Crime and Disorder Act 1998

1998 CHAPTER 37

[F1PART 3A

[F2LIVE LINKS FOR ACCUSED'S ATTENDANCE AT CERTAIN PRELIMINARY [F3, SENTENCING AND OTHER] HEARINGS][F2LIVE LINKS IN PRELIMINARY, SENTENCING & ENFORCEMENT HEARINGS]

Textual Amendments

F1 Pt. 3A substituted (15.1.2007 for specified purposes, 1.4.2007 for specified purposes, 14.11.2008 for specified purposes, 3.10.2011 for specified purposes, 8.10.2012 in so far as not already in force) by Police and Justice Act 2006 (c. 48), ss. 45, 53(1); S.I. 2006/3364, art. 2(g) (with art. 4); S.I. 2007/709, art. 3(n) (with art. 6); S.I. 2008/2785, art. 2; S.I. 2011/2144, art. 2(1)(a); S.I. 2012/2373, art. 2(a)

F2 Pt. 3A heading substituted (temp.) (25.3.2020) by virtue of Coronavirus Act 2020 (c. 7), s. 87(1), **Sch. 24 para. 1(2)** (with ss. 88-90)

F3 Words in Pt. 3A title substituted (14.12.2009) by Coroners and Justice Act 2009 (c. 25), **ss. 109(3)**, 182(5) (with s. 180, Sch. 22); S.I. 2009/3253, **art. 2(b)**

57A Introductory

[This Part applies to—

F4(1A) (a) preliminary hearings and sentencing hearings in the course of proceedings for an offence, and

(b) enforcement hearings.]

(3) In this Part—

[F7"bail" includes remand to local authority accommodation in accordance with Chapter 3 of Part 3 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012;]

[F8[F9"confiscation order" means an order made under—

(a) section 71 of the Criminal Justice Act 1988;

(b) section 2 of the Drug Trafficking Act 1994; or

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Changes to legislation: *Crime and Disorder Act 1998, Part 3A is up to date with all changes known to be in force on or before 10 August 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)*

(c) section 6 of the Proceeds of Crime Act 2002;", and**]]**

[[F9]"custody"—

(a) includes local authority accommodation **[**[F10] or youth detention accommodation to which a person is remanded under section 91 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012**]**; but

(b) does not include police detention;**]**

[[F11]**[**[F12]"enforcement hearing" means a hearing under section 82 of the Magistrates' Courts Act 1980 to consider the issuing of a warrant of committal or to inquire into a person's means;**]]**

[[F12]"enforcement hearing" means a hearing relating to collection, discharge, satisfaction or enforcement of—

(a) a sum that has been adjudged to be paid on conviction by a magistrates' court or the Crown Court, or

(b) a financial penalty that is enforceable in accordance with section 85(6) and (7) of the Criminal Justice and Immigration Act 2008 as if it were such a sum (including a hearing to determine whether a financial penalty is so enforceable);**]**

[[F13]"live link" means an arrangement by which a person (when not in the place where the hearing is being held) is able to see and hear, and to be seen and heard by, the court during a hearing (and for this purpose any impairment of eyesight or hearing is to be disregarded);**]**

[[F13]"police detention" has the meaning given by section 118(2) of the Police and Criminal Evidence Act 1984;**]**

"preliminary hearing" means a hearing in the proceedings held before the start of the trial (within the meaning of subsection (11A) or (11B) of section 22 of the 1985 Act) including, in the case of proceedings in the Crown Court, a preparatory hearing held under—

(a) section 7 of the Criminal Justice Act 1987 (cases of serious or complex fraud); or

(b) section 29 of the Criminal Procedure and Investigations Act 1996 (other serious, complex or lengthy cases);

[[F14]"relevant youth offending team", in relation to a case where—

(a) the accused, the offender or the person liable to pay the sum or financial penalty has not attained the age of 18 years, or

(b) the accused or the offender has attained the age of 18 years since proceedings for the offence were begun, and the court has decided to continue to deal with the case as if he or she had not attained that age,

means the youth offending team (established under section 39) whose functions are exercisable in relation to the accused, the offender or the person liable to pay the sum or financial penalty;**]**

"sentencing hearing" means any hearing following conviction which is held for the purpose of—

(a) **[**[F15]proceedings relating to the giving or rescinding of a direction under section 57E;**]**

(b) proceedings (in a magistrates' court) relating to committal to the Crown Court for sentencing; **[**[F16]or**]**

(c) sentencing the offender or determining how the court should deal with him in respect of the **[**[F17]offence.**][**[F17]offence (including reviewing, amending or revoking such a sentence or determination); or**]**

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Changes to legislation: *Crime and Disorder Act 1998, Part 3A is up to date with all changes known to be in force on or before 10 August 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)*

(d) **[**[F18]determining—

(i) how the offender has complied with a sentence given in respect of the offence, or

(ii) how the offender should be dealt with in respect of compliance with such a sentence;

and here "sentence" includes any way in which a court has determined that the offender should be dealt with in respect of the offence.**]**

[A reference to a person taking part in a hearing includes—

[F19](4) (a) giving evidence in the hearing, and

(b) attending the hearing when not giving evidence.

(5) A "live audio link", in relation to a person (P) taking part in a hearing, is a live telephone link or other arrangement which—

(a) enables P to hear all other persons taking part in the hearing who are not in the same location as P, and

(b) enables all other persons taking part in the hearing who are not in the same location as P to hear P.

(6) A hearing is conducted wholly as an audio hearing if—

(a) directions have been given under section 57B, 57E or 57F for all of the persons taking part in the hearing to do so through a live audio link, and

(b) all of those persons take part in the hearing in accordance with those directions.

(7) A "live video link", in relation to a person (P) taking part in a hearing, is a live television link or other arrangement which—

(a) enables P to see and hear all other persons taking part in the hearing who are not in the same location as P, and

(b) enables all other persons taking part in the hearing who are not in the same location as P to see and hear P.

(8) A hearing is conducted wholly as a video hearing if—

(a) directions have been given, whether under section 57B, 57E or 57F or any other power, for all of the persons taking part in the hearing to do so through a live video link, and

(b) all of those persons take part in the hearing in accordance with those directions.

(9) The following matters are to be disregarded for the purposes of subsections (5) and (7)—

(a) the extent (if any) to which a person is unable to see or hear by reason of any impairment of eyesight or hearing;

(b) the effect of any direction or order which provides for one person taking part in a hearing to be prevented by means of a screen or other arrangement from seeing another person taking part in the hearing.

(10) Subsections (4) to (9) apply for the purposes of this Part.

(11) Nothing in this Part is to be regarded as affecting any power of a court—

(a) to make an order, give directions or give leave of any description in relation to any witness (including the accused), or

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(b) to exclude evidence at its discretion (whether by preventing questions being put or otherwise).**]**

Textual Amendments

F4 S. 57A(1A) substituted for s. 57A(1)(2) (temp.) (25.3.2020) by virtue of Coronavirus Act 2020 (c. 7), s. 87(1), **Sch. 24 para. 2(2)** (with ss. 88-90)

F5 Words in s. 57A(1)(a) inserted (14.12.2009) by Coroners and Justice Act 2009 (c. 25), **ss. 109(2)(a)(i)**, 182(5) (with s. 180, Sch. 22); S.I. 2009/3253, **art. 2(b)**

F6 Words in s. 57A(1)(b) substituted (14.12.2009) by Coroners and Justice Act 2009 (c. 25), **ss. 109(2)(a)(ii)**, 182(5) (with s. 180, Sch. 22); S.I. 2009/3253, **art. 2(b)**

F7 Words in s. 57A(3) inserted (temp.) (25.3.2020) by virtue of Coronavirus Act 2020 (c. 7), s. 87(1), **Sch. 24 para. 2(3)(a)** (with ss. 88-90)

F8 S. 57A(3): definition of "confiscation order" inserted (14.12.2009) by Coroners and Justice Act 2009 (c. 25), **ss. 109(2)(b)**, 182(5) (with s. 180, Sch. 22); S.I. 2009/3253, **art. 2(b)**

F9 Words in s. 57A(3) omitted (temp.) (25.3.2020) by virtue of Coronavirus Act 2020 (c. 7), s. 87(1), **Sch. 24 para. 2(3)(b)** (with ss. 88-90)

F10 Words in s. 57A(3) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 12 para. 39**; S.I. 2012/2906, art. 2(j) (with art. 7(2)(3))

F11 S. 57A(3): definition of "enforcement hearing" inserted (14.12.2009) by Coroners and Justice Act 2009 (c. 25), **ss. 109(2)(b)**, 182(5) (with s. 180, Sch. 22); S.I. 2009/3253, **art. 2(b)**

F12 Words in s. 57A(3) substituted (temp.) (25.3.2020) by virtue of Coronavirus Act 2020 (c. 7), s. 87(1), **Sch. 24 para. 2(3)(c)** (with ss. 88-90)

F13 Words in s. 57A(3) omitted (temp.) (25.3.2020) by virtue of Coronavirus Act 2020 (c. 7), s. 87(1), **Sch. 24 para. 2(3)(d)** (with ss. 88-90)

F14 Words in s. 57A(3) inserted (temp.) (25.3.2020) by virtue of Coronavirus Act 2020 (c. 7), s. 87(1), **Sch. 24 para. 2(3)(e)** (with ss. 88-90)

F15 Words in s. 57A(3) omitted (temp.) (25.3.2020) by virtue of Coronavirus Act 2020 (c. 7), s. 87(1), **Sch. 24 para. 2(3)(f)(i)** (with ss. 88-90)

F16 Word in s. 57A(3) omitted (temp.) (25.3.2020) by virtue of Coronavirus Act 2020 (c. 7), s. 87(1), **Sch. 24 para. 2(3)(f)(ii)** (with ss. 88-90)

F17 Words in s. 57A(3) substituted (temp.) (25.3.2020) by virtue of Coronavirus Act 2020 (c. 7), s. 87(1), **Sch. 24 para. 2(3)(f)(iii)** (with ss. 88-90)

F18 Words in s. 57A(3) inserted (temp.) (25.3.2020) by virtue of Coronavirus Act 2020 (c. 7), s. 87(1), **Sch. 24 para. 2(3)(f)(iv)** (with ss. 88-90)

F19 S. 57A(4)-(11) inserted (temp.) (25.3.2020) by virtue of Coronavirus Act 2020 (c. 7), s. 87(1), **Sch. 24 para. 2(4)** (with ss. 88-90)

57B Use of live link at preliminary hearings [F20where accused is in custody]

(1) This section applies in relation to a preliminary hearing in a magistrates' court or the Crown Court.

F21(2) **[** The court may, by a direction (a “live link direction”), require or permit a person to take part in the preliminary hearing through—

(a) a live audio link, or

(b) a live video link.

(3) But the court may not give a direction for a person to take part in a preliminary hearing through a live audio link or a live video link unless—

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(a) the court is satisfied that it is in the interests of justice for the person concerned to take part in the preliminary hearing in accordance with the direction through the live audio link or through the live video link,

(b) the parties to the preliminary hearing have been given the opportunity to make representations,

(c) the relevant youth offending team has been given the opportunity to make representations, if it is a case where—

(i) the accused has not attained the age of 18 years, or

(ii) the accused has attained the age of 18 years since proceedings for the offence were begun, and the court has decided to continue to deal with the case as if he or she had not attained that age.

(3A) A direction under this section—

(a) may be given by the court of its own motion or on an application by a party; and

(b) may be given in relation to all subsequent preliminary hearings before the court or to such hearing or hearings as may be specified or described in the direction.

(3B) The power to give a live link direction under this section includes power to give—

(a) a direction for a judge or justice to take part in a preliminary hearing through a live audio link or a live video link;

(b) a direction that is applicable to several, or all, of the persons participating in a particular preliminary hearing;

(c) a direction that is applicable to a particular person in respect of only some aspects of a particular preliminary hearing (such as giving evidence or attending the hearing when not giving evidence);

(d) a direction for a person who is outside England and Wales (whether in the United Kingdom or elsewhere) to take part in a preliminary hearing through a live audio link or a live video link.

(3C) The power of the court to give a direction under this section is subject to Schedule 3A (prohibitions and limitations on use of live links).

(3D) The court may vary a live link direction under this section; and the provisions of this section and Schedule 3A that apply to the giving of such a direction also apply to the variation of such a direction.

(3E) The court may rescind a live link direction under this section at any time before or during the preliminary hearing to which it relates (but this does not affect the court‘s power to give a further live link direction in relation to the hearing).

(3F) A live link direction under this section may not be rescinded unless—

(a) the court is satisfied that it is in the interests of justice for the direction to be rescinded,

(b) the parties to the preliminary hearing have been given the opportunity to make representations,

(c) the relevant youth offending team has been given the opportunity to make representations, if it is a case where—

(i) the accused has not attained the age of 18 years, or

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(ii) the accused has attained the age of 18 years since proceedings for the offence were begun, and the court has decided to continue to deal with the case as if he or she had not attained that age.

(3G) A live link direction under this section may be varied or rescinded by the court of its own motion or on an application by a party; but such an application may not be made unless there has been a material change of circumstances since the direction was given.

(3H) If a hearing takes place in relation to the giving or rescinding of a live link direction under this section, the court may require or permit a person to take part in that hearing through—

(a) a live audio link, or

(b) a live video link.

(3I) In deciding whether to give or rescind a direction under this section the court must consider all the circumstances of the case.

(3J) Those circumstances include in particular—

(a) in the case of a direction relating to a witness—

(i) the importance of the witness's evidence to the hearing;

(ii) whether a direction might tend to inhibit any party from effectively testing the witness's evidence;

(b) in the case of a direction relating to any participant in the hearing—

(i) the availability of the person;

(ii) the need for the person to attend in person;

(iii) the views of the person;

(iv) the suitability of the facilities at the place where the person would take part in the hearing in accordance with the direction;

(v) whether the person will be able to take part in the hearing effectively if he or she takes part in accordance with the direction.**]**

[[F22](4) If a hearing takes place in relation to the giving or rescinding of such a direction, the court may require or permit a person attending the hearing to do so through a live link.**]**

[[F22](5) The court shall not give or rescind such a direction (whether at a hearing or otherwise) unless the parties to the proceedings have been given the opportunity to make representations.**]**

(6) If in a case where it has power to do so a magistrates' court decides not to give a live link direction under this section, it must—

(a) state in open court its reasons for not doing so; and

(b) cause those reasons to be entered in the register of its proceedings.

[F23](7) **[** The following functions of a magistrates' court under this section may be discharged by a single justice—

(a) giving a live link direction under this section;

(b) rescinding a live link direction before a preliminary hearing begins; and

(c) requiring or permitting a person to attend by live link a hearing about a matter within paragraph (a) or (b).**]**

[F24](8) **[** A court may not refuse or revoke bail for a person (P) at a preliminary hearing if—

(a) any person takes part in the hearing — other than for the purpose of giving evidence — through a live audio link, and

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(b) P objects to the refusal or revocation.

(9) If any person takes part in a preliminary hearing— other than for the purpose of giving evidence — through a live audio link, the court may not—

(a) accept a guilty plea, or

(b) deal with a person for contempt of court (including enquiring into conduct and imposing punishment).**]**

Textual Amendments

F20 Words in s. 57B heading omitted (temp.) (25.3.2020) by virtue of Coronavirus Act 2020 (c. 7), s. 87(1), **Sch. 24 para. 3(2)** (with ss. 88-90)

F21 S. 57B(2)-(3J) substituted for s. 57B(2)(3) (temp.) (25.3.2020) by virtue of Coronavirus Act 2020 (c. 7), s. 87(1), **Sch. 24 para. 3(3)** (with ss. 88-90)

F22 S. 57B(4)(5) omitted (temp.) (25.3.2020) by virtue of Coronavirus Act 2020 (c. 7), s. 87(1), **Sch. 24 para. 3(4)** (with ss. 88-90)

F23 S. 57B(7) added (14.12.2009) by Coroners and Justice Act 2009 (c. 25), **ss. 106(2)**, 182(5) (with s. 180, Sch. 22); S.I. 2009/3253, **art. 2(a)(i)** (with art. 4(1))

F24 S. 57B(8)(9) inserted (temp.) (25.3.2020) by virtue of Coronavirus Act 2020 (c. 7), s. 87(1), **Sch. 24 para. 3(5)** (with ss. 88-90)

[F25 57C Use of live link at preliminary hearings where accused is at police station

(1) This section applies in relation to a preliminary hearing in a magistrates' court.

(2) Where subsection (3) or (4) applies to the accused, the court may give a live link direction in relation to his attendance at the preliminary hearing.

(3) This subsection applies to the accused if—

(a) he is in police detention at a police station in connection with the offence; and

(b) it appears to the court that he is likely to remain at that station in police detention until the beginning of the preliminary hearing.

(4) This subsection applies to the accused if he is at a police station in answer to live link bail in connection with the offence.

(5) A live link direction under this section is a direction requiring the accused to attend the preliminary hearing through a live link from the police station.

(6) But a direction given in relation to an accused to whom subsection (3) applies has no effect if he does not remain in police detention at the police station until the beginning of the preliminary hearing.

[F26 (6A) A live link direction under this section may not be given unless the court is satisfied that it is not contrary to the interests of justice to give the direction.**]**

F27 (7) . . . . . .

(8) A magistrates' court may rescind a live link direction under this section at any time F28 . . . during a hearing to which it relates.

(9) A magistrates' court may require or permit—

F29 (a) . . . . . .

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(b) any party to the proceedings who wishes to make representations in relation to the giving or rescission of a live link direction under this section to do so through a live link.

(10) Where a live link direction under this section is given in relation to an accused person who is answering to live link bail he is to be treated as having surrendered to the custody of the court (as from the time when the direction is given).

(11) In this section, "live link bail" means bail granted under Part 4 of the Police and Criminal Evidence Act 1984 subject to the duty mentioned in section 47(3)(b) of that Act.**]**

Textual Amendments

F25 S. 57C omitted (temp.) (25.3.2020) by virtue of Coronavirus Act 2020 (c. 7), s. 87(1), **Sch. 24 para. 3(6)** (with ss. 88-90)

F26 S. 57C(6A) inserted (14.12.2009 for specified purposes, 3.10.2011 for specified purposes, 8.10.2012 in so far as not already in force) by Coroners and Justice Act 2009 (c. 25), ss. 106(3)(a), 182(5) (with s. 180); S.I. 2009/3253, art. 3(1)(a) (with art. 4); S.I. 2011/2148, art. 2; S.I. 2012/2374, art. 3(a)

F27 S. 57C(7) repealed (14.12.2009 for specified purposes, 6.4.2010 for specified purposes, 3.10.2011 for specified purposes, 8.10.2012 in so far as not already in force) by Coroners and Justice Act 2009 (c. 25), ss. 106(3)(b), 182(5), **Sch. 23 Pt. 3** (with s. 180); S.I. 2009/3253, art. 3(1)(a) (with art. 4); S.I. 2010/816, art. 4; S.I. 2011/2148, art. 2; S.I. 2012/2374, art. 3(a)(e)

F28 Words in s. 57C(8) repealed (14.12.2009 for specified purposes, 6.4.2010 for specified purposes, 3.10.2011 for specified purposes, 8.10.2012 in so far as not already in force) by Coroners and Justice Act 2009 (c. 25), ss. 106(3)(c), 182(5), Sch. 23 Pt. 3 (with s. 180); S.I. 2009/3253, art. 3(1)(a) (with art. 4); S.I. 2010/816, art. 4; S.I. 2011/2148, art. 2; S.I. 2012/2374, art. 3(a)(e)

F29 S. 57C(9)(a) repealed (14.12.2009 for specified purposes, 6.4.2010 for specified purposes, 3.10.2011 for specified purposes, 8.10.2012 in so far as not already in force) by Coroners and Justice Act 2009 (c. 25), ss. 106(3)(d), 182(5), **Sch. 23 Pt. 3** (with s. 180); S.I. 2009/3253, art. 3(1)(a) (with art. 4); S.I. 2010/816, art. 4; S.I. 2011/2148, art. 2; S.I. 2012/2374, art. 3(a)(e)

[F30 57D Continued use of live link for sentencing hearing following a preliminary hearing

(1) Subsection (2) applies where—

(a) a live link direction under section 57B or 57C is in force;

(b) the accused is attending a preliminary hearing through a live link by virtue of the direction;

(c) the court convicts him of the offence in the course of that hearing (whether by virtue of a guilty plea or an indication of an intention to plead guilty); and

(d) the court proposes to continue the hearing as a sentencing hearing in relation to the offence.

(2) The accused may continue to attend through the live link by virtue of the direction if—

(a) the hearing is continued as a sentencing hearing in relation to the offence;

F31(b) . . . . . ; and

(c) the court is satisfied that **[**F32the accused continuing to attend through the live link is not contrary to the interests of justice.**]**

(3) But the accused may not give oral evidence through the live link during a continued hearing under subsection (2) unless—

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[F33](a) . . . . . .

(b) the court is satisfied that it is not contrary to the interests of justice for him to give it in that way.**]**

Textual Amendments

F30 S. 57D omitted (temp.) (25.3.2020) by virtue of Coronavirus Act 2020 (c. 7), s. 87(1), **Sch. 24 para. 3(6)** (with ss. 88-90)

F31 S. 57D(2)(b) repealed (14.12.2009) by Coroners and Justice Act 2009 (c. 25), ss. 106(4)(a)(i), 178, 182(5), **Sch. 23 Pt. 3**; S.I. 2009/3253, **art. 2(a)(ii)**; S.I. 2010/816, **art. 2**, Sch. para. 22(a)(i)

F32 Words in s. 57D(2)(c) substituted (14.12.2009) by Coroners and Justice Act 2009 (c. 25), **ss. 106(4)(a)(ii)**, 182(5) (with s. 180, Sch. 22); S.I. 2009/3253, **art. 2(a)(ii)**

F33 S. 57D(3)(a) and word repealed (14.12.2009) by Coroners and Justice Act 2009 (c. 25), ss. 106(4)(b), 178, 182(5), **Sch. 23 Pt. 3**; S.I. 2009/3253, **art. 2(a)(ii)**; S.I. 2010/816, **art. 2**, Sch. para. 22(a)(i)

57E Use of live link in sentencing hearings

[The court may, by a direction (a "live link direction"), require or permit a person to [F34](1) take part in a sentencing hearing through—

(a) a live audio link, or

(b) a live video link.

(2) But the court may not give a direction for a person to take part in a sentencing hearing through a live audio link or a live video link unless—

(a) the court is satisfied that it is in the interests of justice for the person concerned to take part in the sentencing hearing in accordance with the direction through the live audio link or through the live video link,

(b) the parties to the sentencing hearing have been given the opportunity to make representations, and

(c) the relevant youth offending team has been given the opportunity to make representations, if it is a case where—

(i) the offender has not attained the age of 18 years, or

(ii) the offender has attained the age of 18 years since proceedings for the offence were begun, and the court has decided to continue to deal with the case as if he or she had not attained that age.**]**

(4) **[**[F35]Such a direction**][**[F35]A live link direction under this section**]**—

(a) may be given by the court of its own motion or on an application by a party; and

(b) may be given in relation to all subsequent sentencing hearings before the court or to such hearing or hearings as may be specified or described in the direction.

[The power to give a live link direction under this section includes power to give—

[F36](4A) (a) a direction for a judge or justice to take part in a sentencing hearing through a live audio link or a live video link;

(b) a direction that is applicable to several, or all, of the persons participating in a particular sentencing hearing;

(c) a direction that is applicable to a particular person in respect of only some aspects of a particular sentencing hearing (such as giving evidence or attending the hearing when not giving evidence);

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(d) a direction for a person who is outside England and Wales (whether in the United Kingdom or elsewhere) to take part in a sentencing hearing through a live audio link or a live video link.

(4B) The power of the court to give a direction under this section is subject to Schedule 3A (prohibitions and limitations on use of live links).

(4C) The court may vary a live link direction under this section; and the provisions of this section and Schedule 3A that apply to the giving of such a direction also apply to the variation of such a direction.**]**

[[F37](5) The court may not give such a direction unless—

(a) [F38]. . . . . .

(b) the court is satisfied that it is not contrary to the interests of justice to give the direction.**]**

(6) The court may rescind such a direction at any time before or during a hearing to which it relates **[**[F39]if it appears to the court to be in the interests of justice to do so **]**(but this does not affect the court's power to give a further live link direction in relation to the **[**[F40]offender**][**[F40]hearing **]**).

[[F41]The court may exercise this power of its own motion or on an application by a party.**]**

[F42]**[** A live link direction under this section may not be rescinded unless—

(6A) (a) the court is satisfied that it is in the interests of justice for the direction to be rescinded,

(b) the parties to the sentencing hearing have been given the opportunity to make representations, and

(c) the relevant youth offending team has been given the opportunity to make representations, if it is a case where—

(i) the offender has not attained the age of 18 years, or

(ii) the offender has attained the age of 18 years since proceedings for the offence were begun, and the court has decided to continue to deal with the case as if he or she had not attained that age.

(6B) A live link direction under this section may be varied or rescinded by the court of its own motion or on an application by a party; but such an application may not be made unless there has been a material change of circumstances since the direction was given.

(6C) If a hearing takes place in relation to the giving or rescinding of a live link direction under this section, the court may require or permit a person to take part in that hearing through—

(a) a live audio link, or

(b) a live video link.

(6D) In deciding whether to give or rescind a direction under this section the court must consider all the circumstances of the case.

(6E) Those circumstances include in particular—

(a) in the case of a direction relating to a witness—

(i) the importance of the witness's evidence to the hearing;

(ii) whether a direction might tend to inhibit any party from effectively testing the witness's evidence;

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(b) in the case of a direction relating to any participant in the hearing—
(i) the availability of the person;
(ii) the need for the person to attend in person;
(iii) the views of the person;
(iv) the suitability of the facilities at the place where the person would take part in the hearing in accordance with the direction;
(v) whether the person will be able to take part in the hearing effectively if he or she takes part in accordance with the direction.**]**

[[F43](7) The offender may not give oral evidence while attending a hearing through a live link by virtue of this section unless—
(a) [F44]. . . . . .
(b) the court is satisfied that it is not contrary to the interests of justice for him to give it in that way.**]**

(8) The court must—
(a) state in open court its reasons for refusing an application for, or for the rescission of, a live link direction under this section; and
(b) if it is a magistrates' court, cause those reasons to be entered in the register of its proceedings.

[The following functions of a magistrates' court under this section may be discharged [F45](9) by a single justice—
(a) giving a live link direction under this section;
(b) rescinding a live link direction before a sentencing hearing begins; and
(c) requiring or permitting a person to attend by live link a hearing about a matter within paragraph (a) or (b).**]**

Textual Amendments

F34 S. 57E(1)(2) substituted for s. 57E(1)-(3) (temp.) (25.3.2020) by virtue of Coronavirus Act 2020 (c. 7), s. 87(1), **Sch. 24 para. 4(2)** (with ss. 88-90)

F35 Words in s. 57E(4) substituted (temp.) (25.3.2020) by virtue of Coronavirus Act 2020 (c. 7), s. 87(1), **Sch. 24 para. 4(3)** (with ss. 88-90)

F36 S. 57E(4A)-(4C) inserted (temp.) (25.3.2020) by virtue of Coronavirus Act 2020 (c. 7), s. 87(1), **Sch. 24 para. 4(4)** (with ss. 88-90)

F37 S. 57E(5) omitted (temp.) (25.3.2020) by virtue of Coronavirus Act 2020 (c. 7), s. 87(1), **Sch. 24 para. 4(5)** (with ss. 88-90)

F38 S. 57E(5)(a) and word repealed (14.12.2009) by Coroners and Justice Act 2009 (c. 25), ss. 106(5)(a), 178, 182(5), **Sch. 23 Pt. 3**; S.I. 2009/3253, **art. 2(a)(ii)**; S.I. 2010/816, **art. 2**, Sch. para. 22(a)(i)

F39 Words in s. 57E(6) omitted (temp.) (25.3.2020) by virtue of Coronavirus Act 2020 (c. 7), s. 87(1), **Sch. 24 para. 4(6)(a)** (with ss. 88-90)

F40 Word in s. 57E(6) substituted (temp.) (25.3.2020) by virtue of Coronavirus Act 2020 (c. 7), s. 87(1), **Sch. 24 para. 4(6)(b)** (with ss. 88-90)

F41 Words in s. 57E(6) omitted (temp.) (25.3.2020) by virtue of Coronavirus Act 2020 (c. 7), s. 87(1), **Sch. 24 para. 4(6)(c)** (with ss. 88-90)

F42 S. 57E(6A)-(6E) inserted (temp.) (25.3.2020) by virtue of Coronavirus Act 2020 (c. 7), s. 87(1), **Sch. 24 para. 4(7)** (with ss. 88-90)

F43 S. 57E(7) omitted (temp.) (25.3.2020) by virtue of Coronavirus Act 2020 (c. 7), s. 87(1), **Sch. 24 para. 4(8)** (with ss. 88-90)

F44 S. 57E(7)(a) and word repealed (14.12.2009) by Coroners and Justice Act 2009 (c. 25), ss. 106(5)(b), 178, 182(5), **Sch. 23 Pt. 3**; S.I. 2009/3253, **art. 2(a)(ii)**; S.I. 2010/816, **art. 2**, Sch. para. 22(a)(i)

F45 S. 57E(9) inserted (temp.) (25.3.2020) by virtue of Coronavirus Act 2020 (c. 7), s. 87(1), **Sch. 24 para. 4(9)** (with ss. 88-90)

Modifications etc. (not altering text)

C1 S. 57E applied (15.1.2007) by Serious Organised Crime and Police Act 2005 (c. 15), **s. 75A** (as inserted by Police and Justice Act 2006 (c. 48), ss. 52, 53(1), **Sch. 14 para. 62**; S.I. 2006/3364, art. 2(k) (with art. 4) (as amended by S.I. 2007/29, **art. 2**))

C2 S. 57E applied (1.12.2020) by Sentencing Act 2020 (c. 17), **ss. 391**, 416(1) (with ss. 2, 398(1), 406, Sch. 27); S.I. 2020/1236, reg. 2

[F46 57F Use of live link in [F47certain] enforcement hearings

[The court may, by a direction (a "live link direction"), require or permit a person to

F48(1) take part in an enforcement hearing through—

(a) a live audio link, or

(b) a live video link.

(2) But the court may not give a direction for a person to take part in an enforcement hearing through a live audio link or a live video link unless—

(a) the court is satisfied that it is in the interests of justice for the person concerned to take part in the enforcement hearing in accordance with the direction through the live audio link or through the live video link,

(b) the parties to the enforcement hearing have been given the opportunity to make representations, and

(c) the relevant youth offending team has been given the opportunity to make representations, if it is a case where the person liable to pay the sum or financial penalty has not attained the age of 18 years and is a party to the hearing.**]**

(4) **[**F49Such a direction**][**F49A live link direction under this section**]**—

(a) may be given by the court of its own motion or on an application by a party; and

(b) may be given in relation to all subsequent enforcement hearings before the court or to such hearing or hearings as may be specified or described in the direction.

[The power to give a live link direction under this section includes power to give—

F50(4A)

(a) a direction for a judge or justice to take part in an enforcement hearing through a live audio link or a live video link;

(b) a direction that is applicable to several, or all, of the persons participating in a particular enforcement hearing;

(c) a direction that is applicable to a particular person in respect of only some aspects of a particular enforcement hearing (such as giving evidence or attending the hearing when not giving evidence);

(d) a direction for a person who is outside England and Wales (whether in the United Kingdom or elsewhere) to take part in an enforcement hearing through a live audio link or a live video link.

(4B) The power of the court to give a direction under this section is subject to Schedule 3A (prohibitions and limitations on use of live links).

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(4C) The court may vary a live link direction under this section; and the provisions of this section and Schedule 3A that apply to the giving of such a direction also apply to the variation of such a direction.**]**

(5) The court may rescind a live link direction under this section at any time before or during a hearing to which it relates **[**[F51](but this does not affect the court‘s power to give a further live link direction in relation to the hearing)**]**.

[F52](6) **[** A live link direction under this section may not be rescinded unless—

(a) the court is satisfied that it is in the interests of justice for the direction to be rescinded,

(b) the parties to the enforcement hearing have been given the opportunity to make representations, and

(c) the relevant youth offending team has been given the opportunity to make representations, if it is a case where the person liable to pay the sum or financial penalty has not attained the age of 18 years and is a party to the hearing.

(6A) A live link direction under this section may be varied or rescinded by the court of its own motion or on an application by a party; but such an application may not be made unless there has been a material change of circumstances since the direction was given.**]**

[F53](7) **[** If a hearing takes place in relation to the giving or rescinding of a live link direction under this section, the court may require or permit a person to take part in that hearing through—

(a) a live audio link, or

(b) a live video link.

(7A) In deciding whether to give or rescind a direction under this section the court must consider all the circumstances of the case.

(7B) Those circumstances include in particular—

(a) in the case of a direction relating to a witness—

(i) the importance of the witness's evidence to the hearing;

(ii) whether a direction might tend to inhibit any party from effectively testing the witness's evidence;

(b) in the case of a direction relating to any participant in the hearing—

(i) the availability of the person;

(ii) the need for the person to attend in person;

(iii) the views of the person;

(iv) the suitability of the facilities at the place where the person would take part in the hearing in accordance with the direction;

(v) whether the person will be able to take part in the hearing effectively if he or she takes part in accordance with the direction.**]**

[[F54](8) The person may not give oral evidence while attending a hearing through a live link by virtue of this section unless the court is satisfied that it is not contrary to the interests of justice for the person to give it that way.**]**

(9) If in a case where it has power to do so a court decides not to give a live link direction under this section, it must—

(a) state in open court its reasons for not doing so; and
(b) cause those reasons to be entered in the register of its proceedings.

(10) The following functions of a magistrates' court under this section may be discharged by a single justice—
(a) giving a live link direction under this section;
(b) rescinding a live link direction before **[**[F55]a preliminary**][**[F55]an enforcement**]** hearing begins; and
(c) requiring or permitting a person to attend by live link a hearing about a matter within paragraph (a) or (b).**]**

[F56]**[** (11) If any person takes part in an enforcement hearing— other than for the purpose of giving evidence — through a live audio link, the court may not—
(a) impose imprisonment or detention in default of payment of a sum or financial penalty, or
(b) deal with a person for contempt of court (including enquiring into conduct and imposing punishment).**]**

Textual Amendments

F46 S. 57F inserted (14.12.2009) by Coroners and Justice Act 2009 (c. 25), **ss. 109(1)**, 182(5) (with s. 180, Sch. 22); S.I. 2009/3253, **art. 2(b)**

F47 Word in s. 57F heading omitted (temp.) (25.3.2020) by virtue of Coronavirus Act 2020 (c. 7), s. 87(1), **Sch. 24 para. 5(2)** (with ss. 88-90)

F48 S. 57F(1)(2) substituted for s. 57F(1)-(3) (temp.) (25.3.2020) by virtue of Coronavirus Act 2020 (c. 7), s. 87(1), **Sch. 24 para. 5(3)** (with ss. 88-90)

F49 Words in s. 57F(4) substituted (temp.) (25.3.2020) by virtue of Coronavirus Act 2020 (c. 7), s. 87(1), **Sch. 24 para. 5(4)** (with ss. 88-90)

F50 S. 57F(4A)-(4C) inserted (temp.) (25.3.2020) by virtue of Coronavirus Act 2020 (c. 7), s. 87(1), **Sch. 24 para. 5(5)** (with ss. 88-90)

F51 Words in s. 57F(5) inserted (temp.) (25.3.2020) by virtue of Coronavirus Act 2020 (c. 7), s. 87(1), **Sch. 24 para. 5(6)** (with ss. 88-90)

F52 S. 57F(6)(6A) substituted for s. 57F(6) (temp.) (25.3.2020) by virtue of Coronavirus Act 2020 (c. 7), s. 87(1), **Sch. 24 para. 5(7)** (with ss. 88-90)

F53 S. 57F(7)-(7B) substituted for s. 57F(7) (temp.) (25.3.2020) by virtue of Coronavirus Act 2020 (c. 7), s. 87(1), **Sch. 24 para. 5(8)** (with ss. 88-90)

F54 S. 57F(8) omitted (temp.) (25.3.2020) by virtue of Coronavirus Act 2020 (c. 7), s. 87(1), **Sch. 24 para. 5(9)** (with ss. 88-90)

F55 Words in s. 57F(10)(b) substituted (temp.) (25.3.2020) by virtue of Coronavirus Act 2020 (c. 7), s. 87(1), **Sch. 24 para. 5(10)** (with ss. 88-90)

F56 S. 57F(11) inserted (temp.) (25.3.2020) by virtue of Coronavirus Act 2020 (c. 7), s. 87(1), **Sch. 24 para. 5(11)** (with ss. 88-90)

[[F57]**57G Requirement to attend court, perjury**

(1) A person who takes part in a hearing in accordance with a direction under section 57B, 57E or 57F is to be treated as complying with any requirement (however imposed or expressed) for that person to attend or appear before court, or surrender to the custody of the court, for the purposes of that participation in that hearing.

(2) A person who takes part in a hearing in accordance with a direction under section 57B, 57E or 57F is to be treated as present in court for the purposes of that hearing.

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(3) A hearing that is conducted in accordance with directions under section 57B, 57E or 57F—

(a) wholly as an audio hearing, or

(b) wholly as a video hearing,

is to be regarded as taking place at the location where the member or members of the court take part in the hearing.

(4) A statement made on oath by a witness outside the United Kingdom and given in evidence through a live audio link or a live video link in accordance with a direction under this Part is to be treated for the purposes of section 1 of the Perjury Act 1911 as having been made in the proceedings in which it is given in evidence.**]]**

Textual Amendments

F57 S. 57G inserted (temp.) (25.3.2020) by virtue of Coronavirus Act 2020 (c. 7), s. 87(1), **Sch. 24 para. 6** (with ss. 88-90)

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Crime and Disorder Act 1998, Part 3A is up to date with all changes known to be in force on or before 10 August 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.