

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 20: Further provisions about directions: general

91. This section makes special measures directions binding until the end of the trial, although courts can alter or discharge a direction if it seems to be in the interests of justice to do so.
92. Either party can apply for the direction to be altered or discharged, but it must show that there has been a significant change of circumstances since the court made the direction or since an application for it to be altered was last made.
93. This provision is intended to create some certainty for witnesses, by encouraging the party calling the witness (ie, the prosecution or the defence) to make applications for special measures as early as possible and by preventing re-applications on grounds the court has already found unpersuasive.
94. Special measures directions can be made before the trial begins, at a Plea and Directions Hearing in the Crown Court, or another pre-trial hearing. Special measures directions might also be made if, witnesses were called at a *Newton* hearing (to settle the factual basis upon which sentence will be passed after a guilty plea), and new directions would be needed for a retrial or appeal.
95. *Subsection (5)* is intended to ensure that there is a record of the court's reasons for giving, altering or discharging a direction or refusing an application. This is intended to include, for example, the court's reasons for deciding that a witness is ineligible for help. The reasons should be recorded so that it is clear to everyone involved in the case what decision has been made and why it was made.
96. It is intended to use the rule-making powers in *subsection (6)*:
 - to enable applications that are not contested by the other side to be decided by the court without a hearing;
 - to prevent the renewal of an unsuccessful application under this section except where there has been a material change of circumstances;
 - so that expert witnesses can give evidence about whether a witness will benefit from special measures (courts can hear evidence from non-expert witnesses on such subjects under their existing discretion);

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

- to govern the way that confidential and sensitive information connected with applications for special measures is dealt with.