



# 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

##### *Special measures*

#### **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—

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- (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 [<sup>F1</sup>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 [<sup>F2</sup>in any recording admissible under section 28], or
    - (ii) the parties to the proceedings have agreed as mentioned in subsection (4)(a)(ii); and
  - [<sup>F3</sup>(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 [<sup>F4</sup>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, <sup>F5</sup>... or
  - (b) of its own motion.
- <sup>F6</sup>(8) .....
- (9) The court may, in giving permission for the purposes of [<sup>F7</sup>subsection (5)(b)], direct that the evidence in question is to be given by the witness by means of a live link; <sup>F8</sup>....
- [<sup>F9</sup>(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.]
- <sup>F10</sup>[(10) A magistrates' court inquiring into an offence as examining justices under section 6 of the <sup>M1</sup>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

- F1** 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](#))
- F2** 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\(g\)](#)

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- F3** 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)
- F4** 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)
- F5** 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)
- F6** 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)
- F7** 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)
- F8** 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)
- F9** 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)
- F10** 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)

- C1** 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
- C2** 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
- C3** 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

- I1** 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

- M1** 1980 c. 43.

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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\(1\)](#)