

# YOUTH JUSTICE AND CRIMINAL EVIDENCE ACT 1999

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part II: Giving of evidence or information for purposes of criminal proceedings**

##### *Chapter IV: Reporting restrictions*

##### *Section 44: Restrictions on reporting alleged offences involving persons under 18*

160. [Section 44](#) provides that whenever a criminal investigation begins into an alleged offence against the law of England and Wales or Northern Ireland (or into the alleged commission by a person subject to armed forces law of a corresponding offence anywhere else in the world), no information enabling the identification of any person suspected of committing the offence may be reported by the media if he is under 18. This means that young people who are suspected of committing an offence will enjoy the same protection from media identification as those charged with an offence and brought before the court.
161. The restriction lasts until the individual reaches the age of 18 or a court order dispenses with the restrictions in the interests of justice (*subsection (7)*) or the offence becomes the subject of criminal proceedings. *Subsection (8)* requires the court to have regard to the welfare of that person when making a decision to dispense, with the restrictions, to any extent. *Subsection (11)* provides a right of appeal against the court's decision on such an application. Once the offence is the subject of criminal proceedings, the restrictions under section 45, or under section 49 of the Children and Young Persons Act 1933, should then apply.
162. [Section 44](#) also gives the Secretary of State the power to impose mandatory restrictions in respect of publishing information leading to the identification of children and young people who are alleged to have been the victims of, or witnesses to, a criminal offence. In the same way as for alleged offenders, applications can be made to the courts to lift these restrictions in the interests of justice. But, in addition, a number of defences against prosecution for breach of these restrictions are provided in section 50 which are not available to publishers in respect of the identification of alleged offenders. The presence of these defences turns the restriction from a ban into a presumption against publishing such information.
163. [Section 64\(3\)](#) provides that the restrictions under this section which relate to young complainants and witnesses can only be commenced through the draft affirmative resolution procedure: in other words, both Houses of Parliament would have to agree, after a debate, that these restrictions should be brought into force.
164. Material which is particularly likely to identify a juvenile, such as the juvenile's name, address or image or the identity of the juvenile's school or place of work, is listed in the section. But all material likely to lead to identification is subject to the restriction

*These notes refer to the Youth Justice and Criminal Evidence  
Act 1999 (c.23) which received Royal Assent on 27 July 1999*

(subsections (2) and (6)). Reporting of any material (even the listed items) is not restricted if it would not lead to such identification.

165. *Paragraph 6* of Schedule 7 applies the restrictions to previously unpublished information leading to the identification of young persons involved in alleged offences committed at any time in the past.
166. In Schedule 2, section 49 of the Children and Young Persons Act 1933 is amended to bring its terms into line with the changes made by section 44. The restrictions that will apply during court proceedings will be similar in form to the restrictions which come into play immediately following the start of a criminal investigation, although there are obvious differences. The definition of a witness under section 49 encompasses any witness in the proceedings: section 44 only covers witnesses to the commission of the alleged offence.
167. *Subsection (8)* of section 49 is amended to allow a single justice to dispense with the restrictions following the conviction of a child or young person (*paragraph 3(6)* of Schedule 2). Previously, a single justice could only dispense with the restrictions if he thought they were against the interests of the young person or if the young person had escaped from, or was avoiding, lawful custody.
168. *Paragraph 3(9)* of Schedule 2 extends the territorial application of the restrictions in section 49 of the 1933 Act to England, Wales, Scotland and Northern Ireland. This means that publications anywhere in the UK will not be able to report any material likely to lead to the identification of a minor concerned in criminal proceedings in England and Wales or Northern Ireland. But reports of proceedings in courts in Scotland will not be subject to this restriction.