



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

Prohibition imposed by court

36 Direction prohibiting accused from cross-examining particular witness.

- (1) This section applies where, in a case where neither of sections 34 and 35 operates to prevent an accused in any criminal proceedings from cross-examining a witness in person—
- (a) the prosecutor makes an application for the court to give a direction under this section in relation to the witness, or
 - (b) the court of its own motion raises the issue whether such a direction should be given.
- (2) If it appears to the court—
- (a) that the quality of evidence given by the witness on cross-examination—
 - (i) is likely to be diminished if the cross-examination (or further cross-examination) is conducted by the accused in person, and
 - (ii) would be likely to be improved if a direction were given under this section, and
 - (b) that it would not be contrary to the interests of justice to give such a direction,

Status: Point in time view as at 06/12/2006. This version of this provision has been superseded.

Changes to legislation: Youth Justice and Criminal Evidence Act 1999, Section 36 is up to date with all changes known to be in force on or before 21 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)

the court may give a direction prohibiting the accused from cross-examining (or further cross-examining) the witness in person.

- (3) In determining whether subsection (2)(a) applies in the case of a witness the court must have regard, in particular, to—
- (a) any views expressed by the witness as to whether or not the witness is content to be cross-examined by the accused in person;
 - (b) the nature of the questions likely to be asked, having regard to the issues in the proceedings and the defence case advanced so far (if any);
 - (c) any behaviour on the part of the accused at any stage of the proceedings, both generally and in relation to the witness;
 - (d) any relationship (of whatever nature) between the witness and the accused;
 - (e) whether any person (other than the accused) is or has at any time been charged in the proceedings with a sexual offence or an offence to which section 35 applies, and (if so) whether section 34 or 35 operates or would have operated to prevent that person from cross-examining the witness in person;
 - (f) any direction under section 19 which the court has given, or proposes to give, in relation to the witness.
- (4) For the purposes of this section—
- (a) “witness”, in relation to an accused, does not include any other person who is charged with an offence in the proceedings; and
 - (b) any reference to the quality of a witness’s evidence shall be construed in accordance with section 16(5).

Modifications etc. (not altering text)

- C1** S. 36 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)
- C2** S. 36 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)
- C3** S. 36 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)

Commencement Information

- I1** S. 36 wholly in force at 24.7.2002; Pt. II Chs. 1-4 (ss. 16-52) in force for certain purposes at Royal Assent, see s. 68(4); s. 36 in force in so far as not already in force at 24.7.2002 by [S.I. 2002/1739](#), **art. 2(c)**

Status:

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