



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

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).

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- (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 ^{M1}Perjury Act 1911 (perjury) is received in evidence in pursuance of a special measures direction, that proceeding 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)

- C1** 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

- II** 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

- M1** [1911 c. 6.](#)

32 Warning to jury.

Where on a trial on indictment [^{F1}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

- F1** 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)

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Commencement Information

- I2** 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—

“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.

[^{F2}(5) For the purposes of this Chapter as it applies in relation to a witness who is the complainant in respect of [^{F3}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.

[^{F4}(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 [^{F5}section 1 or 2 of the Modern Slavery Act 2015].]

Textual Amendments

F2 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](#))

F3 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\(a\)](#)

F4 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\(b\)](#)

F5 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](#))

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Modifications etc. (not altering text)

- C2** 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

- I3** 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)}

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 33BA33BB inserted by [2009 c. 25 s. 104\(1\)](#)