



Number 7 of 2021

Criminal Procedure Act 2021



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CRIMINAL PROCEDURE ACT 2021

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[2021.]

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Criminal Evidence Act 1992 (No. 12)
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Number 7 of 2021

CRIMINAL PROCEDURE ACT 2021

An Act to provide for preliminary trial hearings in respect of the trial of certain criminal offences; to provide for the provision of certain information to juries; to amend the Criminal Procedure Act 1967, the Criminal Justice Act 1984 and the Criminal Procedure Act 2010; and to provide for related matters. [24th May, 2021]

Be it enacted by the Oireachtas as follows:

PART 1

PRELIMINARY AND GENERAL

Short title and commencement

1. (1) This Act may be cited as the Criminal Procedure Act 2021.
- (2) This Act shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

Definitions

2. In this Act—
 - “accused”, in respect of an offence, means the person charged with the offence;
 - “Act of 1967” means the Criminal Procedure Act 1967;
 - “Act of 1984” means the Criminal Justice Act 1984;
 - “Act of 2010” means the Criminal Procedure Act 2010;
 - “enactment” has the same meaning as it has in the Interpretation Act 2005;
 - “Minister” means the Minister for Justice;
 - “order”, in relation to a court, means a decision that the court is empowered to make under or pursuant to an enactment or the common law, or otherwise;
 - “the prosecution”, in relation to an offence, means—
 - (a) the Director of Public Prosecutions,

- (b) a person prosecuting the offence at the suit of the Director of Public Prosecutions, or
- (c) a person authorised by law to prosecute the offence.

PART 2

PRELIMINARY TRIAL HEARINGS

Interpretation (Part 2)

3. (1) In this Part—

“Act of 1962” means the Criminal Justice (Legal Aid) Act 1962;

“Act of 1992” means the Criminal Evidence Act 1992;

“preliminary trial hearing” shall be construed in accordance with *section 6(1)*;

“relevant offence” shall be construed in accordance with *section 5*;

“relevant order” means an order as to the admissibility of evidence, including an order under or pursuant to section 16 of the Act of 1992;

“trial court” shall be construed in accordance with *section 6(1)*.

(2) In this Part, unless the context otherwise requires—

- (a) a reference to a person being sent forward for trial includes, where appropriate, a reference to such a person being sent or being sent forward for trial to, or charged before, a Special Criminal Court, and
- (b) a reference to a trial of an accused in respect of an offence shall include a reference to a retrial of an accused in respect of an offence.

Application (Part 2)

4. This Part applies in respect of proceedings for an offence where—

- (a) an accused has been or is sent forward for trial in respect of the offence (whether before, on or after the coming into operation of this section), and
- (b) the trial has not yet commenced.

Relevant offence for purposes of Part

5. (1) In this Part, a relevant offence means—

- (a) an offence specified in an order made under *subsection (2)*,
- (b) an offence for which a person of full capacity and not previously convicted may, under, or by virtue of, any enactment or the common law, be sentenced to—
 - (i) imprisonment for life, or

- (ii) a maximum term of imprisonment of 10 years or more,
 - (c) an offence consisting of aiding, abetting, counselling or procuring the commission of an offence specified in an order made under *subsection (2)* or an offence to which *paragraph (b)* applies, or
 - (d) an offence consisting of conspiring to commit, or inciting the commission of, an offence specified in an order made under *subsection (2)* or an offence to which *paragraph (b)* applies.
- (2) Subject to *subsection (3)*, the Minister may by order specify as a relevant offence an indictable offence under a provision of any enactment or at common law, other than an offence to which *subsection (1)(b)* applies, if the Minister considers that it is proper to do so for the purposes of—
- (a) facilitating the just, expeditious and efficient conduct of the prosecution of such indictable offence and, in particular, for the avoidance of delays in such prosecution,
 - (b) preventing the disruption to juries and witnesses that could arise in the trial of such indictable offence where no preliminary trial hearing was held in respect of such trial, or
 - (c) reducing the impact on victims of such indictable offence of orders to which *section 6(8)* applies being made during the course of the trial of the offence, where such orders could appropriately have been made at a preliminary trial hearing.
- (3) In making an order under *subsection (2)*, the Minister shall take into account the following:
- (a) the nature of the offence concerned;
 - (b) any relevant complexities that generally arise in the prosecution of such an offence.
- (4) An order made under *subsection (2)* shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order is passed by either such House within the next 21 days on which that House sits after the order is laid before it, the order shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Preliminary trial hearing

6. (1) Where an accused has been sent forward for trial in respect of an indictable offence, the court before which the accused is to stand trial (in this Part referred to as the “trial court”) may, of its own motion or upon the application of the prosecution or the accused, hold one, or more than one, hearing pursuant to this section (in this Part referred to as a “preliminary trial hearing”) where the court is satisfied that—
- (a) it would be conducive to the expeditious and efficient conduct of the proceedings, and

- (b) it is not contrary to the interests of justice,
for the hearing to be held.
- (2) Without prejudice to the generality of *subsection (1)*, the trial court shall, where—
- (a) an accused is charged with a relevant offence,
- (b) the prosecution or the accused makes an application to the court for a preliminary trial hearing to be held, and
- (c) no preliminary trial hearing has previously been held in respect of the trial of such offence,
- hold such a preliminary trial hearing.
- (3) Subject to *subsections (4) and (5)*, where the trial court directs pursuant to *subsection (1) or (2)* that a preliminary trial hearing shall be held in respect of the trial of an offence, the hearing may be held at any time before—
- (a) the jury is sworn in, where the accused is before the Circuit Court or the Central Criminal Court, or
- (b) the trial commences, where the accused is before a Special Criminal Court.
- (4) The trial court shall, in determining when a preliminary trial hearing shall be held in respect of the trial of an offence, ensure in so far as is possible that the timing of the hearing is likely to achieve the purposes of this Act in a manner that is consistent with the interests of justice and, in particular, is likely to—
- (a) facilitate the expeditious and efficient conduct of the proceedings,
- (b) result in the least disruption to the jury and witnesses in the trial of the offence, and
- (c) best protect the interests of any victim of the offence.
- (5) The trial court may, on the application of the prosecution or the accused, where it considers it appropriate having regard to the orders the making of which are to be considered at a preliminary trial hearing and, in particular, where the making of a relevant order is sought, direct that the preliminary trial hearing concerned be held as close in time to the date for which the trial is set down for hearing as the court considers appropriate and just in the circumstances.
- (6) Where an accused has not been arraigned prior to a preliminary trial hearing in the proceedings concerned, the trial court may, where it considers it appropriate, direct that he or she shall be arraigned at the commencement of such a hearing.
- (7) The trial court may, at a preliminary trial hearing, assess the following matters and make such orders or rulings as it considers appropriate in the interests of justice and to ensure the just, expeditious and efficient conduct of the trial of the offence concerned:
- (a) the availability of witnesses for the trial;

- (b) whether any particular practical measures or technological equipment may be required for the conduct of the trial;
 - (c) the extent to which the trial is ready to proceed (including whether there are any outstanding issues relating to disclosure);
 - (d) the likely length of the trial.
- (8) Without prejudice to the generality of *subsection (7)*, the trial court may, at a preliminary trial hearing, make any one or more of the following orders:
- (a) where two or more persons are charged in the same proceedings, an order that the persons be tried separately;
 - (b) any order that may be made under or pursuant to:
 - (i) section 6 of the Criminal Justice (Administration) Act 1924;
 - (ii) section 15A of the Juries Act 1976;
 - (iii) section 21 or 22 of the Act of 1984;
 - (iv) section 3 of the Criminal Law (Rape) Act 1981;
 - (v) section 13, 14, 14A, 14C, 19A or 29 of the Act of 1992;
 - (vi) section 39 of the Criminal Justice Act 1999;
 - (vii) section 181 of the Criminal Justice Act 2006;
 - (viii) section 67 of the Criminal Justice (Mutual Assistance) Act 2008;
 - (ix) section 34 of the Act of 2010;
 - (x) section 21 of the Criminal Justice (Victims of Crime) Act 2017;
 - (xi) section 25 of the Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020;
 - (c) a relevant order;
 - (d) in the case of proceedings before the Circuit Court or the Central Criminal Court, any other order that could be made by the court in the absence of the jury;
 - (e) in the case of proceedings before a Special Criminal Court, any other order that could be made by the court during the course of the trial;
 - (f) any other order relating to the conduct of the trial of the offence concerned as appears necessary to the court to ensure that due process and the interests of justice are observed.
- (9) The trial court, in holding a preliminary trial hearing, may make such orders with regard to the conduct of the preliminary trial hearing as it considers appropriate and in accordance with the interests of justice, including with regard to the making of submissions in writing.
- (10) Subject to *subsections (11) and (12)*, where a preliminary trial hearing has been held in respect of the trial of an offence, it shall not be necessary for the same judge or

judges, as the case may be, who presided over the preliminary trial hearing concerned to preside over—

- (a) any further preliminary trial hearings in respect of the trial of the offence, or
 - (b) the trial of the offence.
- (11) Where a preliminary trial hearing has been held in respect of the trial of an offence, the trial court may direct, where it is satisfied that it is in the interests of justice to do so, that any subsequent preliminary trial hearings or the trial of the offence, or both, shall be presided over by the same judge or judges, as the case may be, who presided over the preliminary trial hearing concerned.
- (12) Where a relevant order is made at a preliminary trial hearing, the same judge or judges, as the case may be, who presided over such hearing (in this section referred to as “the presiding judge or judges”) shall, subject to *subsection (13)*, preside over—
- (a) any further preliminary trial hearings in respect of the trial of the offence, and
 - (b) the trial of the offence.
- (13) *Subsection (12)* shall not apply where—
- (a) the presiding judge or judges is or are unavailable to preside over further preliminary trial hearings in respect of the trial of the offence or over the trial of the offence, or
 - (b) there is other good reason for which that subsection should not apply.
- (14) Subject to *subsection (15)* and *section 7*, where the trial court makes an order at a preliminary trial hearing or under *subsection (11)*—
- (a) the order shall—
 - (i) have binding effect, and
 - (ii) where the court considers it appropriate and so directs, have effect as though it had been made in the course of the trial of the offence,and
 - (b) without prejudice to the generality of *paragraph (a)(ii)*, no appeal shall lie against the order, pending the conclusion of the trial of the offence.
- (15) The trial court may—
- (a) of its own motion, or
 - (b) subject to *subsection (16)*, upon the application of the prosecution or the accused, vary or discharge an order made at a preliminary trial hearing or an order made under *subsection (11)* where the court is satisfied that it is in the interests of justice to do so.
- (16) An application may not be made under *subsection (15)(b)* unless there has been, since the making of the order the subject of the application, a material change in circumstances relevant to that order.

- (17) Where an order referred to in *paragraph (a), (b) or (c) of subsection (8)* shall be required to be sought by the prosecution or the accused during the course of proceedings for an offence to which this Part applies, the party concerned shall so inform the trial court at the first available opportunity, in order to facilitate the court in making a decision as to whether or not to direct that a preliminary trial hearing in respect of the trial of the offence shall be held.
- (18) Nothing in this section shall affect the right of the accused to appeal against conviction in respect of an offence, including insofar as any ground of such appeal relates to matters arising from a preliminary trial hearing in respect of the trial of the offence concerned.
- (19) This section is without prejudice to the power of the trial court to deal with the matters referred to in *subsection (7)* or to make an order to which *subsection (8)* applies otherwise than at a preliminary trial hearing.
- (20) The trial court shall, in holding a preliminary trial hearing in relation to the trial of an offence, have all the powers it would have in conducting the trial, including the power to receive evidence.
- (21) Where a legal aid (trial on indictment) certificate within the meaning of section 3 of the Act of 1962 is granted under that section in respect of an accused, the certificate shall extend to any preliminary trial hearing held in respect of the offence to which the certificate relates.

Appeal of certain orders made at preliminary trial hearing

7. (1) Where the trial court makes a relevant order at a preliminary trial hearing to the effect that evidence shall not be admitted at the trial of the offence, the prosecution may, subject to *subsection (2)*, appeal the order on a question of law to—
 - (a) the Court of Appeal, or
 - (b) in the case of an order made by the Central Criminal Court, the Court of Appeal or the Supreme Court under Article 34.5.4^o of the Constitution.
- (2) An appeal referred to in this section shall lie only where the relevant order concerned made by the trial court erroneously excluded evidence which is—
 - (a) reliable,
 - (b) of significant probative value, and
 - (c) such that when taken together with the relevant evidence proposed to be adduced in the proceedings a jury, or in the case of an offence being tried before a Special Criminal Court, that court, might reasonably be satisfied beyond a reasonable doubt of the accused's guilt in respect of the offence concerned.
- (3) An appeal referred to in this section shall be made on notice to the accused to whom the appeal relates within 28 days or such longer period not exceeding 56 days as the Supreme Court or the Court of Appeal, as the case may be, may, on application to it in that behalf, determine, from the day on which the ruling was made.

- (4) Where the accused fails to appear before the Supreme Court or the Court of Appeal, as the case may be, in respect of an appeal referred to in this section, the court, if it is satisfied that it is, in all the circumstances, in the interests of justice to do so, may proceed to hear and determine the appeal in the absence of the accused concerned.
- (5) For the purposes of considering an appeal referred to in this section the Supreme Court or the Court of Appeal, as the case may be, shall hear argument—
 - (a) by, or by counsel on behalf of, the prosecution,
 - (b) by, or by counsel on behalf of, the accused, and
 - (c) if counsel are assigned under *subsection (6)*, by such counsel.
- (6) The Supreme Court or the Court of Appeal, as the case may be, shall assign counsel to argue in support of the exclusion of the evidence referred to in *subsection (1)* if—
 - (a) the accused does not wish to be represented or heard under *subsection (5)(b)*, or
 - (b) notwithstanding the fact that the accused concerned exercises his or her right to be represented or heard under *subsection (5)(b)*, the court considers it desirable in the public interest to do so.
- (7) Where an appeal referred to in this section has been made to the Supreme Court or the Court of Appeal and a legal aid (Supreme Court) certificate or a legal aid (appeal) certificate, as the case may be, is granted under *subsection (8)*, or deemed to have been granted under *subsection (9)*, in respect of the accused, he or she shall be entitled to free legal aid in the preparation and conduct of any argument that he or she wishes to make to the Supreme Court or the Court of Appeal, as the case may be, and to have a solicitor and counsel assigned to him or her for that purpose in the manner prescribed by regulations under section 10 of the Act of 1962.
- (8) The accused may, in relation to an appeal referred to in this section, apply for a legal aid (Supreme Court) certificate to the Supreme Court or a legal aid (appeal) certificate to the Court of Appeal, as the case may be, either—
 - (a) by letter to the registrar of the Supreme Court or the registrar of the Court of Appeal, as the case may be, setting out the facts of the case and the grounds of the application, or
 - (b) to the Supreme Court, or the Court of Appeal, itself, as the case may be,and the court concerned shall grant the certificate if (but only if) it appears to the court that the means of the accused are insufficient to enable him or her to obtain legal aid.
- (9) If a legal aid (trial on indictment) certificate was granted under the Act of 1962 in respect of the accused concerned in relation to the proceedings in respect of the offence concerned, a legal aid (Supreme Court) certificate or a legal aid (appeal) certificate, as the case may be, shall be deemed to have been granted in respect of him or her in relation to an appeal referred to in this section.
- (10) On an appeal referred to in this section the Supreme Court or the Court of Appeal, as the case may be, may affirm or quash the order under appeal.

(11) In this section—

“legal aid (appeal) certificate” has the same meaning as it has in the Act of 1962;

“legal aid (Supreme Court) certificate” has the same meaning as it has in the Act of 1962;

“legal aid (trial on indictment) certificate” has the same meaning as it has in the Act of 1962;

“relevant evidence”, in relation to an accused, means the proposed evidence contained in such of the following as have been served on the accused or his or her solicitor pursuant to section 4B or 4C of the Act of 1967:

- (a) the documents specified in section 4B(1)(b) of that Act;
- (b) the exhibits listed in the list of exhibits referred to in section 4B(1)(b)(vii) of that Act;
- (c) the documents specified in section 4C(1) of that Act;
- (d) the exhibits listed in the list of exhibits referred to in section 4C(1)(g) of that Act.

Trial not to proceed pending appeal under *section 7*

8. Where the trial court makes a relevant order at a preliminary trial hearing to the effect that evidence shall not be admitted at the trial of the offence and the order is appealed under *section 7*, the trial concerned shall not proceed until the appeal under *section 7* is determined or withdrawn.

Power to exclude public

9. (1) Subject to this section and any other enactment, a preliminary trial hearing or the hearing of an appeal under *section 7* shall be conducted in open court.
- (2) Where a court conducting a preliminary trial hearing or the hearing of an appeal under *section 7*, as the case may be, is satisfied, because of the nature or circumstances of the case or otherwise in the interests of justice, that it is desirable to do so, it may exclude from the court during the hearing—
- (a) the public or any portion of the public, or
 - (b) any particular person or persons,
- except *bona fide* representatives of the Press.
- (3) *Subsection (2)* is without prejudice to the right of—
- (a) a parent, relative or friend of the accused or of an injured party, or
 - (b) a support worker chosen by an injured party,

to remain in court in any case to which section 20(4) of the Criminal Justice Act 1951, section 6 of the Criminal Law (Rape) Act 1981, section 8 of the Criminal Justice

(Female Genital Mutilation) Act 2012 or section 20 of the Criminal Justice (Victims of Crime) Act 2017 applies.

- (4) In this section, “support worker” means a volunteer of, or an individual employed under a contract of service or under a contract for services by, an organisation which provides support to victims of crime.

Hearings not to be published or broadcast

10. (1) No person shall publish or broadcast or cause to be published or broadcast any information about a preliminary trial hearing or an appeal under *section 7* other than—
- (a) a statement of the fact that such a hearing is to be, or is being, conducted, or such an appeal is being brought, as the case may be, in respect of proceedings for an offence against a named person, or
 - (b) where an order has been made by the court at a preliminary trial hearing or in an appeal under *section 7*, as the case may be, and that court is satisfied that such publication or broadcast is not contrary to the interests of justice, a statement of the fact that such an order has been made.
- (2) *Subsection (1)* shall apply until the conclusion of the trial of the offence concerned or until such other time as the trial judge or the court hearing the appeal concerned, as the case may be, may direct.
- (3) If, on application by the prosecution, it appears to a judge of the District Court that a person has contravened *subsection (1)*, the judge may certify to that effect to the High Court.
- (4) On receiving a certificate under *subsection (3)*, the High Court may—
- (a) inquire into the matter to which the certificate relates, and
 - (b) after hearing any witnesses and after considering any statement that may be offered in defence of the person alleged to have contravened *subsection (1)*, punish, or take steps for the punishment of, that person in the like manner as if he or she had been guilty of contempt of the court.
- (5) This section shall not affect—
- (a) the operation of any other enactment that imposes further restrictions on the extent to which information relating to court proceedings may be published or broadcast, or
 - (b) any power conferred on a court by such an enactment to make an order authorising the publication or broadcast of such information.
- (6) In this section—
- “broadcast” has the same meaning as it has in the Broadcasting Act 2009;
- “publish” means publish to the public or a portion of the public.

Rules of court

- 11.** Without prejudice to the power of the court to make such provision in the absence of such rules, rules of court may make provision to give further and better effect to this Part, including for any one or more of the following matters:
- (a) the manner and form in which an application for a preliminary trial hearing is to be made;
 - (b) the manner and form in which notice of the making of such an application is to be given;
 - (c) the manner and form in which evidence is to be heard at a preliminary trial hearing;
 - (d) the timing of the holding of a preliminary trial hearing;
 - (e) other matters ancillary to the holding of a preliminary trial hearing;
 - (f) matters ancillary to the hearing of an appeal under *section 7*.

PART 3

PROVISION OF INFORMATION TO JURIES

Provision of information to juries

- 12.** (1) This section shall apply to any offence being tried on indictment other than an offence to which any of the following provisions apply:
- (a) section 1078C of the Taxes Consolidation Act 1997;
 - (b) section 57 of the Criminal Justice (Theft and Fraud Offences) Act 2001;
 - (c) section 10 of the Competition Act 2002;
 - (d) section 56 of the Central Bank (Supervision and Enforcement) Act 2013;
 - (e) section 882 of the Companies Act 2014.
- (2) In a trial of an offence to which this section applies, the trial judge may order that copies of any or all of the following documents or materials shall be given to the jury in any form that the judge considers appropriate:
- (a) any document admitted in evidence at the trial;
 - (b) where such transcripts or audio recordings are available:
 - (i) the transcript of the opening speeches of counsel or an audio recording of such speeches;
 - (ii) the transcript of the whole or any part of the evidence given at the trial or an audio recording of such evidence;
 - (iii) the transcript of the closing speeches of counsel or an audio recording of such speeches;

- (iv) the transcript of the trial judge's charge to the jury or an audio recording of such charge;
 - (c) any charts, diagrams, graphics, schedules or summaries of evidence produced at the trial;
 - (d) any other document that in the opinion of the trial judge would be of assistance to the jury in its deliberations including, where appropriate, an affidavit by an accountant or other suitably qualified person summarising, in a form which is likely to be comprehended by the jury, any transactions by the accused or other persons which are relevant to the offence.
- (3) If the prosecution or the accused proposes to apply to the trial judge for an order that a document referred to in *subsection (2)(d)* shall be given to the jury, the prosecution or the accused, as the case may be, shall give a copy of the document to the other party in advance of the application and, on the hearing of the application, the trial judge shall take into account any representations made by or on behalf of either party in relation to it.
- (4) Where the trial judge has made an order that an affidavit referred to in *subsection (2)(d)* shall be given to the jury, the accountant or other suitably qualified person concerned—
- (a) shall be summoned by the prosecution or the accused, as the case may be, to attend at the trial as an expert witness, and
 - (b) may be required by the trial judge, in an appropriate case, to give evidence in regard to the report and any relevant accounting procedures or principles.

PART 4

AMENDMENTS TO CERTAIN ACTS RELATING TO CRIMINAL PROCEDURE

Amendment of section 4A of Act of 1967

- 13.** Section 4A(5) of the Act of 1967 is amended by the substitution of “in accordance with that section” for “on the accused”.

Amendment of section 4E of Act of 1967

- 14.** Section 4E of the Act of 1967 is amended—

- (a) in subsection (1), by the substitution of “Subject to subsection (1A), at any time” for “At any time”, and
- (b) by the insertion of the following subsection after subsection (1):

“(1A) Where—

- (a) a court makes a relevant order within the meaning of *Part 2* of the *Criminal Procedure Act 2021* at a preliminary trial hearing (within

the meaning of that Part) to the effect that evidence shall not be admitted at trial, and

(b) the order is appealed under *section 7* of that Act,

the accused may not make an application under subsection (1) to dismiss a charge to which the order relates until that appeal is determined or withdrawn.”.

Amendment of section 4Q of Act of 1967

15. Section 4Q(2)(b) of the Act of 1967 is amended by the deletion of “4B(3) or (5),”.

Amendment of section 21 of Act of 1984

16. Section 21 of the Act of 1984 is amended—

(a) by the insertion of the following subsection after subsection (3):

“(3A) Where a party (‘the first-mentioned party’) serves a notice pursuant to paragraph (d) of subsection (2) objecting to a statement being tendered in evidence under this section, the court may, at the hearing of the matter, on the application of the party who served, pursuant to paragraph (c) of that subsection, the copy of the statement to which the notice relates—

(a) require the first-mentioned party to provide an explanation to the court of the reasons for serving that notice, and

(b) where the court is satisfied, having taken into account the explanation provided in accordance with paragraph (a), that it is not contrary to the interests of justice to do so, direct that the statement be so tendered.”,

and

(b) in subsection (5)(b), by the substitution of “give evidence, including for the purposes of cross-examination” for “give evidence”.

Amendment of section 23 of Act of 2010

17. Section 23 of the Act of 2010 is amended—

(a) in subsection (3)(a)—

(i) by the substitution, in subparagraph (i), of “subsection (1),” for “subsection (1), or”, and

(ii) by the insertion of the following subparagraph after subparagraph (i):

“(ia) during the course of a preliminary trial hearing within the meaning of the *Criminal Procedure Act 2021* which was not appealed under *section 7* of that Act, or”,

and

(b) by the substitution of the following subsection for subsection (14):

“(14) In this section—

‘compelling evidence’, in relation to a person, means evidence which—

- (a) is reliable,
- (b) is of significant probative value, and
- (c) is such that, when taken together with—
 - (i) all the other evidence adduced in the proceedings concerned, and
 - (ii) to the extent that such evidence has not been adduced, the relevant evidence proposed to be adduced in the proceedings,a jury might reasonably be satisfied beyond a reasonable doubt of the person’s guilt in respect of the offence concerned;

‘relevant evidence’, in relation to a person, means the proposed evidence—

- (a) contained in such of the following as have been served on the person or his or her solicitor pursuant to section 4B or 4C of the Act of 1967:
 - (i) the documents specified in section 4B(1)(b) of that Act;
 - (ii) exhibits listed in the list of exhibits referred to in section 4B(1)(b)(vii) of that Act;
 - (iii) the documents specified in section 4C(1) of that Act;
 - (iv) the exhibits referred to in the list of exhibits referred to in section 4C(1)(g) of that Act,or
- (b) given in a videorecording of an interview made under section 16(1) of the Act of 1992, in relation to which the accused has been notified and given an opportunity of seeing the videorecording in accordance with section 15(1) of that Act.”.

Amendment of section 34 of Act of 2010

18. Section 34 of the Act of 2010 is amended—

(a) by the substitution of the following subsection for subsection (2):

“(2) Where the defence intends to call an expert witness or adduce expert evidence, whether or not in response to such evidence presented by the

prosecution, notice of the intention shall be given to the prosecution at least 28 days prior to—

- (a) the scheduled date of the start of the trial,
- (b) the scheduled date of a preliminary trial hearing (within the meaning of *Part 2* of the *Criminal Procedure Act 2021*), where the defence intends to call the expert witness or adduce the expert evidence, as the case may be, at that hearing, or
- (c) such earlier date as the court may direct.”,

and

- (b) in subsection (5), by the substitution of the following paragraph for paragraph (b)—

- “(b) where notice was not given within the period specified in paragraph (a), (b) or (c), as the case may be, of subsection (2)—
 - (i) it would not, in all the circumstances of the case, have been reasonably possible for the defence to have done so, or
 - (ii) it is otherwise necessary in the interests of justice that the expert witness give evidence or the expert evidence be adduced,or”.