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SCHEDULES

SCHEDULE 20

FURTHER PROVISION ABOUT VIDEO AND AUDIO LINKS IN CRIMINAL PROCEEDINGS

Criminal Justice Act 2003

- 1 (1) The Criminal Justice Act 2003 is amended as follows.
- (2) For section 52 substitute—

“52 Further provision about the giving, variation and rescission of live-link directions

- (1) The power conferred by section 51 includes power to give—
- (a) a direction that is applicable to several, or all, of the persons taking part in particular eligible criminal proceedings;
 - (b) a direction that is applicable to a particular person in respect of only some aspects of particular eligible criminal proceedings (such as giving evidence or attending the proceedings when not giving evidence);
 - (c) a direction requiring or permitting a person who is outside England and Wales (whether in the United Kingdom or elsewhere) to take part in eligible criminal proceedings through a live audio link or a live video link.
- (2) The court may vary or rescind a direction under section 51 at any time before or during the eligible criminal proceedings to which it relates (but this does not affect the court’s power to give a further direction under that section in relation to the proceedings).
- (3) A direction under section 51 may not be rescinded unless—
- (a) the court is satisfied that it is in the interests of justice for the direction to be rescinded,
 - (b) the parties to the proceedings have been given the opportunity to make representations, and
 - (c) if so required by subsection (9), the relevant youth offending team has been given the opportunity to make representations.
- (4) In relation to the variation of a direction given under section 51—
- (a) so far as the effect of the variation would be to allow a person to take part in eligible criminal proceedings through a live audio link or a live video link, or to alter (without removing) a person’s ability to do so, sections 51(4) and 53(1) to (3) apply as they apply to the giving of a direction;
 - (b) so far as the effect of the variation would be to remove a person’s ability to take part in eligible criminal proceedings through a live

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audio link or a live video link, subsection (3) applies as it applies to the rescission of a direction.

(5) Section 51(5) and (6) applies in relation to the variation or rescission of a direction given under section 51 as it applies to the giving of a direction under that section.

(6) A direction under section 51 may be given, varied or rescinded—

- (a) on an application by a party to the proceedings, or
- (b) of the court's own motion.

But a party may not apply for a variation or rescission unless there has been a material change of circumstances since the direction was given or last varied.

(7) The court must state in open court its reasons for refusing an application for the giving, variation or rescission of a direction under section 51 and, if it is a magistrates' court, must cause them to be entered in the register of its proceedings.

(8) If a hearing takes place in relation to the giving, variation or rescission of a direction under section 51, the court may require or permit a person to take part in that hearing through—

- (a) a live audio link, or
- (b) a live video link.

(9) The requirement referred to in section 51(4)(c) and subsection (3)(c) arises in a case where—

- (a) the defendant is a party to the proceedings, and
- (b) either—
 - (i) the defendant has not attained the age of 18 years, or
 - (ii) the defendant has attained the age of 18 years but the court is dealing with the case as if the defendant had not attained that age.

52A Further provision about the effect of live-link directions

(1) A person who takes part in eligible criminal proceedings in accordance with a direction under section 51 is to be treated as complying with any requirement (however imposed or expressed) for that person to attend or appear before court, or to surrender to the custody of the court, for the purposes of that participation in those proceedings.

(2) A person who takes part in eligible criminal proceedings in accordance with a direction under section 51 is to be treated as present in court for the purposes of those proceedings.

(3) If eligible criminal proceedings are conducted with one or more persons taking part in accordance with a direction under section 51, the proceedings are to be regarded as taking place—

- (a) if at least one member of the court is taking part in the proceedings while in a courtroom, in that courtroom (or, if more than one courtroom falls within this paragraph, such of them as the court directs),

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- (b) if no member of the court, but at least one other person, is taking part in the proceedings while in a courtroom, in that courtroom (or, if more than one courtroom falls within this paragraph, such of them as the court directs), or
 - (c) if no person is taking part in the proceedings while in a courtroom, at such place as the court directs (being a place where the court could lawfully sit for the purposes of those proceedings).
- (4) In subsection (3), “courtroom” includes any place where proceedings of the sort in question might ordinarily be held (if no person were taking part in the proceedings in accordance with a direction under section 51).
- (5) A statement made on oath by a witness outside the United Kingdom and given in evidence through a live audio link or a live video link in accordance with a direction under section 51 is to be treated for the purposes of section 1 of the Perjury Act 1911 as having been made in the proceedings in which it is given in evidence.”
- (3) In section 53—
 - (a) for the heading substitute “Further provision about live links in magistrates’ courts”;
 - (b) in subsection (1)—
 - (i) in the words before paragraph (a), for “This section applies” substitute “Subsections (2) and (3) apply”;
 - (ii) in paragraph (a), for “for evidence to be given through a live link in proceedings before the court” substitute “requiring or permitting a person to take part in proceedings before the court through a live audio link or a live video link”;
 - (iii) in paragraph (b), for “receiving such evidence” substitute “such participation”;
 - (c) after subsection (3) insert—

“(4) The following functions of a magistrates’ court may be discharged by a single justice—

 - (a) giving a direction under section 51 or varying such a direction under section 52(2);
 - (b) rescinding under section 52(2) a direction given under section 51 before the eligible criminal proceedings concerned begin;
 - (c) requiring or permitting, under section 52(8), a person to take part by live audio link or live video link in a hearing about a matter within paragraph (a) or (b).”
- (4) In section 54(1), for “a live link” substitute “a live audio link or a live video link by a witness (including the defendant)”.
- (5) In section 55—
 - (a) in subsection (2)—
 - (i) in paragraph (a), for “51 or 52” substitute “52(6)”;
 - (ii) in paragraph (b), for “live links” substitute “live audio links and live video links”;
 - (b) in subsection (3)—

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- (i) in paragraph (a), omit “uncontested”;
- (ii) in paragraph (b), for “51” substitute “52(6)”;
- (iii) in paragraph (c), for “51 or 52” substitute “52(6)”.

(6) In section 56—

(a) in subsection (1)—

- (i) omit the definition of “legal representative”;
- (ii) before the definition of “local justice area” insert—

““bail” includes remand to local authority accommodation in accordance with Chapter 3 of Part 3 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012,

“defendant” includes the person accused or convicted of an offence and, in the case of an enforcement hearing, the person liable to pay the sum or financial penalty concerned,

“eligible criminal proceedings” has the meaning given in section 51(3),

“enforcement hearing” means a hearing relating to collection, discharge, satisfaction or enforcement of—

- (a) a sum that has been adjudged to be paid on conviction for an offence by a magistrates’ court or the Crown Court, or
- (b) a financial penalty that is enforceable in accordance with section 85(6) and (7) of the Criminal Justice and Immigration Act 2008 as if it were such a sum (including a hearing to determine whether a financial penalty is so enforceable),

“live audio link”, in relation to a person (P) taking part in proceedings, means a live telephone link or other arrangement which—

- (a) enables P to hear all other persons taking part in the proceedings who are not in the same location as P, and
- (b) enables all other persons taking part in the proceedings who are not in the same location as P to hear P,

“live video link”, in relation to a person (P) taking part in proceedings, means a live television link or other arrangement which—

- (a) enables P to see and hear all other persons taking part in the proceedings who are not in the same location as P, and
- (b) enables all other persons taking part in the proceedings who are not in the same location as P to see and hear P”;

(iii) after the definition of “local justice area” insert—

““preliminary hearing” means a hearing in proceedings for an offence held before the start of the trial (within the meaning of subsection (11A) or (11B) of section 22 of the Prosecution of Offences Act 1985), including, in the case of proceedings in the Crown Court, a preparatory hearing held under—

- (a) section 7 of the Criminal Justice Act 1987 (cases of serious or complex fraud), or

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- (b) section 29 of the Criminal Procedure and Investigations Act 1996 (other serious, complex or lengthy cases),
- “relevant youth offending team” means the youth offending team (established under section 39 of the Crime and Disorder Act 1998) whose functions are exercisable in relation to the defendant concerned,
- “sentencing hearing” means any hearing following conviction for an offence which is held for the purpose of—
 - (a) proceedings (in a magistrates’ court) relating to committal to the Crown Court for sentencing,
 - (b) sentencing the offender or determining how the court should deal with the offender in respect of the offence (including reviewing, amending or revoking such a sentence or determination), or
 - (c) determining—
 - (i) how the offender has complied with a sentence given in respect of the offence, or
 - (ii) how the offender should be dealt with in respect of compliance with such a sentence,
 and here “sentence” includes any way in which a court has determined that the offender should be dealt with in respect of the offence,”;
- (b) after subsection (1) insert—
 - “(1A) In this Part, reference to taking part in proceedings means taking part in whatever capacity, including hearing the proceedings as a member of the court.
 - (1B) In the application of this Part in relation to a witness, a reference to taking part in proceedings includes attending those proceedings for a purpose preliminary or incidental to the giving of evidence.”;
- (c) omit subsections (2) and (3);
- (d) for subsection (4) substitute—
 - “(4) The following matters are to be disregarded for the purposes of the definitions of “live audio link” and “live video link” in subsection (1)—
 - (a) the extent (if any) to which a person is unable to see or hear by reason of any impairment of eyesight or hearing;
 - (b) the effect of any direction or order which provides for one person taking part in proceedings to be prevented by means of a screen or other arrangement from seeing another person taking part in the proceedings.”

Commencement Information

II Sch. 20 para. 1 in force at 28.6.2022, see s. 208(5)(y)

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