
STATUTORY INSTRUMENTS

1999 No. 2789

The Criminal Evidence (Northern Ireland) Order 1999

PART V

COMPETENCE OF WITNESSES AND CAPACITY TO BE SWORN

Giving of sworn or unsworn evidence

Determining whether witness to be sworn

33.—(1) Any question whether a witness in criminal proceedings may be sworn for the purpose of giving evidence on oath, whether raised—

- (a) by a party to the proceedings, or
- (b) by the court of its own motion,

shall be determined by the court in accordance with this Article.

(2) The witness may not be sworn for that purpose unless—

- (a) he has attained the age of 14, and
- (b) he has a sufficient appreciation of the solemnity of the occasion and of the particular responsibility to tell the truth which is involved in taking an oath.

(3) The witness shall, if he is able to give intelligible testimony, be presumed to have a sufficient appreciation of those matters if no evidence tending to show the contrary is adduced (by any party).

(4) If any such evidence is adduced, it is for the party seeking to have the witness sworn to satisfy the court that, on a balance of probabilities, the witness has attained the age of 14 and has a sufficient appreciation of the matters mentioned in paragraph (2)(b).

(5) Any proceedings held for the determination of the question mentioned in paragraph (1) shall take place in the absence of the jury (if there is one).

(6) Expert evidence may be received on the question.

(7) Any questioning of the witness (where the court considers that necessary) shall be conducted by the court in the presence of the parties.

(8) For the purposes of this Article a person is able to give intelligible testimony if he is able to—

- (a) understand questions put to him as a witness, and
- (b) give answers to them which can be understood.