



# Criminal Justice Act 2003

## 2003 CHAPTER 44

### PART 11

#### EVIDENCE

### CHAPTER 2

#### HEARSAY EVIDENCE

##### *Principal categories of admissibility*

#### **120 Other previous statements of witnesses**

- (1) This section applies where a person (the witness) is called to give evidence in criminal proceedings.
- (2) If a previous statement by the witness is admitted as evidence to rebut a suggestion that his oral evidence has been fabricated, that statement is admissible as evidence of any matter stated of which oral evidence by the witness would be admissible.
- (3) A statement made by the witness in a document—
  - (a) which is used by him to refresh his memory while giving evidence,
  - (b) on which he is cross-examined, and
  - (c) which as a consequence is received in evidence in the proceedings,is admissible as evidence of any matter stated of which oral evidence by him would be admissible.
- (4) A previous statement by the witness is admissible as evidence of any matter stated of which oral evidence by him would be admissible, if—
  - (a) any of the following three conditions is satisfied, and
  - (b) while giving evidence the witness indicates that to the best of his belief he made the statement, and that to the best of his belief it states the truth.

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*Status: This is the original version (as it was originally enacted).*

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- (5) The first condition is that the statement identifies or describes a person, object or place.
- (6) The second condition is that the statement was made by the witness when the matters stated were fresh in his memory but he does not remember them, and cannot reasonably be expected to remember them, well enough to give oral evidence of them in the proceedings.
- (7) The third condition is that—
  - (a) the witness claims to be a person against whom an offence has been committed,
  - (b) the offence is one to which the proceedings relate,
  - (c) the statement consists of a complaint made by the witness (whether to a person in authority or not) about conduct which would, if proved, constitute the offence or part of the offence,
  - (d) the complaint was made as soon as could reasonably be expected after the alleged conduct,
  - (e) the complaint was not made as a result of a threat or a promise, and
  - (f) before the statement is adduced the witness gives oral evidence in connection with its subject matter.
- (8) For the purposes of subsection (7) the fact that the complaint was elicited (for example, by a leading question) is irrelevant unless a threat or a promise was involved.