



# Youth Justice and Criminal Evidence Act 1999

## 1999 CHAPTER 23

### PART II

#### GIVING OF EVIDENCE OR INFORMATION FOR PURPOSES OF CRIMINAL PROCEEDINGS

#### CHAPTER II

#### PROTECTION OF WITNESSES FROM CROSS-EXAMINATION BY ACCUSED IN PERSON

#### *General prohibitions*

### **35 Child complainants and other child witnesses.**

- (1) No person charged with an offence to which this section applies may in any criminal proceedings cross-examine in person a protected witness, either—
  - (a) in connection with that offence, or
  - (b) in connection with any other offence (of whatever nature) with which that person is charged in the proceedings.
- (2) For the purposes of subsection (1) a “protected witness” is a witness who—
  - (a) either is the complainant or is alleged to have been a witness to the commission of the offence to which this section applies, and
  - (b) either is a child or falls to be cross-examined after giving evidence in chief (whether wholly or in part)—
    - (i) by means of a video recording made (for the purposes of section 27) at a time when the witness was a child, or
    - (ii) in any other way at any such time.
- (3) The offences to which this section applies are—
  - (a) any offence under—

*Status: Point in time view as at 27/06/2011. This version of this provision has been superseded.*

**Changes to legislation:** Youth Justice and Criminal Evidence Act 1999, Section 35 is up to date with all changes known to be in force on or before 29 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)

- <sup>F1</sup>(i) .....  
<sup>F1</sup>(ii) .....  
<sup>F1</sup>(iii) .....  
<sup>F1</sup>(iv) .....  
<sup>F2</sup>(iva) any of sections 33 to 36 of the Sexual Offences Act 1956,  
 (v) the <sup>M1</sup>Protection of Children Act 1978;<sup>F3</sup> or  
 (vi) Part 1 of the Sexual Offences Act 2003 [<sup>F4</sup>or any relevant superseded enactment];  
 (b) kidnapping, false imprisonment or an offence under section 1 or 2 of the <sup>M2</sup>Child Abduction Act 1984;  
 (c) any offence under section 1 of the <sup>M3</sup>Children and Young Persons Act 1933;  
 (d) any offence (not within any of the preceding paragraphs) which involves an assault on, or injury or a threat of injury to, any person.
- <sup>F5</sup>(3A) In subsection (3)(a)(vi) “relevant superseded enactment” means—
- (a) any of sections 1 to 32 of the Sexual Offences Act 1956;
  - (b) the Indecency with Children Act 1960;
  - (c) the Sexual Offences Act 1967;
  - (d) section 54 of the Criminal Law Act 1977.]
- (4) In this section “child” means—
- (a) where the offence falls within subsection (3)(a), a person under the age of <sup>F6</sup>18]; or
  - (b) where the offence falls within subsection (3)(b), (c) or (d), a person under the age of 14.
- (5) For the purposes of this section “witness” includes a witness who is charged with an offence in the proceedings.

#### Textual Amendments

- F1** S. 35(3)(a)(i)-(iv) repealed (1.5.2004) by [Sexual Offences Act 2003 \(c. 42\)](#), s. 141, [Sch. 7](#); S.I. 2004/874, art. 2
- F2** S. 35(3)(a)(iva) inserted (retrospective to 1.5.2004) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [Sch. 26 paras. 36\(2\)\(a\)](#), 38
- F3** S. 35(3)(a)(vi) and preceding word inserted (1.5.2004) by [Sexual Offences Act 2003 \(c. 42\)](#), s. 141, [Sch. 6 para. 41\(2\)](#); S.I. 2004/874, art. 2
- F4** Words in s. 35(3)(a)(vi) inserted (retrospective to 1.5.2004) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [Sch. 26 paras. 36\(2\)\(b\)](#), 38
- F5** S. 35(3A) inserted (retrospective to 1.5.2004) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [Sch. 26 paras. 36\(3\)](#), 38
- F6** Word in s. 35(4)(a) substituted (27.6.2011) by [Coroners and Justice Act 2009 \(c. 25\)](#), [ss. 105](#), 182(5) (with s. 180); S.I. 2011/1452, art. 2(b)

#### Modifications etc. (not altering text)

- C1** S. 35 applied (with modifications) (31.10.2009) by [The Youth Justice and Criminal Evidence Act 1999 \(Application to Service Courts\) Order 2009 \(S.I. 2009/2083\)](#), arts. 1, 5, 6

#### Commencement Information

- I1** S. 35 wholly in force at 4.9.2000; Pt. II Chs. 1-4 (ss. 16-52) in force for certain purposes at Royal Assent, see s. 68(4); s. 35 in force at 4.9.2000 by [S.I. 2000/2091](#), [art. 2\(b\)](#)

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**Marginal Citations**

**M1** 1978 c. 37.

**M2** 1984 c. 37.

**M3** 1933 c. 12.

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