



Magistrates' Courts Act 1980

1980 CHAPTER 43

PART IV **E+W**

WITNESSES AND EVIDENCE

Evidence in criminal cases

102 Written statements before examining justices. **E+W**

- (1) In committal proceedings a written statement by any person shall, if the conditions mentioned in subsection (2) below are satisfied, be admissible as evidence to the like extent as oral evidence to the like effect by that person.
- (2) The said conditions are—
 - (a) the statement purports to be signed by the person who made it;
 - (b) the statement contains a declaration by that person to the effect that it is true to the best of his knowledge and belief and that he made the statement knowing that, if it were tendered in evidence, he would be liable to prosecution if he wilfully stated in it anything which he knew to be false or did not believe to be true;
 - (c) before the statement is tendered in evidence, a copy of the statement is given, by or on behalf of the party proposing to tender it, to each of the other parties to the proceedings; and
 - (d) none of the other parties, before the statement is tendered in evidence at the committal proceedings, objects to the statement being so tendered under this section.
- (3) The following provisions shall also have effect in relation to any written statement tendered in evidence under this section, that is to say—
 - (a) if the statement is made by a person under 21 years old, it shall give his age;
 - (b) if it is made by a person who cannot read it, it shall be read to him before he signs it and shall be accompanied by a declaration by the person who so read the statement to the effect that it was so read; and

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- (c) if it refers to any other document as an exhibit, the copy given to any other party to the proceedings under subsection (2)(c) above shall be accompanied by a copy of that document or by such information as may be necessary in order to enable the party to whom it is given to inspect that document or a copy thereof.
- (4) Notwithstanding that a written statement made by any person may be admissible in committal proceedings by virtue of this section, the court before which the proceedings are held may, of its own motion or on the application of any party to the proceedings, require that person to attend before the court and give evidence.
- (5) So much of any statement as is admitted in evidence by virtue of this section shall, unless the court commits the accused for trial by virtue of section 6(2) above or the court otherwise directs, be read aloud at the hearing, and where the court so directs an account shall be given orally of so much of any statement as is not read aloud.
- (6) Any document or object referred to as an exhibit and identified in a written statement tendered in evidence under this section shall be treated as if it had been produced as an exhibit and identified in court by the maker of the statement.
- (7) Subsection (3) of section 13 of the ^{M1}Criminal Justice Act 1925 (reading of deposition as evidence at the trial) shall apply to any written statement tendered in evidence in committal proceedings under this section as it applies to a deposition taken in such proceedings, but in its application to any such statement that subsection shall have effect as if paragraph (b) thereof were omitted.
- (8) In section 2(2) of the ^{M2}Administration of Justice (Miscellaneous Provisions) Act 1933 (procedure for preferring bills of indictment) the reference in proviso (i) to facts disclosed in any deposition taken before a justice in the presence of the accused shall be construed as including a reference to facts disclosed in any such written statement as aforesaid [^{F1}and section 40 of the Criminal Justice Act 1988 (power to join in indictment count for common assault etc.) shall be given a corresponding construction].
- (9) Section 28 above shall not apply to any such statement as aforesaid.
- (10) A person whose written statement is tendered in evidence in committal proceedings under this section shall be treated for the purposes of section 1 of the ^{M3}Criminal Procedure (Attendance of Witnesses) Act 1965 (witness orders) as a witness who has been examined by the court.

Textual Amendments

F1 Words added by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), ss. 123(6), 170(1), [Sch. 15 para. 68](#)

Marginal Citations

M1 1925 c. 86.

M2 1933 c. 36.

M3 1965 c. 69.

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[^{F2}103 Evidence of persons under 14 in committal proceedings for assault, sexual offences etc. **E+W**

- (1) In any proceedings before a magistrates' court inquiring into an offence to which this section applies as examining justices—
- (a) a child shall not be called as a witness for the prosecution; but
 - (b) any statement made by or taken from a child shall be admissible in evidence of any matter of which his oral testimony would be admissible,
- except in a case where the application of this subsection is excluded under subsection (3) below.
- (2) This section applies—
- (a) to an offence which involves an assault, or injury or a threat of injury to, a person;
 - (b) to an offence under section 1 of the ^{M4}Children and Young Persons Act 1933 (cruelty to persons under 16);
 - (c) to an offence under the ^{M5}Sexual Offences Act 1956, the ^{M6}Indecency with Children Act 1960, the ^{M7}Sexual Offences Act 1967, section 54 of the ^{M8}Criminal Law Act 1977 or the ^{M9}Protection of Children Act 1978; and
 - (d) to an offence which consists of attempting or conspiring to commit, or of aiding, abetting, counselling, procuring or inciting the commission of, an offence falling within paragraph (a), (b) or (c) above.
- (3) The application of subsection (1) above is excluded—
- ^{F3}(a)
 - (b) where the prosecution requires the attendance of the child for the purpose of establishing the identity of any person; or
 - (c) where the court is satisfied that it has not been possible to obtain from the child a statement that may be given in evidence under this section; or
 - (d) where the inquiry into the offence takes place after the court has discontinued to try it summarily and the child has given evidence in the summary trial.
- (4) Section 28 above shall not apply to any statement admitted in pursuance of subsection (1) above.

[In this section “child” has the same meaning as in section 53 of the Criminal Justice ^{F4}(5) Act 1991.]]

Textual Amendments

- F2** S. 103 substituted by Criminal Justice Act 1988 (c. 33, SIF 39:1), ss. 33, 123(6), **Sch. 8 para. 16**
- F3** S. 103(3)(a) repealed (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 55(1), 101(2), **Sch.13**; S.I. 1992/333, art. 2(2), **Sch.2**
- F4** S. 103(5) substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 55(1); S.I. 1992/333, art. 2(2), **Sch.2**

Marginal Citations

- M4** 1933 c. 12 (20).
- M5** 1956 c. 69 (39:5).
- M6** 1960 c. 33 (39:5).
- M7** 1967 c. 60 (39:5).
- M8** 1977 c. 45 (39:5).

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M9 1978 c. 37 (39:5).

104 Proof of previous convictions. **E+W**

Where a person is convicted of a summary offence by a magistrates' court, other than a [^{F5}youth court], and—

(a) it is proved to the satisfaction of the court, on oath or in such other manner as may be prescribed, that not less than 7 days previously a notice was served on the accused in the prescribed form and manner specifying any alleged previous conviction of the accused of a summary offence proposed to be brought to the notice of the court in the event of his conviction of the offence charged; and

(b) the accused is not present in person before the court,
the court may take account of any such previous conviction so specified as if the accused had appeared and admitted it.

Textual Amendments

F5 Words in s. 104 substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 100, **Sch. 11 para. 40(2)(n)**; S.I. 1992/333, art. 2(2), **Sch.2**

Modifications etc. (not altering text)

C1 S. 104 restricted (1.9.1998) by 1988 c. 53, s. 13(3A)(3B) (as inserted (1.9.1998)) by 1998 c. 15, s. 2(1); S.I. 1998/1837, art.2 (with transitional savings in art. 3))

105 Deposition of person dangerously ill. **E+W**

(1) Where a person appears to a justice of the peace to be able and willing to give material information relating to an indictable offence or to any person accused of an indictable offence, and—

(a) the justice is satisfied, on a representation made by a duly qualified medical practitioner, that the person able and willing to make the statement is dangerously ill and unlikely to recover; and

(b) it is not practicable for examining justices to take the evidence of the sick person in accordance with the provisions of this Act and the rules,

the justice may take in writing the deposition of the sick person on oath.

(2) A deposition taken under this section may be given in evidence before examining justices inquiring into an information against the offender or in respect of the offence to which the deposition relates, but subject to the same conditions as apply, under section 6 of the ^{M10}Criminal Law Amendment Act 1867, to its being given in evidence upon the trial of the offender or offence.

Marginal Citations

M10 1867 c. 35.

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