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Children and Young Persons Act 1933

1933 CHAPTER 12 23 and 24 Geo 5

PART III

PROTECTION OF CHILDREN AND YOUNG PERSONS IN
RELATION TO CRIMINAL AND SUMMARY PROCEEDINGS

General Provisions as to Proceedings in Court

36 Prohibition against children being present in court during the trial of other persons.

No child (other than an infant in arms) shall be permitted to be present in court during the trial of any other person charged with an offence, or during any proceedings preliminary thereto, except during such time as his presence is required as a witness or otherwise for the purposes of justice [^{F1}or while the court consents to his presence]; and any child present in court when under this section he is not to be permitted to be so shall be ordered to be removed:

^{F2} . . .

Textual Amendments

- F1** Words in s. 36 inserted (27.9.1999) by 1999 c. 22, ss. 73(1), 108(3)(b) (with Sch. 14 para. 7(2))
- F2** Proviso to s. 36 repealed (27.9.1999) by 1999 c. 22, ss. 106, 108(3)(f), Sch. 15 Pt. III (with Sch. 14 paras. 7(2), 36(9)); S.I. 1999/2657, art. 2(d)(iii)

37 Power to clear court while child or young person is giving evidence in certain cases.

- (1) Where, in any proceedings in relation to an offence against, or any conduct contrary to, decency or morality, a person who, in the opinion of the court, is a child or young person is called as a witness, the court may direct that all or any persons, not being members or officers of the court or parties to the case, their [^{F3}legal representatives],

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or persons otherwise directly concerned in the case, be excluded from the court during the taking of the evidence of that witness:

Provided that nothing in this section shall authorise the exclusion of bonâ fide representatives of a newspaper or news agency.

- (2) The powers conferred on a court by this section shall be in addition and without prejudice to any other powers of the court to hear proceedings in camerâ.

Textual Amendments

- F3** Words in s. 37(1) substituted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), ss. 208, 211, [Sch. 21 para. 16](#) (with ss. 29, 192, 193); S.I. 2009/3250, [art. 2\(h\)](#) (with art. 9)

38 Evidence of child of tender years.

^{F4}(1)

- (2) If any child whose evidence is received [^{F5}unsworn in any proceedings for an offence by virtue of section 52 of the Criminal Justice Act 1991]wilfully gives false evidence in such circumstances that he would, if the evidence had been given on oath, have been guilty of perjury, he shall be liable on summary conviction to be dealt with as if he had been summarily convicted of an indictable offence punishable in the case of an adult with imprisonment.

Textual Amendments

- F4** S. 38(1) repealed (1.10.1992) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), ss. 52(2), 101(2), [Sch.13](#); S.I. 1992/333, [art. 2\(2\)](#), [Sch. 2](#)
- F5** Words in s. 38(2) substituted (1.10.1992) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), ss. 100, [Sch. 11 para.1](#); S.I. 1992/333, [art. 2\(2\)](#), [Sch. 2](#)

39 Power to prohibit publication of certain matter^{F6}

- (1) In relation to any proceedings [^{F7}, other than criminal proceedings,] in any court . . . ^{F8}, the court may direct that [^{F9}the following may not be included in a publication] —

- (a) ^{F10}...the name, address or school ^{F11}... of any child or young person concerned in the proceedings, either as being the person [^{F12}by or against] or in respect of whom the proceedings are taken, or as being a witness therein:

[^{F13}(aa) any particulars calculated to lead to the identification of a child or young person so concerned in the proceedings;]

- (b) [^{F14}a picture that is or includes] a picture of any child or young person so concerned in the proceedings ^{F15}...;

except in so far (if at all) as may be permitted by the direction of the court.

- (2) Any person who [^{F16}includes matter in a publication] in contravention of any such direction shall on summary conviction be liable in respect of each offence to a fine not exceeding [^{F17}level 5 on the standard scale].

[^{F18}(3) In this section—

“publication” includes any speech, writing, relevant programme or other communication in whatever form, which is addressed to the public at large

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or any section of the public (and for this purpose every relevant programme shall be taken to be so addressed), but does not include a document prepared for use in particular legal proceedings;

“relevant programme” means a programme included in a programme service within the meaning of the Broadcasting Act 1990.]

Textual Amendments

- F6** Words in s. 39 heading omitted (13.4.2015) by virtue of Criminal Justice and Courts Act 2015 (c. 2), **ss. 79(8), 95(1)**; S.I. 2015/778, art. 3, Sch. 1 para. 64 (with Sch. 2 para. 5)
- F7** Words in s. 39(1) inserted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 79(2)(a), 95(1)** (with s. 79(12)(13)); S.I. 2015/778, art. 3, Sch. 1 para. 64 (with Sch. 2 para. 5)
- F8** Words repealed by Children and Young Persons Act 1963 (c. 37), s. 64, **Sch. 5**
- F9** Words in s. 39(1) inserted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 79(2)(b), 95(1)**; S.I. 2015/778, art. 3, Sch. 1 para. 64 (with Sch. 2 para. 5)
- F10** Words in s. 39(1)(a) omitted (13.4.2015) by virtue of Criminal Justice and Courts Act 2015 (c. 2), **ss. 79(3)(a), 95(1)**; S.I. 2015/778, art. 3, Sch. 1 para. 64 (with Sch. 2 para. 5)
- F11** Words in s. 39(1)(a) omitted (13.4.2015) by virtue of Criminal Justice and Courts Act 2015 (c. 2), **ss. 79(3)(b), 95(1)**; S.I. 2015/778, art. 3, Sch. 1 para. 64 (with Sch. 2 para. 5)
- F12** Words substituted by Children and Young Persons Act 1963 (c. 37), s. 57(1)
- F13** S. 39(1)(aa) inserted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 79(4), 95(1)**; S.I. 2015/778, art. 3, Sch. 1 para. 64 (with Sch. 2 para. 5)
- F14** Words in s. 39(1)(b) substituted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 79(5)(a), 95(1)**; S.I. 2015/778, art. 3, Sch. 1 para. 64 (with Sch. 2 para. 5)
- F15** Words in s. 39(1)(b) omitted (13.4.2015) by virtue of Criminal Justice and Courts Act 2015 (c. 2), **ss. 79(5)(b), 95(1)**; S.I. 2015/778, art. 3, Sch. 1 para. 64 (with Sch. 2 para. 5)
- F16** Words in s. 39(2) substituted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 79(6), 95(1)**; S.I. 2015/778, art. 3, Sch. 1 para. 64 (with Sch. 2 para. 5)
- F17** Words substituted by virtue of Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38, 46**
- F18** S. 39(3) inserted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 79(7), 95(1)**; S.I. 2015/778, art. 3, Sch. 1 para. 64 (with Sch. 2 para. 5)

Modifications etc. (not altering text)

- C1** S. 39 extended by Children and Young Persons Act 1963 (c. 37), s. 57(3)(4) (as amended (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 79(10), 95(1)**; S.I. 2015/778, art. 3, Sch. 1 para. 64 (with **Sch. 2 para. 5**))
- C2** S. 39 extended with modifications by Cable and Broadcasting Act 1984 (c. 46, SIF 96), s. 57(1), **Sch. 5 para. 4(3)**
- C3** S. 39 applied (31.8.2009 for specified purposes, 1.4.2010 for specified purposes, 1.11.2010 for specified purposes) by Violent Crime Reduction Act 2006 (c. 38), **ss. 11(8)(b)(10), 66(2)**; S.I. 2009/1840, art. 3(c); S.I. 2010/469, arts. 3(c), 4, Sch.; S.I. 2010/2541, arts. 3(b), 4, Sch.
- C4** S. 39 applied (1.4.2010 for specified purposes, 1.11.2010 for specified purposes) by Violent Crime Reduction Act 2006 (c. 38), **ss. 7(9)(b), 66(2)**; S.I. 2010/469, arts. 2(b), 4, Sch.; S.I. 2010/2541, arts. 2(b), 4, Sch.
- C5** S. 39 applied (20.10.2014) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), **ss. 23(8)(b), 185(1)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2590, art. 3(a)
- C6** S. 39 applied (1.12.2020) by Sentencing Act 2020 (c. 17), **ss. 332(8)(b), 416(1)** (with ss. 2, 398(1), 406, Sch. 27); S.I. 2020/1236, reg. 2

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[^{F19}**39A Prohibition on publication of certain matters: providers of information society services**

Schedule 1A makes special provision in connection with the operation of section 39 in relation to persons providing information society services.]

Textual Amendments

F19 S. 39A inserted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), ss. 79(9), 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 64 (with Sch. 2 para. 5)

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