



Youth Justice and Criminal Evidence Act 1999

1999 CHAPTER 23

PART II

GIVING OF EVIDENCE OR INFORMATION FOR PURPOSES OF CRIMINAL PROCEEDINGS

CHAPTER I

SPECIAL MEASURES DIRECTIONS IN CASE OF VULNERABLE AND INTIMIDATED WITNESSES

Special measures

28 Video recorded cross-examination or re-examination.

- (1) Where a special measures direction provides for a video recording to be admitted under section 27 as evidence in chief of the witness, the direction may also provide—
 - (a) for any cross-examination of the witness, and any re-examination, to be recorded by means of a video recording; and
 - (b) for such a recording to be admitted, so far as it relates to any such cross-examination or re-examination, as evidence of the witness under cross-examination or on re-examination, as the case may be.
- (2) Such a recording must be made in the presence of such persons as [^{F1}Criminal Procedure Rules] or the direction may provide and in the absence of the accused, but in circumstances in which—
 - (a) the judge or justices (or both) and legal representatives acting in the proceedings are able to see and hear the examination of the witness and to communicate with the persons in whose presence the recording is being made, and
 - (b) the accused is able to see and hear any such examination and to communicate with any legal representative acting for him.

Status: Point in time view as at 29/06/2022. This version of this provision has been superseded.

Changes to legislation: Youth Justice and Criminal Evidence Act 1999, Section 28 is up to date with all changes known to be in force on or before 03 June 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)

- (3) Where two or more legal representatives are acting for a party to the proceedings, subsection (2)(a) and (b) are to be regarded as satisfied in relation to those representatives if at all material times they are satisfied in relation to at least one of them.
- (4) Where a special measures direction provides for a recording to be admitted under this section, the court may nevertheless subsequently direct that it is not to be so admitted if any requirement of subsection (2) or [^{F2}Criminal Procedure Rules] or the direction has not been complied with to the satisfaction of the court.
- (5) Where in pursuance of subsection (1) a recording has been made of any examination of the witness, the witness may not be subsequently cross-examined or re-examined in respect of any evidence given by the witness in the proceedings (whether in any recording admissible under section 27 or this section or otherwise than in such a recording) unless the court gives a further special measures direction making such provision as is mentioned in subsection (1)(a) and (b) in relation to any subsequent cross-examination, and re-examination, of the witness.
- (6) The court may only give such a further direction if it appears to the court—
- (a) that the proposed cross-examination is sought by a party to the proceedings as a result of that party having become aware, since the time when the original recording was made in pursuance of subsection (1), of a matter which that party could not with reasonable diligence have ascertained by then, or
 - (b) that for any other reason it is in the interests of justice to give the further direction.
- (7) Nothing in this section shall be read as applying in relation to any cross-examination of the witness by the accused in person (in a case where the accused is to be able to conduct any such cross-examination).

Textual Amendments

- F1** Words in s. 28(2) substituted (1.9.2004) by [Courts Act 2003 \(c. 39\), s. 110\(1\), Sch. 8 para. 384\(c\); S.I. 2004/2066, art. 2\(c\)\(xix\)](#) (with [art. 3](#))
- F2** Words in s. 28(4) substituted (1.9.2004) by [Courts Act 2003 \(c. 39\), s. 110\(1\), Sch. 8 para. 384\(c\); S.I. 2004/2066, art. 2\(c\)\(xix\)](#) (with [art. 3](#))

Commencement Information

- I1** Pt. 2 Chs. 1-4 (ss. 16-52) in force for certain purposes at Royal Assent, see s. 68(4)
- I2** S. 28 in force at 30.12.2013 for specified purposes by [S.I. 2013/3236, art. 2\(1\)](#)
- I3** S. 28 in force at 2.1.2017 for specified purposes by [S.I. 2016/1201, art. 2](#)
- I4** S. 28 in force at 3.6.2019 for specified purposes by [S.I. 2019/947, art. 2](#)
- I5** S. 28 in force at 24.2.2020 for specified purposes by [S.I. 2020/155, art. 2](#)
- I6** S. 28 in force at 24.8.2020 for specified purposes by [S.I. 2020/888, art. 2](#)
- I7** [S. 28](#) in force at 26.10.2020 for specified purposes by [S.I. 2020/1159, art. 2](#)
- I8** [S. 28](#) in force at 23.11.2020 for specified purposes by [S.I. 2020/1331, art. 2](#)
- I9** [S. 28](#) in force at 4.3.2021 for specified purposes by [S.I. 2021/244, art. 2](#)
- I10** [S. 28](#) in force at 30.9.2021 for specified purposes by [S.I. 2021/1036, art. 2](#)
- I11** [S. 28](#) in force at 31.3.2022 for specified purposes by [S.I. 2022/456, art. 2](#)
- I12** [S. 28](#) in force at 4.4.2022 for specified purposes by [S.I. 2022/456, art. 3](#)
- I13** [S. 28](#) in force at 11.4.2022 for specified purposes by [S.I. 2022/456, art. 4](#)
- I14** [S. 28](#) in force at 12.5.2022 for specified purposes by [S.I. 2022/536, art. 2](#)
- I15** [S. 28](#) in force at 8.6.2022 for specified purposes by [S.I. 2022/623, arts. 1\(2\), 2](#)

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I16 S. 28 in force at 29.6.2022 for specified purposes by S.I. 2022/713, arts. 1(2), 2

Status:

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