



Youth Justice and Criminal Evidence Act 1999

1999 CHAPTER 23

PART II

GIVING OF EVIDENCE OR INFORMATION FOR PURPOSES OF CRIMINAL PROCEEDINGS

CHAPTER IV

REPORTING RESTRICTIONS

Offences

49 Offences under Chapter IV.

- (1) This section applies if a publication—
 - (a) includes any matter in contravention of section 44(2) or of a direction under section 45(3) or 46(2); or
 - (b) includes a report in contravention of section 47.
- (2) Where the publication is a newspaper or periodical, any proprietor, any editor and any publisher of the newspaper or periodical is guilty of an offence.
- (3) Where the publication is a relevant programme—
 - (a) any body corporate or Scottish partnership engaged in providing the programme service in which the programme is included, and
 - (b) any person having functions in relation to the programme corresponding to those of an editor of a newspaper,is guilty of an offence.
- (4) In the case of any other publication, any person publishing it is guilty of an offence.

Status: Point in time view as at 20/10/2014.

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- (5) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (6) Proceedings for an offence under this section in respect of a publication falling within subsection (1)(b) may not be instituted—
- (a) in England and Wales otherwise than by or with the consent of the Attorney General, or
 - (b) in Northern Ireland otherwise than by or with the consent of the Attorney General for Northern Ireland.

Modifications etc. (not altering text)

- C1** S. 49 applied by S.I. 2004/1988 (N.I. 12), art. 6C(5) (as inserted (N.I.) (18.9.2006) by [The Criminal Justice \(Northern Ireland\) Order 2005 \(S.I. 2005/1965\)](#), arts. 1(2)(a), **6**; S.R. 2006/368, art. 2(a)
- C2** S. 49 applied (E.W.) (20.10.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), **ss. 31(4), 185(1)** (with [ss. 21, 33, 42, 58, 75, 93](#)); S.I. 2014/2590, art. 3(a)

Commencement Information

- I1** Pt. II Chs. 1-4 (ss. 16-52) in force for certain purposes at Royal Assent, see s. 68(4)
- I2** S. 49 in force at 7.10.2004 for specified purposes for E.W. by [S.I. 2004/2428](#), **art. 2(c)**
- I3** S. 49 in force at 8.11.2004 for specified purposes for N.I. by [S.R. 2004/467](#), **art. 2(d)**
- I4** S. 49(1)-(5) in force at 7.10.2004 for specified purposes for S. by [S.S.I. 2004/408](#), **art. 3(b)**

50 Defences.

- (1) Where a person is charged with an offence under section 49 it shall be a defence to prove that at the time of the alleged offence he was not aware, and neither suspected nor had reason to suspect, that the publication included the matter or report in question.
- (2) Where—
- (a) a person is charged with an offence under section 49, and
 - (b) the offence relates to the inclusion of any matter in a publication in contravention of section 44(2),
- it shall be a defence to prove that at the time of the alleged offence he was not aware, and neither suspected nor had reason to suspect, that the criminal investigation in question had begun.
- (3) Where—
- (a) paragraphs (a) and (b) of subsection (2) apply, and
 - (b) the contravention of section 44(2) does not relate to either—
 - (i) the person by whom the offence mentioned in that provision is alleged to have been committed, or
 - (ii) (where that offence is one in relation to which section 1 of the ^{M1}Sexual Offences (Amendment) Act 1992 applies) a person who is alleged to be a witness to the commission of the offence,
- it shall be a defence to show to the satisfaction of the court that the inclusion in the publication of the matter in question was in the public interest on the ground that, to the extent that they operated to prevent that matter from being so included, the effect of the restrictions imposed by section 44(2) was to

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impose a substantial and unreasonable restriction on the reporting of matters connected with that offence.

- (4) Subsection (5) applies where—
- (a) paragraphs (a) and (b) of subsection (2) apply, and
 - (b) the contravention of section 44(2) relates to a person (“the protected person”) who is neither—
 - (i) the person mentioned in subsection (3)(b)(i), nor
 - (ii) a person within subsection (3)(b)(ii) who is under the age of 16.
- (5) In such a case it shall be a defence, subject to subsection (6), to prove that written consent to the inclusion of the matter in question in the publication had been given—
- (a) by an appropriate person, if at the time when the consent was given the protected person was under the age of 16, or
 - (b) by the protected person, if that person was aged 16 or 17 at that time,
- and (where the consent was given by an appropriate person) that written notice had been previously given to that person drawing to his attention the need to consider the welfare of the protected person when deciding whether to give consent.
- (6) The defence provided by subsection (5) is not available if—
- (a) (where the consent was given by an appropriate person) it is proved that written or other notice withdrawing the consent—
 - (i) was given to the appropriate recipient by any other appropriate person or by the protected person, and
 - (ii) was so given in sufficient time to enable the inclusion in the publication of the matter in question to be prevented; or
 - (b) subsection (8) applies.
- (7) Where—
- (a) a person is charged with an offence under section 49, and
 - (b) the offence relates to the inclusion of any matter in a publication in contravention of a direction under section 46(2),
- it shall be a defence, unless subsection (8) applies, to prove that the person in relation to whom the direction was given had given written consent to the inclusion of that matter in the publication.
- (8) Written consent is not a defence if it is proved that any person interfered—
- (a) with the peace or comfort of the person giving the consent, or
 - (b) (where the consent was given by an appropriate person) with the peace or comfort of either that person or the protected person,
- with intent to obtain the consent.
- (9) In this section—
- “an appropriate person” means (subject to subsections (10) to (12))—
 - (a) in England and Wales or Northern Ireland, a person who is a parent or guardian of the protected person, or
 - (b) in Scotland, a person who has parental responsibilities (within the meaning of section 1(3) of the ^{M2}Children (Scotland) Act 1995) in relation to the protected person;

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- “guardian”, in relation to the protected person, means any person who is not a parent of the protected person but who has parental responsibility for the protected person within the meaning of—
- (a) (in England and Wales) the ^{M3}Children Act 1989, or
 - (b) (in Northern Ireland) the ^{M4}Children (Northern Ireland) Order 1995.
- (10) Where the protected person is (within the meaning of the Children Act 1989) a child who is looked after by a local authority, “an appropriate person” means a person who is—
- (a) a representative of that authority, or
 - (b) a parent or guardian of the protected person with whom the protected person is allowed to live.
- (11) Where the protected person is (within the meaning of the ^{M5}Children (Northern Ireland) Order 1995) a child who is looked after by an authority, “an appropriate person” means a person who is—
- (a) an officer of that authority, or
 - (b) a parent or guardian of the protected person with whom the protected person is allowed to live.
- (12) Where the protected person is (within the meaning of section 17(6) of the ^{M6}Children (Scotland) Act 1995) a child who is looked after by a local authority, “an appropriate person” means a person who is—
- (a) a representative of that authority, or
 - (b) a person who has parental responsibilities (within the meaning of section 1(3) of that Act) in relation to the protected person and with whom the protected person is allowed to live.
- (13) However, no person by whom the offence mentioned in section 44(2) is alleged to have been committed is, by virtue of subsections (9) to (12), an appropriate person for the purposes of this section.
- (14) In this section “the appropriate recipient”, in relation to a notice under subsection (6) (a), means—
- (a) the person to whom the notice giving consent was given,
 - (b) (if different) the person by whom the matter in question was published, or
 - (c) any other person exercising, on behalf of the person mentioned in paragraph (b), any responsibility in relation to the publication of that matter;
- and for this purpose “person” includes a body of persons and a partnership.

Commencement Information

- I5** Pt. II Chs. 1-4 (ss. 16-52) in force for certain purposes at Royal Assent, see s. 68(4)
I6 S. 50 in force at 7.10.2004 for specified purposes for E.W. by [S.I. 2004/2428](#), [art. 2\(c\)](#)
I7 S. 50 in force at 7.10.2004 for specified purposes for S. by [S.S.I. 2004/408](#), [art. 3\(b\)](#)
I8 S. 50 in force at 8.11.2004 for specified purposes for N.I. by [S.R. 2004/467](#), [art. 2\(d\)](#)

Marginal Citations

- M1** 1992 c. 34.
M2 1995 c. 36.
M3 1989 c. 41.
M4 [S.I. 1995/755](#) (N.I. 2.).

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M5 [S.I. 1995/755](#) (N.I. 2.).

M6 [1995 c. 36](#).

51 Offences committed by bodies corporate or Scottish partnerships.

- (1) If an offence under section 49 committed by a body corporate is proved—
 - (a) to have been committed with the consent or connivance of, or
 - (b) to be attributable to any neglect on the part of,
an officer, the officer as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.
- (2) In subsection (1) “officer” means a director, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity.
- (3) If the affairs of a body corporate are managed by its members, “director” in subsection (2) means a member of that body.
- (4) Where an offence under section 49 is committed by a Scottish partnership and is proved to have been committed with the consent or connivance of a partner, he as well as the partnership shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Modifications etc. (not altering text)

- C3** S. 51 applied by [S.I. 2004/1988](#) (N.I. 12), art. 6C(5) (as inserted (N.I.) (18.9.2006) by [The Criminal Justice \(Northern Ireland\) Order 2005](#) (S.I. 2005/1965), arts. 1(2)(a), [6](#); [S.R. 2006/368](#), art. 2(a))
- C4** S. 51 applied (E.W.) (20.10.2014) by [Anti-social Behaviour, Crime and Policing Act 2014](#) (c. 12), [ss. 31\(4\), 185\(1\)](#) (with [ss. 21, 33, 42, 58, 75, 93](#)); [S.I. 2014/2590](#), art. 3(a)

Commencement Information

- I9** Pt. II Chs. 1-4 (ss. 16-52) in force for certain purposes at Royal Assent, see s. 68(4)
- I10** S. 51 in force at 7.10.2004 for specified purposes for S. by [S.S.I. 2004/408](#), [art. 3\(b\)](#)
- I11** S. 51 in force at 7.10.2004 for specified purposes for E.W. by [S.I. 2004/2428](#), [art. 2\(c\)](#)
- I12** S. 51 in force at 8.11.2004 for specified purposes for N.I. by [S.R. 2004/467](#), [art. 2\(d\)](#)

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