

CRIMINAL JUSTICE ACT 1987 Chapter 38
(As amended)

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Criminal Justice Act 1987

CHAPTER 38

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An Act to make further provision for the investigation of and trials for fraud and for connected purposes.

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:-

PART I
FRAUD

THE SERIOUS FRAUD OFFICE

1. The Serious Fraud Office

1. (1) A Serious Fraud Office shall be constituted for England and Wales and Northern Ireland.
- (2) The Attorney General shall appoint a person to be the Director of the Serious Fraud Office (referred to in this part of this Act as "the Director"), and he shall discharge his functions under the superintendence of the Attorney General.
- (3) The Director may investigate any suspected offence which appears to him on reasonable grounds to involve serious or complex fraud.
- (4) The Director may, if he thinks fit, conduct any such investigation in conjunction either with the police or with any other person who is, in the opinion of the Director, a proper person to be concerned in it.
- (5) The Director may -
 - (a) Institute and have the conduct of any criminal proceedings which appear to him to relate to such fraud; and
 - (b) Take over the conduct of any such proceedings at any stage.
- (6) The Director shall discharge such other functions in relation to fraud as may from time to time be assigned to him by the Attorney General.
- (6A) The Director has the functions conferred on him by, or in relation to, Part 5 or 8 of the Proceeds of Crime Act (civil recovery of the proceeds etc. of unlawful conduct, civil recovery investigations and disclosure orders in relation to confiscation investigations)¹.
- (7) The Director may designate for the purposes of subsection (5) above any member of the Serious Fraud Office who is -

¹ Inserted by the Serious Crime Act 2007, Sch8 Pt7. In force 1 April 2008, S.I. 2008 No 755 refers

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- (a) a barrister in England and Wales or Northern Ireland;
 - b) a solicitor of the Supreme Court; or
 - (c) a solicitor of the Supreme Court of Judicature of Northern Ireland.
- (8) Any member so designated shall without prejudice to any functions which may have been assigned to him in his capacity as a member of that Office, have all the powers of the Director as to the institution and conduct of proceedings but shall exercise those powers under the direction of the Director.
- (9) [Repealed by Access to Justice Act 1999 Schedule 15 Part II] i.f. 27.07.2000
- (10) [Repealed by Access to Justice Act 1999 Schedule 15 Part II] i.f. 27.07.2000
- (11)[Repealed by Access to Justice Act 1999 Schedule 15 Part II] i.f. 27.07.2000
- (12) Any member so designated who is a barrister in Northern Ireland or a solicitor of the Supreme Court of Judicature of Northern Ireland shall have
- (a) In any court the rights of audience enjoyed by solicitors of the Supreme Court of Judicature of Northern Ireland and, in the Crown Court in Northern Ireland, such additional rights of audience as may be given by virtue of subsection (14) below; and
 - (b) In the Crown Court in Northern Ireland, the rights of audience enjoyed by barristers employed by the Director of Public Prosecutions for Northern Ireland.
- (13) Subject to subsection (14) below, the reference in subsection (12)(a) above to rights of audience enjoyed by solicitors of the Supreme Court of Judicature of Northern Ireland is a reference to such rights enjoyed in the Crown Court in Northern Ireland as restricted by any direction given by the Lord Chief Justice of Northern Ireland under section 50 of the Judicature Northern Ireland Act 1978.²
- (14) For the purpose of giving any member so designated who is a barrister in Northern Ireland or a solicitor of the Supreme Court of Judicature of Northern Ireland additional rights of audience in the Crown Court in Northern Ireland, the Lord Chief Justice of Northern Ireland may direct that any direction given by him under the said section 50 shall not apply to such members.
- (15) Schedule 1 to this Act shall have effect.
- (16) For the purposes of this section (including that Schedule) references to the conduct of any proceedings include references to the proceedings being discontinued and to the taking of any steps (including the bringing of appeals and making of representations in respect of applications for bail) which may be taken in relation to them.
- (17) In the application of this section (including that Schedule) to Northern Ireland references to the Attorney General are to be construed as references to him in his capacity as [Advocate](#)³ General for Northern Ireland.

² 1978 c.23

³Amended by Criminal Justice and Immigration Act 2008 Sch 26 Para 21 in force 14th July 200

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2. Director's investigation powers

2. (1) The powers of the Director under this section shall be exercisable, but only for the purposes of an investigation under section 1 above, or, on a request made by an authority entitled to make such a request, in any case in which it appears to him that there is a good reason to do so for the purpose of investigating the affairs, or any aspect of the affairs, of any person.
- (1A) The authorities entitled to request the Director to exercise his powers under this section are
- (a) the Attorney-General of the Isle of Man, Jersey or Guernsey, acting under legislation corresponding to section 1 of this Act and having effect in the Island whose Attorney-General makes the request; and
- (b) The Secretary of State acting under Section 15(2) of the Crime Justice (International Co-operation) Act 2003, in response to a request from a person mentioned in section 13(2) of that Act (an "overseas authority").⁴*
- (1B) The Director shall not exercise his powers on a request from the Secretary of State acting in response to a request received from an overseas authority within subsection (1A)(b) above unless it appears to the Director on reasonable grounds that the offence in respect of which he has been requested to obtain evidence involves serious or complex fraud;
- (2) The Director may by notice in writing require the person whose affairs are to be investigated ("the person under investigation") or any other person whom he has reason to believe has relevant information to answer questions or otherwise furnish information with respect to any matter relevant to the investigation at a specified place and either at a specified time or forthwith.
- (3) The Director may by notice in writing require the person under investigation or any other person to produce at such place as may be specified in the notice and either forthwith or at such time as may be so specified any specified documents which appear to the Director to relate to any matter relevant to the investigation or any documents of a specified description which appear to him so to relate; and -
- (a) If any such documents are produced, the Director may -
- (i) Take copies or extracts from them;
- (ii) Require the person producing them to provide an explanation of any of them;
- (b) If any such documents are not produced: the Director may require the person who was required to produce them to state, to the best of his knowledge and belief, where they are.
- (4) Where, on information on oath laid by a member of the Serious Fraud Office, a justice of the peace is satisfied, in relation to any documents, that there are reasonable grounds for believing -
- (a) that-
- (i) A person has failed to comply with an obligation under this section to produce them;
- (ii) It is not practicable to serve a notice wider subsection (3) above in relation to them; or
- (iii) The service of such a notice in relation to them might seriously prejudice the investigation; and

⁴ Amended by Crime (International Co-operation) Act 2003 Ch 32. In force 26th April 2004 S I 2004 No 786

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(b) That they are on premises specified in the information, he may issue such a warrant as is mentioned in subsection (5) below.

(5) The warrant referred to above is a warrant authorising any constable -[See below]

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

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

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

(6A) Where an appropriate person accompanies the constable, he may exercise the powers conferred by subsection (5) but only in the company, and under the supervision, of the constable⁵.

(7) In **this section**⁶ appropriate person means -

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

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

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

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

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

(8A) Any evidence obtained by the Director for use by an overseas authority shall be *given to the overseas authority which requested it or given to the Secretary of State for forwarding to that overseas authority*.⁷

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

~~(8B)~~⁸

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

(8D) The references in subsections (8A) to (8C) above to evidence obtained by the Director include references to evidence obtained by him by virtue of the exercise by a constable or by an

⁵ Inserted by Criminal Justice Act 2003 S12, Sch1, Para 11 in force 20th January 2004

⁶ Inserted by Criminal Justice Act 2003 Ch44 S12 Sch1 para 12

⁷ Amended by Crime (International Co-operation) Act 2003 Ch 32. In force 26th April 2004 S I 2004 No 786

⁸ Repealed by Crime (International Co-operation) Act 2003 Ch 32. In force 26th April 2004 S I 2004 No 786

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appropriate person⁹, in the course of a search authorised by a warrant issued under subsection (4) above, of powers conferred by section 50 of the Criminal Justice and Police Act 2001.¹⁰ⁱⁿ

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

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

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

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

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

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

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

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

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

(b) Recklessly makes a statement which is false or misleading in a material particular, shall be guilty of an offence.

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

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

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

(16) Where any person

⁹ Inserted by Criminal Justice Act 2003 Ch44 S12 Sch1 Para 12

¹⁰This section was inserted by the Criminal Justice and Police Act 2001 Ch 16. Schedule 2. Part 2, para 23, in force 1st April 2003

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

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

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

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

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

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

(18) In this section, "documents" includes information recorded in any form and, in relation to information recorded otherwise than in legible form, references to its production include references to producing a copy of the information in legible form; and "evidence" (in relation to subsections (1A)(b), (8A), and (8C) above) includes documents and other articles.

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

**2A Director's pre-investigation powers in relation to bribery and corruption :
foreign officers¹¹ etc.**

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

(2) But—

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

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

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

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

¹¹ Inserted by Criminal Justice and Immigration Act 2008, S59. In force 14th July 2008, SI 2008 no 1586

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- (b) the reference in subsection (3) of that section to the person under investigation or any other person is to be read as a reference to any such person as is mentioned in subsection (2)(b) above, and
 - (c) any reference in subsection (2), (3) or (4) of that section to the investigation is to be read as a reference to the making of any such determination as is mentioned in subsection (1) above.
- (4) Any reference in section 2(16) to the carrying out of an investigation by the Serious Fraud Office into serious or complex fraud includes a reference to the making of any such determination as is mentioned in subsection (1) above.
- (5) This section applies to any conduct which, as a result of section 108 of the Anti-terrorism, Crime and Security Act 2001 (bribery and corruption: foreign officers etc), constitutes a corruption offence (wherever committed).
- (6) The following are corruption offences for the purposes of this section—
- (a) any common law offence of bribery;
 - (b) the offences under section 1 of the Public Bodies Corrupt Practices Act 1889 (corruption in office); and
 - (c) the offences under section 1 of the Prevention of Corruption Act 1906 (corrupt transactions with agents).”

3. Disclosure of information

3. (1) Where any information to which section 18 of the Commissioners for Revenue and Customs Act 2005 would apply but for section 18(2) has been disclosed by Her Majesty’s Revenue and Customs to any member of the Serious Fraud Office for the purposes of any prosecution of an offence relating to a former Inland Revenue matter, that information may be disclosed to any member of the Serious Fraud Office¹²-
- (a) for the purposes of any prosecution of which that office has the conduct;
 - (b) to any member of the Revenue and Customs Prosecutions Office for the purposes of any prosecution of an offence relating to a former inland revenue matter; and
 - (c) to the Director of Public Prosecutions for Northern Ireland for the purposes of any prosecution of an offence relating to Inland Revenue,
- but not otherwise.
- (2) Where the Serious Fraud Office has the conduct of any prosecution of an offence which does not relate to Inland Revenue, the court may not prevent the prosecution from relying on any evidence under section 78 of the Police and Criminal Evidence Act 1984¹³ (discretion to exclude unfair evidence) by reason only of the fact that the information concerned was disclosed by the

¹² Amended by the Commissioners for Revenue and Customs Act 2005, in force 18th April 2005, S.I. 2005 No 1126.

¹³ 1984 c60

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Her Majesty's Revenue and Customs for the purposes of any prosecution of an offence relating to a former Inland Revenue matter.¹⁴

(3) Where any information is subject to an obligation of secrecy imposed by or under any enactment other than an enactment contained in the Taxes Management Act 1970¹⁵, the obligation shall not have effect to prohibit the disclosure of that information to any person in his capacity as a member of the Serious Fraud Office, but any information disclosed by virtue of this subsection may only be disclosed by a member of the Serious Fraud Office for the purposes of any prosecution in England and Wales, Northern Ireland or elsewhere and may only be disclosed by such a member if he is designated by the Director for the purposes of this subsection.

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

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

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

(b) to any competent authority;

(c) for the purposes of any criminal investigation or criminal proceedings, whether in the UK or elsewhere.¹⁶

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

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

(a) an Inspector appointed under Part XIV of the Companies Act 1985¹⁷ or Part XV of the Companies (Northern Ireland) Order 1986¹⁸;

(b) an Official Receiver;

(c) the Accountant in Bankruptcy;

(d) the official receiver for Northern Ireland;

(e) a ¹⁹person appointed under-

¹⁴ Amended by Commissioners for Revenue and Customs Act 2005, in force 18 April 2005, SI 2005 No 1126

¹⁵ 1970 c.9

¹⁶ Sub-section 3 (5)(c) was inserted instead of the original text by the Crime (International Co-operation) Act 2003 which came into operation 26th April 2004, S I 2004 no 786

¹⁷ 1985 c.6

¹⁸ SI.1986 No.1032 ~ (N.I.6)

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- (i) Section 167 of the Financial Services and Markets Act 2000 (general investigations).
 - (ii) section 168 of that Act (investigations in particular cases),
 - (iii) section 169(1)(b) of that Act (investigation in support of overseas regulator),
 - (iv) section 284 of that Act (investigations into affairs of certain collective investment schemes), or
 - (v) regulations made as a result of section 262(2)(k) of that Act (investigations into open-ended investment companies),
to conduct an investigation;
 - (f) a body corporate established in accordance with Section 212(1) of the Financial Services and Markets Act 2000 (compensation scheme manager);
 - (l) any body having supervisory, regulatory or disciplinary functions in relation to any profession or any area of commercial activity;
 - (m) any person or body having, under the law of any country or territory outside the United Kingdom, functions corresponding to any of the functions of any person or body mentioned in any of the foregoing paragraphs.
 - (n) any person or body having, under the Treaty on European Union or any other treaty to which the United Kingdom is a party, the function of receiving information of the kind in question,
 - (o) any person or body having, under the law of any country or territory outside the United Kingdom, the function of receiving information related to the proceeds of crime²⁰
- (7) An order under subsection (5)(d) above may impose conditions subject to which, and otherwise restrict the circumstances in which, information may be disclosed under that paragraph.
- (8) In Subsections (1) and (2) “former Inland Revenue matter” means a matter listed in Schedule 1 to the Commissioners for Revenue and Customs Act 2005 except for paragraphs 2,10,13,14,15,17,19,28,29 and 30.²¹

~~{4.}~~

~~{5.}~~

~~{6.}~~²²

¹⁹ S3(6)(e) and (f) replaced (e) to (k) and were inserted by SI 2001 no 3649 in force 1 December 2001

²⁰ Sub-sections 3(6)(n) and (o) were inserted by the Crime (International Co-operation) Act 2003 which came into operation 26th April 2004

²¹ Inserted by Commissioners for Revenue and Customs Act 2005, SI 2005 No 1126, in force 18 April 2005.

²² Ss 2 - 5 repealed by CJA 2003 Sch37 Pt 4] i.f. 9 May 200

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PREPARATORY HEARINGS

7. Power to order preparatory hearing

7. (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 or complexity that substantial benefits are likely to accrue from a hearing (in this Act referred to as a "preparatory hearing") before **the time when the jury are sworn**.²³ for the purpose 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; or
 - (d) assisting the judge's management of the trial;
- he may order that such a hearing shall be held.
- (2) A judge may make an order under subsection (1) above on the application either of the prosecution or of the person indicted or, if the indictment charges a number of persons, any of them, or of his own motion.

(2A) The reference in subsection (1) above to the time when the jury are sworn includes the time when the jury would be sworn but for the making of an order under Part 7 of the Criminal Justice Act 2003²⁴.

8. Commencement of trial and arraignment

8. (1) If a judge orders a preparatory hearing, the trial shall begin with that hearing.
(2) Arraignment shall accordingly take place at the start of the preparatory hearing.

9. The preparatory hearing

9. (1) at the preparatory hearing the judge may exercise any of the powers specified in this section.
(2) the judge may adjourn a preparatory hearing from time to time.
(3) he may determine –
- (a)[repealed by Criminal Justice Act 1988]
 - (aa) a question arising under section 6 of the Criminal Justice Act 1993 (relevance of external law to certain charges of conspiracy, attempt and incitement)
 - (b) any question as to the admissibility of evidence;
 - (c) and any other question of law relating to the case,
- (4) He may order the prosecution-

²³ Text substituted by CJA03 s331 and Sch36 Part 4, i.f. 8th January 2007 (S.I. 2006 No 3422

²⁴ Inserted by CJA03 s331, Sch36 Part 4, in force 8th January 2007 (S.I. 2006 No 3422

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(a) to supply the court and the defendant or, if there is more than one, each of them with a statement (a "case statement") of the following -

- (i) the principal facts of the prosecution case;
- (ii) the witnesses who will speak to those facts;
- (iii) any exhibits relevant to those facts;
- (iv) any proposition of law on which the prosecution proposes to rely; and
- (v) the consequences in relation to any of the counts in the indictment that appear to the prosecution to flow from the matters stated in pursuance of sub-paragraphs (i) to (iv) above.

(b) to prepare their evidence and other explanatory material in such a form as appears to him to be likely to aid comprehension by a jury²⁵²⁶ and to supply it in that form to the court and to the defendant or, if there is more than one, to each of them;

(c) to give the court and the defendant or, if there is more than one, each of them notice of documents the truth of the contents of which ought in the prosecution's view to be admitted and of any other matters which in their view ought to be agreed;

(d) to make any amendments of any case statement supplied in pursuance of an order under paragraph (a) above that appear to the court to be appropriate, having regard to objections made by the defendant or, if there is more than one, by any of them.

(5) Where -

- (a) a judge has ordered the prosecution to supply a case statement; and
- (b) the prosecution have complied with the order

he may order the defendant or, if there is more than one, each of them -

~~{(i)}~~

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

~~{(iii)}~~²⁷

(iv) to give the court and the prosecution a notice stating the extent to which he agrees with the prosecution as to documents and other matters to which a notice under subsection (4)(c) above relates and the reason for any disagreement.

(6) Crown Court Rules may provide that except to the extent that disclosure is required -

- (a) by section 5(7) of the Criminal Procedure and Investigations Act 1996²⁸ (alibi).
- (b) by rules under section 81 of the Police and Criminal Evidence Act 1984²⁹ (expert evidence)

²⁵ Repealed by CJA 2003 Sch37 Pt3] i.f. England and Wales 4.4.2005, Northern Ireland 15 July 05

²⁶ Substituted by CJA03 s331, Sch36 Part 4, in force 8th January 2007 (S.I. 2006 No 3422

²⁷ Repealed by CJA 2003 Sch37 Pt3] i.f. England and Wales 4.4.2005, Northern Ireland 15 July 05

²⁸ 1996 c.25 s.74

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

(7) A judge making an order under subsection (5) above shall warn the defendant or, if there is more than one, all of them of the possible consequence under section 10 below of not complying with it.

(8) If it appears to a judge that reasons given in pursuance of subsection (5)(iv) above are inadequate, he shall so inform the person giving them, and may require him to give further or better reasons.

(9) An order under this section may specify the time within which any specified requirement contained in it is to be complied with, but Crown Court Rules may make provision as to the minimum or maximum time that may be specified for compliance.

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

(11) An appeal shall lie to the Court of Appeal from any order or ruling of a judge under subsection (3)(b) or (c) above, but only with the leave of the judge or of the Court of Appeal.

(12) Subject to rules of court made under section 53(1) of the Supreme Court Act 1981³⁰ (power by rules to distribute business of Court of Appeal between its civil and criminal divisions), the jurisdiction of the Court of Appeal under subsection (11) above shall be exercised by the criminal division of the court; and the reference in that subsection to the Court of Appeal shall be construed as a reference to that division.

(13) The judge may continue a preparatory hearing notwithstanding that leave to appeal has been granted under subsection (11) above, but **the preparatory hearing shall not be concluded**³¹ until after the appeal has been determined or abandoned.

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

- 9A (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.

Provisions relating to later stages of trial

10. (1) Any party may depart from the case he disclosed in pursuance of a requirement imposed under section 9 above.

²⁹ 1984 c.60

³⁰ 1981 c.54

³¹ Substituted by CJA03 s331, Sch36 Part 4 in force 8th January 2007 (S.I. 2006 No 3422)

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(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, **or in the case of a trial without a jury, the judge** may draw such inference as appears proper.³²

(3) **In doing anything under subsection (2) above or in deciding whether to do anything under it** the judge shall have regard³³³⁴

- (a) to the extent of any departure or failure, and
- (b) to whether there is any justification for it.

(4) Except as provided by this section, **in the case of a trial with a jury** no part³⁵-

- (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

11. Restrictions on reporting applications for dismissal and preparatory hearings

11. (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)]

- (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)]~~³⁶

³² Inserted by CJA03 s331, Sch36 Part 4 in force 8th January 2007 (S.I. 2006 No 3422

³³ Substituted by CJA03 s331, Sch36, Part 4 in force 8th January 2007 (S.I. 2006 no 3422

³⁴ Repealed by CJA 2004 Sch37 Pt4] i.f. 9th May 2005

³⁵ Inserted by CJA03 s331, Sch36, Part 4 in force 8th January 2007 (S.I. 2006 No 3422

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(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 Criminal Appeal Act 1968³⁷ 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 1968³⁸ 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)~~,³⁹ (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)~~,⁴⁰ (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)][(10)]~~⁴¹

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

~~[(a)]~~⁴²

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

³⁶ Repealed by CJA 2004 Sch37 Pt4] i.f. 9th

May 2005

³⁷ 1968 c.19

³⁸ 1968 c.19

³⁹ Repealed by CJA 2003 Sch37 Pt 4. In force 9th June 2006

⁴⁰ Repealed by CJA 2003 Sch37 Pt 4. In force 9th June 2006

⁴¹ SS9 - 10 Repealed by CJA 2003 Sch37 Pt4] i.f. 9th May 2005

⁴² Repealed by CJA 2003 Sch37 Pt4] i.f. 9th May 2005

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(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)~~⁴³

(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 the 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;

⁴³ Repealed by CJA 2003 Sch37 Pt4] i.f. 9th May 2005

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(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 [Broadcasting Act 1990](#)⁴⁴.

11A. Offences in connection with reporting

11A. (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.

CONSPIRACY TO DEFRAUD

12. Charges of and Penalty for Conspiracy to Defraud

12. (1) If-

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

⁴⁴ 1990 c.42

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

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

(2) In section 5(2) of the Criminal Law Act 1977⁴⁵, the words from "and" to the end are hereby repealed.

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

PART II

GENERAL AND SUPPLEMENTARY

13. Charges of and penalty for conspiracy to defraud

13. (1) An order in Council under paragraph 1(1)(b) of Schedule I to the Northern Ireland Act 1974⁴⁶(legislation for Northern Ireland in the interim period) which contains a statement that it is made only for purposes corresponding to those of any provision of this Act to which this section applies -

(a) shall not be subject to paragraph 1(4) and (5) of that Schedule (affirmative resolution of both Houses of Parliament); but

(b) shall be subject to annulment in pursuance of a resolution of either House.

(2) The provisions of this Act to which this section applies are sections 4 to 12.

14. Financial Provision

14. There shall be paid out of money provided by Parliament -

(a) any expenses incurred under this Act by a Minister of the Crown; and

(b) any increase attributable to the provisions of this Act in the sums payable out of such money under any other Act.

15. Minor and Consequential Amendments

15. The enactments mentioned in Schedule 2 to this Act shall have effect with the amendments there specified (being minor amendments and amendments consequential on the foregoing provisions of this Act).

⁴⁵ 1977 c.45

⁴⁶ NI 1974 c.28

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16. Commencement

16. (1) Subject to subsection (3) below, this Act shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint; and different days may be appointed in pursuance of this subsection for different provisions or different purposes of the same provision.

(2) An order under subsection (1) above may make such transitional provision as appears to the Secretary of State to be necessary or expedient in connection with any provision thereby brought into force.

(3) The following provisions shall come into force on the day this Act is passed –
section 13;
this section.
sections 17 and 18.

17. Extent

17. (1) Subject to the following provisions of this section, this Act extends to England and Wales only.

(2) The following provisions extend also to Scotland
section 2 and section 2A⁴⁷;
section 11;
section 11A;
section 16;
this section; and
section 18.

(3) The following provisions extend also to Northern Ireland –
section 1 (including Schedule I); and
sections 2, 2A and 3;
section 16;
this section; and
section 18.

(4) Section 13 above extends to Northern Ireland only.

(5) The extent of any amendment of an enactment in Schedule 2 to this Act is the same as that of the enactment amended.

(6) Her Majesty' may by Order in Council direct that section 2 above shall extend, subject to such modifications as may be specified in the Order, to any of the Channel Islands.

(7) In subsection (6) above “modifications” includes additions, omissions and amendments.

18. Citation

18. This act may be cited as the Criminal Justice Act 1987.

SCHEDULES

⁴⁷ Inserted by Criminal Justice and Immigration Act 2008, s59. In force 14th July 2008 SI 2008 No 1586

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SCHEDULE I

THE SERIOUS FRAUD OFFICE

General

1. There shall be paid to the Director of the Serious Fraud Office such remuneration as the Attorney General may, with the approval of the Treasury, determine.
2. The Director shall appoint such staff for the Serious Fraud Office as, with the approval of the Treasury as to numbers, remuneration and other terms and conditions of service, he considers necessary for the discharge of his functions.
3. (1) As soon as practicable after 4th April in any year the Director shall make to the Attorney General a report on the discharge of his functions during the year ending with that date.
(2) The Attorney General shall lay before Parliament a copy of every report received by him under sub-paragraph (1) above and shall cause every such report to be published.

Procedure

4. (1) Where any enactment (whenever passed) prohibits the taking of any step -
 - (a) except by the Director of Public Prosecutions or except by him or another; or
 - (b) without the consent of the Director of Public Prosecutions or without his consent or the consent of anotherit shall not prohibit the taking of any such step by the Director of the Serious Fraud Office.
(2) In this paragraph references to the Director of Public Prosecutions include references to the Director of Public Prosecutions for Northern Ireland.
5. (1) Where the Director has the conduct of any criminal proceedings in England and Wales, the Director of Public Prosecutions shall not in relation to those proceedings be subject to any duty by virtue of section 3(2) of the Prosecution of Offences Act 1985⁴⁸.
(2) Where the Director has the conduct of any criminal proceedings in Northern Ireland, the Director of Public Prosecutions for Northern Ireland shall not in relation to those proceedings be required to exercise any function under Article 5 of the Prosecution of Offences (Northern Ireland) Order 1972.⁴⁹
6. (1) Where the Director or any member of the Serious Fraud Office designated for the purposes of section 1(5) above (“designated official”) gives notice to any justice of the peace that he has instituted or is conducting. any criminal proceedings in
 - (a) at the prescribed time and in the prescribed manner, or
 - (b) in a particular case, at the time and in the manner directed by the Attorney General;

⁴⁸ 1985 c.23

⁴⁹ SI 1972 No 538 (NI.1)

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- (c) send him every recognizance, information, certificate, deposition, document and thing connected with those proceedings which the justice is required by law to deliver to the appropriate officer of the Crown Court
- (2) Where the Director or any designated official gives notice that he has instituted, or is conducting, any criminal proceedings in Northern Ireland -
- (a) to a resident magistrate or a justice of the peace in Northern Ireland
 - (b) to a clerk of petty sessions in Northern Ireland,
 - (c) the person to whom the notice is given shall -
 - (i) at the prescribed time and in the prescribed manner; or
 - (ii) in a particular case, at the time and in the manner directed by the Attorney General,
- send him every recognizance, complaint, certificate, deposition, document and thing connected with those proceedings which that person is required by law to deliver to the appropriate officer of the Crown Court.
- (3) The Attorney General may make regulations for the purpose of supplementing this paragraph; and in this paragraph “prescribed” means prescribed by the regulations.
- (4) The Director or, as the case may be, designated official shall -
- (a) subject to the regulations, cause anything which is sent to him under this paragraph to be delivered to the appropriate officer of the Crown Court; and
 - (b) be under the same obligation (on the same payment) to deliver to an applicant copies of anything so sent as that officer.
7. (1) The Attorney General may make regulations requiring the chief officer of any police force to which the regulations are expressed to apply to give to the Director information with respect to every offence of a kind prescribed by the regulations which is alleged to have been committed in his area and in respect of which it appears to him that there is a prima facie case for proceedings.
- (2) The regulations may also require every such chief officer to give to the Director such information as the Director may require with respect to such cases or classes of case as he may from time to time specify.
8. (1) The Attorney General may, with the approval of the Treasury, by regulations make such provision as he considers appropriate in relation to -
- (a) the fees of counsel briefed to appear on behalf of the Serious Fraud Office in any criminal proceedings; and
 - (b) the costs and expenses of witnesses attending to give evidence at the instance of the Serious Fraud Office and, subject to sub-paragraph (2) below, of any other person who in the opinion of that Office necessarily attends for the purpose of the case otherwise than to give evidence.
- (2) The power conferred on the Attorney General by sub-paragraph (1)(b) above only relates to the costs and expenses of an interpreter if he is required because of the lack of English of a person attending to give evidence at the instance of the Serious Fraud Office.
- (3) The regulations may, in particular -
- (a) prescribe scales or rates of fees, costs or expenses; and

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- (b) specify conditions for the payment of fees, costs or expenses.
- (4) Regulations made under sub-paragraph (1)(b) above may provide that scales or rates of costs and expenses shall be determined by the Attorney General with the consent of the Treasury.
- (5) In sub-paragraph (1)(1) above "attends" means attends at the court or elsewhere.
9. (1) Any power to make regulations under this Schedule shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (2) Any such regulations may make different provision with respect to different cases or classes of case.

SCHEDULE 2

MINOR AND CONSEQUENTIAL AMENDMENTS

~~Administration of Justice (Miscellaneous Provisions) Act 1933 (c.36).~~

1⁵⁰

Criminal Appeal Act 1968 (C. 19)

3. At the end of subsection (I) of section 33 of the Criminal Appeal Act 1968 (right of appeal to House of Lords) there shall be added the words "or section 9 (preparatory hearings) of the Criminal Justice Act 1987".

4. In section 36 of that Act (bail on appeal by defendant) after the word "Lords", there shall be inserted the words "other than a person appealing or applying for leave to appeal from a decision on an appeal under section 9(11) of the Criminal Justice Act 1987 (appeals against orders or rulings at preparatory hearings)".

5. In section 38 of that Act (presence of defendant at hearing) after the word "who" there shall be inserted the words "has been convicted of an offence and".

Prosecution of Offences Northern Ireland) Order 1972 (S.I. 1972. No.538 N.I.1.)

6. In Article 5(3) of the Prosecution of Offences Northern Ireland) Order 1972 (which makes provision, amongst other things, for the functions of the Director of Public Prosecutions in Northern Ireland in relation to the conduct of criminal proceedings) after the word "Director" there shall be inserted the words, " subject to any provision contained in the Criminal Justice Act 1987".

~~Bail Act 1976 (c.63.)~~

9⁵¹

Supreme Court Act 1981 (c.54.)

10. In section 76 of the Supreme Court Act 1981 (alteration by Crown Court of place of trial)-

⁵⁰ Repealed under CJA2003 Sch37 Pt4] i.f. 9 May 2005

⁵¹ Repealed under CJA2003 Sch37 Pt4] i.f. 9 May 2005

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(a) in sub-section (1), after the word "or", in the second place where it occurs, there shall be inserted the words "by substituting some other place for the place -specified in a notice under section 4 of the Criminal Justice Act 1987 (notices of transfer from magistrates' court to Crown Court) or by varying";

(b) after sub-section (2), there shall be inserted the following sub-section - "(2A). Where a preparatory hearing has been ordered under section 7 of the Criminal Justice Act 1987, directions altering the place of trial may be given under sub-section (1) at any time before the jury are sworn"; and

(c) in sub-section (3), for the word "or", in the second place where it occurs, there shall be substituted the words "as specified in a notice under section 4 of the Criminal Justice Act 1987 or as fixed

11. In section 77(1) of that Act by virtue of which Crown Court Rules are required to prescribe the minimum and maximum period which may elapse between a person's committal for trial and the beginning of the trial after the word "trial", in the first place where it occurs, there shall be inserted the words "or the giving of a notice of transfer under section 4 of the Criminal Justice Act 1987".

12. In section 81(1)(a) of that Act (power of Crown Court to grant bail to any person committed in custody for appearance before the Crown Court) after the word "Court" there shall be inserted the words "or in relation to whose case a notice of transfer has been given under section 4 of the Criminal Justice Act 1987".

Prosecution of Offences Act 1985 (c.23.)

13. In section 3(2) of the Prosecution of Offences Act 1985 (which makes provision, amongst other things, for the duties of the Director of Public Prosecutions in relation to the conduct of criminal proceedings) after the word "Director" there shall be inserted the words, " subject to any provisions contained in the Criminal Justice Act 1987".

~~14.~~⁵²

15. The following sub-section shall be inserted after section 16(4) of that Act -

"(4A) The court may also make a defendant's costs order in favour of the accused on an appeal under section 9(11) of the Criminal Justice Act 1987 (appeals against orders or rulings at preparatory hearings)."

16. At the end of subsection (2)(b) of section 18 of that Act (award of costs against accused) there shall be added "or

(c) an appeal or application for leave to appeal under section 9(11) of the Criminal Justice Act 1987;".

END OF ACT

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⁵² Repealed under CJA 2003 Sch37 Pt4] i.f. 9 May 2005

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