



Youth Justice and Criminal Evidence Act 1999

1999 CHAPTER 23

PART II

GIVING OF EVIDENCE OR INFORMATION FOR PURPOSES OF CRIMINAL PROCEEDINGS

CHAPTER III

PROTECTION OF COMPLAINANTS IN PROCEEDINGS FOR SEXUAL OFFENCES

42 Interpretation and application of section 41.

- (1) In section 41—
 - (a) “relevant issue in the case” means any issue falling to be proved by the prosecution or defence in the trial of the accused;
 - (b) “issue of consent” means any issue whether the complainant in fact consented to the conduct constituting the offence with which the accused is charged (and accordingly does not include any issue as to the belief of the accused that the complainant so consented);
 - (c) “sexual behaviour” means any sexual behaviour or other sexual experience, whether or not involving any accused or other person, but excluding (except in section 41(3)(c)(i) and (5)(a)) anything alleged to have taken place as part of the event which is the subject matter of the charge against the accused; and
 - (d) subject to any order made under subsection (2), “sexual offence” shall be construed in accordance with section 62.
- (2) The Secretary of State may by order make such provision as he considers appropriate for adding or removing, for the purposes of section 41, any offence to or from the offences which are sexual offences for the purposes of this Act by virtue of section 62.
- (3) Section 41 applies in relation to the following proceedings as it applies to a trial, namely—

Changes to legislation: *Youth Justice and Criminal Evidence Act 1999, Section 42 is up to date with all changes known to be in force on or before 20 April 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) View outstanding changes*

- ^{F1}[(a) proceedings before a magistrates' court inquiring into an offence as examining justices,]
^{F2}[(b) the hearing of an application under paragraph 5(1) of Schedule 6 to the ^{M1}Criminal Justice Act 1991 (application to dismiss charge following notice of transfer of case to Crown Court),]
 (c) the hearing of an application under paragraph 2(1) of Schedule 3 to the ^{M2}Crime and Disorder Act 1998 (application to dismiss charge by person sent for trial under section 51 [^{F3}or 51A] of that Act),
 (d) any hearing held, between conviction and sentencing, for the purpose of determining matters relevant to the court's decision as to how the accused is to be dealt with, and
 (e) the hearing of an appeal,
 and references (in section 41 or this section) to a person charged with an offence accordingly include a person convicted of an offence.

Textual Amendments

- F1** S. 42(3)(a) 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\(3\)\(a\), 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\(1\)\(c\)\(d\)\(2\)\(3\) \(with arts. 3, 4\)](#)
- F2** S. 42(3)(b) 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\(3\)\(a\), 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\(1\)\(c\)\(d\)\(2\)\(3\) \(with arts. 3, 4\)](#)
- F3** Words in s. 42(3)(c) inserted (9.5.2005 for specified purposes, 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\(3\)\(b\); S.I. 2005/1267, art. 2\(1\)\(2\)\(b\), Sch. Pt. 2; S.I. 2012/1320, art. 4\(1\)\(c\)\(2\)\(3\) \(with art. 5\) \(see S.I. 2012/2574, art. 4\(2\) and S.I. 2013/1103, art. 4\); S.I. 2012/2574, art. 2\(2\)\(3\)\(c\), 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\(1\)\(c\)\(2\)\(3\) \(with arts. 3, 4\)](#)

Modifications etc. (not altering text)

- C1** S. 42(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, 7, 8](#)
- C2** S. 42(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, 7, 8](#)

Commencement Information

- I1** S. 42 wholly in force at 4.12.2000; Pt. II Chs. 1-4 (ss. 16-52) in force for certain purposes at Royal Assent, see s. 68(4); s. 42 in force at 4.12.2000 in so far as not already in force by [S.I. 2000/3075, art. 2\(a\)](#)

Marginal Citations

- M1** 1991 c. 53.
M2 1998 c. 37.

Changes to legislation:

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[View outstanding changes](#)

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\(1\)](#)