



# Criminal Justice Act 1988

## 1988 CHAPTER 33

### PART III

#### OTHER PROVISIONS ABOUT EVIDENCE IN CRIMINAL PROCEEDINGS

**F1** 29 .....

#### Textual Amendments

**F1** S. 29 repealed (10.6.1991) by [Criminal Justice \(International Co-operation\) Act 1990 \(c. 5, SIF 39:1\)](#), s. 31(3), [Sch. 5](#); S.I. 1991/1072, art. 2(a), [Schedule Pt. I](#)

#### **30** Expert reports.

- (1) An expert report shall be admissible as evidence in criminal proceedings, whether or not the person making it attends to give oral evidence in those proceedings.
- (2) If it is proposed that the person making the report shall not give oral evidence, the report shall only be admissible with the leave of the court.
- (3) For the purpose of determining whether to give leave the court shall have regard—
  - (a) to the contents of the report;
  - (b) to the reasons why it is proposed that the person making the report shall not give oral evidence;
  - (c) to any risk, having regard in particular to whether it is likely to be possible to controvert statements in the report if the person making it does not attend to give oral evidence in the proceedings, that its admission or exclusion will result in unfairness to the accused or, if there is more than one, to any of them; and
  - (d) to any other circumstances that appear to the court to be relevant.

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(4) An expert report, when admitted, shall be evidence of any fact or opinion of which the person making it could have given oral evidence.

[<sup>F2</sup>(4A) Where the proceedings mentioned in subsection (1) above are proceedings before a magistrates' court inquiring into an offence as examining justices this section shall have effect with the omission of—

- (a) in subsection (1) the words “whether or not the person making it attends to give oral evidence in those proceedings”, and
- (b) subsections (2) to (4).]

(5) In this section “expert report” means a written report by a person dealing wholly or mainly with matters on which he is (or would if living be) qualified to give expert evidence.

#### Textual Amendments

**F2** S. 30(4A) inserted (4.7.1996 with effect as mentioned in Sch. 1 Pt. III para. 39 of the amending Act) by 1996 c. 25, s. 47, Sch. 1 Pt. II para.32 (with s. 78(1)); S.I. 1997/683, art. 1(2)

### 31 Form of evidence and glossaries.

For the purpose of helping members of juries to understand complicated issues of fact or technical terms [<sup>F3</sup>Criminal Procedure Rules] may make provision—

- (a) as to the furnishing of evidence in any form, notwithstanding the existence of admissible material from which the evidence to be given in that form would be derived; and
- (b) as to the furnishing of glossaries for such purposes as may be specified;

in any case where the court gives leave for, or requires, evidence or a glossary to be so furnished.

#### Textual Amendments

**F3** Words in s. 31 substituted (1.9.2004) by The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, Sch. para. 25 (with art. 2(2))

### 32 Evidence through television links.

(1) A person other than the accused may give evidence through a live television link [<sup>F4</sup>in proceedings to which subsection (1A) below applies] if—

- (a) the witness is outside the United Kingdom; <sup>F5</sup> . . .
- (b) <sup>F6</sup> . . . . .

but evidence may not be so given without the leave of the court.

[<sup>F7</sup>(1A) This subsection applies—

- (a) to trials on indictment, appeals to the criminal division of the Court of Appeal and hearings of references under [<sup>F8</sup>section 9 of the Criminal Appeal Act 1995]]; and

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- (b) to proceedings in youth courts [<sup>F9</sup>, appeals to the Crown Court arising out of such proceedings and hearings of references under section 11 of the Criminal Appeal Act 1995 so arising].
- (2) <sup>F10</sup> .....
- (3) A statement made on oath by a witness outside the United Kingdom and given in evidence through a link by virtue of this section shall be treated for the purposes of section 1 of the <sup>M1</sup>Perjury Act 1911 as having been made in the proceedings in which it is given in evidence.
- (3A) <sup>F10</sup> .....
- (3B) <sup>F10</sup> .....
- (3C) <sup>F10</sup> .....
- (3D) <sup>F10</sup> .....
- (3E) <sup>F10</sup> .....
- (4) Without prejudice to the generality of any enactment conferring power to make [<sup>F11</sup>Criminal Procedure Rules], such rules may make such provision as appears to the [<sup>F12</sup>Criminal Procedure Rule Committee] to be necessary or expedient for the purposes of this section.
- (5) <sup>F13</sup> .....
- (6) <sup>F10</sup> .....

#### Textual Amendments

- F4** Words in s. 32(1) substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 55(2)(a); S.I. 1992/333, art. 2(2), **Sch. 2**.
- F5** S. 32(1)(b) and word preceding it repealed (24.7.2002 for specified purposes and otherwise 6.12.2006) by 1999 c. 23, ss. 67, 68(3), **Sch. 6** (with **Sch. 7** paras. 3(2), 5(2)); S.I. 2002/1739, art. 2(g)(iii); S.I. 2006/2885, **art. 2(b)(vii)(aa)**
- F6** S. 32(1)(b) and word preceding it repealed (24.7.2002 for certain specified purposes otherwise prosp.) by 1999 c. 23, ss. 67, 68(3), **Sch. 6** (with **Sch. 7** paras. 3(2), 5(2)); S.I. 2002/1739, **art. 2(g)(iii)**
- F7** S. 32(1A) inserted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 55(3); S.I. 1992/333, art. 2(2), **Sch. 2**.
- F8** Words in s. 32(1A)(a) substituted (31.3.1997) by 1995 c. 35, s. 29(1), **Sch. 2**, para. 16(2)(a); S.I. 1997/402, **art. 3**
- F9** Words in s. 32(1A)(b) substituted (31.3.1997) by 1995 c. 35, s. 29(1), **Sch. 2 para. 16(2)(b)**; S.I. 1997/402, **art. 3**
- F10** S. 32(2)(3A)-(3E)(6) repealed (24.7.2002 for specified purposes and otherwise prosp.) by 1999 c. 23, ss. 67, 68(3), **Sch. 6** (with **Sch. 7** paras. 3(2), 5(2)); S.I. 2002/1739, **art. 2(g)(iii)**
- F11** Words in s. 32(4) substituted (1.9.2004) by The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 26(2)(a)** (with art. 2(2))
- F12** Words in s. 32(4) substituted (1.9.2004) by The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 26(2)(b)** (with art. 2(2))
- F13** S. 32(5) omitted (1.9.2004) by virtue of The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 26(3)** (with art. 2(2))

#### Modifications etc. (not altering text)

- C1** S. 32(1)(1)(b)(2)(a)-(c)(3) applied (with modifications) (8.3.1993) by S.I. 1993/244, **art. 2**

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- C2** S. 32(1)(3) applied (with modifications) (31.10.2009) by The Court Martial Appeal Court (Evidence) Order (S.I. 2009/2569), {art. 3}
- C3** S. 32(1)(a)(3) applied (with modifications) (6.12.2006) by [The Criminal Justice Act 1988 \(Application to Service Courts\) \(Evidence\) Order 2006 \(S.I. 2006/2890\)](#), [art. 3](#), Sch.

#### Commencement Information

- I1** S. 32 partly in force; s. 32 not in force at Royal Assent see s. 171; s. 32 except subsections (1)(a)(3) in force at 5.1.1989 by 1988/2073, art. 2, Sch.; s. 32(1)(a)(3) in force for certain purposes at 1.9.2004 by S.I. 2004/2167, [art. 2](#) (subject to [art. 3](#))

#### Marginal Citations

- M1** 1911 c. 6.

### 32A Video recordings of testimony from child witnesses.

**F14** .....

#### Textual Amendments

- F14** S. 32A repealed (24.7.2002 for certain specified purposes and 6.12.2006 otherwise) by 1999 c. 23, ss. 67, 68(3), Sch. 6 (with Sch. 7 paras. 3(2), 5(2)); S.I. 2002/1739, art. 2(g)(iii); S.I. 2006/2885, [art. 2\(b\)\(vii\)\(bb\)](#)

### 33 Evidence of persons under 14 in committal proceedings.

The following section shall be substituted for section 103 of the <sup>M2</sup>Magistrates' Courts Act 1980—

**“103 Evidence of persons under 14 in committal proceedings for assault, sexual offences etc.**

- (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 Children and Young Persons Act 1933 (cruelty to persons under 16);
  - (c) to an offence under the Sexual Offences Act 1956, the Indecency with Children Act 1960, the Sexual Offences Act 1967, section 54 of the Criminal Law Act 1977 or the Protection of Children Act 1978; and

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- (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—
- (a) where at or before the time when the statement is tendered in evidence the defence objects to its admission; or
  - (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.
- (5) In this section “child” means a person under the age of 14.”.

**Marginal Citations**

**M2** 1980 c. 43.

<sup>F15</sup>**33A** .....

**Textual Amendments**

**F15** S. 33A repealed (24.7.2002) by 1999 c. 23, s. 67, **Sch. 6** (with **Sch. 7** para. 5(2)); S.I. 2002/1739, **art. 2(g)(iii)**

**34 Abolition of requirement of corroboration for unsworn evidence of children.**

<sup>F16</sup>(1) .....

- (2) Any requirement whereby at a trial on indictment it is obligatory for the court to give the jury a warning about convicting the accused on the uncorroborated evidence of a child is abrogated <sup>F17</sup> . . . .
- (3) Unsworn evidence admitted by virtue of [<sup>F18</sup> section 56 of the Youth Justice and Criminal Evidence Act 1999] may corroborate evidence (sworn or unsworn) given by any other person.

**Textual Amendments**

**F16** S. 34(1) repealed (1.10.1992) by **Criminal Justice Act 1991** (c. 53, SIF 39:1), ss. 100, 101(2), **Sch. 11** para. 37, **Sch. 13**; S.I. 1992/333, art. 2(2), **Sch. 2**.

**F17** Words in s. 34(2) repealed (4.9.1995) by 1994 c. 33, ss. 32(2), 168(3), **Sch. 11**; S.I. 1995/1957, **art. 6**

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**F18** Words in s. 34(3) substituted (14.4.2000) by 1999 c. 23, s. 67, **Sch. 4 para.17** (with Sch. 7 para. 5(2)); S.I. 2000/1034, **art. 2(b)**

**Modifications etc. (not altering text)**

**C4** S. 34(2) explained (1.10.1996 subject to savings in art. 3 of the commencing S.I.) by 1996 c. 46, **s. 6(1)(2)**; S.I. 1996/2474, **arts. 2, 3(1)**

**F19** **34A** .....

**Textual Amendments**

**F19** S. 34A repealed (4.9.2000) by 1999 c. 23, ss. 67, **Sch. 6** (with Sch. 7 para. 3(2)); S.I. 2000/2091, **art. 2(f)** (with art. 3)

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