Youth Justice and Criminal Evidence Act 1999

1999 CHAPTER 23

PART II

GIVING OF EVIDENCE OR INFORMATION FOR PURPOSES OF CRIMINAL PROCEEDINGS

CHAPTER I

SPECIAL MEASURES DIRECTIONS IN CASE OF VULNERABLE AND INTIMIDATED WITNESSES

Modifications etc. (not altering text)

C1 Pt. 2 Chs. 1-3 amended (1.9.2001) by 2001 c. 17, **s. 57(2)** (with ss. 56(2), 63(2), 78); S.I. 2001/2161, **art. 2**

C2 Pt. 2 Ch. 1 applied (with modifications) by 1998 c. 37, s. 1I(2)(3) (as inserted (1.7.2005) by Serious Organised Crime and Police Act 2005 (c. 15), **ss. 143**, 178(8); S.I. 2005/1521, art. 3(1)(s))

C3 Pt. 2 Ch. 1 applied (with modifications) (20.10.2014) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), **s. 31(1)-(3)**, 185(1) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2590, art. 3(a)

C4 Pt. 2 Ch. 1 applied (with modifications) (23.3.2015) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), **s. 16(1)-(3)**, 185(1) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 4(a)

C5 Pt. 2 Ch. 1 applied (with modifications) (26.5.2016) by Psychoactive Substances Act 2016 (c. 2), **s. 33(1)**(2), 63(2); S.I. 2016/553, reg. 2

Preliminary

16 Witnesses eligible for assistance on grounds of age or incapacity.

(1) For the purposes of this Chapter a witness in criminal proceedings (other than the accused) is eligible for assistance by virtue of this section—

(a) if under the age of **[**[F1]18**]** at the time of the hearing; or

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(b) if the court considers that the quality of evidence given by the witness is likely to be diminished by reason of any circumstances falling within subsection (2).

(2) The circumstances falling within this subsection are—

(a) that the witness—

(i) suffers from mental disorder within the meaning of the [M1]Mental Health Act 1983, or

(ii) otherwise has a significant impairment of intelligence and social functioning;

(b) that the witness has a physical disability or is suffering from a physical disorder.

(3) In subsection (1)(a) "the time of the hearing", in relation to a witness, means the time when it falls to the court to make a determination for the purposes of section 19(2) in relation to the witness.

(4) In determining whether a witness falls within subsection (1)(b) the court must consider any views expressed by the witness.

(5) In this Chapter references to the quality of a witness's evidence are to its quality in terms of completeness, coherence and accuracy; and for this purpose "coherence" refers to a witness's ability in giving evidence to give answers which address the questions put to the witness and can be understood both individually and collectively.

Textual Amendments

F1 Word in s. 16(1)(a) substituted (27.6.2011) by Coroners and Justice Act 2009 (c. 25), **ss. 98(2)**, 182(5) (with s. 180, Sch. 22 para. 23); S.I. 2011/1452, art. 2(a)

Modifications etc. (not altering text)

C6 S. 16 applied (with modifications) (31.10.2009) by The Youth Justice and Criminal Evidence Act 1999 (Application to Service Courts) Order 2009 (S.I. 2009/2083), arts. 1, **3**, 4

Commencement Information

I1 S. 16 wholly in force at 24.7.2002; Pt. II Chs. 1-4 (ss. 16-52) in force for certain purposes at Royal Assent, see s. 68(4); s. 16 in force in so far as not already in force at 24.7.2002 by S.I. 2002/1739, **art. 2(a)**

Marginal Citations

M1 1983 c. 20.

17 Witnesses eligible for assistance on grounds of fear or distress about testifying.

(1) For the purposes of this Chapter a witness in criminal proceedings (other than the accused) is eligible for assistance by virtue of this subsection if the court is satisfied that the quality of evidence given by the witness is likely to be diminished by reason of fear or distress on the part of the witness in connection with testifying in the proceedings.

(2) In determining whether a witness falls within subsection (1) the court must take into account, in particular—

(a) the nature and alleged circumstances of the offence to which the proceedings relate;

(b) the age of the witness;

(c) such of the following matters as appear to the court to be relevant, namely—

(i) the social and cultural background and ethnic origins of the witness,

(ii) the domestic and employment circumstances of the witness, and

(iii) any religious beliefs or political opinions of the witness;

(d) any behaviour towards the witness on the part of—

(i) the accused,

(ii) members of the family or associates of the accused, or

(iii) any other person who is likely to be an accused or a witness in the proceedings.

(3) In determining that question the court must in addition consider any views expressed by the witness.

(4) Where the complainant in respect of a sexual offence **[**[F2]or an offence under **[**[F3]section 1 or 2 of the Modern Slavery Act 2015**]]** is a witness in proceedings relating to that offence (or to that offence and any other offences), the witness is eligible for assistance in relation to those proceedings by virtue of this subsection unless the witness has informed the court of the witness' wish not to be so eligible by virtue of this subsection.

[[F4](5) A witness in proceedings relating to a relevant offence (or to a relevant offence and any other offences) is eligible for assistance in relation to those proceedings by virtue of this subsection unless the witness has informed the court of the witness's wish not to be so eligible by virtue of this subsection.

(6) For the purposes of subsection (5) an offence is a relevant offence if it is an offence described in Schedule 1A.

(7) The Secretary of State may by order amend Schedule 1A.**]**

Textual Amendments

F2 Words in s. 17(4) inserted (6.4.2013) by The Trafficking People for Exploitation Regulations 2013 (S.I. 2013/554), reg. 1(b), **Sch. para. 2**

F3 Words in s. 17(4) substituted (31.7.2015) by Modern Slavery Act 2015 (c. 30), **ss. 46(2)**, 61(1); S.I. 2015/1476, reg. 2(e) (with regs. 3, 6, 8)

F4 S. 17(5)-(7) added (27.6.2011) by Coroners and Justice Act 2009 (c. 25), **ss. 99(2)**, 182(5) (with s. 180, Sch. 22 para. 23); S.I. 2011/1452, art. 2(a)

Modifications etc. (not altering text)

C7 S. 17 applied (with modifications) (31.10.2009) by The Youth Justice and Criminal Evidence Act 1999 (Application to Service Courts) Order 2009 (S.I. 2009/2083), arts. 1, **3**, 4

Commencement Information

I2 S. 17 wholly in force at 24.7.2002; Pt. II Chs. 1-4 (ss. 16-52) in force for certain purposes at Royal Assent, see s. 68(4); s. 17 in force in so far as not already in force at 24.7.2002 by S.I. 2002/1739, **art. 2(a)**

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Changes to legislation: *Youth Justice and Criminal Evidence Act 1999, Chapter I is up to date with all changes known to be in force on or before 08 July 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)*

18 Special measures available to eligible witnesses.

(1) For the purposes of this Chapter—

(a) the provision which may be made by a special measures direction by virtue of each of sections 23 to 30 is a special measure available in relation to a witness eligible for assistance by virtue of section 16; and

(b) the provision which may be made by such a direction by virtue of each of sections 23 to 28 is a special measure available in relation to a witness eligible for assistance by virtue of section 17;

but this subsection has effect subject to subsection (2).

(2) Where (apart from this subsection) a special measure would, in accordance with subsection (1)(a) or (b), be available in relation to a witness in any proceedings, it shall not be taken by a court to be available in relation to the witness unless—

(a) the court has been notified by the Secretary of State that relevant arrangements may be made available in the area in which it appears to the court that the proceedings will take place, and

(b) the notice has not been withdrawn.

(3) In subsection (2) "relevant arrangements" means arrangements for implementing the measure in question which cover the witness and the proceedings in question.

(4) The withdrawal of a notice under that subsection relating to a special measure shall not affect the availability of that measure in relation to a witness if a special measures direction providing for that measure to apply to the witness's evidence has been made by the court before the notice is withdrawn.

(5) The Secretary of State may by order make such amendments of this Chapter as he considers appropriate for altering the special measures which, in accordance with subsection (1)(a) or (b), are available in relation to a witness eligible for assistance by virtue of section 16 or (as the case may be) section 17, whether—

(a) by modifying the provisions relating to any measure for the time being available in relation to such a witness,

(b) by the addition—

(i) (with or without modifications) of any measure which is for the time being available in relation to a witness eligible for assistance by virtue of the other of those sections, or

(ii) of any new measure, or

(c) by the removal of any measure.

Modifications etc. (not altering text)

C8 S. 18 applied (with modifications) (31.10.2009) by The Youth Justice and Criminal Evidence Act 1999 (Application to Service Courts) Order 2009 (S.I. 2009/2083), arts. 1, **3**, 4

Commencement Information

I3 S. 18 wholly in force at 24.7.2002; Pt. II Chs. 1-4 (ss. 16-52) in force for certain purposes at Royal Assent, see s. 68(4); s. 18 in force in so far as not already in force at 24.7.2002 by S.I. 2002/1739, **art. 2(a)**

Status: *Point in time view as at 24/08/2020.*
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Special measures directions

19 Special measures direction relating to eligible witness.

(1) This section applies where in any criminal proceedings—

(a) a party to the proceedings makes an application for the court to give a direction under this section in relation to a witness in the proceedings other than the accused, or

(b) the court of its own motion raises the issue whether such a direction should be given.

(2) Where the court determines that the witness is eligible for assistance by virtue of section 16 or 17, the court must then—

(a) determine whether any of the special measures available in relation to the witness (or any combination of them) would, in its opinion, be likely to improve the quality of evidence given by the witness; and

(b) if so—

(i) determine which of those measures (or combination of them) would, in its opinion, be likely to maximise so far as practicable the quality of such evidence; and

(ii) give a direction under this section providing for the measure or measures so determined to apply to evidence given by the witness.

(3) In determining for the purposes of this Chapter whether any special measure or measures would or would not be likely to improve, or to maximise so far as practicable, the quality of evidence given by the witness, the court must consider all the circumstances of the case, including in particular—

(a) any views expressed by the witness; and

(b) whether the measure or measures might tend to inhibit such evidence being effectively tested by a party to the proceedings.

(4) A special measures direction must specify particulars of the provision made by the direction in respect of each special measure which is to apply to the witness's evidence.

(5) In this Chapter "special measures direction" means a direction under this section.

(6) Nothing in this Chapter is to be regarded as affecting any power of a court to make an order or give leave of any description (in the exercise of its inherent jurisdiction or otherwise)—

(a) in relation to a witness who is not an eligible witness, or

(b) in relation to an eligible witness where (as, for example, in a case where a foreign language interpreter is to be provided) the order is made or the leave is given otherwise than by reason of the fact that the witness is an eligible witness.

Modifications etc. (not altering text)

C9 S. 19 applied (with modifications) (31.10.2009) by The Youth Justice and Criminal Evidence Act 1999 (Application to Service Courts) Order 2009 (S.I. 2009/2083), arts. 1, **3**, 4

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Commencement Information

I4 S. 19 wholly in force at 24.7.2002; Pt. II Chs. 1-4 (ss. 16-52) in force for certain purposes at Royal Assent, see s. 68(4); s. 19 in force in so far as not already in force at 24.7.2002 by S.I. 2002/1739, **art. 2(a)**

20 Further provisions about directions: general.

(1) Subject to subsection (221.) and section 21(8), a special measures direction has binding effect from the time it is made until the proceedings for the purposes of which it is made are either—

(a) determined (by acquittal, conviction or otherwise), or

(b) abandoned,

in relation to the accused or (if there is more than one) in relation to each of the accused.

(2) The court may discharge or vary (or further vary) a special measures direction if it appears to the court to be in the interests of justice to do so, and may do so either—

(a) on an application made by a party to the proceedings, if there has been a material change of circumstances since the relevant time, or

(b) of its own motion.

(3) In subsection (2) "the relevant time" means—

(a) the time when the direction was given, or

(b) if a previous application has been made under that subsection, the time when the application (or last application) was made.

(4) Nothing in section 24(2) and (3), 27(4) to (7) or 28(4) to (6) is to be regarded as affecting the power of the court to vary or discharge a special measures direction under subsection (2).

(5) The court must state in open court its reasons for—

(a) giving or varying,

(b) refusing an application for, or for the variation or discharge of, or

(c) discharging,

a special measures direction and, if it is a magistrates' court, must cause them to be entered in the register of its proceedings.

(6) **[**[F5]Criminal Procedure Rules**]** may make provision—

(a) for uncontested applications to be determined by the court without a hearing;

(b) for preventing the renewal of an unsuccessful application for a special measures direction except where there has been a material change of circumstances;

(c) for expert evidence to be given in connection with an application for, or for varying or discharging, such a direction;

(d) for the manner in which confidential or sensitive information is to be treated in connection with such an application and in particular as to its being disclosed to, or withheld from, a party to the proceedings.

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Textual Amendments

F5 Words in s. 20(6) substituted (1.9.2004) by Courts Act 2003 (c. 39), s. 110(1), **Sch. 8 para. 384(a)**; S.I. 2004/2066, art. 2(c)(xix) (with art. 3)

Modifications etc. (not altering text)

C10 S. 20 applied (with modifications) (31.10.2009) by The Youth Justice and Criminal Evidence Act 1999 (Application to Service Courts) Order 2009 (S.I. 2009/2083), arts. 1, **3**, 4

Commencement Information

I5 S. 20 wholly in force at 24.7.2002; Pt. II Chs. 1-4 (ss. 16-52) in force for certain purposes at Royal Assent, see s. 68(4): s. 20 in force in so far as not already in force at 24.7.2002 by S.I. 2002/1739, **art. 2(a)**

21 Special provisions relating to child witnesses.

(1) For the purposes of this section—

(a) a witness in criminal proceedings is a "child witness" if he is an eligible witness by reason of section 16(1)(a) (whether or not he is an eligible witness by reason of any other provision of section 16 or 17);

[F6](b) . . . . . and

(c) a "relevant recording", in relation to a child witness, is a video recording of an interview of the witness made with a view to its admission as evidence in chief of the witness.

(2) Where the court, in making a determination for the purposes of section 19(2), determines that a witness in criminal proceedings is a child witness, the court must—

(a) first have regard to subsections (3) to **[**[F7](4C)**]** below; and

(b) then have regard to section 19(2);

and for the purposes of section 19(2), as it then applies to the witness, any special measures required to be applied in relation to him by virtue of this section shall be treated as if they were measures determined by the court, pursuant to section 19(2)(a) and (b)(i), to be ones that (whether on their own or with any other special measures) would be likely to maximise, so far as practicable, the quality of his evidence.

(3) The primary rule in the case of a child witness is that the court must give a special measures direction in relation to the witness which complies with the following requirements—

(a) it must provide for any relevant recording to be admitted under section 27 (video recorded evidence in chief); and

(b) it must provide for any evidence given by the witness in the proceedings which is not given by means of a video recording (whether in chief or otherwise) to be given by means of a live link in accordance with section 24.

(4) The primary rule is subject to the following limitations—

(a) the requirement contained in subsection (3)(a) or (b) has effect subject to the availability (within the meaning of section 18(2)) of the special measure in question in relation to the witness;

(b) the requirement contained in subsection (3)(a) also has effect subject to section 27(2); [F8]...

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[[F9](ba) if the witness informs the court of the witness's wish that the rule should not apply or should apply only in part, the rule does not apply to the extent that the court is satisfied that not complying with the rule would not diminish the quality of the witness's evidence; and**]**

(c) the rule does not apply to the extent that the court is satisfied that compliance with it would not be likely to maximise the quality of the witness's evidence so far as practicable (whether because the application to that evidence of one or more other special measures available in relation to the witness would have that result or for any other reason).

[[F10](4A) Where as a consequence of all or part of the primary rule being disapplied under subsection (4)(ba) a witness's evidence or any part of it would fall to be given as testimony in court, the court must give a special measures direction making such provision as is described in section 23 for the evidence or that part of it.

(4B) The requirement in subsection (4A) is subject to the following limitations—

(a) if the witness informs the court of the witness's wish that the requirement in subsection (4A) should not apply, the requirement does not apply to the extent that the court is satisfied that not complying with it would not diminish the quality of the witness's evidence; and

(b) the requirement does not apply to the extent that the court is satisfied that making such a provision would not be likely to maximise the quality of the witness's evidence so far as practicable (whether because the application to that evidence of one or more other special measures available in relation to the witness would have that result or for any other reason).**]**

[[F11](4C) In making a decision under subsection (4)(ba) or (4B)(a), the court must take into account the following factors (and any others it considers relevant)—

(a) the age and maturity of the witness;

(b) the ability of the witness to understand the consequences of giving evidence otherwise than in accordance with the requirements in subsection (3) or (as the case may be) in accordance with the requirement in subsection (4A);

(c) the relationship (if any) between the witness and the accused;

(d) the witness's social and cultural background and ethnic origins;

(e) the nature and alleged circumstances of the offence to which the proceedings relate.**]**

[F12](5) . . . . . .

[F12](6) . . . . . .

[F12](7) . . . . . .

(8) Where a special measures direction is given in relation to a child witness who is an eligible witness by reason only of section 16(1)(a), then—

(a) subject to subsection (9) below, and

(b) except where the witness has already begun to give evidence in the proceedings,

the direction shall cease to have effect at the time when the witness attains the age of **[**[F13]18**]**.

(9) Where a special measures direction is given in relation to a child witness who is an eligible witness by reason only of section 16(1)(a) and—

(a) the direction provides—

(i) for any relevant recording to be admitted under section 27 as evidence in chief of the witness, or

(ii) for the special measure available under section 28 to apply in relation to the witness, and

(b) if it provides for that special measure to so apply, the witness is still under the age of **[**[F14]18**]** when the video recording is made for the purposes of section 28,

then, so far as it provides as mentioned in paragraph (a)(i) or (ii) above, the direction shall continue to have effect in accordance with section 20(1) even though the witness subsequently attains that age.

Textual Amendments

F6 S. 21(1)(b) repealed (27.6.2011) by Coroners and Justice Act 2009 (c. 25), ss. 100(2), 182(5), **Sch. 23 Pt. 3** (with s. 180, Sch. 22 para. 23); S.I. 2011/1452, art. 2(a)(i)

F7 Word in s. 21(2) substituted (27.6.2011) by Coroners and Justice Act 2009 (c. 25), **ss. 100(3)**, 182(5) (with s. 180, Sch. 22 para. 23); S.I. 2011/1452, art. 2(a)

F8 Word in s. 21(4)(b) repealed (27.6.2011) by Coroners and Justice Act 2009 (c. 25), ss. 100(4)(a), 182(5), **Sch. 23 Pt. 3** (with s. 180, Sch. 22 para. 23); S.I. 2011/1452, art. 2(a)(i)

F9 S. 21(4)(ba) inserted (27.6.2011) by Coroners and Justice Act 2009 (c. 25), **ss. 100(4)(b)**, 182(5) (with s. 180, Sch. 22 para. 23); S.I. 2011/1452, art. 2(a)

F10 S. 21(4A)(4B) inserted (27.6.2011) by Coroners and Justice Act 2009 (c. 25), **ss. 100(5)**, 182(5) (with s. 180, Sch. 22 para. 23); S.I. 2011/1452, art. 2(a)

F11 S. 21(4C) inserted (27.6.2011) by Coroners and Justice Act 2009 (c. 25), **ss. 100(6)**, 182(5) (with s. 180, Sch. 22 para. 23); S.I. 2011/1452, art. 2(a)

F12 S. 21(5)-(7) repealed (27.6.2011) by Coroners and Justice Act 2009 (c. 25), ss. 100(7), 182(5), **Sch. 23 Pt. 3** (with s. 180, Sch. 22 para. 23); S.I. 2011/1452, art. 2(a)(i)

F13 Word in s. 21(8) substituted (27.6.2011) by Coroners and Justice Act 2009 (c. 25), **ss. 98(3)(a)**, 182(5) (with s. 180, Sch. 22 para. 23); S.I. 2011/1452, art. 2(a)

F14 Word in s. 21(9)(b) substituted (27.6.2011) by Coroners and Justice Act 2009 (c. 25), **ss. 98(3)(b)**, 182(5) (with s. 180, Sch. 22 para. 23); S.I. 2011/1452, art. 2(a)

Modifications etc. (not altering text)

C11 S. 21 applied (with modifications) (31.10.2009) by The Youth Justice and Criminal Evidence Act 1999 (Application to Service Courts) Order 2009 (S.I. 2009/2083), arts. 1, **3**, 4

Commencement Information

I6 S. 21 wholly in force at 24.7.2002; Pt. II Chs. 1-4 (ss. 16-52) in force for certain purposes at Royal Assent, see s. 68(4); s. 20 in force in so far as not already in force at 24.7.2002 by S.I. 2002/1739, **art. 2(a)**

22 Extension of provisions of section 21 to certain witnesses over **[**[F15]18**]**.

(1) For the purposes of this section—

(a) a witness in criminal proceedings (other than the accused) is a "qualifying witness" if he—

(i) is not an eligible witness at the time of the hearing (as defined by section 16(3)), but

(ii) was under the age of **[**[F16]18**]** when a relevant recording was made;

[F17](b) . . . . . and

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(c) a "relevant recording", in relation to a witness, is a video recording of an interview of the witness made with a view to its admission as evidence in chief of the witness.

[[F18](2) Subsections (2) to (4) and (4C) of section 21, so far as relating to the giving of a direction complying with the requirement contained in section 21(3)(a), apply to a qualifying witness in respect of the relevant recording as they apply to a child witness (within the meaning of that section).**]**

Textual Amendments

F15 Word in s. 22 title substituted (27.6.2011) by Coroners and Justice Act 2009 (c. 25), **ss. 98(4)(a)**, 182(5) (with s. 180, Sch. 22 para. 23); S.I. 2011/1452, art. 2(a)

F16 Word in s. 22(1)(a)(ii) substituted (27.6.2011) by Coroners and Justice Act 2009 (c. 25), **ss. 98(4)(b)**, 182(5) (with s. 180, Sch. 22 para. 23); S.I. 2011/1452, art. 2(a)

F17 S. 22(1)(b) repealed (27.6.2011) by Coroners and Justice Act 2009 (c. 25), ss. 100(8)(a), 182(5), **Sch. 23 Pt. 3** (with s. 180, Sch. 22 para. 23); S.I. 2011/1452, art. 2(a)(i)

F18 S. 22(2) substituted (27.6.2011) by Coroners and Justice Act 2009 (c. 25), **ss. 100(8)(b)**, 182(5) (with s. 180, Sch. 22 para. 23); S.I. 2011/1452, art. 2(a)

Modifications etc. (not altering text)

C12 S. 22 applied (with modifications) (31.10.2009) by The Youth Justice and Criminal Evidence Act 1999 (Application to Service Courts) Order 2009 (S.I. 2009/2083), arts. 1, **3**, 4

Commencement Information

I7 S. 22 wholly in force at 24.7.2002; Pt. II Chs. 1-4 (ss. 16-52) in force for certain purposes at Royal Assent, see s. 68(4); s. 22 in force in so far as not already in force at 24.7.2002 by S.I. 2002/1739, **art. 2(a)**

[[F19]22A Special provisions relating to sexual offences

(1) This section applies where in criminal proceedings relating to a sexual offence (or to a sexual offence and other offences) the complainant in respect of that offence is a witness in the proceedings.

(2) This section does not apply if the place of trial is a magistrates' court.

(3) This section does not apply if the complainant is an eligible witness by reason of section 16(1)(a) (whether or not the complainant is an eligible witness by reason of any other provision of section 16 or 17).

(4) If a party to the proceedings makes an application under section 19(1)(a) for a special measures direction in relation to the complainant, the party may request that the direction provide for any relevant recording to be admitted under section 27 (video recorded evidence in chief).

(5) Subsection (6) applies if—

(a) a party to the proceedings makes a request under subsection (4) with respect to the complainant, and

(b) the court determines for the purposes of section 19(2) that the complainant is eligible for assistance by virtue of section 16(1)(b) or 17.

(6) The court must—

(a) first have regard to subsections (7) to (9); and

(b) then have regard to section 19(2);

and for the purposes of section 19(2), as it then applies to the complainant, any special measure required to be applied in relation to the complainant by virtue of this section is to be treated as if it were a measure determined by the court, pursuant to section 19(2)(a) and (b)(i), to be one that (whether on its own or with any other special measures) would be likely to maximise, so far as practicable, the quality of the complainant's evidence.

(7) The court must give a special measures direction in relation to the complainant that provides for any relevant recording to be admitted under section 27.

(8) The requirement in subsection (7) has effect subject to section 27(2).

(9) The requirement in subsection (7) does not apply to the extent that the court is satisfied that compliance with it would not be likely to maximise the quality of the complainant's evidence so far as practicable (whether because the application to that evidence of one or more other special measures available in relation to the complainant would have that result or for any other reason).

(10) In this section "relevant recording", in relation to a complainant, is a video recording of an interview of the complainant made with a view to its admission as the evidence in chief of the complainant.**]**

Textual Amendments

F19 S. 22A inserted (27.6.2011) by Coroners and Justice Act 2009 (c. 25), **ss. 101**, 182(5) (with s. 180, Sch. 22 para. 23); S.I. 2011/1452, art. 2(a)

Special measures

23 Screening witness from accused.

(1) A special measures direction may provide for the witness, while giving testimony or being sworn in court, to be prevented by means of a screen or other arrangement from seeing the accused.

(2) But the screen or other arrangement must not prevent the witness from being able to see, and to be seen by—

(a) the judge or justices (or both) and the jury (if there is one);

(b) legal representatives acting in the proceedings; and

(c) any interpreter or other person appointed (in pursuance of the direction or otherwise) to assist the witness.

(3) Where two or more legal representatives are acting for a party to the proceedings, subsection (2)(b) is to be regarded as satisfied in relation to those representatives if the witness is able at all material times to see and be seen by at least one of them.

Modifications etc. (not altering text)

C13 S. 23 applied (with modifications) (31.10.2009) by The Youth Justice and Criminal Evidence Act 1999 (Application to Service Courts) Order 2009 (S.I. 2009/2083), arts. 1, **3**, 4

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Commencement Information

I8 S. 23 wholly in force at 24.7.2002; Pt. II Chs. 1-4 (ss. 16-52) in force for certain purposes at Royal Assent, see s. 68(4); s. 23 in force in so far as not already in force at 24.7.2002 by S.I. 2002/1739, **art. 2(a)**

24 Evidence by live link.

(1) A special measures direction may provide for the witness to give evidence by means of a live link.

[[F20](1A) Such a direction may also provide for a specified person to accompany the witness while the witness is giving evidence by live link.

(1B) In determining who may accompany the witness, the court must have regard to the wishes of the witness.**]**

(2) Where a direction provides for the witness to give evidence by means of a live link, the witness may not give evidence in any other way without the permission of the court.

(3) The court may give permission for the purposes of subsection (2) if it appears to the court to be in the interests of justice to do so, and may do so either—

(a) on an application by a party to the proceedings, if there has been a material change of circumstances since the relevant time, or

(b) of its own motion.

(4) In subsection (3) "the relevant time" means—

(a) the time when the direction was given, or

(b) if a previous application has been made under that subsection, the time when the application (or last application) was made.

[F21](5) . . . . . .

[F21](6) . . . . . .

[F21](7) . . . . . .

(8) In this Chapter "live link" means a live television link or other arrangement whereby a witness, while absent from the courtroom or other place where the proceedings are being held, is able to see and hear a person there and to be seen and heard by the persons specified in section 23(2)(a) to (c).

Textual Amendments

F20 S. 24(1A)(1B) inserted (27.6.2011) by Coroners and Justice Act 2009 (c. 25), **ss. 102(1)**, 182(5) (with s. 180, Sch. 22 para. 23); S.I. 2011/1452, art. 2(a)

F21 S. 24(5)-(7) repealed (1.4.2005) by Courts Act 2003 (c. 39), s. 110(1), Sch. 8 para. 385, **Sch. 10**; S.I. 2005/910, art. 3(y)

Modifications etc. (not altering text)

C14 S. 24(1)-(4) applied (with modifications) (31.10.2009) by The Youth Justice and Criminal Evidence Act 1999 (Application to Service Courts) Order 2009 (S.I. 2009/2083), arts. 1, **3**, 4

C15 S. 24(8) applied (with modifications) (31.10.2009) by The Youth Justice and Criminal Evidence Act 1999 (Application to Service Courts) Order 2009 (S.I. 2009/2083), arts. 1, **3**, 4

Commencement Information

I9 S. 24 wholly in force at 24.7.2002; Pt. II Chs. 1-4 (ss. 16-52) in force for certain purposes at Royal Assent, see s. 68(4); s. 24 in force in so far as not already in force at 24.7.2002 by S.I. 2002/1739, **art. 2(a)**

25 Evidence given in private.

(1) A special measures direction may provide for the exclusion from the court, during the giving of the witness's evidence, of persons of any description specified in the direction.

(2) The persons who may be so excluded do not include—
- (a) the accused,
- (b) legal representatives acting in the proceedings, or
- (c) any interpreter or other person appointed (in pursuance of the direction or otherwise) to assist the witness.

(3) A special measures direction providing for representatives of news gathering or reporting organisations to be so excluded shall be expressed not to apply to one named person who—
- (a) is a representative of such an organisation, and
- (b) has been nominated for the purpose by one or more such organisations,

unless it appears to the court that no such nomination has been made.

(4) A special measures direction may only provide for the exclusion of persons under this section where—
- (a) the proceedings relate to a sexual offence **[**[F22]or an offence under **[**[F23]section 1 or 2 of the Modern Slavery Act 2015**]**; or
- (b) it appears to the court that there are reasonable grounds for believing that any person other than the accused has sought, or will seek, to intimidate the witness in connection with testifying in the proceedings.

(5) Any proceedings from which persons are excluded under this section (whether or not those persons include representatives of news gathering or reporting organisations) shall nevertheless be taken to be held in public for the purposes of any privilege or exemption from liability available in respect of fair, accurate and contemporaneous reports of legal proceedings held in public.

Textual Amendments

F22 Words in s. 25(4)(a) inserted (6.4.2013) by The Trafficking People for Exploitation Regulations 2013 (S.I. 2013/554), reg. 1(b), **Sch. para. 3**

F23 Words in s. 25(4)(a) substituted (31.7.2015) by Modern Slavery Act 2015 (c. 30), **ss. 46(3)**, 61(1); S.I. 2015/1476, reg. 2(e) (with regs. 3, 6, 8)

Modifications etc. (not altering text)

C16 S. 25(1)-(3) applied (with modifications) (31.10.2009) by The Youth Justice and Criminal Evidence Act 1999 (Application to Service Courts) Order 2009 (S.I. 2009/2083), arts. 1, **3**, 4

C17 S. 25(4) applied (with modifications) (31.10.2009) by The Youth Justice and Criminal Evidence Act 1999 (Application to Service Courts) Order 2009 (S.I. 2009/2083), arts. 1, **3**, 4

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C18 S. 25(5) applied (with modifications) (31.10.2009) by The Youth Justice and Criminal Evidence Act 1999 (Application to Service Courts) Order 2009 (S.I. 2009/2083), arts. 1, **3**, 4

Commencement Information

I10 S. 25 wholly in force at 24.7.2002; Pt. II Chs. 1-4 (ss. 16-52) in force for certain purposes at Royal Assent, see s. 68(4); s. 25 jn force in so far as not already in force at 24.7.2002 by S.I. 2002/1739, **art. 2(a)**

26 Removal of wigs and gowns.

A special measures direction may provide for the wearing of wigs or gowns to be dispensed with during the giving of the witness's evidence.

Modifications etc. (not altering text)

C19 S. 26 applied (with modifications) (31.10.2009) by The Youth Justice and Criminal Evidence Act 1999 (Application to Service Courts) Order 2009 (S.I. 2009/2083), arts. 1, **3**, 4

Commencement Information

I11 S. 26 wholly in force at 24.7.2002; Pt. II Chs. 1-4 (ss. 16-52) in force for certain purposes at Royal Assent, see s. 68(4); s. 26 in force in so far as not already in force at 24.7.2002 by S.I. 2002/1739, **art. 2(a)**

27 Video recorded evidence in chief.

(1) A special measures direction may provide for a video recording of an interview of the witness to be admitted as evidence in chief of the witness.

(2) A special measures direction may, however, not provide for a video recording, or a part of such a recording, to be admitted under this section if the court is of the opinion, having regard to all the circumstances of the case, that in the interests of justice the recording, or that part of it, should not be so admitted.

(3) In considering for the purposes of subsection (2) whether any part of a recording should not be admitted under this section, the court must consider whether any prejudice to the accused which might result from that part being so admitted is outweighed by the desirability of showing the whole, or substantially the whole, of the recorded interview.

(4) Where a special measures direction provides for a recording to be admitted under this section, the court may nevertheless subsequently direct that it is not to be so admitted if—

(a) it appears to the court that—

(i) the witness will not be available for cross-examination (whether conducted in the ordinary way or in accordance with any such direction), and

(ii) the parties to the proceedings have not agreed that there is no need for the witness to be so available; or

(b) any **[**[F24]Criminal Procedure Rules**]** requiring disclosure of the circumstances in which the recording was made have not been complied with to the satisfaction of the court.

(5) Where a recording is admitted under this section—

(a) the witness must be called by the party tendering it in evidence, unless—

(i) a special measures direction provides for the witness's evidence on cross-examination to be given **[**[F25]in any recording admissible under section 28**]**, or

(ii) the parties to the proceedings have agreed as mentioned in subsection (4)(a)(ii); and

[[F26](b) the witness may not without the permission of the court give evidence in chief otherwise than by means of the recording as to any matter which, in the opinion of the court, is dealt with in the witness's recorded testimony.**]**

(6) Where in accordance with subsection (2) a special measures direction provides for part only of a recording to be admitted under this section, references in subsections (4) and (5) to the recording or to the witness's recorded testimony are references to the part of the recording or testimony which is to be so admitted.

(7) The court may give permission for the purposes of subsection **[**[F27]subsection (5)(b)**]** if it appears to the court to be in the interests of justice to do so, and may do so either—

(a) on an application by a party to the proceedings, [F28]... or

(b) of its own motion.

[F29](8) . . . . . .

(9) The court may, in giving permission for the purposes of **[**[F30]subsection (5)(b)**]**, direct that the evidence in question is to be given by the witness by means of a live link; [F31]....

[[F32](9A) If the court directs under subsection (9) that evidence is to be given by live link, it may also make such provision in that direction as it could make under section 24(1A) in a special measures direction.**]**

[F33]**[**(10) A magistrates' court inquiring into an offence as examining justices under section 6 of the [M2]Magistrates' Courts Act 1980 may consider any video recording in relation to which it is proposed to apply for a special measures direction providing for it to be admitted at the trial in accordance with this section.**]**

(11) Nothing in this section affects the admissibility of any video recording which would be admissible apart from this section.

Textual Amendments

F24 Words in s. 27(4)(b) substituted (1.9.2004) by Courts Act 2003 (c. 39), s. 110(1), **Sch. 8 para. 384(b)**; S.I. 2004/2066, art. 2(c)(xix) (with art. 3)

F25 Words in s. 27(5)(a)(i) substituted (27.6.2011) by Coroners and Justice Act 2009 (c. 25), s. 182(5), **Sch. 21 para. 73** (with s. 180); S.I. 2011/1452, art. 2(g)

F26 S. 27(5)(b) substituted (27.6.2011) by Coroners and Justice Act 2009 (c. 25), **ss. 103(2)**, 182(5) (with s. 180, Sch. 22 para. 23); S.I. 2011/1452, art. 2(a)

F27 Words in s. 27(7) substituted (27.6.2011) by Coroners and Justice Act 2009 (c. 25), **ss. 103(3)(a)**, 182(5) (with s. 180, Sch. 22 para. 23); S.I. 2011/1452, art. 2(a)

F28 Words in s. 27(7)(a) repealed (27.6.2011) by Coroners and Justice Act 2009 (c. 25), ss. 103(3)(b), 182(5), **Sch. 23 Pt. 3** (with s. 180, Sch. 22 para. 23); S.I. 2011/1452, art. 2(a)(i)

F29 S. 27(8) repealed (27.6.2011) by Coroners and Justice Act 2009 (c. 25), ss. 103(4), 182(5), **Sch. 23 Pt. 3** (with s. 180, Sch. 22 para. 23); S.I. 2011/1452, art. 2(a)(i)

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F30 Words in s. 27(9) substituted (27.6.2011) by Coroners and Justice Act 2009 (c. 25), **ss. 103(5)**, 182(5) (with s. 180, Sch. 22 para. 23); S.I. 2011/1452, art. 2(a)

F31 Words in s. 27(9) repealed (27.6.2011) by Coroners and Justice Act 2009 (c. 25), s. 182(5), **Sch. 23 Pt. 3** (with s. 180); S.I. 2011/1452, art. 2(i)

F32 S. 27(9A) inserted (27.6.2011) by Coroners and Justice Act 2009 (c. 25), **ss. 102(2)**, 182(5) (with s. 180, Sch. 22 para. 23); S.I. 2011/1452, art. 2(a)

F33 S. 27(10) repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 3 para. 73(2), **Sch. 37 Pt. 4**; S.I. 2012/1320, art. 4(1)(c)(d)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3)(c)(d), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(c)(d)(2)(3) (with arts. 3, 4)

Modifications etc. (not altering text)

C20 S. 27(1) applied (with modifications) (31.10.2009) by The Youth Justice and Criminal Evidence Act 1999 (Application to Service Courts) Order 2009 (S.I. 2009/2083), arts. 1, **3**, 4

C21 S. 27(2)-(9) applied (with modifications) (31.10.2009) by The Youth Justice and Criminal Evidence Act 1999 (Application to Service Courts) Order 2009 (S.I. 2009/2083), arts. 1, **3**, 4

C22 S. 27(11) applied (with modifications) (31.10.2009) by The Youth Justice and Criminal Evidence Act 1999 (Application to Service Courts) Order 2009 (S.I. 2009/2083), arts. 1, **3**, 4

Commencement Information

I12 S. 27 wholly in force at 24.7.2002; Pt. II Chs. 1-4 (ss. 16-52) in force for certain purposes at Royal Assent, see s. 68(4); s. 27 in force in so far as not already in force at 24.7.2002 by S.I. 2002/1739, **art. 2(a)**

Marginal Citations

M2 1980 c. 43.

28 Video recorded cross-examination or re-examination.

(1) Where a special measures direction provides for a video recording to be admitted under section 27 as evidence in chief of the witness, the direction may also provide—

(a) for any cross-examination of the witness, and any re-examination, to be recorded by means of a video recording; and

(b) for such a recording to be admitted, so far as it relates to any such cross-examination or re-examination, as evidence of the witness under cross-examination or on re-examination, as the case may be.

(2) Such a recording must be made in the presence of such persons as **[**[F34]Criminal Procedure Rules**]** or the direction may provide and in the absence of the accused, but in circumstances in which—

(a) the judge or justices (or both) and legal representatives acting in the proceedings are able to see and hear the examination of the witness and to communicate with the persons in whose presence the recording is being made, and

(b) the accused is able to see and hear any such examination and to communicate with any legal representative acting for him.

(3) Where two or more legal representatives are acting for a party to the proceedings, subsection (2)(a) and (b) are to be regarded as satisfied in relation to those representatives if at all material times they are satisfied in relation to at least one of them.

(4) Where a special measures direction provides for a recording to be admitted under this section, the court may nevertheless subsequently direct that it is not to be so admitted if any requirement of subsection (2) or **[**[F35]Criminal Procedure Rules**]** or the direction has not been complied with to the satisfaction of the court.

(5) Where in pursuance of subsection (1) a recording has been made of any examination of the witness, the witness may not be subsequently cross-examined or re-examined in respect of any evidence given by the witness in the proceedings (whether in any recording admissible under section 27 or this section or otherwise than in such a recording) unless the court gives a further special measures direction making such provision as is mentioned in subsection (1)(a) and (b) in relation to any subsequent cross-examination, and re-examination, of the witness.

(6) The court may only give such a further direction if it appears to the court—

(a) that the proposed cross-examination is sought by a party to the proceedings as a result of that party having become aware, since the time when the original recording was made in pursuance of subsection (1), of a matter which that party could not with reasonable diligence have ascertained by then, or

(b) that for any other reason it is in the interests of justice to give the further direction.

(7) Nothing in this section shall be read as applying in relation to any cross-examination of the witness by the accused in person (in a case where the accused is to be able to conduct any such cross-examination).

Textual Amendments

F34 Words in s. 28(2) substituted (1.9.2004) by Courts Act 2003 (c. 39), s. 110(1), **Sch. 8 para. 384(c)**; S.I. 2004/2066, art. 2(c)(xix) (with art. 3)

F35 Words in s. 28(4) substituted (1.9.2004) by Courts Act 2003 (c. 39), s. 110(1), **Sch. 8 para. 384(c)**; S.I. 2004/2066, art. 2(c)(xix) (with art. 3)

Commencement Information

I13 Pt. 2 Chs. 1-4 (ss. 16-52) in force for certain purposes at Royal Assent, see s. 68(4)

I14 S. 28 in force at 30.12.2013 for specified purposes by S.I. 2013/3236, **art. 2(1)**

I15 S. 28 in force at 2.1.2017 for specified purposes by S.I. 2016/1201, **art. 2**

I16 S. 28 in force at 3.6.2019 for specified purposes by S.I. 2019/947, **art. 2**

I17 S. 28 in force at 24.2.2020 for specified purposes by S.I. 2020/155, **art. 2**

I18 S. 28 in force at 24.8.2020 for specified purposes by S.I. 2020/888, **art. 2**

29 Examination of witness through intermediary.

(1) A special measures direction may provide for any examination of the witness (however and wherever conducted) to be conducted through an interpreter or other person approved by the court for the purposes of this section ("an intermediary").

(2) The function of an intermediary is to communicate—

(a) to the witness, questions put to the witness, and

(b) to any person asking such questions, the answers given by the witness in reply to them,

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and to explain such questions or answers so far as necessary to enable them to be understood by the witness or person in question.

(3) Any examination of the witness in pursuance of subsection (1) must take place in the presence of such persons as **[**[F36]Criminal Procedure Rules**]** or the direction may provide, but in circumstances in which—

(a) the judge or justices (or both) and legal representatives acting in the proceedings are able to see and hear the examination of the witness and to communicate with the intermediary, and

(b) (except in the case of a video recorded examination) the jury (if there is one) are able to see and hear the examination of the witness.

(4) Where two or more legal representatives are acting for a party to the proceedings, subsection (3)(a) is to be regarded as satisfied in relation to those representatives if at all material times it is satisfied in relation to at least one of them.

(5) A person may not act as an intermediary in a particular case except after making a declaration, in such form as may be prescribed by **[**[F37]Criminal Procedure Rules**]**, that he will faithfully perform his function as intermediary.

(6) Subsection (1) does not apply to an interview of the witness which is recorded by means of a video recording with a view to its admission as evidence in chief of the witness; but a special measures direction may provide for such a recording to be admitted under section 27 if the interview was conducted through an intermediary and—

(a) that person complied with subsection (5) before the interview began, and

(b) the court's approval for the purposes of this section is given before the direction is given.

(7) Section 1 of the [M3]Perjury Act 1911 (perjury) shall apply in relation to a person acting as an intermediary as it applies in relation to a person lawfully sworn as an interpreter in a judicial proceeding; and for this purpose, where a person acts as an intermediary in any proceeding which is not a judicial proceeding for the purposes of that section, that proceeding shall be taken to be part of the judicial proceeding in which the witness's evidence is given.

Textual Amendments

F36 Words in s. 29(3) substituted (1.9.2004) by Courts Act 2003 (c. 39), s. 110(1), **Sch. 8 para. 384(d)**; S.I. 2004/2066, art. 2(c)(xix) (with art. 3)

F37 Words in s. 29(5) substituted (1.9.2004) by Courts Act 2003 (c. 39), s. 110(1), **Sch. 8 para. 384(d)**; S.I. 2004/2066, art. 2(c)(xix) (with art. 3)

Modifications etc. (not altering text)

C23 S. 29(1)(2) applied (with modifications) (31.10.2009) by The Youth Justice and Criminal Evidence Act 1999 (Application to Service Courts) Order 2009 (S.I. 2009/2083), arts. 1, **3**, 4

C24 S. 29(3)(4) applied (with modifications) (31.10.2009) by The Youth Justice and Criminal Evidence Act 1999 (Application to Service Courts) Order 2009 (S.I. 2009/2083), arts. 1, **3**, 4

C25 S. 29(5)-(7) applied (with modifications) (31.10.2009) by The Youth Justice and Criminal Evidence Act 1999 (Application to Service Courts) Order 2009 (S.I. 2009/2083), arts. 1, **3**, 4

Commencement Information

I19 Pt. 2 Chs. 1-4 (ss. 16-52) in force for certain purposes at Royal Assent, see s. 68(4)

I20 S. 29 in force at 23.2.2004 in so far as not already in force by S.I. 2004/299, **art. 2**

Marginal Citations

M3 1911 c. 6.

30 Aids to communication.

A special measures direction may provide for the witness, while giving evidence (whether by testimony in court or otherwise), to be provided with such device as the court considers appropriate with a view to enabling questions or answers to be communicated to or by the witness despite any disability or disorder or other impairment which the witness has or suffers from.

Modifications etc. (not altering text)

C26 S. 30 applied (with modifications) (31.10.2009) by The Youth Justice and Criminal Evidence Act 1999 (Application to Service Courts) Order 2009 (S.I. 2009/2083), arts. 1, **3**, 4

Commencement Information

I21 S. 30 wholly in force at 24.7.2002; Pt. II Chs. 1-4 (ss. 16-52) in force for certain purposes at Royal Assent, see s. 68(4); s. 30 in force in so far as not already in force at 24.7.2002 by S.I. 2002/1739, **art. 2(a)**

Supplementary

31 Status of evidence given under Chapter I.

(1) Subsections (2) to (4) apply to a statement made by a witness in criminal proceedings which, in accordance with a special measures direction, is not made by the witness in direct oral testimony in court but forms part of the witness's evidence in those proceedings.

(2) The statement shall be treated as if made by the witness in direct oral testimony in court; and accordingly—

(a) it is admissible evidence of any fact of which such testimony from the witness would be admissible;

(b) it is not capable of corroborating any other evidence given by the witness.

(3) Subsection (2) applies to a statement admitted under section 27 or 28 which is not made by the witness on oath even though it would have been required to be made on oath if made by the witness in direct oral testimony in court.

(4) In estimating the weight (if any) to be attached to the statement, the court must have regard to all the circumstances from which an inference can reasonably be drawn (as to the accuracy of the statement or otherwise).

(5) Nothing in this Chapter (apart from subsection (3)) affects the operation of any rule of law relating to evidence in criminal proceedings.

(6) Where any statement made by a person on oath in any proceeding which is not a judicial proceeding for the purposes of section 1 of the [M4]Perjury Act 1911 (perjury) is received in evidence in pursuance of a special measures direction, that proceeding

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shall be taken for the purposes of that section to be part of the judicial proceeding in which the statement is so received in evidence.

(7) Where in any proceeding which is not a judicial proceeding for the purposes of that Act—

(a) a person wilfully makes a false statement otherwise than on oath which is subsequently received in evidence in pursuance of a special measures direction, and

(b) the statement is made in such circumstances that had it been given on oath in any such judicial proceeding that person would have been guilty of perjury,

he shall be guilty of an offence and liable to any punishment which might be imposed on conviction of an offence under section 57(2) (giving of false unsworn evidence in criminal proceedings).

(8) In this section "statement" includes any representation of fact, whether made in words or otherwise.

Modifications etc. (not altering text)

C27 S. 31 applied (with modifications) (31.10.2009) by The Youth Justice and Criminal Evidence Act 1999 (Application to Service Courts) Order 2009 (S.I. 2009/2083), arts. 1, **3**, 4

Commencement Information

I22 S. 31 wholly in force at 24.7.2002; Pt. II Chs. 1-4 (ss. 16-52) in force for certain purposes at Royal Assent, see s. 68(4); s. 31 in force in so far as not already in force at 24.7.2002 by S.I. 2002/1739, **art. 2(b)**

Marginal Citations

M4 1911 c. 6.

32 Warning to jury.

Where on a trial on indictment **[**[F38]with a jury**]** evidence has been given in accordance with a special measures direction, the judge must give the jury such warning (if any) as the judge considers necessary to ensure that the fact that the direction was given in relation to the witness does not prejudice the accused.

Textual Amendments

F38 Words in s. 32 inserted (24.7.2006) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 36 para. 75**; S.I. 2006/1835, art. 2(h)

Commencement Information

I23 S. 32 wholly in force at 24.7.2002; Pt. II Chs. 1-4 (ss. 16-52) in force for certain purposes at Royal Assent, see s. 68(4); s. 32 in force in so far as not already in force at 24.7.2002 by S.I. 2002/1739, **art. 2(b)**

33 Interpretation etc. of Chapter I.

(1) In this Chapter—

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"eligible witness" means a witness eligible for assistance by virtue of section 16 or 17;

"live link" has the meaning given by section 24(8);

"quality", in relation to the evidence of a witness, shall be construed in accordance with section 16(5);

"special measures direction" means (in accordance with section 19(5)) a direction under section 19.

(2) In this Chapter references to the special measures available in relation to a witness shall be construed in accordance with section 18.

(3) In this Chapter references to a person being able to see or hear, or be seen or heard by, another person are to be read as not applying to the extent that either of them is unable to see or hear by reason of any impairment of eyesight or hearing.

(4) In the case of any proceedings in which there is more than one accused—

(a) any reference to the accused in sections 23 to 28 may be taken by a court, in connection with the giving of a special measures direction, as a reference to all or any of the accused, as the court may determine, and

(b) any such direction may be given on the basis of any such determination.

[[F39](5) For the purposes of this Chapter as it applies in relation to a witness who is the complainant in respect of **[**[F40]a relevant offence**]**, where the age of the witness is uncertain and there are reasons to believe that the witness is under the age of 18, that witness is presumed to be under the age of 18.

[[F41](6) In subsection (5) "relevant offence" means—

(a) a sexual offence;

(b) an offence under section 1 of the Protection of Children Act 1978;

(c) an offence under section 160 of the Criminal Justice Act 1988;

(d) an offence under **[**[F42]section 1 or 2 of the Modern Slavery Act 2015**].]]**

Textual Amendments

F39 S. 33(5)(6) inserted (6.4.2013) by The Trafficking People for Exploitation Regulations 2013 (S.I. 2013/554), reg. 1(b), **Sch. para. 4** (with Sch. para. 6)

F40 Words in s. 33(5) substituted (18.12.2013) by The Special Measures for Child Witnesses (Sexual Offences) Regulations 2013 (S.I. 2013/2971), regs. 1(b), **2(a)**

F41 S. 33(6) substituted (18.12.2013) by The Special Measures for Child Witnesses (Sexual Offences) Regulations 2013 (S.I. 2013/2971), regs. 1(b), **2(b)**

F42 Words in s. 33(6)(d) substituted (31.7.2015) by Modern Slavery Act 2015 (c. 30), **ss. 46(4)**, 61(1); S.I. 2015/1476, reg. 2(e) (with regs. 3, 6, 8)

Modifications etc. (not altering text)

C28 S. 33 applied (with modifications) (31.10.2009) by The Youth Justice and Criminal Evidence Act 1999 (Application to Service Courts) Order 2009 (S.I. 2009/2083), arts. 1, **3**, 4

Commencement Information

I24 S. 33 wholly in force at 24.7.2002; Pt.II Chs. 1-4 (ss. 16-52) in force for certain purposes at Royal Assent, see s. 68(4); s. 33 in force in so far as not already in force at 24.7.2002 by S.I. 2002/1739 {art. 2(b)}

Status:
Point in time view as at 24/08/2020.

Changes to legislation:
Youth Justice and Criminal Evidence Act 1999, Chapter I is up to date with all changes known to be in force on or before 08 July 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.