



# Criminal Justice Act 1988

## 1988 CHAPTER 33

### PART III

#### OTHER PROVISIONS ABOUT EVIDENCE IN CRIMINAL PROCEEDINGS

**F1** 29 .....

#### Textual Amendments

**F1** S. 29 repealed (10.6.1991) by [Criminal Justice \(International Co-operation\) Act 1990 \(c. 5, SIF 39:1\)](#), s. 31(3), [Sch. 5](#); S.I. 1991/1072, art. 2(a), [Schedule Pt. I](#)

#### **30** Expert reports.

- (1) An expert report shall be admissible as evidence in criminal proceedings, whether or not the person making it attends to give oral evidence in those proceedings.
- (2) If it is proposed that the person making the report shall not give oral evidence, the report shall only be admissible with the leave of the court.
- (3) For the purpose of determining whether to give leave the court shall have regard—
  - (a) to the contents of the report;
  - (b) to the reasons why it is proposed that the person making the report shall not give oral evidence;
  - (c) to any risk, having regard in particular to whether it is likely to be possible to controvert statements in the report if the person making it does not attend to give oral evidence in the proceedings, that its admission or exclusion will result in unfairness to the accused or, if there is more than one, to any of them; and
  - (d) to any other circumstances that appear to the court to be relevant.

*Status: Point in time view as at 09/01/1995.*

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- (4) An expert report, when admitted, shall be evidence of any fact or opinion of which the person making it could have given oral evidence.
- (5) In this section “expert report” means a written report by a person dealing wholly or mainly with matters on which he is (or would if living be) qualified to give expert evidence.

### **31 Form of evidence and glossaries.**

For the purpose of helping members of juries to understand complicated issues of fact or technical terms Crown Court Rules may make provision—

- (a) as to the furnishing of evidence in any form, notwithstanding the existence of admissible material from which the evidence to be given in that form would be derived; and
  - (b) as to the furnishing of glossaries for such purposes as may be specified;
- in any case where the court gives leave for, or requires, evidence or a glossary to be so furnished.

### **32 Evidence through television links.**

- (1) A person other than the accused may give evidence through a live television link [<sup>F2</sup>in proceedings to which subsection (1A) below applies] if—
  - (a) the witness is outside the United Kingdom; or
  - [<sup>F3</sup>(b) the witness is a child, or is to be cross-examined following the admission under section 32A below of a video recording of testimony from him, and the offence is one to which subsection (2) below applies,]
 but evidence may not be so given without the leave of the court.

[<sup>F4</sup>(1A) This subsection applies—

- (a) to trials on indictment, appeals to the criminal division of the Court of Appeal and hearings of references under section 17 of the Criminal Appeal Act 1968; and
  - (b) to proceedings in youth courts and appeals to the Crown Court arising out of such proceedings.]
- (2) This subsection applies—
    - (a) to an offence which involves an assault on, or injury or a threat of injury to, a person;
    - (b) to an offence under section 1 of the <sup>M1</sup>Children and Young Persons Act 1933 (cruelty to persons under 16);
    - (c) to an offence under the <sup>M2</sup>Sexual Offences Act 1956, the <sup>M3</sup>Indecency with Children Act 1960, the <sup>M4</sup>Sexual Offences Act 1967, section 54 of the <sup>M5</sup>Criminal Law Act 1977 or the <sup>M6</sup>Protection of Children Act 1978; and
    - (d) to an offence which consists of attempting or conspiring to commit, or of aiding, abetting, counselling, procuring or inciting the commission of, an offence falling within paragraph (a), (b) or (c) above.
  - (3) A statement made on oath by a witness outside the United Kingdom and given in evidence through a link by virtue of this section shall be treated for the purposes of section 1 of the <sup>M7</sup>Perjury Act 1911 as having been made in the proceedings in which it is given in evidence.

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- [<sup>F5</sup>(3A) Where, in the case of any proceedings before a youth court—
- (a) leave is given by virtue of subsection (1)(b) above for evidence to be given through a television link; and
  - (b) suitable facilities for receiving such evidence are not available at any petty-sessional court-house in which the court can (apart from this subsection) lawfully sit,
- the court may sit for the purposes of the whole or any part of those proceedings at any place at which such facilities are available and which has been appointed for the purposes of this subsection by the justices acting for the petty sessions area for which the court acts.
- (3B) A place appointed under subsection (3) above may be outside the petty sessions area for which it is appointed; but it shall be deemed to be in that area for the purpose of the jurisdiction of the justices acting for that area.]
- (4) Without prejudice to the generality of any enactment conferring power to make rules to which this subsection applies, such rules may make such provision as appears to the authority making them to be necessary or expedient for the purposes of this section.
- (5) The rules to which subsection (4) above applies are— [<sup>F6</sup> Magistrates' Courts Rules, Crown Court Rules and Criminal Appeal Rules]
- [<sup>F7</sup>(6) Subsection (7) of section 32A below shall apply for the purposes of this section as it applies for the purposes of that section, but with the omission of the references to a person being, in the cases there mentioned, under the age of fifteen years or under the age of eighteen years.]

#### Textual Amendments

- F2** Words in s. 32(1) substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 55(2)(a); S.I. 1992/333, art. 2(2), **Sch. 2**.
- F3** S. 32(1)(b) substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 55(2)(b); S.I. 1992/333, art.2(2), **Sch. 2**.
- F4** S. 32(1A) inserted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 55(3); S.I. 1992/333, art. 2(2), **Sch.2**.
- F5** S. 32(3A)(3B) inserted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 55(4); S.I. 1992/333, art. 2(2), **Sch. 2**.
- F6** Words in s. 32(5) substituted (1.10.1992) for paras. (a) and (b) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 55(5); S.I. 1992/333, art. 2(2), **Sch.2**.
- F7** S. 32(6) inserted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 55(6); S.I. 1992/333, art. 2(2), **Sch. 2**.

#### Modifications etc. (not altering text)

- C1** S. 32(1)(1)(b)(2)(a)-(c)(3) applied (with modifications) (8.3.1993) by S.I. 1993/244, **art.2**

#### Commencement Information

- I1** S. 32 partly in force; s. 32 not in force at Royal Assent see s. 171; s. 32 except subsections (1)(a)(3) in force at 5.1.1989 by 1988/2073, art. 2, Sch.

#### Marginal Citations

- M1** 1933 c. 12.  
**M2** 1956 c. 69.

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<b>M3</b>	1960 c. 33.
<b>M4</b>	1967 c. 60.
<b>M5</b>	1977 c. 45.
<b>M6</b>	1978 c. 37.
<b>M7</b>	1911 c. 6.

**[32A] <sup>F8</sup>Video recordings of testimony from child witnesses.**

- (1) This section applies in relation to the following proceedings, namely—
  - (a) trials on indictment for any offence to which section 32(2) above applies;
  - (b) appeals to the criminal division of the Court of Appeal and hearings of references under section 17 of the Criminal Appeal Act 1968 in respect of any such offence; and
  - (c) proceedings in youth courts for any such offence and appeals to the Crown Court arising out of such proceedings.
  
- (2) In any such proceedings a video recording of an interview which—
  - (a) is conducted between an adult and a child who is not the accused or one of the accused (“the child witness”); and
  - (b) relates to any matter in issue in the proceedings,
 may, with the leave of the court, be given in evidence in so far as it is not excluded by the court under subsection (3) below.
  
- (3) Where a video recording is tendered in evidence under this section, the court shall (subject to the exercise of any power of the court to exclude evidence which is otherwise admissible) give leave under subsection (2) above unless—
  - (a) it appears that the child witness will not be available for cross-examination;
  - (b) any rules of court requiring disclosure of the circumstances in which the recording was made have not been complied with to the satisfaction of the court; or
  - (c) the court is of the opinion, having regard to all the circumstances of the case, that in the interests of justice the recording ought not to be admitted;
 and where the court gives such leave it may, if it is of the opinion that in the interests of justice any part of the recording ought not to be admitted, direct that that part shall be excluded.
  
- (4) In considering whether any part of a recording ought to be excluded under subsection (3) above, the court shall consider whether any prejudice to the accused, or one of the accused, which might result from the admission of that part is outweighed by the desirability of showing the whole, or substantially the whole, of the recorded interview.
  
- (5) Where a video recording is admitted under this section—
  - (a) the child witness shall be called by the party who tendered it in evidence;
  - (b) that witness shall not be examined in chief on any matter which, in the opinion of the court, has been dealt with in his recorded testimony.
  
- (6) Where a video recording is given in evidence under this section, any statement made by the child witness which is disclosed by the recording shall be treated as if given by that witness in direct oral testimony; and accordingly—

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- (a) any such statement shall be admissible evidence of any fact of which such testimony from him would be admissible;
- (b) no such statement shall be capable of corroborating any other evidence given by him;

and in estimating the weight, if any, to be attached to such a statement, regard shall be had to all the circumstances from which any inference can reasonably be drawn (as to its accuracy or otherwise).

- (7) In this section “child” means a person who—
- (a) in the case of an offence falling within section 32(2)(a) or (b) above, is under fourteen years of age or, if he was under that age when the video recording was made, is under fifteen years of age; or
  - (b) in the case of an offence falling within section 32(2)(c) above, is under seventeen years of age or, if he was under that age when the video recording was made, is under eighteen years of age.
- (8) Any reference in subsection (7) above to an offence falling within paragraph (a), (b) or (c) of section 32(2) above includes a reference to an offence which consists of attempting or conspiring to commit, or of aiding, abetting, counselling, procuring or inciting the commission of, an offence falling within that paragraph.
- (9) In this section—
- “statement” includes any representation of fact, whether made in words or otherwise;
  - “video recording” means any recording, on any medium, from which a moving image may by any means be produced and includes the accompanying sound-track.
- (10) A magistrates’ court inquiring into an offence as examining justices under section 6 of the Magistrates’ Courts Act 1980 may consider any video recording as respects which leave under subsection (2) above is to be sought at the trial, notwithstanding that the child witness is not called at the committal proceedings.
- (11) Without prejudice to the generality of any enactment conferring power to make rules of court, such rules may make such provision as appears to the authority making them to be necessary or expedient for the purposes of this section.
- (12) Nothing in this section shall prejudice the admissibility of any video recording which would be admissible apart from this section.]

#### Textual Amendments

**F8** S. 32A inserted (1.10.1992) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), [s.54](#); [S.I. 1992/333](#), [art. 2\(2\)](#), [Sch.2](#).

### 33 Evidence of persons under 14 in committal proceedings.

The following section shall be substituted for section 103 of the <sup>M8</sup>Magistrates’ Courts Act 1980—

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**“103 Evidence of persons under 14 in committal proceedings for assault, sexual offences etc.**

- (1) In any proceedings before a magistrates’ court inquiring into an offence to which this section applies as examining justices—
- (a) a child shall not be called as a witness for the prosecution; but
  - (b) any statement made by or taken from a child shall be admissible in evidence of any matter of which his oral testimony would be admissible,
- except in a case where the application of this subsection is excluded under subsection (3) below.
- (2) This section applies—
- (a) to an offence which involves an assault, or injury or a threat of injury to, a person;
  - (b) to an offence under section 1 of the Children and Young Persons Act 1933 (cruelty to persons under 16);
  - (c) to an offence under the Sexual Offences Act 1956, the Indecency with Children Act 1960, the Sexual Offences Act 1967, section 54 of the Criminal Law Act 1977 or the Protection of Children Act 1978; and
  - (d) to an offence which consists of attempting or conspiring to commit, or of aiding, abetting, counselling, procuring or inciting the commission of, an offence falling within paragraph (a), (b) or (c) above.
- (3) The application of subsection (1) above is excluded—
- (a) where at or before the time when the statement is tendered in evidence the defence objects to its admission; or
  - (b) where the prosecution requires the attendance of the child for the purpose of establishing the identity of any person; or
  - (c) where the court is satisfied that it has not been possible to obtain from the child a statement that may be given in evidence under this section; or
  - (d) where the inquiry into the offence takes place after the court has discontinued to try it summarily and the child has given evidence in the summary trial.
- (4) Section 28 above shall not apply to any statement admitted in pursuance of subsection (1) above.
- (5) In this section “child” means a person under the age of 14.”.

**Marginal Citations**

**M8** 1980 c. 43.

**[33A** <sup>F9</sup> **Evidence given by children.**

- (1) A child’s evidence in criminal proceedings shall be given unsworn.

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- (2) A deposition of a child’s unsworn evidence may be taken for the purposes of criminal proceedings as if that evidence had been given on oath.
- (3) In this section “child” means a person under fourteen years of age.]

**Textual Amendments**

**F9** S. 33A inserted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 52(1); S.I. 1992/333, art. 2(2), Sch. 2.

**34 Abolition of requirement of corroboration for unsworn evidence of children.**

<sup>F10</sup>(1) . . . . .

- (2) Any requirement whereby at a trial on indictment it is obligatory for the court to give the jury a warning about convicting the accused on the uncorroborated evidence of a child is abrogated in relation to cases where such a warning is required by reason only that the evidence is the evidence of a child.
- (3) Unsworn evidence admitted by virtue of [<sup>F11</sup> section 52 of the Criminal Justice Act 1991] may corroborate evidence (sworn or unsworn) given by any other person.

**Textual Amendments**

**F10** S. 34(1) repealed (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 100, 101(2), Sch. 11 para. 37, Sch.13; S.I. 1992/333, art. 2(2), Sch. 2.  
**F11** Words in s. 34(3) substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 100, Sch. 11 para.37; S.I. 1992/333, art. 2(2), Sch. 2.

**[34A <sup>F12</sup>Cross-examination of alleged child victims.**

- (1) No person who is charged with an offence to which section 32(2) above applies shall cross-examine in person any witness who—
  - (a) is alleged—
    - (i) to be a person against whom the offence was committed; or
    - (ii) to have witnessed the commission of the offence; and
  - (b) is a child, or is to be cross-examined following the admission under section 32A above of a video recording of testimony from him.
- (2) Subsection (7) of section 32A above shall apply for the purposes of this section as it applies for the purposes of that section, but with the omission of the references to a person being, in the cases there mentioned, under the age of fifteen years or under the age of eighteen years.]

**Textual Amendments**

**F12** S. 34A inserted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 55(7); S.I. 1992/333, art. 2(2), Sch.2.

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**Modifications etc. (not altering text)**

**C2** [S. 34A](#) applied (with modifications) (4.11.1996) by [S.I. 1996/2592](#), [art. 2](#), [Sch.](#)



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