

These notes refer to the Youth Justice and Criminal Evidence Act 1999 (c.23) which received Royal Assent on 27 July 1999

YOUTH JUSTICE AND CRIMINAL EVIDENCE ACT 1999

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part II: Giving of evidence or information for purposes of criminal proceedings

Chapter I: Special Measures directions in case of vulnerable or intimidated witnesses

Section 19: Special measures direction relating to an eligible witness

88. This section describes what courts must consider when they decide, on application from either the prosecution or the defence, or of their own accord, whether special measures might be appropriate for a witness. They must consider:
- whether the witness is eligible for special measures under section 16 or 17; and
 - if the witness is eligible, whether any of the special measures available would improve the witness's evidence (*subsection (2)*) in the circumstances of the case and, if so, which ones. The circumstances of the case include the witness's own views and the possibility that the measures might tend to inhibit the evidence being tested effectively.
89. Any direction must give detailed instruction about where, when and how the measures specified should be provided (*subsection (4)*).
- 90 The inherent discretion of the court to offer these or other measures to witnesses who do not qualify as eligible (such as defendants), or who need measures for reasons other than age, incapacity, fear or distress, is not affected (*subsection (6)*).