



# Criminal Procedure and Investigations Act 1996

## 1996 CHAPTER 25

### PART IV

#### RULINGS

#### 39 Meaning of pre-trial hearing.

- (1) For the purposes of this Part a hearing is a pre-trial hearing if it relates to a trial on indictment and it takes place—
  - (a) [<sup>F1</sup>after the accused has been sent for trial for the offence, and]
  - (b) before the start of the trial.
- (2) For the purposes of this Part a hearing is also a pre-trial hearing if—
  - (a) it relates to a trial on indictment to be held in pursuance of a bill of indictment preferred under the authority of section 2(2)(b) [<sup>F2</sup>or (ba)] of the <sup>M1</sup>Administration of Justice (Miscellaneous Provisions) Act 1933 (bill preferred by direction of Court of Appeal, or by direction or with consent of a judge), and
  - (b) it takes place after the bill of indictment has been preferred and before the start of the trial.
- (3) For the purposes of this section the start of a trial on indictment occurs [<sup>F3</sup>at the time when a jury is sworn] to consider the issue of guilt or fitness to plead or, if the court accepts a plea of guilty before [<sup>F4</sup>the time when a jury is sworn] , when that plea is accepted; but this is subject to section 8 of the <sup>M2</sup>Criminal Justice Act 1987 and section 30 of this Act (preparatory hearings).
- [<sup>F5</sup>(4) The references in subsection (3) to the time when a jury is sworn include the time when that jury would be sworn but for the making of an order under Part 7 of the Criminal Justice Act 2003.]

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### Extent Information

- E1** In its application to Northern Ireland, this section has effect subject to the modifications set out in Schedule 4; see s. 79

### Textual Amendments

- F1** S. 39(1)(a) substituted (9.5.2005 for specified purposes, 18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 3 para. 66\(7\)](#); S.I. 2005/1267, art. 2(1)(2)(a), Sch. Pt. 1; S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)
- F2** Words in s. 39(2)(a) inserted (24.2.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 17 para. 37\(4\)](#) (with [Sch. 17 para. 39](#)); S.I. 2014/258, art. 2(b)
- F3** Words in s. 39(3) substituted (24.7.2006 for E.W. and 8.1.2007 for N.I.) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 331, 336, [Sch. 36 Pt. 4 para. 71\(2\)](#); S.I. 2006/1835, art. 2 (subject to art. 3); S.I. 2006/3422, art. 2
- F4** Words in s. 39(3) substituted (24.7.2006 for E.W. and 8.1.2007 for N.I.) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 331, 336, [Sch. 36 Pt. 4 para. 71\(2\)](#); S.I. 2006/1835, art. 2 (subject to art. 3); S.I. 2006/3422, art. 2
- F5** S. 39(4) inserted (24.7.2006 for E.W. and 8.1.2007 for N.I.) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 331, 336, [Sch. 36 Pt. 4 para. 71\(3\)](#); S.I. 2006/1835, art. 2(h) (subject to art. 3); S.I. 2006/3422, art. 2

### Marginal Citations

- M1** 1933 c. 36.  
**M2** 1987 c. 38.

## 40 Power to make rulings.

- (1) A judge may make at a pre-trial hearing a ruling as to—
  - (a) any question as to the admissibility of evidence;
  - (b) any other question of law relating to the case concerned.
- (2) A ruling may be made under this section—
  - (a) on an application by a party to the case, or
  - (b) of the judge’s own motion.
- (3) Subject to subsection (4), a ruling made under this section has binding effect from the time it is made until the case against the accused or, if there is more than one, against each of them is disposed of; and the case against an accused is disposed of if—
  - (a) he is acquitted or convicted, or
  - (b) the prosecutor decides not to proceed with the case against him.
- (4) A judge may discharge or vary (or further vary) a ruling made under this section if it appears to him that it is in the interests of justice to do so; and a judge may act under this subsection—
  - (a) on an application by a party to the case, or
  - (b) of the judge’s own motion.

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- (5) No application may be made under subsection (4)(a) unless there has been a material change of circumstances since the ruling was made or, if a previous application has been made, since the application (or last application) was made.
- (6) The judge referred to in subsection (4) need not be the judge who made the ruling or, if it has been varied, the judge (or any of the judges) who varied it.
- (7) For the purposes of this section the prosecutor is any person acting as prosecutor, whether an individual or a body.

#### **41 Restrictions on reporting.**

- (1) Except as provided by this section—
  - (a) no written report of matters falling within subsection (2) shall be published in [F<sup>6</sup>the United Kingdom] ;
  - (b) no report of matters falling within subsection (2) shall be included in a relevant programme for reception in [F<sup>6</sup>the United Kingdom] .
- (2) The following matters fall within this subsection—
  - (a) a ruling made under section 40;
  - (b) proceedings on an application for a ruling to be made under section 40;
  - (c) an order that a ruling made under section 40 be discharged or varied or further varied;
  - (d) proceedings on an application for a ruling made under section 40 to be discharged or varied or further varied.
- (3) The judge dealing with any matter falling within subsection (2) may order that subsection (1) shall not apply, or shall not apply to a specified extent, to a report of the matter.
- (4) Where there is only one accused and he objects to the making of an order under subsection (3) the judge shall make the order if (and only if) satisfied after [F<sup>7</sup>considering (in the case of proceedings in England and Wales) or hearing (in the case of proceedings in Northern Ireland)] 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.
- (5) Where there are two or more accused and one or more of them objects to the making of an order under subsection (3) the judge shall make the order if (and only if) satisfied after [F<sup>8</sup>considering (in the case of proceedings in England and Wales) or hearing (in the case of proceedings in Northern Ireland)] 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.
- (6) Subsection (1) does not apply to—
  - (a) the publication of a report of matters, or
  - (b) the inclusion in a relevant programme of a report of matters,at the conclusion of the trial of the accused or of the last of the accused to be tried.
- (7) 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.
- (8) In this section—

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- (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 <sup>M3</sup>Broadcasting Act 1990.

#### Extent Information

- E2** In its application to Northern Ireland, this section has effect subject to the modifications set out in Schedule 4; see s. 79

#### Textual Amendments

- F6** Words in s. 41(1)(a)(b) substituted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), [ss. 311\(8\)](#), 366; [S.I. 2005/950](#), [art. 2\(1\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))
- F7** Words in s. 41(4) substituted (28.6.2022) by [Judicial Review and Courts Act 2022 \(c. 35\)](#), [ss. 15\(4\)\(b\)](#), 51(3)
- F8** Words in s. 41(5) substituted (28.6.2022) by [Judicial Review and Courts Act 2022 \(c. 35\)](#), [ss. 15\(4\)\(b\)](#), 51(3)

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

- C1** S. 41 applied (with modifications) (8.1.2007 in force for specified purposes) by [Criminal Justice Act 2003 c. 44](#), [ss. 48A](#), 336 (as inserted in that Act in its application to N.I. by s. 50(14) of that Act); [S.I. 2006/3422](#), [art. 2\(a\)](#) (which amending provision is itself amended (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#) ss. 40, s. 148(1), [Sch. 9 para. 82\(2\)\(b\)\(c\)](#); [S.I. 2009/1604](#), [art. 2\(d\)](#))

#### Marginal Citations

- M3** [1990 c. 42](#).

### <sup>F9</sup>42 Offences in connection with reporting.

- (1) If a report is published or included in a relevant programme in contravention of section 41 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 (8) of section 41 applies for the purposes of this section as it applies for the purposes of that.

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### Textual Amendments

- F9** In its application to Northern Ireland, this section has effect subject to the modifications set out in Schedule 4; see [s. 79](#)

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### Modifications etc. (not altering text)

- C2** [S. 42](#) applied (with modifications) (8.1.2007 in force for certain purposes and otherwise prosp.) by Criminal Justice Act 2003 [c. 44](#), [ss. 48A](#) (as inserted in that Act in its application to N.I. by {[s. 50\(14\)](#)} of that Act), 336; [S.I. 2006/3422](#), [art. 2\(a\)](#)

## 43 Application of this Part.

- (1) This Part applies in relation to pre-trial hearings beginning on or after the appointed day.
- (2) The reference in subsection (1) to the appointed day is to such day as is appointed for the purposes of this section by the Secretary of State by order.

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### Subordinate Legislation Made

- P1** [S. 43\(2\)](#) power fully exercised (7.9.1996 and 29.12.1997): 1.10.1996 appointed day (E.W.S.) by [S.I. 1996/2343](#); 1.1.1998 appointed day (N.I.) by [S.I. 1997/3108](#).

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 1(6) added by [1997 c. 39 s. 9\(4\)](#)
- s. 5(1A) amendment to earlier affecting provision 2015 c. 9 (N.I.), Sch. 2 para. 8 by [2022 c. 4 \(N.I.\) s. 4\(9\)\(f\)\(i\)](#)
- s. 5(1A) inserted by [2015 c. 9 \(N.I.\) Sch. 2 para. 8](#)
- s. 5(1A) words substituted in earlier affecting provision 2015 c. 9 (N.I.), Sch. 2 para. 8(1) by [2022 c. 4 \(N.I.\) s. 4\(9\)\(f\)\(ii\)](#)
- s. 13(1)(ba)(b) substituted for s. 13(1)(b) by 2015 c. 9 (N.I.), Sch. 2 para. 8(2) (as inserted) by [2022 c. 4 \(N.I.\) s. 4\(9\)\(f\)\(iii\)](#)
- Sch. 4 para. 4(f) and word added by [S.I. 2003/1247 \(N.I.\) Sch. 1 para. 16](#)