



# Criminal Procedure and Investigations Act 1996

## 1996 CHAPTER 25

### 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)**  
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 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,
  - 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
  - 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 person is charged with an indictable offence and he is committed for trial for the offence concerned,

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- (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 <sup>M1</sup>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 <sup>M2</sup>Criminal Justice Act 1991 (certain cases involving children),
  - [<sup>F1</sup>(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 <sup>M3</sup>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 <sup>M4</sup>Administration of Justice (Miscellaneous Provisions) Act 1933 (bill preferred by direction of Court of Appeal, or by direction or with consent of a judge).
- (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.
- (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

- E1** 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

- F1** [S. 1\(2\)\(cc\)](#) inserted (E.W.) by [1998 c. 37, s. 119, Sch. 8 para. 125\(a\)](#) (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

- M1** [1987 c. 38](#).  
**M2** [1991 c. 53](#).  
**M3** [1988 c. 33](#).  
**M4** [1933 c. 36](#).

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## 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—
  - (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

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- (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—
  - (a) it has been intercepted in obedience to a warrant issued under section 2 of the <sup>M5</sup>Interception of Communications Act 1985, or
  - (b) it indicates that such a warrant has been issued or that material has been intercepted in obedience to such a warrant.
- (8) The prosecutor must act under this section during the period which, by virtue of section 12, is the relevant period for this section.

**Modifications etc. (not altering text)**

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

**Marginal Citations**

**M5** 1985 c. 56.

**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 <sup>M6</sup>Criminal Justice Act 1987.

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(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 <sup>M7</sup>Criminal Justice Act 1991.

[<sup>F2</sup>(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—

- (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**

- E2** 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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### Textual Amendments

**F2** 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

### **[<sup>F3</sup>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,
  - (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

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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

**F3** 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

#### [<sup>F4</sup>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.
- (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

**F4** S. 6B inserted (prosp.) by [Criminal Justice Act 2003 \(c. 44\), ss. 33\(3\), 336](#)

VALID FROM 01/05/2010

#### [<sup>F5</sup>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—

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- (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

**F5** S. 6C inserted (prosp.) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 34, 336

PROSPECTIVE

#### [<sup>F6</sup>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

**F6** S. 6D inserted (prosp.) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 35, 336

VALID FROM 04/04/2005

#### [<sup>F7</sup>6E Disclosure by accused: further provisions

- (1) Where an accused's solicitor purports to give on behalf of the accused—



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- (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;
  - (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

- F7** 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—

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- (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—
- (a) it has been intercepted in obedience to a warrant issued under section 2 of the <sup>M8</sup>Interception of Communications Act 1985, or
  - (b) it indicates that such a warrant has been issued or that material has been intercepted in obedience to such a warrant.
- (7) The prosecutor must act under this section during the period which, by virtue of section 12, is the relevant period for this section.

#### Marginal Citations

M8 1985 c. 56.

VALID FROM 04/04/2005

#### **[<sup>F8</sup>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—

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- (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).]

#### Textual Amendments

**F8** 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.

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- (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—
  - (a) it has been intercepted in obedience to a warrant issued under section 2 of the <sup>M9</sup>Interception of Communications Act 1985, or
  - (b) it indicates that such a warrant has been issued or that material has been intercepted in obedience to such a warrant.

#### Marginal Citations

M9 1985 c. 56.

## 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.
- (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.

**Status:** Point in time view as at 04/01/1999. This version of this part contains provisions that are not valid for this point in time.

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- (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—
- (a) it has been intercepted in obedience to a warrant issued under section 2 of the <sup>M10</sup>Interception of Communications Act 1985, or
  - (b) it indicates that such a warrant has been issued or that material has been intercepted in obedience to such a warrant.

#### Marginal Citations

M10 1985 c. 56.

### 10 Prosecutor’s failure to observe time limits.

- (1) This section applies if the prosecutor—
- (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,

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- (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.
- (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;

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- (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—
  - “(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)),
    - [<sup>F9</sup>(cc) the accused is sent for trial under section 51 of the Crime and Disorder Act 1998 (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)).”
- (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

- 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

- F9** Words in s. 13(1) inserted (E.W.) by 1998 c. 37, s. 119, Sch. 8 para. 127(a) (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.*).

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### 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.
- (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

- E4** 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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## 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.

### 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](#)

### 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.

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- (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.
- (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

**E6** 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.

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- (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
  - (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

- 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)

- 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 <sup>M11</sup>Magistrates’ Courts Act 1980 (magistrates’ court rules), and
  - (b) section 84 of the <sup>M12</sup>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;

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- (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 <sup>M13</sup>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.
- (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

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

#### Marginal Citations

**M11** 1980 c. 43.

**M12** 1981 c. 54.

**M13** 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 <sup>M14</sup>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 <sup>M15</sup>Magistrates’ Courts Act 1980 (magistrates’ court rules) the power to make rules under that section includes

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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;
  - (b) “enactment” includes an enactment comprised in subordinate legislation (which here has the same meaning as in the <sup>M16</sup>Interpretation Act 1978).

#### 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](#)

#### Modifications etc. (not altering text)

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

#### Marginal Citations

- M14** [1987 c. 38.](#)  
**M15** [1980 c. 43.](#)  
**M16** [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

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- (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

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

VALID FROM 05/04/2004

#### <sup>F10</sup>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.

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- (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.
- (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

**F10** 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\(3\)-\(6\)](#))

**Status:**

Point in time view as at 04/01/1999. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:**

Criminal Procedure and Investigations Act 1996, Part I is up to date with all changes known to be in force on or before 08 July 2023. 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.