

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

YOUTH JUSTICE AND CRIMINAL EVIDENCE ACT 1999

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

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

Chapter V: Competence of witnesses and capacity to be sworn

Section 53 (and certain amendments made by Schedule 4): General rule of competence

185. The general rule, set out in this section, is that all people, whatever their age, are competent to act as witnesses unless they cannot understand questions asked of them in court, or cannot answer them in a way that can be understood (with, if necessary, the assistance of special measures under Chapter I).
186. *Subsection (4)* provides the only exception to the general rule: that a defendant is not competent to give evidence for the prosecution in his own trial, and nor is any co-defendant in the proceedings.
187. The new general rule renders obsolete the existing rules on the competence of husbands and wives to give evidence for or against each other. Those rules are contained in section 80 of the Police and Criminal Evidence Act 1984 which, accordingly, is amended by paragraph 13 of Schedule 4 (so as to become a provision solely about the compellability of husbands and wives who are competent to give evidence). Those amendments, taken together with section 52, will ensure that, in future, no-one who is a defendant in a trial will be a competent witness for the prosecution in respect of any offence in that trial until such time as he either pleads guilty, is convicted or the charges against him are dropped.