

SCHEDULES

SCHEDULE 3

FRAUD

Introduction

1 The Criminal Justice Act 1987 shall be amended as provided by this Schedule.

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—

“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.
- (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

Status: This is the original version (as it was originally enacted).

- (c) an application to that Court for leave to appeal to the House of Lords under Part II of the 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 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
 - (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

Status: This is the original version (as it was originally enacted).

- (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.
- (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—

Status: This is the original version (as it was originally enacted).

- (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 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.
- (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.”

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 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.