



Criminal Justice and Courts Act 2015

2015 CHAPTER 2

PART 3

COURTS AND TRIBUNALS

Reporting restrictions

78 Lifetime reporting restrictions in criminal proceedings for witnesses and victims under 18

- (1) The Youth Justice and Criminal Evidence Act 1999 is amended as follows.
- (2) After section 45 (power to restrict reporting of criminal proceedings involving persons under 18) insert—

“45A Power to restrict reporting of criminal proceedings for lifetime of witnesses and victims under 18

- (1) This section applies in relation to—
 - (a) any criminal proceedings in any court (other than a service court) in England and Wales, and
 - (b) any proceedings (whether in the United Kingdom or elsewhere) in any service court.
- (2) The court may make a direction (“a reporting direction”) that no matter relating to a person mentioned in subsection (3) shall during that person’s lifetime be included in any publication if it is likely to lead members of the public to identify that person as being concerned in the proceedings.
- (3) A reporting direction may be made only in respect of a person who is under the age of 18 when the proceedings commence and who is—
 - (a) a witness, other than an accused, in the proceedings;
 - (b) a person against whom the offence, which is the subject of the proceedings, is alleged to have been committed.

Changes to legislation: There are currently no known outstanding effects for the Criminal Justice and Courts Act 2015, Section 78. (See end of Document for details)

- (4) For the purposes of subsection (2), matters relating to a person in respect of whom the reporting direction is made include—
- (a) the person's name,
 - (b) the person's address,
 - (c) the identity of any school or other educational establishment attended by the person,
 - (d) the identity of any place of work of the person, and
 - (e) any still or moving picture of the person.
- (5) The court may make a reporting direction in respect of a person only if it is satisfied that—
- (a) the quality of any evidence given by the person, or
 - (b) the level of co-operation given by the person to any party to the proceedings in connection with that party's preparation of its case,
- is likely to be diminished by reason of fear or distress on the part of the person in connection with being identified by members of the public as a person concerned in the proceedings.
- (6) In determining whether subsection (5) is satisfied, the court must in particular take into account—
- (a) the nature and alleged circumstances of the offence to which the proceedings relate;
 - (b) the age of the person;
 - (c) such of the following as appear to the court to be relevant—
 - (i) the social and cultural background and ethnic origins of the person,
 - (ii) the domestic, educational and employment circumstances of the person, and
 - (iii) any religious beliefs or political opinions of the person;
 - (d) any behaviour towards the person on the part of—
 - (i) an accused,
 - (ii) members of the family or associates of an accused, or
 - (iii) any other person who is likely to be an accused or a witness in the proceedings.
- (7) In determining that question the court must in addition consider any views expressed—
- (a) by the person in respect of whom the reporting restriction may be made, and
 - (b) where that person is under the age of 16, by an appropriate person other than an accused.
- (8) In determining whether to make a reporting direction in respect of a person, the court must have regard to—
- (a) the welfare of that person,
 - (b) whether it would be in the interests of justice to make the direction, and
 - (c) the public interest in avoiding the imposition of a substantial and unreasonable restriction on the reporting of the proceedings.

Changes to legislation: There are currently no known outstanding effects for the Criminal Justice and Courts Act 2015, Section 78. (See end of Document for details)

- (9) A reporting direction may be revoked by the court or an appellate court.
- (10) The court or an appellate court may by direction (“an excepting direction”) dispense, to any extent specified in the excepting direction, with the restrictions imposed by a reporting direction.
- (11) The court or an appellate court may only make an excepting direction if—
- (a) it is satisfied that it is necessary in the interests of justice to do so, or
 - (b) it is satisfied that—
 - (i) the effect of the reporting direction is to impose a substantial and unreasonable restriction on the reporting of the proceedings, and
 - (ii) it is in the public interest to remove or relax that restriction.
- (12) No excepting direction shall be given under subsection (11)(b) by reason only of the fact that the proceedings have been determined in any way or have been abandoned.
- (13) In determining whether to make an excepting direction in respect of a person, the court or the appellate court must have regard to the welfare of that person.
- (14) An excepting direction—
- (a) may be given at the time the reporting direction is given or subsequently, and
 - (b) may be varied or revoked by the court or an appellate court.
- (15) For the purposes of this section—
- (a) criminal proceedings in a court other than a service court commence when proceedings are instituted for the purposes of Part 1 of the Prosecution of Offences Act 1985, in accordance with section 15(2) of that Act;
 - (b) proceedings in a service court commence when the charge is brought under section 122 of the Armed Forces Act 2006.
- (16) In this section—
- (a) “appellate court”, in relation to any proceedings in a court, means a court dealing with an appeal (including an appeal by way of case stated) arising out of the proceedings or with any further appeal;
 - (b) “appropriate person” has the same meaning as in section 50;
 - (c) references to the quality of evidence given by a person are to its quality in terms of completeness, coherence and accuracy (and for this purpose “coherence” refers to a person’s ability in giving evidence to give answers which address the questions put to the person and can be understood both individually and collectively);
 - (d) references to the preparation of the case of a party to any proceedings include, where the party is the prosecution, the carrying out of investigations into any offence at any time charged in the proceedings.”
- (3) In section 49 (offences under Chapter 4)—
- (a) after subsection (1) insert—

“(1A) This section also applies—

Changes to legislation: There are currently no known outstanding effects for the Criminal Justice and Courts Act 2015, Section 78. (See end of Document for details)

- (a) in England and Wales, Scotland and Northern Ireland, if a publication includes any matter in contravention of a direction under section 45A(2) made by a service court;
- (b) in England and Wales, if a publication includes any matter in contravention of a direction under section 45A(2) made by a court other than a service court.”, and

(b) at the end insert—

“(7) Schedule 2A makes special provision in connection with the operation of this section, so far as it relates to a publication that includes matter in contravention of a direction under section 45A(2), in relation to persons providing information society services.”

(4) In section 50 (defences)—

(a) after subsection (6) insert—

“(6A) Where—

- (a) a person is charged with an offence under section 49, and
- (b) the offence relates to the inclusion of any matter in a publication in contravention of a direction under section 45A(2),

it shall be a defence, unless subsection (6B) or (8) applies, to prove that the person in relation to whom the direction was given had given written consent to the inclusion of that matter in the publication.

(6B) Written consent is not a defence by virtue of subsection (6A) if the person was under the age of 18 at the time the consent was given.”, and

(b) in subsection (8), after “defence” insert “ by virtue of subsections (5) to (7) ”.

Commencement Information

II S. 78 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 63

Changes to legislation:

There are currently no known outstanding effects for the Criminal Justice and Courts Act 2015, Section 78.