



# Law Reform (Miscellaneous Provisions) (Scotland) Act 1990

## 1990 CHAPTER 40

### PART IV

#### MISCELLANEOUS REFORMS

PROSPECTIVE

#### *Evidence by children in criminal trials*

#### **56 Evidence of children through television link in criminal proceedings.**

- (1) Subject to subsections (2) and (3) below, where a child has been [<sup>F1</sup>or is likely to be] cited to give evidence in a trial, the court may, on an application being made to it, authorise the giving of evidence by the child by means of a live television link.
- (2) The court may grant an application under subsection (1) above only on cause shown having regard in particular to—
  - (a) the possible effect on the child if required to give evidence, no such application having been granted; <sup>F2</sup> . . .
  - (b) whether it is likely that the child would be better able to give evidence if such application were granted [<sup>F3</sup>; and
  - (c) the views of the child.]
- (3) In considering whether to grant an application under subsection (1) above, the court may take into account, where appropriate, any of the following—
  - (a) the age and maturity of the child;
  - (b) the nature of the alleged offence;
  - (c) the nature of the evidence which the child is likely to be called on to give; and
  - (d) the relationship, if any, between the child and the accused.

*Status: Point in time view as at 31/03/1996.*

*Changes to legislation: Law Reform (Miscellaneous Provisions) (Scotland) Act 1990, Cross Heading: Evidence by children in criminal trials is up to date with all changes known to be in force on or before 14 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Textual Amendments

- F1 Words in s. 56(1) inserted (31.3.1996) by 1995 c. 20, s. 117(1), Sch. 6 paras. 174, **175(a)**; S.I. 1996/517, **art. 3(2)**
- F2 Word in s. 56(2) repealed (31.3.1996) by 1995 c. 20, s. 117(1)(2), Sch. 6 paras. 174, 175(b)(i), **Sch. 7 Pt. I**; S.I. 1996/517, **art. 3(2)**
- F3 S. 56(c) and the preceding “and” inserted (31.3.1996) by 1995 c. 20, s. 117(1), Sch. 6 paras. 174, **175(b)(ii)**; S.I. 1996/517, **art. 3(2)**

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

- C1 S. 56(2)(3) applied (1.1.1994) by 1993 c. 9, s. 35 (with s. 47(2), Sch. 6 paras. 1, 2); S.I. 1993/2050, **art. 3(5)**.

#### Commencement Information

- I1 S. 56 wholly in force at 3.4.1995; s. 56 not in force at Royal Assent see s. 75(2); s. 56 in force for certain purposes at 30.9.1991 by S.I. 1991/2151, **art. 3, Sch.**; s. 56 in force at 3.4.1995 in so far as not already in force by 1995/364, art. 2

### 57 Transfer of cases in which child’s evidence is to be given through television link.

- (1) Where a sheriff to whom an application has been made under section 56 of this Act would have granted the application but for the lack of accommodation or equipment necessary to achieve the purpose of the application, he may by order transfer the case to any sheriff court which has such accommodation and equipment available, being a sheriff court in the same sheriffdom.
- (2) The sheriff court to which a case is transferred under this section shall be deemed to have granted an application under that section in relation to the case.

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

- C2 S. 57 applied (1.1.1994) by 1993 c. 9, s.35 (with s. 47(2), Sch. 6 paras. 1, 2); S.I. 1993/2050, **art. 3(5)**.

#### Commencement Information

- I2 S. 57 wholly in force at 3.4.1995; s. 57 not in force at Royal Assent see 75(2); s. 57 in force for certain purposes at 30.9.1991 by S.I. 1991/2151, **art. 3, Sch.**; s. 57 in force at 3.4.1995 in so far as not already in force by S.I. 1995/364, **art. 2**

### 58 Identification of accused by child.

Where a court has, or is deemed to have, granted an application made under section 56 of this Act in relation to a child<sup>F4</sup> . . . , and the child gives evidence that he recalls having identified, prior to the trial, a person alleged to have committed an offence, the evidence of a third party as to the identification of that person by the child prior to the trial shall be admissible as evidence as to such identification.

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#### Textual Amendments

- F4** Words in s. 58 repealed (31.3.1996) by 1995 c. 20, s. 117(1)(2), Sch. 6 paras. 174, 176, **Sch. 7 Pt. I**; S.I. 1996/517, **art. 3(2)**

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

- C3** S. 58 applied (1.1.1994) by 1993 c. 9, s. 35 (with s. 47(2), Sch. 6 paras. 1, 2); S.I. 1993/2050, **art. 3(5)**.

#### Commencement Information

- I3** S. 58 wholly in force 3.4.1997; s. 58 not in force at Royal Assent see 75(2); s. 58 in force for certain purposes at 30.9.1991 by S.I. 1991/2151, **art. 3**, **Sch.**; s. 58 in force at 3.4.1995 in so far as not already in force by S.I. 1995/364, **art. 2**

## 59 Interpretation of sections 56, 57 and 58.

In sections 56, 57 and 58 of this Act, unless the contrary intention appears—  
“child” means a person under the age of 16 years;  
“court” means the High Court of Justiciary or the sheriff court; and  
“trial” means a trial under solemn or under summary procedure.

#### Commencement Information

- I4** S. 59 wholly in force 3.4.1995; s. 59 not in force at Royal Assent see s. 75(2); s. 59 in force for certain purposes at 30.9.1991 by S.I. 1991/2151, **art. 3**, **Sch.**; s. 59 in force at 3.4.1995 in so far as not already in force by 1995/364, art. 2

**Status:**

Point in time view as at 31/03/1996.

**Changes to legislation:**

Law Reform (Miscellaneous Provisions) (Scotland) Act 1990, Cross Heading: Evidence by children in criminal trials is up to date with all changes known to be in force on or before 14 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.