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STATUTORY INSTRUMENTS

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**1988 No. 1699 (L.21)**

**SUPREME COURT OF ENGLAND AND WALES**

The Criminal Justice Act 1987  
(Preparatory Hearings) Rules 1988

<i>Made</i>	- - - -	<i>3rd October 1988</i>
<i>Laid before Parliament</i>		<i>7th October 1988</i>
<i>Coming into force</i>	- -	<i>31st October 1988</i>

We the Crown Court Rule Committee, in exercise of the powers conferred upon us by sections 84(1) and 86 of the Supreme Court Act 1981<sup>(1)</sup>, and sections 7 and 9 of the Criminal Justice Act 1987<sup>(2)</sup>, hereby make the following Rules:

**Citation and interpretation**

1.—(1) These Rules may be cited as the Criminal Justice Act 1987 (Preparatory Hearings) Rules 1988.

(2) In these Rules “the Act” means the Criminal Justice Act 1987<sup>(3)</sup>.

**Commencement**

2. These Rules shall come into force on 31st October 1988 and shall apply in relation to any case where—

- (a) the case is committed for trial on or after that date; or
- (b) a notice of transfer in respect of the case is given under section 4 of the Act on or after that date; or
- (c) consent is given by a judge of the High Court on or after that date to the preferment of a bill of indictment in respect of the case.

**Form of application for a preparatory hearing**

3.—(1) An application in pursuance of section 7(2) of the Act shall be made in writing in Form 5305 to the appropriate officer of the Crown Court at the place specified by the notice of transfer as

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(1) 1981 c. 54.  
(2) 1987 c. 38.  
(3) 1967 c. 80.

the proposed place of trial and shall include a concise statement of the grounds, having regard to the matters specified in subsection (1) of that section, for the making of the application.

(2) The person making the application shall at the same time serve a copy thereof on the other party or, if there is more than one, each of the other parties in the case.

### **Time for making application**

4.—(1) An application for a preparatory hearing shall be made not later than 28 days after the day on which the case was committed for trial or, as the case may be, a notice of transfer or consent to the preferal of a bill of indictment was given in relation to the case.

(2) Where an application for dismissal of a charge has not been granted an application for a preparatory hearing in relation to that charge shall be made not later than seven days after the day on which the application for its dismissal was determined.

(3) The time for making an application for a preparatory hearing may be extended, either before or after it expires, on an application made in accordance with paragraph (4) below.

(4) An application for an extension of time under paragraph (3) above shall be made in writing in Form 5305, specifying the grounds of the application and served on the appropriate officer of the Crown Court, and a copy thereof shall be served on the other party or if there is more than one, each of the other parties in the case.

(5) The appropriate officer of the Crown Court shall give notice of the judge's decision on an application under paragraph (3) above to the applicant and to the other party or, if there is more than one, each of the other parties in the case.

### **Notification of order for preparatory hearing**

5. Notice of an order for a preparatory hearing shall be given in Form 5306 and shall be served by the appropriate officer of the Crown Court on each person indicted and on the prosecution.

### **Disclosure of prosecution case**

6. Where an order is made under section 7(3) or 9(4) of the Act for the prosecution to prepare and serve any documents, the order shall identify the documents to be served and require the prosecution to serve a copy of each such document on each person indicted; and the appropriate officer of the Crown Court shall serve a copy of the order on each person indicted and on the prosecution.

### **Defence disclosure**

7.—(1) Where an order is made under section 7(4) or 9(5) of the Act the appropriate officer of the Crown Court shall serve a copy of the order in Form 5307 on each party to whom the order applies and on the prosecution.

(2) Except to the extent that disclosure is required—

(a) by section 11 of the Criminal Justice Act 1967(3) (alibi); or

(b) by rules under section 81 of the Police and Criminal Evidence Act 1984(4) (expert evidence),

a statement required by virtue of an order under the said section 7(4) or 9(5)(i) or (iv) need not disclose who will give evidence; and the order shall include a statement to that effect.

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(3) 1967 c. 80.

(4) 1984 c. 60.

(3) The order shall include a warning that if any party departs from the case which he disclosed at the preparatory hearing, or fails to comply with a requirement imposed at the hearing—

- (a) the judge or, with the leave of the judge, any other party may make such comment as appears to him appropriate and the jury may draw such inference as appears proper; and
- (b) where the court is satisfied that any such departure or failure on the part of a defendant constitutes an unnecessary or improper act or omission on his part, and that another party to the proceedings has incurred costs as a result thereof, the court may make an order as to the payment of those costs by the defendant under section 19 of the Prosecution of Offences Act 1985(5).

### **Orders at or for purposes of preparatory hearings—supplementary**

8.—(1) Where a judge makes an order at or for the purposes of a preparatory hearing, the order shall so far as is practicable set out the matters required to be done thereunder by reference to the relevant provisions of section 9(4) or, as the case may be, (5) of the Act.

(2) Without prejudice to any other requirements which may be imposed on a party under Part I of the Act, it shall be the duty of a party where a judge has made an order for a preparatory hearing to inform the court of any significant matter which might affect the proper and convenient trial of the case.

### **Service of documents**

9.—(1) Any notice or other document which is required by these Rules to be given to any person may be served personally on that person or sent to him by post at his usual or last known residence or place of business in England or Wales or, in the case of a company, at the company's registered office in England or Wales.

(2) If the person to be served is acting by a solicitor, the notice or other document may be served by delivering it, or sending it by post, to the solicitor's address for service.

### **Forms**

10.—(1) Any reference in these Rules to a form is a reference to a form set out in the Schedule to these Rules.

(2) The forms set out in the Schedule to these Rules or forms substantially to the like effect may be used with such variations as the circumstances may require.

*Mackay of Clashfern, C.  
Lane, C.J.  
M. McKenzie  
Stephen Brown, P.  
Anthony McCowan, J.  
Richard Lowry  
Douglas Brown  
David Jeffreys  
L. Naylor  
S.T. Hammond*

Dated 3rd October 1988

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE

Rule 10

FORMS

Application for Preparatory Hearing under s.7(1) Criminal Justice Act 1987 or for extension of time within which to apply

Application for Preparatory Hearing under s.7(1) Criminal Justice Act 1987 or for extension of time within which to apply

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FORMS



**Application for Preparatory Hearing under s.7 (1) Criminal Justice Act 1987 or for extension of time within which to apply**

An application for a preparatory hearing, or for an extension of time, must be made within 28 days after the day on which the case was committed for trial, or a notice of transfer or consent to the preferal of a bill of indictment was given or within 7 days of rejection of an application for dismissal. A copy of this form must be given at the same time to the other party or parties in this case.

Enter the name of the Court shown on the notice of transfer, and the case no., \*delete as appropriate

**Case Details**

The Crown Court at

Crown Court Case Number:

Date of notice of transfer\*  
committal for trial\*  
consent to preferal of bill of indictment\*  
rejection of application for dismissal\* .....

State the name(s) of the defendant(s) to whom this application relates (if in custody give address where detained)

Defendant(s) Surname:  
Forename(s)  
Address

Date of birth :

**Application**

Tick as appropriate.

Defence  Prosecution / Designated Authority

Application for a preparatory hearing S.7(1)CJA 1987

Application for extension of time within which to apply for a preparatory hearing

Specify all charges

**Charges**

State the grounds on which the application is being made

**Grounds for applying**

Signature of applicant

Details of any person applying on behalf of applicant Name

Solicitor / Counsel Address

Date

Reference

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Notification of the Court's Determination of an Application and/or Order for a Preparatory Hearing under s.7 CJA 1987  
Notification of the Court's Determination of an Application and/or Order for a Preparatory Hearing under s.7 CJA 1987

## In the Crown Court at

### Notification of the Court's Determination of an Application and / or Order for a Preparatory Hearing under s.7 CJA 1987



Crown Court Case Number

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#### Case Details

Defendant(s) Surname:  
Forename(s):  
(indicate to whom application relates)  
(continue overleaf if necessary)

Date of birth:

Charges  
(specify all charges)

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#### Determination of Application

Granted     Refused     Ordered by Judge

Reasons for refusal :

Date and time of hearing (if known) :

Identify each document to be prepared and served on each party by the prosecution under s.7(3)CJA 1987, and any time limit. (continue overleaf if necessary)

Signed  
(an Officer of the Court)

Date

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

Order for Defence Disclosure prior to Preparatory Hearing under s.74(4) or at Preparatory Hearing under s.9(5) Criminal Justice Act 1987  
Order for Defence Disclosure prior to Preparatory Hearing under s.74(4) or at Preparatory Hearing under s.9(5) Criminal Justice Act 1987

## In the Crown Court at



**Order for Defence Disclosure prior to Preparatory Hearing  
under s.7(4) or at Preparatory Hearing  
under s.9(5) Criminal Justice Act 1987**

Crown Court  
Case Number

### Case Details

Defendant (where there is more than one, a separate form to be completed for each)

Surname:

Forename(s):

Date of birth:

Charges (specify all charges)

### Requirements

Date by which any of these specified requirements is to be complied with :

**Note** : A summary required by virtue of s.9(5)(i)CJA 1987 need not disclose who will give evidence except to the extent that disclosure is required by s.11 CJA 1967 (alibi) or rules under s.81 Police & Criminal Evidence Act 1984 (expert witness)

### Warning

*If any party departs from the case which he disclosed at the preparatory hearing, or fails to comply with a requirement imposed at the hearing*

- a) *the judge or, with the leave of the judge, any other party may make such comment as appears to him appropriate and the jury may draw such inference as appears proper; and*
- b) *where the court is satisfied that any such departure or failure on the part of the defendant constitutes an unnecessary or improper act or omission on his part, and that another party to the proceedings has incurred costs as a result thereof, the court may make an order as to payment of those costs by the defendant under s.19 of the Prosecution of Offences Act 1985(a).*

Signed  
(an Officer of the Court)

Date



## EXPLANATORY NOTE

*(This note is not part of the Rules)*

These Rules are made for the purposes of the holding by Crown Court judges of preparatory hearings under Part I of the Criminal Justice Act 1987 (c. 38) in cases of serious and complex fraud. By virtue of rule 2 they come into force on 31st October 1988.

Rules 3 and 4 regulate the making of applications for preparatory hearings. Rule 5 provides for notification of the decision on an application. Rule 6 provides for disclosure of the prosecution case, and rule 7 provides for disclosure of the defence case when the prosecution have complied with their obligations. Rules 8, 9 and 10 make supplementary provision including provision for the service of documents and for forms to be used in connection with preparatory hearings.