



# Criminal Justice Act 1988

## 1988 CHAPTER 33

### PART II

#### DOCUMENTARY EVIDENCE IN CRIMINAL PROCEEDINGS

#### 23 First-hand hearsay.

(1) Subject—

- (a) to subsection (4) below; [<sup>F1</sup>and]
- (b) to paragraph 1A of Schedule 2 to the <sup>M1</sup>Criminal Appeal Act 1968 (evidence given orally at original trial to be given orally at retrial); <sup>F2</sup> . . .

<sup>F2</sup>(c) . . . . .

a statement made by a person in a document shall be admissible in criminal proceedings as evidence of any fact of which direct oral evidence by him would be admissible if—

- (i) the requirements of one of the paragraphs of subsection (2) below are satisfied; or
- (ii) the requirements of subsection (3) below are satisfied.

(2) The requirements mentioned in subsection (1)(i) above are—

- (a) that the person who made the statement is dead or by reason of his bodily or mental condition unfit to attend as a witness;
- (b) that—
  - (i) the person who made the statement is outside the United Kingdom; and
  - (ii) it is not reasonably practicable to secure his attendance; or
- (c) that all reasonable steps have been taken to find the person who made the statement, but that he cannot be found.

(3) The requirements mentioned in subsection (1)(ii) above are—

- (a) that the statement was made to a police officer or some other person charged with the duty of investigating offences or charging offenders; and

*Status: Point in time view as at 14/04/2000. This version of this provision has been superseded.*

*Changes to legislation: Criminal Justice Act 1988, Section 23 is up to date with all changes known to be in force on or before 28 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (b) that the person who made it does not give oral evidence through fear or because he is kept out of the way.
- (4) Subsection (1) above does not render admissible a confession made by an accused person that would not be admissible under section 76 of the <sup>M2</sup>Police and Criminal Evidence Act 1984.
- [<sup>F3</sup>(5) This section shall not apply to proceedings before a magistrates' court inquiring into an offence as examining justices.]

#### Textual Amendments

- F1** Word in s. 23(1) inserted (14.4.2000) by 1999 c. 23, s. 67, **Sch. 4 para.16** (with Sch. 7 para. 5(2)); S.I. 2000/1034, **art. 2(b)**
- F2** S. 23(1)(c) and word preceding it repealed (14.4.2000) by 1999 c. 23, s. 67, **Sch. 6** (with Sch. 7 para. 5(2)); S.I. 2000/1034, **art. 2(c)**, Sch.
- F3** S. 23(5) inserted (4.7.1996 with effect as mentioned in Sch. 1, Pt. III of the amending Act) by 1996 c. 25, s. 47, **Sch. 1 Pt. II para. 28**, Pt. III para. 39 (with s. 78(1)); S.I. 1997/683, **art. 1(2)**

#### Marginal Citations

- M1** 1968 c. 19.  
**M2** 1984 c. 60.

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