



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

Special Procedure with regard to Offences specified in First Schedule

^{F1}40

Textual Amendments

F1 S. 40 repealed (E.W.) (14. 10. 1991) by [Children Act 1989 \(c. 41, SIF 20\)](#), s. 108(4)(6)(7), Sch. 12 para. 3, [Sch.15](#) (with [Sch. 14 para. 27\(4\)](#)); S.I. 1991/828, [art. 3\(2\)](#).

41 Power to proceed with case in absence of child or young person.

Where in any proceedings with relation to any of the offences mentioned in the First Schedule to this Act, the court is satisfied that the attendance before the court of any child or young person in respect of whom the offence is alleged to have been committed is not essential to the just hearing of the case, the case may be proceeded with and determined in the absence of the child or young person.

42 Extension of power to take deposition of child or young person.

- (1) Where a justice of the peace is satisfied by the evidence of a duly qualified medical practitioner that the attendance before a court of any child or young person in respect of whom any of the offences mentioned in the First Schedule to this Act is alleged to have been committed would involve serious danger to his life or health, the justice may take in writing the deposition of the child or young person on oath, and shall thereupon subscribe the deposition and add thereto a statement of his reason for taking

Changes to legislation: Children and Young Persons Act 1933, Cross Heading: Special Procedure with regard to Offences specified in First Schedule is up to date with all changes known to be in force on or before 18 March 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

it and of the day when and place where it was taken, and of the names of the persons (if any) present at the taking thereof.

- (2) The justice taking any such deposition shall transmit it with his statement—
- (a) if the deposition relates to an offence for which any accused person is already [^{F2}sent] for trial, to the proper officer of the court for the trial at which the accused person has been [^{F2}sent; and
 - (b) in any other case, to the [^{F3}proper officer] of the court before which proceedings are pending in respect of the offence.]

Textual Amendments

- F2** Word in s. 42(2)(a) substituted (9.5.2005 for specified purposes, 18.6.2012 for specified purposes, 28.5.2013 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), Sch. 3 para. 33; [S.I. 2005/1267](#), art. 2(1)(2)(a), Sch. Pt. 1; [S.I. 2012/1320](#), art. 4(1)(c)(2)(3) (with art. 5) (see [S.I. 2012/2574](#), art. 4(2) and [S.I. 2013/1103](#), art. 4); [S.I. 2013/1103](#), art. 2(1)(c)(2)(3) (with arts. 3, 4)
- F3** Words in s. 42(2)(b) substituted (1.4.2001) by [1999 c. 22, s. 90\(1\)](#), [Sch. 13 paras. 8, 9](#) (with [Sch. 14 para. 7\(2\)](#)); [S.I. 2001/916](#), [art. 2\(a\)\(ii\)](#) (with [Sch. 2 para. 2](#))

43 Admission of deposition of child or young person in evidence.

Where, in any proceedings in respect of any of the offences mentioned in the First Schedule of this Act, the court is satisfied by the evidence of a duly qualified medical practitioner that the attendance before the court of any child or young person in respect of whom the offence is alleged to have been committed would involve serious danger to his life or health, any deposition of the child or young person taken under the ^{M1}Indictable Offences Act 1848, or this Part of this Act, shall be admissible in evidence either for or against the accused person without further proof thereof if it purports to be signed by the justice by or before whom it purports to be taken:

Provided that the deposition shall not be admissible in evidence against the accused person unless it is proved that reasonable notice of the intention to take the deposition has been served upon him and that he or his [^{F4}legal representative] had, or might have had if he had chosen to be present, an opportunity of cross-examining the child or young person making the deposition.

Textual Amendments

- F4** Words in s. 43 substituted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), ss. 208, 211, [Sch. 21 para. 17](#) (with ss. 29, 192, 193); [S.I. 2009/3250](#), [art. 2\(h\)](#) (with art. 9)

Marginal Citations

- M1** 1848 c. 42.

Changes to legislation:

Children and Young Persons Act 1933, Cross Heading: Special Procedure with regard to Offences specified in First Schedule is up to date with all changes known to be in force on or before 18 March 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. 12D(1A)-(1F) inserted by [2017 anaw 2 s. 51](#)
- s. 39(2A) inserted by [2010 c. 26 Sch. 3 para. 3](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 3 Pt. 2 repealed (4.9.2013) without ever being in force by [2013 c. 22](#), s. 17(4) ; S.I. 2013/2200 art. 2(a))
- s. 49(12)-(14) inserted by [1999 c. 23 Sch. 2 para. 3\(9\)](#)