



Youth Justice and Criminal Evidence Act 1999

1999 CHAPTER 23

PART II

GIVING OF EVIDENCE OR INFORMATION FOR PURPOSES OF CRIMINAL PROCEEDINGS

CHAPTER V

COMPETENCE OF WITNESSES AND CAPACITY TO BE SWORN

Giving of sworn or unsworn evidence

55 Determining whether witness to be sworn.

- (1) Any question whether a witness in criminal proceedings may be sworn for the purpose of giving evidence on oath, whether raised—
 - (a) by a party to the proceedings, or
 - (b) by the court of its own motion,shall be determined by the court in accordance with this section.
- (2) The witness may not be sworn for that purpose unless—
 - (a) he has attained the age of 14, and
 - (b) he has a sufficient appreciation of the solemnity of the occasion and of the particular responsibility to tell the truth which is involved in taking an oath.
- (3) The witness shall, if he is able to give intelligible testimony, be presumed to have a sufficient appreciation of those matters if no evidence tending to show the contrary is adduced (by any party).

Status: Point in time view as at 28/03/2009.

Changes to legislation: Youth Justice and Criminal Evidence Act 1999, Cross Heading: Giving of sworn or unsworn evidence is up to date with all changes known to be in force on or before 31 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)

- (4) If any such evidence is adduced, it is for the party seeking to have the witness sworn to satisfy the court that, on a balance of probabilities, the witness has attained the age of 14 and has a sufficient appreciation of the matters mentioned in subsection (2)(b).
- (5) Any proceedings held for the determination of the question mentioned in subsection (1) shall take place in the absence of the jury (if there is one).
- (6) Expert evidence may be received on the question.
- (7) Any questioning of the witness (where the court considers that necessary) shall be conducted by the court in the presence of the parties.
- (8) For the purposes of this section a person is able to give intelligible testimony if he is able to—
 - (a) understand questions put to him as a witness, and
 - (b) give answers to them which can be understood.

Modifications etc. (not altering text)

- C1** S. 55 applied (with modifications) (6.12.2006) by [The Youth Justice and Criminal Evidence Act 1999 \(Application to the Courts-Martial Appeal Court\) Order 2006 \(S.I. 2006/2887\)](#), art. 1(1), **Sch.** (with art. 3)
- C2** S. 55 applied (with modifications) (6.12.2006) by [The Youth Justice and Criminal Evidence Act 1999 \(Application to Courts-Martial\) Order 2006 \(S.I. 2006/2886\)](#), art. 1(1), **Sch. 1** (with art. 3)
- C3** S. 55 applied (with modifications) (6.12.2006) by [The Youth Justice and Criminal Evidence Act 1999 \(Application to Standing Civilian Courts\) Order 2006 \(S.I. 2006/2888\)](#), art. 1(1), **Sch. 1** (with art. 3)

56 Reception of unsworn evidence.

- (1) Subsections (2) and (3) apply to a person (of any age) who—
 - (a) is competent to give evidence in criminal proceedings, but
 - (b) (by virtue of section 55(2)) is not permitted to be sworn for the purpose of giving evidence on oath in such proceedings.
- (2) The evidence in criminal proceedings of a person to whom this subsection applies shall be given unsworn.
- (3) A deposition of unsworn evidence given by a person to whom this subsection applies may be taken for the purposes of criminal proceedings as if that evidence had been given on oath.
- (4) A court in criminal proceedings shall accordingly receive in evidence any evidence given unsworn in pursuance of subsection (2) or (3).
- (5) Where a person (“the witness”) who is competent to give evidence in criminal proceedings gives evidence in such proceedings unsworn, no conviction, verdict or finding in those proceedings shall be taken to be unsafe for the purposes of any of sections 2(1), 13(1) and 16(1) of the Criminal Appeal Act 1968 (grounds for allowing appeals) by reason only that it appears to the Court of Appeal that the witness was a person falling within section 55(2) (and should accordingly have given his evidence on oath).

Status: Point in time view as at 28/03/2009.

Changes to legislation: Youth Justice and Criminal Evidence Act 1999, Cross Heading: Giving of sworn or unsworn evidence is up to date with all changes known to be in force on or before 31 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)

Modifications etc. (not altering text)

- C4** S. 56 applied (with modifications) (6.12.2006) by [The Youth Justice and Criminal Evidence Act 1999 \(Application to the Courts-Martial Appeal Court\) Order 2006 \(S.I. 2006/2887\)](#), art. 1(1), **Sch.** (with art. 3)
- C5** S. 56 applied (with modifications) (6.12.2006) by [The Youth Justice and Criminal Evidence Act 1999 \(Application to Standing Civilian Courts\) Order 2006 \(S.I. 2006/2888\)](#), art. 1(1), **Sch. 1** (with art. 3)
- C6** S. 56 applied (with modifications) (6.12.2006) by [The Youth Justice and Criminal Evidence Act 1999 \(Application to Courts-Martial\) Order 2006 \(S.I. 2006/2886\)](#), art. 1(1), **Sch. 1** (with art. 3)

57 Penalty for giving false unsworn evidence.

- (1) This section applies where a person gives unsworn evidence in criminal proceedings in pursuance of section 56(2) or (3).
- (2) If such a person wilfully gives false evidence in such circumstances that, had the evidence been given on oath, he would have been guilty of perjury, he shall be guilty of an offence and liable on summary conviction to—
 - (a) imprisonment for a term not exceeding 6 months, or
 - (b) a fine not exceeding £1,000,or both.
- (3) In relation to a person under the age of 14, subsection (2) shall have effect as if for the words following “on summary conviction” there were substituted “to a fine not exceeding £250”.

Modifications etc. (not altering text)

- C7** S. 57 applied (with modifications) (6.12.2006) by [The Youth Justice and Criminal Evidence Act 1999 \(Application to Courts-Martial\) Order 2006 \(S.I. 2006/2886\)](#), art. 1(1), **Sch. 1** (with art. 3)
- C8** S. 57 applied (with modifications) (6.12.2006) by [The Youth Justice and Criminal Evidence Act 1999 \(Application to the Courts-Martial Appeal Court\) Order 2006 \(S.I. 2006/2887\)](#), art. 1(1), **Sch.** (with art. 3)
- C9** S. 57 applied (with modifications) (6.12.2006) by [The Youth Justice and Criminal Evidence Act 1999 \(Application to Standing Civilian Courts\) Order 2006 \(S.I. 2006/2888\)](#), art. 1(1), **Sch. 1** (with art. 3)

Status:

Point in time view as at 28/03/2009.

Changes to legislation:

Youth Justice and Criminal Evidence Act 1999, Cross Heading: Giving of sworn or unsworn evidence is up to date with all changes known to be in force on or before 31 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.