



Coroners and Justice Act 2009

2009 CHAPTER 25

PART 3

CRIMINAL EVIDENCE, INVESTIGATIONS AND PROCEDURE

CHAPTER 4

LIVE LINKS

106 Directions to attend through live link

- (1) The Crime and Disorder Act 1998 (c. 37) is amended as follows.
- (2) In section 57B (use of live link at preliminary hearings where accused is in custody), after subsection (6) add—
 - “(7) The following functions of a magistrates' court under this section may be discharged by a single justice—
 - (a) giving a live link direction under this section;
 - (b) rescinding a live link direction before a preliminary hearing begins; and
 - (c) requiring or permitting a person to attend by live link a hearing about a matter within paragraph (a) or (b).”
- (3) In section 57C (use of live link at preliminary hearings where accused is at police station)—
 - (a) after subsection (6) insert—
 - “(6A) A live link direction under this section may not be given unless the court is satisfied that it is not contrary to the interests of justice to give the direction.”,
 - (b) omit subsection (7) (no live link direction unless accused consents),

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- (c) in subsection (8) (power to rescind live link direction before or during hearing), omit “before or”, and
 - (d) in subsection (9) (representations about use of live link), omit paragraph (a) (and the “and” following it).
- (4) In section 57D (continued use of live link for sentencing hearing following a preliminary hearing)—
- (a) in subsection (2) (conditions for use of live link)—
 - (i) omit paragraph (b) (but not the “and” following it), and
 - (ii) in paragraph (c), for “it” to the end substitute “ the accused continuing to attend through the live link is not contrary to the interests of justice. ”, and
 - (b) in subsection (3) (conditions for giving oral evidence by live link), omit paragraph (a) (and the “and” following it).
- (5) In section 57E (use of live link in sentencing hearings)—
- (a) in subsection (5) (conditions for giving live link direction), omit paragraph (a) (and the “and” following it), and
 - (b) in subsection (7) (conditions for giving oral evidence by live link), omit paragraph (a) (and the “and” following it).

Commencement Information

- I1** S. 106(1) in force at 14.12.2009 for specified purposes by [S.I. 2009/3253](#), [art. 2\(a\)\(iii\)](#), [3\(1\)\(a\)](#) (with [art. 4](#))
- I2** [S. 106\(1\)](#) in force at 3.10.2011 for specified purposes by [S.I. 2011/2148](#), [art. 2\(1\)\(a\)](#)
- I3** [S. 106\(1\)\(3\)](#) in force at 8.10.2012 in so far as not already in force by [S.I. 2012/2374](#), [art. 3\(a\)](#)
- I4** S. 106(2)(5) in force at 14.12.2009 by [S.I. 2009/3253](#), [art. 2\(a\)\(i\)](#) (with [art. 4](#))
- I5** S. 106(3) in force at 14.12.2009 for specified purposes by [S.I. 2009/3253](#), [art. 3\(1\)\(a\)](#) (with [art. 4](#))
- I6** [S. 106\(3\)](#) in force at 3.10.2011 for specified purposes by [S.I. 2011/2148](#), [art. 2\(1\)\(a\)](#)
- I7** S. 106(4) in force at 14.12.2009 by [S.I. 2009/3253](#), [art. 2\(a\)\(ii\)](#)

107 Answering to live link bail

- (1) The Police and Criminal Evidence Act 1984 (c. 60) is amended as follows.
- (2) In section 46ZA (persons granted live link bail)—
- (a) in subsection (3) (accused persons who answer to live link bail and are treated as in police detention)—
 - (i) omit paragraph (a)(persons not intending to consent to live link direction),
 - (ii) in paragraph (b), for “at any such time,” substitute “ at any time before the beginning of proceedings in relation to a live link direction under section 57C of the Crime and Disorder Act 1998 in relation to the accused person, ”,
 - (iii) omit paragraph (c)(persons not giving consent during proceedings in relation to a live link direction) (but not the “or” following it), and
 - (iv) in paragraph (d), for “any other reason” substitute “ any reason ”, and

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- (b) in subsection (4) (effect of subsection (3) applying to a person), for “any of paragraphs (a) to (d) of subsection (3) apply” substitute “ paragraph (b) or (d) of subsection (3) applies ”.
- (3) In section 46A(power of arrest for failure to answer police bail), in subsection (1ZA) (such failure includes leaving police station without informing a constable that intend not to consent to live link direction), in paragraph (b) omit from “, without informing” to the end.

Commencement Information

- I8** S. 107 in force at 14.12.2009 for specified purposes by S.I. 2009/3253, art. 3(1)(b) (with art. 4)
- I9** S. 107 in force at 3.10.2011 for specified purposes by S.I. 2011/2148, art. 2(1)(b)
- I10** S. 107 in force at 8.10.2012 in so far as not already in force by S.I. 2012/2374, art. 3(b)

108 Searches of persons answering to live link bail

- (1) After section 54A of the Police and Criminal Evidence Act 1984 (c. 60) insert—

“54B Searches of persons answering to live link bail

- (1) A constable may search at any time—
 - (a) any person who is at a police station to answer to live link bail; and
 - (b) any article in the possession of such a person.
- (2) If the constable reasonably believes a thing in the possession of the person ought to be seized on any of the grounds mentioned in subsection (3), the constable may seize and retain it or cause it to be seized and retained.
- (3) The grounds are that the thing—
 - (a) may jeopardise the maintenance of order in the police station;
 - (b) may put the safety of any person in the police station at risk; or
 - (c) may be evidence of, or in relation to, an offence.
- (4) The constable may record or cause to be recorded all or any of the things seized and retained pursuant to subsection (2).
- (5) An intimate search may not be carried out under this section.
- (6) The constable carrying out a search under subsection (1) must be of the same sex as the person being searched.
- (7) In this section “live link bail” means bail granted under Part 4 of this Act subject to the duty mentioned in section 47(3)(b).

54C Power to retain articles seized

- (1) Except as provided by subsections (2) and (3), a constable may retain a thing seized under section 54B until the time when the person from whom it was seized leaves the police station.

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- (2) A constable may retain a thing seized under section 54B in order to establish its lawful owner, where there are reasonable grounds for believing that it has been obtained in consequence of the commission of an offence.
 - (3) If a thing seized under section 54B may be evidence of, or in relation to, an offence, a constable may retain it—
 - (a) for use as evidence at a trial for an offence; or
 - (b) for forensic examination or for investigation in connection with an offence.
 - (4) Nothing may be retained for either of the purposes mentioned in subsection (3) if a photograph or copy would be sufficient for that purpose.
 - (5) Nothing in this section affects any power of a court to make an order under section 1 of the Police (Property) Act 1897.
 - (6) The references in this section to anything seized under section 54B include anything seized by a person to whom paragraph 27A of Schedule 4 to the Police Reform Act 2002 applies.”
- (2) In section 46A of that Act (power of arrest for failure to answer to police bail), after subsection (1ZA) insert—
- “(1ZB) The reference in subsection (1) to a person who fails to attend at a police station at the time appointed for the person to do so includes a reference to a person who—
- (a) attends at a police station to answer to bail granted subject to the duty mentioned in section 47(3)(b), but
 - (b) refuses to be searched under section 54B.”
- (3) In Part 3 of Schedule 4 to the Police Reform Act 2002 (c. 30) (powers exercisable by detention officers), after paragraph 27 insert—

“Searches of persons answering to live link bail

- 27A (1) Where a designation applies this paragraph to any person, that person has the powers of a constable under section 54B of the 1984 Act (searches of persons answering to live link bail)—
- (a) to carry out a search of any person attending a police station in the relevant police area; and
 - (b) to seize or retain articles found on such a search.
- (2) Anything seized by a person under the power conferred by subparagraph (1) must be delivered to a constable as soon as practicable and in any case before the person from whom the thing was seized leaves the police station.”

Commencement Information

- I11** S. 108 in force at 14.12.2009 for specified purposes by S.I. 2009/3253, **art. 3(1)(c)**
- I12** S. 108 in force at 3.10.2011 for specified purposes by S.I. 2011/2148, **art. 2(1)(c)**
- I13** S. 108 in force at 8.10.2012 in so far as not already in force by S.I. 2012/2374, **art. 3(c)**

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109 Use of live link in certain enforcement hearings

(1) After section 57E of the Crime and Disorder Act 1998 (c. 37) insert—

“57F Use of live link in certain enforcement hearings

- (1) This section applies where—
 - (a) a confiscation order is made against a person; and
 - (b) the amount required to be paid under the order is not paid when it is required to be paid.
- (2) If it appears to the court before which an enforcement hearing relating to the confiscation order is to take place that it is likely that the person will be held in custody at the time of the hearing, the court may give a live link direction under this section in relation to that hearing.
- (3) A live link direction under this section is a direction requiring the person, if the person is being held in custody at the time of the hearing, to attend it through a live link from the place at which the person is being held.
- (4) Such a direction—
 - (a) may be given by the court of its own motion or on an application by a party; and
 - (b) may be given in relation to all subsequent enforcement hearings before the court or to such hearing or hearings as may be specified or described in the direction.
- (5) The court may rescind a live link direction under this section at any time before or during a hearing to which it relates.
- (6) The court may not give or rescind a live link direction under this section (whether at a hearing or otherwise) unless the parties to the proceedings have been given the opportunity to make representations.
- (7) If a hearing takes place in relation to the giving or rescinding of such a direction, the court may require or permit any party to the proceedings who wishes to make representations in relation to the giving or rescission of a live link direction under this section to do so through a live link.
- (8) The person may not give oral evidence while attending a hearing through a live link by virtue of this section unless the court is satisfied that it is not contrary to the interests of justice for the person to give it that way.
- (9) If in a case where it has power to do so a court decides not to give a live link direction under this section, it must—
 - (a) state in open court its reasons for not doing so; and
 - (b) cause those reasons to be entered in the register of its proceedings.
- (10) The following functions of a magistrates' court under this section may be discharged by a single justice—
 - (a) giving a live link direction under this section;
 - (b) rescinding a live link direction before a preliminary hearing begins; and

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- (c) requiring or permitting a person to attend by live link a hearing about a matter within paragraph (a) or (b).”
- (2) In section 57A of that Act (introductory)—
- (a) in subsection (1)—
- (i) in paragraph (a), after “an offence” insert “ and enforcement hearings relating to confiscation orders ”, and
- (ii) in paragraph (b), for “and 57E” substitute “ , 57E and 57F ”, and
- (b) in subsection (3), at the appropriate place insert—
- ““confiscation order” means an order made under—
- (a) section 71 of the Criminal Justice Act 1988;
- (b) section 2 of the Drug Trafficking Act 1994; or
- (c) section 6 of the Proceeds of Crime Act 2002;”, and
- “ “enforcement hearing” means a hearing under section 82 of the Magistrates' Courts Act 1980 to consider the issuing of a warrant of committal or to inquire into a person's means;”.
- (3) In the title of Part 3A of that Act, for “AND SENTENCING” substitute “ , SENTENCING AND OTHER ”.

Commencement Information

I14 S. 109 in force at 14.12.2009 by S.I. 2009/3253, art. 2(b)

110 Direction of registrar for appeal hearing by live link

In section 31A of the Criminal Appeal Act 1968 (c. 19) (powers of the Court of Appeal under Part 1 of that Act that are exercisable by the registrar), in subsection (2), after paragraph (a) insert—

“(aa) to give a live link direction under section 22(4);”.

Commencement Information

I15 S. 110 in force at 14.12.2009 by S.I. 2009/3253, art. 2(c)

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