearings

2 In section 7 (power to order preparatory hearing) subsections (3) to (5) (power to make order that could be made at the hearing) shall be omitted.

3 (1) Section 9 (the preparatory hearing) shall be amended as follows.

(2) In subsection (7) (warning of possible consequence under section 10(1)) the word "(1)" shall be omitted.

(3) In subsection (10) for the words "at or for the purposes of a preparatory hearing" there shall be substituted " under this section ".

4 The following section shall be inserted after section 9—

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"**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."

5 The following section shall be substituted for section 10 (later stages of trial)—

"**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 may draw such inference as appears proper.

(3) In deciding whether to give leave 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) Except as provided by this section 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."

Reporting restrictions

6 The following sections shall be substituted for section 11 (reporting restrictions)—

"**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 Great Britain;

(b) no report of proceedings falling within subsection (2) below shall be included in a relevant programme for reception in Great Britain.

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(2) The following proceedings fall within this subsection—
  (a) an application under section 6(1) above;
  (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.

(3) The judge dealing with an application under section 6(1) above may order that subsection (1) above shall not apply, or shall not apply to a specified extent, to a report of the application.

(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 House of Lords under Part II of the [M112]Criminal Appeal Act 1968 in relation to a preparatory hearing.

(6) The House of Lords 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 that House under Part II of the Criminal Appeal Act 1968 in relation to a preparatory hearing, or
  (b) an application to that House for leave to appeal to it under Part II of the [M113]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 (3), (4), (5) or (6) above the judge or the Court of Appeal or the House of Lords 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 (3), (4), (5) or (6) above the judge or the Court of Appeal or the House of Lords 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.

(9) Subsection (1) above does not apply to—
  (a) the publication of a report of an application under section 6(1) above, or

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(b) the inclusion in a relevant programme of a report of an application under section 6(1) above,

where the application is successful.

(10) Where—

(a) two or more persons are jointly charged, and

(b) applications under section 6(1) above are made by more than one of them,

subsection (9) above shall have effect as if for the words "the application is" there were substituted "all the applications are".

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

(a) the publication of a report of an unsuccessful application made under section 6(1) above,

(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,

(d) the inclusion in a relevant programme of a report of an unsuccessful application made under section 6(1) above,

(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;

(h) whether legal aid was granted to the accused or any of the accused.

(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.

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(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 [M114]Broadcasting Act 1990.

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.

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(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.

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

Marginal Citations

M112 1968 c. 19.
M113 1968 c. 19.
M114 1990 c. 42.

7 In the list in section 17(2) (provisions extending to Scotland) after the entry relating to section 11 there shall be inserted " section 11A; ".

General

8 (1) This Schedule applies in relation to an offence if—

(a) on or after the appointed day the accused is committed for trial for the offence,

(b) proceedings for the trial on the charge concerned are transferred to the Crown Court on or after the appointed day, or

(c) a bill of indictment relating to the offence is preferred on or after the appointed day under the authority of section 2(2)(b) of the [M115]Administration of Justice (Miscellaneous Provisions) Act 1933 (bill preferred by direction of Court of Appeal, or by direction or with consent of a judge).

(2) References in this paragraph to the appointed day are to such day as is appointed for the purposes of this Schedule by the Secretary of State by order.

Subordinate Legislation Made

P23 Sch. 3 para. 8(2) power exercised (E.W.S.) (21.3.1997): 15.4.1997 appointed day by S.I. 1997/1019

Marginal Citations

M115 1933 c. 36.

SCHEDULE 4

Section 79.

MODIFICATIONS FOR NORTHERN IRELAND

Extent Information

E32 Sch. 4 extends to Northern Ireland but the operation of Sch. 4 is limited by application as mentioned in s. 79(4)

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General

1 In their application to Northern Ireland the provisions of this Act mentioned in the following paragraphs of this Schedule shall have effect subject to the modifications set out in those paragraphs.

2 Where a provision of this Act which extends to Northern Ireland confers power on the Secretary of State to prepare a code of practice, that power may be so exercised as to prepare a code of practice having effect only in Northern Ireland and containing provisions different to those contained in any code of practice prepared under that provision and having effect in England and Wales.

3 In any provision of this Act which extends to Northern Ireland—

(a) reference to an enactment includes reference to an enactment comprised in Northern Ireland legislation;

(b) reference to a police officer is a reference to a member of the Royal Ulster Constabulary or of the Royal Ulster Constabulary Reserve.

Part I of this Act

4 In section 1 for subsections (1) and (2) substitute—

"(1) This Part applies where a person is charged with an offence, the court proceeds to deal summarily with the charge and that person pleads not guilty.

(2) This Part also applies where—

(a) a person is charged with an indictable offence and he is committed for trial for the offence concerned,

(b) a person is charged with an indictable offence and proceedings for the trial of the person on the charge concerned are transferred to the Crown Court by virtue of a notice of transfer given under Article 3 of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988 (serious or complex fraud),

(c) a person is charged with an indictable offence and proceedings for the trial of the person on the charge concerned are transferred to the Crown Court by virtue of a notice of transfer given under Article 4 of the Children's Evidence (Northern Ireland) Order 1995 (certain cases involving children),

(d) a count charging a person with a summary offence is included in an indictment under the authority of Article 193A of the Road Traffic (Northern Ireland) Order 1981 (offences relating to drink or drugs), or

(e) an indictment charging a person with an indictable offence is presented under the authority of section 2(2)(c), (d), (e) or (f) of the Grand Jury (Abolition) Act (Northern Ireland) 1969.

(2A) In subsection (2)—

"indictable offence" means an offence which is triable on indictment, whether it is exclusively so triable or not;

"summary offence" has the same meaning as in Article 193A of the Road Traffic (Northern Ireland) Order 1981."

5 (1) In section 5(2) for "section 5(9) of the Criminal Justice Act 1987" substitute " Article 4(7) of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988 ".

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(2) In section 5(3) for "paragraph 4 of Schedule 6 to the Criminal Justice Act 1991" substitute " paragraph 3 of Schedule 1 to the Children's Evidence (Northern Ireland) Order 1995 ".

6 In section 13 (1) for "the bill of indictment is preferred" substitute " the indictment is presented ".

7 After section 14 there shall be inserted—

"**14A Public interest: review for scheduled offences.**

(1) This section applies where this Part applies by virtue of section 1(2) and the offence charged is a scheduled offence within the meaning of section 1 of the Northern Ireland (Emergency Provisions) Act 1996.

(2) At any time—

(a) after a court makes an order under section 3(6), 7(5), 8(5) or 9(8), and

(b) before the accused is acquitted or convicted or the prosecutor decides not to proceed with the case concerned,

the accused may apply to the court for a review of the question whether it is still not in the public interest to disclose material affected by its order.

(3) In such a case the court must review that question, and if it concludes that it is in the public interest to disclose material to any extent—

(a) it shall so order; and

(b) it shall take such steps as are reasonable to inform the prosecutor of its order.

(4) Where the prosecutor is informed of an order made under subsection (3) he must act accordingly having regard to the provisions of this Part (unless he decides not to proceed with the case concerned)."

8 In section 15(1) at the end add " and section 14A does not apply ".

9 In section 16 after "14(2)" insert " , 14A(2) " and after "14(3)" insert " , 14A(3) ".

10 In section 17(1)(a) after "14" insert " , 14A ".

11 In section 18 at the end add—

"(11) In section 13 (legal aid) of the Contempt of Court Act 1981 (as set out in Schedule 4 to that Act) in subsection (1)(a) after sub-paragraph (ii) there shall be inserted—

(") by a magistrates' court or the Crown Court under section 18 of the Criminal Procedure and Investigations Act 1996; or"."

12 (1) In section 19(1) for the words from the beginning to "includes" substitute—

"Without prejudice to the generality of—

(a) Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981 (magistrates' courts rules), and

(b) section 52 of the Judicature (Northern Ireland) Act 1978 (Crown Court rules),

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the power to make rules under each of those provisions includes ".

(2) In section 19(2)(b) after "14(2)" insert ", 14A(2)".

(3) In section 19(2)(d) after "14(3)" insert ", 14A(3)".

(4) In section 19 omit subsection (3).

13 (1) In section 20(2) for "section 9 of the Criminal Justice Act 1987 or section 31 of this Act" substitute " Article 8 of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988 ".

(2) In section 20(3) for the words from the beginning to "that section" substitute " Without prejudice to the generality of Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981 (magistrates' courts rules) the power to make rules under that Article ".

(3) In section 20(5) for paragraph (b) substitute—

"(b) "enactment" includes a statutory instrument within the meaning of section 1(d) of the Interpretation Act (Northern Ireland) 1954."

14 In section 21(3) for paragraph (e) substitute—

"(e) the indictment is presented (where this Part applies by virtue of section 1(2)(e))".

Part IV of this Act

15 In section 39 for subsections (2) and (3) substitute—

"(2) For the purposes of this Part a hearing is also a pre-trial hearing if—

(a) it relates to a trial on indictment to be held in pursuance of an indictment presented under the authority of section 2(2)(c), (d), (e) or (f) of the Grand Jury (Abolition) Act (Northern Ireland) 1969, and

(b) it takes place after the indictment has been presented and before the start of the trial.

(3) For the purposes of this section the start of a trial on indictment occurs—

(a) in the case of a trial to which section 11 of the Northern Ireland (Emergency Provisions) Act 1996 applies (trial by court without a jury), at the opening of the case for the prosecution or, if the court accepts a plea of guilty before that time, when that plea is accepted,

(b) in any other case, when a jury is sworn to consider the issue of guilt or fitness to be tried or, if the court accepts a plea of guilty before a jury is sworn, when that plea is accepted,

but this is subject to Article 7 of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988. "

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VALID FROM 24/07/2006

[F27 15A In section 39(4) for "(3)" substitute (3)(b).]

Textual Amendments

F27 Sch. 4 para. 15A inserted (24.7.2006 for E.W and otherwise 8.1.2007) by Criminal Justice Act 2003 (c. 44), ss. 331, 336 {Sch. 36 Pt. 4 para. 72(4)}; S.I. 2006/1835, **art. 2(h)** (subject to article 3); S.I. 2006/3422, **art. 2**

16 In section 41(1) for "Great Britain" where it twice occurs substitute " Northern Ireland ".

17 In section 42(3) omit "in England and Wales", and after "Attorney General" insert " for Northern Ireland ".

Part V of this Act

18 In section 45 for subsections (1) to (8) substitute—

"(1) Article 4 of the Criminal Justice (Serious Fraud)(Northern Ireland) Order 1988 (notices of transfer in cases of serious or complex fraud) shall be amended as mentioned in subsections (2) and (3).

(2) In paragraph (7)(a) (regulations) for the words "a statement of the evidence" there shall be substituted "copies of the documents containing the evidence (including oral evidence)".

(3) The following paragraph shall be inserted after paragraph (7)—

(") Regulations under paragraph (7)(a) may provide that there shall be no requirement for copies of documents to accompany the copy of the notice of transfer if they are referred to, in documents sent with the notice of transfer, as having already been supplied."

(4) In Schedule 1 to the Children's Evidence (Northern Ireland) Order 1995 (notices of transfer in certain cases involving children) paragraph 3 (regulations) shall be amended as mentioned in subsections (5) and (6).

(5) In sub-paragraph (1)(a) for the words "a statement of the evidence" there shall be substituted "copies of the documents containing the evidence (including oral evidence)".

(6) The following sub-paragraph shall be inserted after sub-paragraph (1)—

(") Regulations under sub-paragraph (1)(a) may provide that there shall be no requirement for copies of documents to accompany the copy of the notice of transfer if they are referred to, in documents sent with the notice of transfer, as having already been supplied."

(7) In paragraph 5 of Schedule 1 to the 1995 Order (reporting restrictions) in sub-paragraph (8) for the words "sub-paragraphs (5) and (6)" there shall be substituted "sub-paragraphs (5) and (7)".

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(8) This section applies where a notice of transfer is given under Article 3 of the 1988 Order or Article 4 of the 1995 Order (as the case may be) on or after the appointed day".

19 In section 46 for subsections (1) and (2) substitute—

"(1) Part II of the Schedule to the War Crimes Act 1991 and section 1(4) of that Act so far as relating thereto (transfer procedure in Northern Ireland in cases of war crimes) shall cease to have effect.

(2) In Article 29(2) of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 (free legal aid in Crown Court) sub-paragraph (d) (which relates to a notice of transfer under Part II of the Schedule to the War Crimes Act 1991) shall cease to have effect."

Part VII of this Act

20 **[**[F28](1) In section 54(6) in paragraph (b) for "section 51(1) of the Criminal Justice and Public Order Act 1994" substitute " Article 47(1) of the Criminal Justice (Northern Ireland) Order 1996. "

(2) In section 54(6)**]** in paragraph (c) for "section 1 of the Perjury Act 1911" substitute " Article 3 of the Perjury (Northern Ireland) Order 1979 "

Textual Amendments

F28 Words in Sch. 4 para. 20 substituted (25.7.1997) by S.I. 1996/3160 (N.I. 24), art. 58(1), **Sch. 5 para.18**; S.R. 1997/267, **art. 2(h)**.

21 In section 56(2) for paragraphs (a) to (c) substitute—

"(a) section 5 of the Criminal Law Amendment Act 1885 (no prosecution for offence under that section more than 12 months after the commission of the offence);

(b) Article 19(1)(a) of the Magistrates' Courts (Northern Ireland) Order 1981 (magistrates' court not to hear and determine certain complaints unless made within 6 months of time when offence committed);

(c) an enactment that imposes a time limit only in certain circumstances (as where proceedings are not instituted by or with the consent of the Director of Public Prosecutions for Northern Ireland)."

22 In section 57 omit subsection (1).

23 (1) In section 58(1) omit paragraph (b) and the word "or" immediately before it.

(2) In section 58(9) omit paragraph (b).

24 In section 59(1) for "Great Britain" where it twice occurs substitute " Northern Ireland ".

25 In section 62 for subsections (1) and (2) substitute—

"(1) In Article 81 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (evidence through television links) the following paragraphs shall be inserted after paragraph (3)— "

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(3A) Where the court gives leave under paragraph (2) for a witness falling within paragraph (1)(b)(ii) to give evidence through a live television link, then, subject to paragraph (3B), the witness concerned may not give evidence otherwise than through a live television link.

(3B) In a case falling within paragraph (3A) the court may give permission for the witness to give evidence otherwise than through a live television link if it appears to the court to be in the interests of justice to give such permission.

(3C) Permission may be given under paragraph (3B)—

(a) on an application by a party to the case, or

(b) of the court's own motion;

but no application may be made under sub-paragraph (a) unless there has been a material change of circumstances since the leave was given under paragraph (2). "

(2) In Article 81A of the Police and Criminal Evidence (Northern Ireland) Order 1989 (video recordings of testimony from child witnesses) the following paragraphs shall be inserted after paragraph (6)—

(") Where the court gives leave under paragraph (2) the child witness shall not give relevant evidence (within the meaning given by paragraph (6D)) otherwise than by means of the video recording; but this is subject to paragraph (6B).

(6B) In a case falling within paragraph (6A) the court may give permission for the child witness to give relevant evidence (within the meaning given by paragraph (6D)) otherwise than by means of the video recording if it appears to the court to be in the interests of justice to give such permission.

(6C) Permission may be given under paragraph (6B)—

(a) on an application by a party to the case, or

(b) of the court's own motion;

but no application may be made under sub-paragraph (a) unless there has been a material change of circumstances since the leave was given under paragraph (2).

(6D) For the purposes of paragraphs (6A) and (6B) evidence is relevant evidence if—

(a) it is evidence in chief on behalf of the party who tendered the video recording, and

(b) it relates to matter which, in the opinion of the court, is dealt with in the recording and which the court has not directed to be excluded under paragraph (3).".."

26 For section 63 substitute—

"**63 Road traffic: provision of specimens.**

(1) In Article 18(4) of the Road Traffic (Northern Ireland) Order 1995 (provision of blood or urine in course of investigating whether certain road traffic offences have been committed) after sub-paragraph (b) there shall be inserted—

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(“) a device of the type mentioned in paragraph (1)(a) has been used in the circumstances described in paragraph (2) but the constable who required the specimens of breath has reasonable cause to believe that the device has not produced a reliable indication of the proportion of alcohol in the breath of the person concerned, or”.

(2) This section applies where it is proposed to make a requirement mentioned in Article 18(4) of the 1995 Order after the appointed day.

(3) The reference in subsection (2) to the appointed day is to such day as is appointed for the purposes of this section by the Department of the Environment for Northern Ireland by order.

(4) The power of the Department of the Environment for Northern Ireland to make an order under subsection (3) shall be exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.”

27 In section 64 for subsection (1) substitute—

“(1) In Article 63A of the Police and Criminal Evidence (Northern Ireland) Order 1989 the following paragraphs shall be substituted for paragraph (1) (checks against fingerprints etc. where a person has been arrested on suspicion of being involved in a recordable offence)— “

(1) Where a person has been arrested on suspicion of being involved in a recordable offence or has been charged with such an offence or has been informed that he will be reported for such an offence, fingerprints or samples or the information derived from samples taken under any power conferred by this Part from the person may be checked against—

(a) other fingerprints or samples to which the person seeking to check has access and which are held by or on behalf of a police force (or police forces) falling within paragraph (1A) or are held in connection with or as the result of an investigation of an offence;

(b) information derived from other samples if the information is contained in records to which the person seeking to check has access and which are held as mentioned in sub-paragraph (a).

(1A) Each of the following police forces falls within this paragraph—

(a) the Royal Ulster Constabulary and the Royal Ulster Constabulary Reserve;

(b) a police force within the meaning given by section 62 of the Police Act 1964;

(c) a police force within the meaning given by section 50 of the Police (Scotland) Act 1967;

(d) the States of Jersey Police Force;

(e) the salaried police force of the Island of Guernsey;

(f) the Isle of Man Constabulary. ”.”

28 For section 66 substitute—

“**66** (1) After section 51 of the Judicature (Northern Ireland) Act 1978 there shall be inserted—

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51A "Issue of witness summons on application to Crown Court.

(1) This section applies where the Crown Court is satisfied that—

(a) a person is likely to be able to give evidence likely to be material evidence, or produce any document or thing likely to be material evidence, for the purpose of any criminal proceedings before the Crown Court, and

(b) the person will not voluntarily attend as a witness or will not voluntarily produce the document or thing.

(2) In such a case the Crown Court shall, subject to the following provisions of this section, issue a summons (a witness summons) directed to the person concerned and requiring him to—

(a) attend before the Crown Court at the time and place stated in the summons, and

(b) give the evidence or produce the document or thing.

(3) A witness summons may only be issued under this section on an application; and the Crown Court may refuse to issue the summons if any requirement relating to the application is not fulfilled.

(4) Where a person has been committed for trial for any offence to which the proceedings concerned relate, an application must be made as soon as is reasonably practicable after the committal.

(5) Where the proceedings concerned have been transferred to the Crown Court, an application must be made as soon as is reasonably practicable after the transfer.

(6) Where the proceedings concerned relate to an offence in relation to which an indictment has been presented under the authority of section 2(2)(c), (d), (e) or (f) of the Grand Jury (Abolition) Act (Northern Ireland) 1969, an application must be made as soon as is reasonably practicable after the indictment is presented.

(7) An application must be made in accordance with Crown Court rules; and different provision may be made for different cases or descriptions of case.

(8) Crown Court rules—

(a) may, in such cases as the rules may specify, require an application to be made by a party to the case;

(b) may, in such cases as the rules may specify, require the service of notice of an application on the person to whom the witness summons is proposed to be directed;

(c) may, in such cases as the rules may specify, require an application to be supported by an affidavit containing such matters as the rules may stipulate;

(d) may, in such cases as the rules may specify, make provision for enabling the person to whom the witness summons is proposed to be directed to be present or represented at the hearing of the application for the witness summons.

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(9) Provision contained in Crown Court rules by virtue of subsection (8)(c) may in particular require an affidavit to—

(a) set out any charge on which the proceedings concerned are based;

(b) specify any stipulated evidence, document or thing in such a way as to enable the directed person to identify it;

(c) specify grounds for believing that the directed person is likely to be able to give any stipulated evidence or produce any stipulated document or thing;

(d) specify grounds for believing that any stipulated evidence is likely to be material evidence;

(e) specify grounds for believing that any stipulated document or thing is likely to be material evidence.

(10) In subsection (9)—

(a) references to any stipulated evidence, document or thing are to any evidence, document or thing whose giving or production is proposed to be required by the witness summons;

(b) references to the directed person are to the person to whom the witness summons is proposed to be directed.

51B Power to require advance production.

A witness summons which is issued under section 51A and which requires a person to produce a document or thing as mentioned in section 51A(2) may also require him to produce the document or thing—

(a) at a place stated in the summons, and

(b) at a time which is so stated and precedes that stated under section 51A(2),

for inspection by the person applying for the summons.

51C Summons no longer needed.

(1) If—

(a) a document or thing is produced in pursuance of a requirement imposed by a witness summons under section 51B,

(b) the person applying for the summons concludes that a requirement imposed by the summons under section 51A(2) is no longer needed, and

(c) he accordingly applies to the Crown Court for a direction that the summons shall be of no further effect,

the court may direct accordingly.

(2) An application under this section must be made in accordance with Crown Court rules; and different provision may be made for different cases or descriptions of case.

(3) Crown Court rules may, in such cases as the rules may specify, require the effect of a direction under this section to be notified to the person to whom the summons is directed.

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51D Application to make summons ineffective.

(1) If a witness summons issued under section 51A is directed to a person who—

(a) applies to the Crown Court,

(b) satisfies the court that he was not served with notice of the application to issue the summons and that he was neither present nor represented at the hearing of the application, and

(c) satisfies the court that he cannot give any evidence likely to be material evidence or, as the case may be, produce any document or thing likely to be material evidence,

the court may direct that the summons shall be of no effect.

(2) For the purposes of subsection (1) it is immaterial—

(a) whether or not Crown Court rules require the person to be served with notice of the application to issue the summons;

(b) whether or not Crown Court rules enable the person to be present or represented at the hearing of the application.

(3) In subsection (1)(b) "served" means—

(a) served in accordance with Crown Court rules, in a case where such rules require the person to be served with notice of the application to issue the summons;

(b) served in such way as appears reasonable to the Crown Court, in any other case.

(4) The Crown Court may refuse to make a direction under this section if any requirement relating to the application under this section is not fulfilled.

(5) An application under this section must be made in accordance with Crown Court rules; and different provision may be made for different cases or descriptions of case.

(6) Crown Court rules may, in such cases as the rules may specify, require the service of notice of an application under this section on the person on whose application the witness summons was issued.

(7) Crown Court rules may, in such cases as the rules may specify, require that where—

(a) a person applying under this section can produce a particular document or thing, but

(b) he seeks to satisfy the court that the document or thing is not likely to be material evidence,

he must arrange for the document or thing to be available at the hearing of the application.

(8) Where a direction is made under this section that a witness summons shall be of no effect, the person on whose application the summons was issued may be ordered to pay the whole or any part of the costs of the application under this section.

(9) Any costs payable under an order made under subsection (8) shall be taxed by the Master (Taxing Office), and payment of those costs shall be

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enforceable in the same manner as an order for payment of costs made by the High Court in a civil case or as a sum adjudged summarily to be paid as a civil debt.

51E Issue of witness summons of Crown Court's own motion.

For the purpose of any criminal proceedings before it, the Crown Court may of its own motion issue a summons (a witness summons) directed to a person and requiring him to—

(a) attend before the court at the time and place stated in the summons; and

(b) give evidence or produce any document or thing specified in the summons.

51F Application to make summons ineffective.

(1) If a witness summons issued under section 51E is directed to a person who—

(a) applies to the Crown Court, and

(b) satisfies the court that he cannot give any evidence likely to be material evidence or, as the case may be, produce any document or thing likely to be material evidence,

the court may direct that the summons shall be of no effect.

(2) The Crown Court may refuse to make a direction under this section if any requirement relating to the application under this section is not fulfilled.

(3) An application under this section must be made in accordance with Crown Court rules; and different provision may be made for different cases or descriptions of case.

(4) Crown Court rules may, in such cases as the rules may specify, require that where—

(a) a person applying under this section can produce a particular document or thing, but

(b) he seeks to satisfy the court that the document or thing is not likely to be material evidence,

he must arrange for the document or thing to be available at the hearing of the application.

51G Punishment for disobedience to witness summons.

(1) Any person who without just excuse—

(a) disobeys a witness summons requiring him to attend before the Crown Court; or

(b) disobeys a requirement made by the Crown Court under section 51B,

shall be guilty of contempt of that court and may be punished summarily by that court as if his contempt were in the face of the court.

(2) A person shall not be committed to prison by reason of any disobedience mentioned in subsection (1) for a period exceeding three months.

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51H Further process to secure attendance of witnesses.

(1) If the Crown Court is satisfied by evidence on oath that—

(a) a witness in respect of whom a witness summons is in force is unlikely to comply with the summons; and

(b) the witness is likely to be able to give evidence likely to be material evidence or produce any document or thing likely to be material evidence in the proceedings,

the Crown Court may issue a warrant to arrest the witness and bring him before the court.

(2) Where a witness who is required to attend before the Crown Court by virtue of a witness summons fails to attend in compliance with the summons, the Crown Court may—

(a) in any case, cause to be served on him a notice requiring him to attend the court forthwith or at such time as may be specified in the notice;

(b) if the court is satisfied that there are reasonable grounds for believing that he has failed to attend without just excuse, or if he has failed to comply with a notice under paragraph (a), issue a warrant to arrest him and bring him before the court.

(3) A witness brought before the Crown Court in pursuance of a warrant under this section may be remanded by that court in custody or on bail (with or without sureties) until such time as the court may appoint for receiving his evidence or dealing with him under section 51G.

(4) Where a witness attends the Crown Court in pursuance of a notice under this section, the court may direct that the notice shall have effect as if it required him to attend at any later time appointed by the court for receiving his evidence or dealing with him under section 51G."

(2) No subpoena ad testificandum or subpoena duces tecum shall issue after the appointed day in respect of any criminal proceedings for the purposes of which—

(a) a witness summons may be issued under section 51A of the Judicature (Northern Ireland) Act 1978; or

(b) a summons may be issued under Article 118 of the Magistrates' Courts (Northern Ireland) Order 1981 (process for attendance of witnesses in magistrates' courts).

(3) In section 47(4) of the Judicature (Northern Ireland) Act 1978 after the words "Subject to" there shall be inserted the words "section 66(2) of the Criminal Procedure and Investigations Act 1996 (subpoenas not to issue in certain criminal cases) and to".

(4) This section applies in relation to any proceedings for the purposes of which no summons requiring the attendance of a witness has been issued before the appointed day.

(5) The references in subsections (2) and (4) to the appointed day are to such day as is appointed for the purposes of this section by the Secretary of State by order."

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29 In section 69(1) for "section 9 of the Criminal Justice Act 1967" substitute " section 1 of the Criminal Justice (Miscellaneous Provisions) Act (Northern Ireland) 1968 " and for "subsection (3)(a)" substitute " subsection (4)(a) ".

30 In section 70 for subsection (1) substitute—

"(1) In Article 10 of the Magistrates' Courts (Northern Ireland) Order 1981—

(a) in paragraph (1) (power of Lord Chancellor to defray expenses in connection with proceedings) after the words "justice or clerk" (where they first occur) there shall be inserted "in relation to any matter other than a criminal matter", and

(b) after paragraph (1) there shall be inserted—

(") The Lord Chancellor shall defray any expenses reasonably incurred by a resident magistrate or other justice of the peace or by a clerk of petty sessions in, or in connection with, any proceedings or claim brought as a result of the execution, or purported execution, of the office of that magistrate, justice or clerk in relation to any criminal matter, unless it is proved, in respect of the matters giving rise to the proceedings or claim, that he acted in bad faith.".."

31 (1) In section 74 for subsection (1) substitute—

"(1) The Evidence of Alibi Act (Northern Ireland) 1972 shall cease to have effect."

(2) In section 74 omit subsections (2) and (3).

(3) In section 74 for subsection (4) substitute—

"(4) In Article 8(6) of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988 (disclosure in cases involving fraud) in sub-paragraph (a) for the words "section 1 of the Evidence of Alibi Act (Northern Ireland) 1972" there shall be substituted the words "section 5(7) of the Criminal Procedure and Investigations Act 1996"."

32 In section 75(1) for "sections 52(3) and 54(7)" substitute " section 54(7) ".

33 For section 76 substitute—

"**76 Power of magistrates' courts.**

Anything authorised or required by this Act to be done by, to or before the magistrates' court by, to or before which any other thing was done, or is to be done, may be done by, to or before any magistrates' court acting for the same county court division as that court."

34 In section 80 omit "(or revoked)".

35 For Schedule 3 substitute—

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"SCHEDULE 3

FRAUD

Introduction

1 The Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988 shall be amended as provided by this Schedule.

Notice of transfer

2 In Article 3 (transfer of certain fraud cases to the Crown Court) in paragraph (1)(b)(ii) for the words "seriousness and complexity" there shall be substituted the words "seriousness or complexity".

Preparatory hearings

3 (1) Article 6 (power to order preparatory hearing) shall be amended as follows.

(2) In paragraph (1) for the words "seriousness and complexity" there shall be substituted the words "seriousness or complexity".

(3) Paragraphs (3) to (5) (power to make order that could be made at the hearing) shall be omitted.

4 (1) Article 8 (the preparatory hearing) shall be amended as follows.

(2) In paragraph (7) (warning of possible consequence under Article 9(1)) the word "(1)" shall be omitted.

(3) In paragraph (10) for the words "at or for the purposes of a preparatory hearing" there shall be substituted "under this Article".

5 The following Article shall be inserted after Article 8—

"***Orders before preparatory hearing***

8A (1) Paragraph (2) applies where—

(a) a judge orders a preparatory hearing, and

(b) he decides that any order which could be made under Article 8(4) or (5) 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) paragraphs (4) to (10) of Article 8 shall apply accordingly."

6 The following Article shall be substituted for Article 9 (later stages of trial)—

"***Later stages of trial***

9 (1) Any party may depart from the case he disclosed in pursuance of a requirement imposed under Article 8.

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(2) Where—

(a) a party departs from the case he disclosed in pursuance of a requirement imposed under Article 8, 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 may draw such inference as appears proper.

(3) In deciding whether to give leave 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) Except as provided by this Article no part—

(a) of a statement given under Article 8(5), 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 Article 8,

may be disclosed at a stage in the trial after the jury have been sworn without the consent of the accused concerned."

Reporting restrictions

7 The following Articles shall be substituted for Article 10 (reporting restrictions)—

"***Restrictions on reporting***

10 (1) Except as provided by this Article—

(a) no written report of proceedings falling within paragraph (2) shall be published in Northern Ireland;

(b) no report of proceedings falling within paragraph (2) shall be included in a relevant programme for reception in Northern Ireland.

(2) The following proceedings fall within this paragraph—

(a) an application under Article 5(1);

(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.

(3) The judge dealing with an application under Article 5(1) may order that paragraph (1) shall not apply, or shall not apply to a specified extent, to a report of the application.

(4) The judge dealing with a preparatory hearing may order that paragraph (1) 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 Article 8(11) in relation to the preparatory hearing.

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

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(a) an appeal to the Court of Appeal under Article 8(11) in relation to a preparatory hearing,
(b) an application to that Court for leave to appeal to it under Article 8(11) in relation to a preparatory hearing, or
(c) an application to that Court for leave to appeal to the House of Lords under Part II of the Criminal Appeal (Northern Ireland) Act 1980 in relation to a preparatory hearing.

(6) The House of Lords may order that paragraph (1) shall not apply, or shall not apply to a specified extent, to a report of—
(a) an appeal to that House under Part II of the Criminal Appeal (Northern Ireland) Act 1980 in relation to a preparatory hearing, or
(b) an application to that House for leave to appeal to it under Part II of the Criminal Appeal (Northern Ireland) Act 1980 in relation to a preparatory hearing.

(7) Where there is only one accused and he objects to the making of an order under paragraph (3), (4), (5) or (6) the judge or the Court of Appeal or the House of Lords 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 paragraph (3), (4), (5) or (6) the judge or the Court of Appeal or the House of Lords 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.

(9) Paragraph (1) does not apply to—
(a) the publication of a report of an application under Article 5(1), or
(b) the inclusion in a relevant programme of a report of an application under Article 5(1),

where the application is successful.

(10) Where—
(a) two or more persons are jointly charged, and
(b) applications under Article 5(1) are made by more than one of them,

paragraph (9) shall have effect as if for the words “the application is” there were substituted “all the applications are”.

(11) Paragraph (1) does not apply to—
(a) the publication of a report of an unsuccessful application made under Article 5(1),
(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,
(d) the inclusion in a relevant programme of a report of an unsuccessful application made under Article 5(1),

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(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) Paragraph (1) 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;

(h) whether legal aid was granted to the accused or any of the accused.

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

(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 paragraph (13).

(15) Nothing in this Article 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 Article—

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(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 [M116]Broadcasting Act 1990.

Offences in connection with reporting

10A (1) If a report is published or included in a relevant programme in contravention of Article 10 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 Article 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 Article shall not be instituted otherwise than by or with the consent of the Attorney General for Northern Ireland.

(4) Paragraph (16) of Article 10 applies for the purposes of this Article as it applies for the purposes of that."

General

8 (1) This Schedule applies in relation to an offence if—

(a) the accused is committed for trial on the charge concerned, or proceedings for the trial on the charge concerned are transferred to the Crown Court, on or after the appointed day, or

(b) an indictment relating to the offence is presented on or after the appointed day under the authority of section 2(2)(c), (e) or (f) of the Grand Jury (Abolition) Act (Northern Ireland) 1969.

(2) References in this paragraph to the appointed day are to such day as is appointed for the purposes of this Schedule by the Secretary of State by order."

Marginal Citations

M116 1990 c. 42.

36 For Schedule 5 substitute—

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"SCHEDULE 5

REPEALS

1.

War Crimes

Chapter or Number	Short title	Extent of repeal
1981 NI 18.	The Legal Aid, Advice and Assistance (Northern Ireland) Order 1981.	In Article 29(2), sub-paragraph (d) and the word "or" immediately before it.
1991 c.13.	The War Crimes Act 1991.	Section 1(4), so far as relating to Part II of the Schedule. Section 3(3). Part II of the Schedule.

2.

Summonses to Witnesses

Chapter	Short title	Extent of repeal
1831 c. 44.	The Tumultuous Risings (Ireland) Act 1831.	Section 8.

This repeal has effect in accordance with section 66 of this Act.

3.

Alibi

Chapter or Number	Short title	Extent of repeal
1972 c. 6 (N.I.).	The Evidence of Alibi Act (Northern Ireland) 1972.	The whole Act.
1980 NI 6.	The Criminal Justice (Northern Ireland) Order 1980.	In Schedule 1, paragraph 61.
1988 NI 16.	The Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988.	In the Schedule, paragraph 3.
1995 NI 3.	The Children's Evidence (Northern Ireland) Order 1995.	In Schedule 2, paragraph 6.

These repeals have effect in accordance with section 74 of this Act.

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4.

Fraud

Chapter or Number	Short title	Extent of repeal
1988 NI 16.	The Criminal Justice (Serious Fraud)(Northern Ireland) Order 1988.	Article 6(3) to (5).
		In Article 8(7) the word "(1)".
1990 c. 42.	The Broadcasting Act 1990.	In Schedule 20, paragraph 50.

These repeals have effect in accordance with Schedule 3 to this Act."

SCHEDULE 5

Section 80

REPEALS

1.

Reinstatement of certain provisions

Chapter	Short title	Extent of repeal
1994 c.33.	Criminal Justice and Public Order Act 1994.	Section 34(7).
		Section 36(8).
		Section 37(7).
		Section 44.
		Schedule 4.
		In Schedule 11, the entries mentioned in note 1 below.

1 The entries in Schedule 11 to the 1994 Act are those relating to the following—

(a) sections 13(3) and 49(2) of the [M117]Criminal Justice Act 1925;

(b) section 1 of the [M118]Criminal Procedure (Attendance of Witnesses) Act 1965;

(c) section 7 of the [M119]Criminal Justice Act 1967 and in section 36(1) of that Act the definition of "committal proceedings";

(d) in paragraph 1 of Schedule 2 to the [M120]Criminal Appeal Act 1968 the words from "section 13(3)" to "but";

(e) in section 46(1) of the [M121]Criminal Justice Act 1972 the words "Section 102 of the Magistrates' Courts Act 1980 and", "which respectively allow", "committal proceedings and in other", "and section 106 of the said Act of

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1980", "which punish the making of", "102 or" and ", as the case may be", and section 46(2) of that Act;

(f) in section 32(1)(b) of the [M122]Powers of Criminal Courts Act 1973 the words "tried or";

(g) in Schedule 1 to the [M123]Interpretation Act 1978, paragraph (a) of the definition of "Committed for trial";

(h) in section 97(1) of the [M124]Magistrates' Courts Act 1980 the words from "at an inquiry" to "be) or", sections 102, 103, 105, 106 and 145(1)(e) of that Act, in section 150(1) of that Act the definition of "committal proceedings", and paragraph 2 of Schedule 5 to that Act;

(i) in section 2(2)(g) of the [M125]Criminal Attempts Act 1981 the words "or committed for trial";

(j) in section 1(2) of the [M126]Criminal Justice Act 1982 the words "trial or";

(k) paragraphs 10 and 11 of Schedule 2 to the [M127]Criminal Justice Act 1987;

(l) in section 20(4)(a) of the [M128]Legal Aid Act 1988 the words "trial or", and section 20(4)(bb) and (5) of that Act;

(m) in section 1(4) of the [M129]War Crimes Act 1991 the words "England, Wales or", and Part I of the Schedule to that Act.

Marginal Citations

M117 1925 c. 86.
M118 1965 c. 69.
M119 1967 c. 80.
M120 1968 c. 19.
M121 1972 c. 71.
M122 1973 c. 62.
M123 1978 c. 30.
M124 1980 c. 43.
M125 1981 c. 47.
M126 1982 c. 48.
M127 1987 c. 38.
M128 1988 c. 34.
M129 1991 c. 13.

2 The repeals under this paragraph (reinstatement of certain provisions) have effect in accordance with section 44 of this Act.

This repeal has effect in accordance with section 49 of this Act.

These repeals have effect in accordance with section 52 of this Act.

This repeal has effect in accordance with section 63 of this Act.

These repeals have effect in accordance with provision made by the Secretary of State by order under section 65 of this Act.

These repeals have effect in accordance with section 66 of this Act.

This revocation has effect in accordance with section 71 of this Act.

These repeals have effect in accordance with section 74 of this Act.

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These repeals have effect in accordance with provision made by the Secretary of State by order under Schedule 1 to this Act.

These repeals have effect in accordance with provision made by the Secretary of State by order under Schedule 2 to this Act.

These repeals have effect in accordance with Schedule 3 to this Act.

2.

War Crimes

Chapter	Short title	Extent of repeal
1988 c.34.	Legal Aid Act 1988.	Section 20(4)(bb).
1991 c.13.	War Crimes Act 1991.	In section 1(4) the words "England, Wales or".
		Section 3(2).
		Part I of the Schedule.

3.

Either Way Offences

Chapter	Short title	Extent of repeal
1980 c.43.	Magistrates' Courts Act 1980.	Section 19(2)(a).

4.

Remand

Chapter	Short title	Extent of repeal
1980 c.43.	Magistrates' Courts Act 1980.	In section 128, subsections (1A)(c) and (3A)(c).
		In section 128A(1) the words "who has attained the age of 17".

5.

Specimens

Chapter	Short title	Extent of repeal
1992 c.42.	Transport and Works Act 1992.	In section 31(4) the word "or" at the end of paragraph (b).

6.

Witness Orders

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Chapter	Short title	Extent of repeal
1965 c.69.	Criminal Procedure (Attendance of Witnesses) Act 1965.	Section 1.
		In section 3(1) the words "witness order or".
		In section 4(1) the words "witness order or" and (where they next occur) "order or".
		In the proviso to section 4(1) the words from "in the case" (where they first occur) to "witness summons".
		In section 4(2) the words "a witness order or" and (where they next occur) "order or".
1971 c.23.	Courts Act 1971.	In Schedule 8, paragraph 45(1).
1980 c.43.	Magistrates' Courts Act 1980.	Section 145(1)(e).

7.

Summonses to witnesses

Chapter	Short title	Extent of repeal
1965 c.69.	Criminal Procedure (Attendance of Witnesses) Act 1965.	Schedule 1.
1971 c.23.	Courts Act 1971.	In Schedule 8, paragraph 45(2) and (5).

8.

Preliminary Stages

Number	Title	Extent of revocation
S.I. 1987/299	Prosecution of Offences (Custody Time Limits) Regulations 1987.	Regulation 5(7).

9.

Alibi

Chapter	Short title	Extent of repeal

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1967 c. 80.	Criminal Justice Act 1967.	Section 11.
1980 c. 43.	Magistrates' Courts Act 1980.	In Schedule 7, paragraph 64.
1987 c. 38.	Criminal Justice Act 1987.	In Schedule 2, paragraph 2.
1994 c. 33.	Criminal Justice and Public Order Act 1994.	In Schedule 4, paragraph 15(3).
		In Schedule 9, paragraphs 6(2) and 7.

10.

Committal Proceedings

Chapter	Short title	Extent of repeal
1867 c. 35.	Criminal Law Amendment Act 1867.	Section 6.
		Section 7.
1972 c. 71.	Criminal Justice Act 1972.	In section 46(1) the following words— "Section 102 of the Magistrates' Courts Act 1980 and"; "which respectively allow"; "committal proceedings and in other"; "and section 106 of the said Act of 1980"; "which punish the making of"; "102 or"; ", as the case may be".
		Section 46(2).
1980 c. 43.	Magistrates' Courts Act 1980.	Section 28.
		In section 97(1) the words "at an inquiry into an indictable offence by a magistrates' court for that commission area or".
		Section 102.
		Section 103(3) and (4).
		Section 105.

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		In Schedule 7, paragraph 2.
1988 c. 33.	Criminal Justice Act 1988.	In section 32A(10) the words "notwithstanding that the child witness is not called at the committal proceedings". In Schedule 15, paragraph 68.

11.

Statements and Depositions

Chapter	Short title	Extent of repeal
1925 c.86.	Criminal Justice Act 1925.	Section 13(3).
1965 c.69.	Criminal Procedure (Attendance of Witnesses) Act 1965.	In Part I of Schedule 2, the entry relating to the Criminal Justice Act 1925.
1967 c.80.	Criminal Justice Act 1967.	Section 7.
1980 c.43.	Magistrates' Courts Act 1980.	In Schedule 7, paragraph 63.

12.

Fraud

Chapter	Short title	Extent of repeal
1987 c.38.	Criminal Justice Act 1987.	In section 7, subsections (3) to (5). In section 9(7), the word "(1)".
1988 c.33.	Criminal Justice Act 1988.	In Schedule 15, paragraph 114.
1990 c.42.	Broadcasting Act 1990.	In Schedule 20, paragraph 47.

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Changes to legislation:
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