
STATUTORY INSTRUMENTS

1997 No. 1052 (L. 20)

SUPREME COURT OF ENGLAND AND WALES

**The Criminal Procedure and Investigations
Act 1996 (Preparatory Hearings) Rules 1997**

<i>Made</i>	- - - -	<i>24th March 1997</i>
<i>Laid before Parliament</i>		<i>24th March 1997</i>
<i>Coming into force</i>	- -	<i>15th April 1997</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(1), and section 33(1) of the Criminal Procedure and Investigations Act 1996(2), hereby make the following Rules:

Citation and interpretation

1.—(1) These Rules may be cited as the Criminal Procedure and Investigations Act 1996 (Preparatory Hearings) Rules 1997.

(2) In these Rules, “the Act” means the Criminal Procedure and Investigations Act 1996.

(3) In reckoning any period of time for the purposes of these Rules, where, apart from this paragraph, the period in question, being a period of 7 days or less, would include a Saturday, Sunday or bank holiday, Christmas Day or Good Friday, that day shall be excluded, and “bank holiday” means a day which is, or is to be observed as, a bank holiday under section 1 of the Banking and Financial Dealings Act 1971(3), in England and Wales, or which is a holiday under section 2 of that Act(3), in England and Wales.

Commencement

2.—(1) These Rules shall come into force on 15th April 1997 and shall apply in relation to an offence where:

(1) 1981 c. 54; section 86 was amended by the Courts and Legal Services Act 1990 (c. 41), Schedule 18, paragraph 36(2).
(2) 1996 c. 25.
(3) 1971 c. 80; section 2 was amended by the Finance Act 1981 (c. 35), sections 136(2) and 139(6) and Schedule 19, Part XI; section 2 was further amended by the Building Societies Act 1986 (c. 53), Schedule 18, Part I, paragraph 8, and by the Finance Act 1987 (c. 16), section 69; there are no other amendments to section 2 not relevant to these Rules.
(3) 1971 c. 80; section 2 was amended by the Finance Act 1981 (c. 35), sections 136(2) and 139(6) and Schedule 19, Part XI; section 2 was further amended by the Building Societies Act 1986 (c. 53), Schedule 18, Part I, paragraph 8, and by the Finance Act 1987 (c. 16), section 69; there are no other amendments to section 2 not relevant to these Rules.

- (a) the accused is committed for trial for the offence on or after the day referred to in paragraph (2) below;
- (b) proceedings for the trial on the charge concerned are transferred to the Crown Court on or after the day referred to in paragraph (2) below; or
- (c) a bill of indictment relating to the offence is preferred on or after the day referred to in paragraph (2) below under the authority of section 2(2)(b) of the Administration of Justice (Miscellaneous Provisions) Act 1933(4) (bill preferred by direction of Court of Appeal, or by direction or with consent of a judge).

(2) The day referred to is the day appointed for the purposes of section 28 of the Act, by order of the Secretary of State made under section 28(2) of the Act, in relation to the Crown Court sitting at the place—

- (a) specified by the court of committal as the place of trial for the offence (where paragraph (1)(a) above applies);
- (b) specified in the notice of transfer as the place of trial for the offence charged (where paragraph (1)(b) above applies); or
- (c) where the bill of indictment relating to the offence is preferred (where paragraph (1)(c) above applies),

and whether or not the said order mentions the place concerned by name.

Application for a preparatory hearing

3.—(1) An application under section 29(4) of the Act shall be made in writing in Form 5309, shall be served on the appropriate officer of the Crown Court, and shall include a concise statement of the grounds, having regard to the matters specified in subsections (1) and (2) of that section, for the making of an order for a preparatory hearing.

(2) The person making the application shall, at the same time as he serves the application on the appropriate officer of the Crown Court, as referred to in paragraph (1) above, serve a copy of the application 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) Subject to paragraphs (2) and (3) below, an application under section 29(4) of the Act (for an order that a preparatory hearing be held), shall be made within 28 days of—

- (a) committal for trial, where these Rules apply by virtue of rule 2(1)(a);
- (b) transfer of proceedings for trial, where these Rules apply by virtue of rule 2(1)(b); or
- (c) preferment of the bill of indictment, where these Rules apply by virtue of rule 2(1)(c).

(2) Where these Rules apply by virtue of rule 2(1)(b) and an application for dismissal of the offence charged is made within 28 days of the transfer of proceedings for trial, then an application under section 29(4) of the Act shall be made—

- (a) within 28 days of the transfer of proceedings for trial, or
- (b) no later than 7 days after the said application for dismissal is determined or withdrawn, if the last mentioned period expires later than the period referred to in sub-paragraph (a) above.

(3) The time for making an application under section 29(4) of the Act may be extended, either before or after it expires, on an application made in accordance with paragraph (4) below.

(4) 1933 c. 36; section 2(2)(b) was amended by the Criminal Appeal Act 1964 (c. 43), Schedule 2, as read with the Criminal Appeal Act 1966 (c. 31), section 1(6)(a), and as continued by the Supreme Court Act 1981 (c. 54), Schedule 5, and was further amended by the Prosecution of Offences Act 1985 (c. 23), section 31(6) and Schedule 2.

(4) An application for an extension of time under paragraph (3) above shall be made in writing in Form 5309, specifying the grounds of the application and shall be served on the appropriate officer of the Crown Court, and a copy of the application shall at the same time as it is served on that officer be served on the other party, or if there is more than one, each of the other parties in the case.

(5) An application for an extension of time under paragraph (3) above shall be determined by a judge of the Crown Court without a hearing unless the judge otherwise directs, and the appropriate officer of the Crown Court shall serve notice on the parties in the case of the time and place of any such hearing.

(6) The appropriate officer of the Crown Court shall serve notice of the judge's decision on an application under paragraph (3) above on the parties in the case.

Representations concerning an application

5. Where a party receives a copy of an application as referred to in rule 3(1) (made under section 29(4) of the Act) and proposes to make written representations to the Crown Court concerning the application, he shall serve any such representations on the appropriate officer of the Crown Court within 7 days of receipt of the copy application, and shall, at the same time as he serves the representations on the appropriate officer of the Crown Court, serve a copy thereof on the other party, or if there is more than one, each of the other parties in the case.

Determination of application and/or order for preparatory hearing

6.—(1) An application under section 29(4) of the Act shall be determined without a hearing unless a judge of the Crown Court otherwise directs, and the appropriate officer of the Crown Court shall serve notice on the parties in the case of the time and place of any such hearing.

(2) The appropriate officer of the Crown Court shall serve notice of the determination of an application, or of an order for a preparatory hearing made of a judge's own motion, in Form 5310, on the parties in the case.

Disclosure of prosecution case

7. Where an order is made under section 31(4) of the Act for the prosecutor to prepare and serve any documents, the order shall identify the documents to be served and require the prosecutor to serve a copy of each such document on the other party, or if there is more than one, each of the other parties in the case; and the appropriate officer of the Crown Court shall serve notice of the order on the parties in the case.

Defence disclosure

8.—(1) Where an order is made under section 31(6) or (7) of the Act, or a requirement is imposed under section 31(9) of the Act in relation to an order made under section 31(7) of the Act, the appropriate officer of the Crown Court shall serve notice of the order or requirement in Form 5311, on each party to whom the order or requirement applies and on the prosecutor.

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

(a) by section 5(7) of the Act (alibi); or

(b) by rules under section 81 of the Police and Criminal Evidence Act 1984(5) (expert evidence),

a statement required by virtue of an order under section 31(6)(a) of the Act, a notice required by virtue of an order under section 31(6)(b) of the Act, or a notice required by virtue of an order under

section 31(7) of the Act (including a requirement imposed under section 31(9) of the Act in relation to such an order), need not disclose who will give evidence; and the notice referred to in paragraph (1) above shall include a statement to that effect.

(3) The notice referred to in paragraph (1) above shall include a warning that if any party departs from the case he disclosed in pursuance of an order made under section 31 of the Act, or fails to comply with such an order—

- (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 by a party 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 party concerned under the Costs in Criminal Cases (General) Regulations 1986(6).

Orders under section 31 of the Act—supplementary

9. Where a judge makes an order under section 31(4), (6) or (7) of the Act, the order shall so far as practicable express the matters required to be done thereunder by reference to the relevant provisions of section 31(4) or, as the case may be, (6) or (7) of the Act.

Service of documents

10.—(1) Any notice or other document which is required by these Rules to be served on 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; in the case of a company, such a letter may also be addressed to the company at its registered office in England or Wales (if it has such a registered office).

(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.

(3) Where there is inscribed on the writing paper of the person to be served with a notice or other document or on the writing paper of his solicitor (where the person to be served is acting by a solicitor) a document exchange box number, and that person or his solicitor (as the case may be) has not indicated in writing to the person serving the document that he is unwilling to accept service through a document exchange, service of the notice or document may be effected by leaving the notice or document addressed to the numbered box of that person or his solicitor at the document exchange in question or at a document exchange which transmits documents every business day to that document exchange; and any document which is left at a document exchange in accordance with this paragraph shall, unless the contrary is proved, be deemed to have been served on the second business day following the day on which it is left.

(4) In this rule—

- (a) “document exchange” means any document exchange for the time being approved by the Lord Chancellor for the purposes of the service of documents under Order 65 rule 5(1) of the Rules of the Supreme Court 1965(7);
- (b) “business day” means a day other than a day which is to be excluded for the purposes of reckoning a period of 7 days or less as referred to in rule 1(3); and
- (c) “solicitor” includes a body corporate which is recognised by the Council of the Law Society under section 9 of the Administration of Justice Act 1985(8) (a “recognised

(6) S.I.1986/1335, to which there are amendments not relevant to these Rules.

(7) S.I. 1965/1776; the relevant amending instruments are S.I. 1986/632 and S.I. 1990/2599.

(8) 1985 c. 61.

body”) and, in the case of a recognised body, the reference in paragraph (2) above to the solicitor’s address for service shall be construed as a reference to the address specified by the recognised body as its address for the purposes of the proceedings relating to the application for a preparatory hearing under section 29(4) of the Act and/or the order for such a hearing under section 29(1) of the Act (including an address specified for the general purposes of the criminal proceedings in relation to which the application or order for a preparatory hearing is made), or, in the absence of such a specified address, to its registered office.

Forms

11.—(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.

Transitional provisions

12. Where, in relation to an offence, section 5(7) of the Act does not apply, by virtue of the criminal investigation into the offence having begun before the day appointed for the purposes of Part I of the Act, there shall be substituted for the words “section 5(7) of the Act” in rule 8(2)(a), the words “section 11 of the Criminal Justice Act 1967(9)”.

*Mackay of Clashfern, C.
Philip Otton, LJ
J W Kay, J
Geoffrey Rivlin
M McKenzie
J M Beloff
Joanna Korner*

Dated 24th March 1997

(9) 1967 c. 80; section 11 was amended by the Magistrates' Courts Act 1980 (c. 43), section 154 and Schedule 7, paragraph 64; section 11 was further amended by the Criminal Justice Act 1987 (c. 38), Schedule 2, paragraph 2, and by the Criminal Justice and Public Order Act 1994 (c. 33), Schedule 9, paragraphs 6(2) and (7); by the Criminal Procedure and Investigations Act 1996 (c. 25), section 74, section 11 shall cease in relation to alleged offences into which no criminal investigation, within the meaning of section 1(4) of that Act of 1996, has begun before the day appointed under section 1(5) of that Act of 1996.

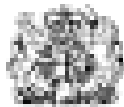
Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE
FORMS

Rule 11(1)

Form 1 (01)

SCHEDULE
FORMS



**Application for Preparatory Hearing
under s.27(4) Criminal Procedure and Investigations Act 1996
or for extension of time within which to apply**

An application for a preparatory hearing must be made within 28 days of the day on which the accused is committed for trial, proceeding for trial or transferred to the Crown Court or which is ordered by a judge of the Court of Appeal to be treated as if the person's judge is, where proceedings for trial or a preparatory hearing are to be held in the Crown Court, or in respect of the charges to which during the course of proceedings it is that a preparatory hearing is to be held or the application for a preparatory hearing or any period applies after trial, the date of the period. A copy of this form shall only be used where it is needed in the other papers given to the press.

Enter the name of the
applicant and the
name of the court to which
the application is made.
*Include applicant's
address

Case Details

The Court/Justices at Court/Judge
Case Number

Defence **Prosecution**
"offender's trial"
"victim's hearing"
"preparatory hearing"
"interim hearing"
"application for adjournment"
"application for summary"
"application for summary"
"application for summary"

Enter the name of the
applicant's solicitor
and the name of the
applicant's firm.
(It is not necessary to
include the address)

Reference No.
Business
Case Number
Address

Date of trial

Form 1 (01)

Application

- Defence Prosecution
- Application for preparatory hearing, s.27(4) CPA, 1996
- Application for extension of time within which to apply for a preparatory hearing

Specify all changes
to the application
in this section

Changes

Enter the grounds
upon which the application is
made

Grounds for applying

Signature
of applicant

Details of any person applying on behalf of applicant

Name
Title/Post/Qualification
Address

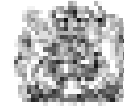
Date

Reference

Form 1 (01) Application for preparatory hearing under section 27(4) CPA

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

In the Crown Court at



Notification of the Court's Determination of an Application and/or Order for a Preparatory Hearing under s.29 Criminal Procedure and Investigations Act 1996

Home Office
Crestmark

Case Details

Defendant(s) Name(s)
(Forename(s))
Defence Address (optional) (address)
(optional) (postcode) (town/city)
Date of Birth
Charges
(specify all relevant charges)

Determination of Application and/or Order for a Preparatory Hearing

Granted Refused Ordered by Judge

Reasons for refusal:

Date and time of hearing (if known):

(Specify each document to be prepared and served on each party by the prosecutor under s.21(4) CPA 1996 and any timetables/continua made (if necessary))

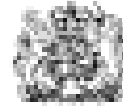
Signed
(signature of the court)

Date

As notified to the court judge's determination of application under s.29 for a preparatory hearing

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

In the Crown Court at



Order for Defence Disclosure prior to Preparatory Hearing or at Preparatory Hearing under s.1(3)(a), (7) or (8) Criminal Procedure and Investigations Act 1996

Home Office
Crest/Coat of Arms

Case Details

Defendant's name (if more than one, a separate form to be completed for each)

Surname:

Forename(s):

Date of birth:

Charges (specify all relevant charges)

Requirements

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

Note: A statement or notice required by virtue of s.1(3)(a), (7)(3), or (7) CPA 1996 need not disclose all relevant evidence except for the extent that disclosure is required by s.1(7) CPA 1996 (3)(b) (where s.1(7) does not apply pursuant to s.1(2) CPA 1996 the relevant provision is s.1(1) CJA 1987) or rules under the Police and Criminal Evidence Act 1984 (quoted address).

Warning

If any party departs from the case which he disclosed in pursuance of a requirement imposed under s.1 CPA 1996 or fails to comply with such a requirement—

- a) the order is, with the leave of the judge, any other party may make such material an addendum to the evidence and the jury may draw such inferences as appear proper and
- b) where the court is satisfied that any such departure or failure by a party 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 party concerned under the Courts Criminal Costs (General) Regulations 1996.

Signed

Date

(an Officer of the Court)

Form 101 - Order for Defence Disclosure prior to a preparatory hearing

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 III of the Criminal Procedure and Investigations Act 1996 (“the Act”) in long or complex cases.

By virtue of rule 2, they come into force on 15th April 1997 and apply in relation to an offence where, on or after the day appointed under section 29(2) of the Act in respect of the Crown Court sitting at the place concerned (that is, the place specified as the place of trial by the court of committal, the place specified in the notice of transfer as the place of trial, or the place where the bill of indictment is preferred, as the case may be), the accused is committed for trial for the offence, proceedings for the trial on the charge concerned are transferred to the Crown Court, or a bill of indictment relating to the offence is preferred by direction of the Court of Appeal or by direction or with the consent of a judge.

Rules 3 and 4 regulate the making of applications for preparatory hearings. Rule 5 provides for a time limit for the making of representations to the Crown Court by a party served with a copy of another party’s notice of application. Rule 6 provides that an application for a preparatory hearing shall be determined without a hearing unless a judge otherwise directs and provides for notification of the determination, or of an order for a preparatory hearing made of a judge’s own motion, to the parties in the case.

Rule 7 makes provision in relation to an order for disclosure of the prosecution case, and rule 8 makes provision in relation to an order for disclosure of the defence case where the prosecutor has complied with his obligation to supply a case statement. Rules 9, 10 and 11 make supplementary provision including provision for the service of documents and for forms to be used in connection with preparatory hearings. Rule 12 contains a transitional provision with regard to particulars of alibi.