

Status: Point in time view as at 01/07/2019.

Changes to legislation: Youth Justice and Criminal Evidence Act 1999, SCHEDULE 7 is up to date with all changes known to be in force on or before 30 May 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)

SCHEDULES

SCHEDULE 7

Section 67.

TRANSITIONAL PROVISIONS AND SAVINGS

Interpretation

1 (1) In this Schedule—

“the 1988 Act” means the ^{M1}Criminal Justice Act 1988;

“commencement date”, in relation to any provisions of this Act and proceedings of any description, means the date on which those provisions come into force in relation to such proceedings;

“continuing proceedings” (except in paragraph 3) means proceedings instituted before the commencement date;

“existing special measures power” means any power of the court to make an order or give leave, in the exercise of its inherent jurisdiction, for the taking of measures in relation to a witness which are similar to those which could be provided for by a special measures direction.

(2) For the purposes of this Schedule—

(a) proceedings other than proceedings on appeal are to be taken to be instituted at the time when they would be taken to be instituted for the purposes of Part I of the ^{M2}Prosecution of Offences Act 1985 in accordance with section 15(2) of that Act; and

(b) proceedings on appeal are to be taken to be instituted at the time when the notice of appeal is given or (as the case may be) the reference under section 9 or 11 of the ^{M3}Criminal Appeal Act 1995 is made.

(3) Expressions used in this Schedule which are also used in Part II of this Act have the same meaning in this Schedule as in that Part.

Commencement Information

I1 Sch. 7 para. 1 in force at 7.10.2004 for specified purposes for S. by [S.S.I. 2004/408, art. 3\(f\)](#)

Marginal Citations

M1 1988 c. 33.

M2 1985 c. 23.

M3 1995 c. 35.

Referral orders under Part I

^{F12}

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Textual Amendments

F1 Sch. 7 para. 2 repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

Special measures under Chapter I of Part II

- 3 (1) A special measures direction may be given in relation to a witness in continuing proceedings unless the court has before the specified date—
- (a) given leave in relation to the witness in connection with those proceedings under section 32 (evidence through television links) or section 32A (video recordings of testimony of child witnesses) of the 1988 Act, or
 - (b) exercised any existing special measures power in relation to the witness in connection with those proceedings.
- (2) The repeals made by this Act shall not affect the continued operation in relation to a witness in continuing proceedings of section 32 or 32A of the 1988 Act where before the specified date leave was given in relation to the witness in connection with those proceedings by virtue of section 32(1)(b) or section 32A, as the case may be.
- (3) Nothing in this Act affects the continued operation in relation to a witness in continuing proceedings of any order made or leave given under any existing special measures power exercised by the court before the specified date in relation to the witness in connection with those proceedings.
- (4) In this paragraph—
- (a) “continuing proceedings” means proceedings instituted before the specified date;
 - (b) “the specified date”, in relation to a witness in any proceedings, means such date as may be specified by the Secretary of State in a notice given to the court in question under section 18(2), where the date is expressed to apply—
 - (i) for the purposes of this paragraph, and
 - (ii) in relation to any description of witnesses and proceedings within which the witness and the proceedings fall.

Protection of witnesses from cross-examination by accused in person

- 4 Nothing in Chapter II of Part II applies in relation to proceedings instituted before the commencement date for that Chapter.

Protection of complainants in proceedings for sexual offences

- 5 (1) Nothing in Chapter III of Part II applies in relation to continuing proceedings in which leave has been given before the commencement date for that Chapter—
- (a) under section 2 of the ^{M4}Sexual Offences (Amendment) Act 1976, or
 - (b) (in the case of proceedings to which section 2 does not apply) in the exercise of any similar power of the court exercisable by virtue of its inherent jurisdiction.
- (2) Nothing in this Act affects the continued operation of any leave so given in relation to any such proceedings.

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Marginal Citations

M4 1976 c. 82.

Reporting restrictions

- 6 (1) Section 44 applies in relation to an alleged offence whether the criminal investigation into it is begun before or after the coming into force of that section.
- (2) The restrictions imposed by subsection (2) of section 44 do not apply to the inclusion of matter in a publication if—
- (a) where the publication is a relevant programme, it is transmitted, or
 - (b) in the case of any other publication, it is published,
- before the coming into force of that section.
- (3) Nothing in section 45 or 46 applies in relation to proceedings instituted before the commencement date for that section.
- (4) In sub-paragraph (3) the reference to the institution of proceedings shall be construed—
- (a) in the case of proceedings in England in Wales (other than proceedings before a service court), in accordance with paragraph 1(2);
 - (b) in the case of proceedings in Northern Ireland (other than proceedings before a service court), in accordance with sub-paragraph (5);
 - (c) in the case of proceedings before a service court (wherever held) in accordance with sub-paragraph (6).
- (5) In the case of proceedings falling within sub-paragraph (4)(b)—
- (a) proceedings other than proceedings on appeal are to be taken to be instituted—
 - (i) where a justice of the peace issues a summons under Article 20 of the ^{M5}Magistrates' Courts (Northern Ireland) Order 1981, when the complaint for the offence is made;
 - (ii) where a justice of the peace issues a warrant for the arrest of any person under that Article, when the complaint for the offence is made;
 - (iii) where a person is charged with the offence after being taken into custody without a warrant, when he is informed of the particulars of the charge;
 - (iv) where an indictment is presented under the authority of section 2(2) (c), (d), (e) or (f) of the ^{M6}Grand Jury (Abolition) Act (Northern Ireland) 1969, when the indictment is presented to the court;and where the application of this paragraph would result in there being more than one time for the institution of the proceedings, they shall be taken to have been instituted at the earliest of those times; and
 - (b) proceedings on appeal are to be taken to be instituted at the time when the notice of appeal is given or (as the case may be) the reference under section 10 or 12 of the ^{M7}Criminal Appeal Act 1995 is made.
- (6) In the case of proceedings falling within sub-paragraph (4)(c)—

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- (a) proceedings other than proceedings on appeal are to be taken to be instituted when [^{F2}the charge is brought under [^{F3}section 121(1A) or 122] of the Armed Forces Act 2006;] and
- [^{F4}(b) proceedings on appeal are to be taken to be instituted—
- (i) in the case of an appeal under the Court Martial Appeals Act 1968, when the application for leave to appeal is lodged in accordance with section 9 of that Act;
 - (ii) in the case of an appeal under section 285 of the Armed Forces Act 2006 (except one for which leave is required), when the notice of appeal is given;
 - (iii) in the case of an appeal under that section for which leave is required, when the application for leave to appeal is lodged;
 - (iv) in the case of a reference under section 34 of the Court Martial Appeals Act 1968 or section 12A or 12B of the Criminal Appeal Act 1995, when the reference is made.]

Textual Amendments

- F2** Words in Sch. 7 para. 6(6)(a) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\), s. 383\(2\)](#), [Sch. 16 para. 161\(a\)](#); S.I. 2009/812, [art. 3\(a\)\(b\)](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- F3** Words in Sch. 7 para. 6(6)(a) substituted (22.5.2019 for specified purposes, 1.7.2019 in so far as not already in force) by [Armed Forces Act 2016 \(c. 21\), ss. 5\(3\)\(b\)](#), 19(1); S.I. 2019/961, [reg. 2\(1\)\(a\)\(b\)](#) (with [reg. 3](#))
- F4** Sch. 7 para. 6(6)(b) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\), s. 383\(2\)](#), [Sch. 16 para. 161\(b\)](#); S.I. 2009/812, [art. 3\(a\)\(b\)](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)

Modifications etc. (not altering text)

- C1** Sch. 7 para. 6(3) modified (24.4.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [The Armed Forces Act 2006 \(Transitional Provisions etc\) Order 2009 \(S.I. 2009/1059\)](#), [art. 1\(3\)](#), [Sch. 1 para. 44\(2\)](#)

Commencement Information

- I2** Sch. 7 para. 6 in force at 7.10.2004 for specified purposes for S. by [S.S.I. 2004/408](#), [art. 3\(f\)](#)
- I3** Sch. 7 para. 6 in force at 7.10.2004 for specified purposes for E.W. by [S.I. 2004/2428](#), [art. 2\(g\)](#)
- I4** Sch. 7 para. 6 in force at 8.11.2004 for specified purposes for N.I. by [S.R. 2004/467](#), [art. 2\(f\)](#)
- I5** Sch. 7 para. 6 in force at 13.4.2015 for specified purposes for E.W. by [S.I. 2015/818](#), [art. 2\(h\)](#)

Marginal Citations

- M5** [S.I. 1981/1675 \(N.I. 26\)](#).
- M6** [1969 c. 15 \(N.I.\)](#).
- M7** [1995 c. 35](#).

Competence of witnesses and capacity to be sworn

- 7 Nothing in Chapter V of Part II applies in relation to proceedings instituted before the commencement date for that Chapter.

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Inferences from silence

- 8 The amendments made by section 58—
- (a) apply only to proceedings instituted on or after the commencement date for that section; but
 - (b) so apply whether the relevant failure or refusal on the part of the accused took place before or after that date.

Commencement Information

16 Sch. 7 para. 8 in force at 1.4.2003 by [S.I. 2003/707](#), **art. 2(c)**

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