



Criminal Justice Act 1991

1991 CHAPTER 53

PART III

CHILDREN AND YOUNG PERSONS

Children's evidence

54 Video recordings of testimony from child witnesses

After section 32 of the 1988 Act (evidence through television links) there shall be inserted the following section—

“32A Video recordings of testimony from child witnesses

- (1) This section applies in relation to the following proceedings, namely—
 - (a) trials on indictment for any offence to which section 32(2) above applies;
 - (b) appeals to the criminal division of the Court of Appeal and hearings of references under section 17 of the Criminal Appeal Act 1968 in respect of any such offence; and
 - (c) proceedings in youth courts for any such offence and appeals to the Crown Court arising out of such proceedings.
- (2) In any such proceedings a video recording of an interview which—
 - (a) is conducted between an adult and a child who is not the accused or one of the accused (“the child witness”); and
 - (b) relates to any matter in issue in the proceedings,may, with the leave of the court, be given in evidence in so far as it is not excluded by the court under subsection (3) below.
- (3) Where a video recording is tendered in evidence under this section, the court shall (subject to the exercise of any power of the court to exclude evidence which is otherwise admissible) give leave under subsection (2) above unless—

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- (a) it appears that the child witness will not be available for cross-examination;
- (b) any rules of court requiring disclosure of the circumstances in which the recording was made have not been complied with to the satisfaction of the court; or
- (c) the court is of the opinion, having regard to all the circumstances of the case, that in the interests of justice the recording ought not to be admitted;

and where the court gives such leave it may, if it is of the opinion that in the interests of justice any part of the recording ought not to be admitted, direct that that part shall be excluded.

- (4) In considering whether any part of a recording ought to be excluded under subsection (3) above, the court shall consider whether any prejudice to the accused, or one of the accused, which might result from the admission of that part is outweighed by the desirability of showing the whole, or substantially the whole, of the recorded interview.
- (5) Where a video recording is admitted under this section—
 - (a) the child witness shall be called by the party who tendered it in evidence;
 - (b) that witness shall not be examined in chief on any matter which, in the opinion of the court, has been dealt with in his recorded testimony.
- (6) Where a video recording is given in evidence under this section, any statement made by the child witness which is disclosed by the recording shall be treated as if given by that witness in direct oral testimony; and accordingly—
 - (a) any such statement shall be admissible evidence of any fact of which such testimony from him would be admissible;
 - (b) no such statement shall be capable of corroborating any other evidence given by him;

and in estimating the weight, if any, to be attached to such a statement, regard shall be had to all the circumstances from which any inference can reasonably be drawn (as to its accuracy or otherwise).
- (7) In this section “child” means a person who—
 - (a) in the case of an offence falling within section 32(2)(a) or (b) above, is under fourteen years of age or, if he was under that age when the video recording was made, is under fifteen years of age; or
 - (b) in the case of an offence falling within section 32(2)(c) above, is under seventeen years of age or, if he was under that age when the video recording was made, is under eighteen years of age.
- (8) Any reference in subsection (7) above to an offence falling within paragraph (a), (b) or (c) of section 32(2) above includes a reference 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 that paragraph.
- (9) In this section—
 - “statement” includes any representation of fact, whether made in words or otherwise;

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“video recording” means any recording, on any medium, from which a moving image may by any means be produced and includes the accompanying sound-track.

- (10) A magistrates' court inquiring into an offence as examining justices under section 6 of the Magistrates' Courts Act 1980 may consider any video recording as respects which leave under subsection (2) above is to be sought at the trial, notwithstanding that the child witness is not called at the committal proceedings.
- (11) Without prejudice to the generality of any enactment conferring power to make rules of court, such rules may make such provision as appears to the authority making them to be necessary or expedient for the purposes of this section.
- (12) Nothing in this section shall prejudice the admissibility of any video recording which would be admissible apart from this section.”