



Coroners and Justice Act 2009

2009 CHAPTER 25

PART 3

CRIMINAL EVIDENCE, INVESTIGATIONS AND PROCEDURE

CHAPTER 3

VULNERABLE AND INTIMIDATED WITNESSES

Special measures for vulnerable and intimidated witnesses

100 Special measures directions for child witnesses

- (1) Section 21 of the Youth Justice and Criminal Evidence Act 1999 (c. 23) (special provisions relating to child witnesses) is amended in accordance with subsections (2) to (7).
- (2) In subsection (1) (definitions), omit paragraph (b) (child witnesses in need of special protection) (but not the “and” following it).
- (3) In subsection (2) (determining contents of direction), for “(7)” substitute “(4C)”.
- (4) In subsection (4) (limitations on primary rule)—
 - (a) omit the “and” at the end of paragraph (b), and
 - (b) after paragraph (b) insert—
 - “(ba) if the witness informs the court of the witness's wish that the rule should not apply or should apply only in part, the rule does not apply to the extent that the court is satisfied that not complying with the rule would not diminish the quality of the witness's evidence; and”.
- (5) After subsection (4) insert—

Changes to legislation: *Coroners and Justice Act 2009, Section 100 is up to date with all changes known to be in force on or before 05 April 2024. 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) View outstanding changes*

“(4A) Where as a consequence of all or part of the primary rule being disapplied under subsection (4)(ba) a witness's evidence or any part of it would fall to be given as testimony in court, the court must give a special measures direction making such provision as is described in section 23 for the evidence or that part of it.

- (4B) The requirement in subsection (4A) is subject to the following limitations—
- (a) if the witness informs the court of the witness's wish that the requirement in subsection (4A) should not apply, the requirement does not apply to the extent that the court is satisfied that not complying with it would not diminish the quality of the witness's evidence; and
 - (b) the requirement does not apply to the extent that the court is satisfied that making such a provision would not be likely to maximise the quality of the witness's evidence so far as practicable (whether because the application to that evidence of one or more other special measures available in relation to the witness would have that result or for any other reason).”

(6) After subsection (4B) (inserted by subsection (5)) insert—

- “(4C) In making a decision under subsection (4)(ba) or (4B)(a), the court must take into account the following factors (and any others it considers relevant)—
- (a) the age and maturity of the witness;
 - (b) the ability of the witness to understand the consequences of giving evidence otherwise than in accordance with the requirements in subsection (3) or (as the case may be) in accordance with the requirement in subsection (4A);
 - (c) the relationship (if any) between the witness and the accused;
 - (d) the witness's social and cultural background and ethnic origins;
 - (e) the nature and alleged circumstances of the offence to which the proceedings relate.”

(7) Omit subsections (5) to (7).

(8) In section 22 of that Act (extension of provisions of section 21)—

- (a) in subsection (1), omit paragraph (b) (but not the “and” following it), and
- (b) for subsection (2) substitute—

“(2) Subsections (2) to (4) and (4C) of section 21, so far as relating to the giving of a direction complying with the requirement contained in section 21(3)(a), apply to a qualifying witness in respect of the relevant recording as they apply to a child witness (within the meaning of that section).”

Commencement Information

II S. 100 in force at 27.6.2011 by S.I. 2011/1452, art. 2(a)

Changes to legislation:

Coroners and Justice Act 2009, Section 100 is up to date with all changes known to be in force on or before 05 April 2024. 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.

[View outstanding changes](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 11A and cross-heading inserted by [2023 c. 41 Sch. 11 para. 1\(1\)](#)
- Sch. 1A inserted by [2023 c. 41 Sch. 11 para. 1\(2\)](#)