



Police and Justice Act 2006

2006 CHAPTER 48

PART 5

MISCELLANEOUS

Live links

45 Attendance by accused at certain preliminary or sentencing hearings

For section 57 of the Crime and Disorder Act 1998 (c. 37) (use of live television links at preliminary hearings) there is substituted—

“PART 3A

LIVE LINKS FOR ACCUSED'S ATTENDANCE AT CERTAIN PRELIMINARY AND SENTENCING HEARINGS

57A Introductory

- (1) This Part—
 - (a) applies to preliminary hearings and sentencing hearings in the course of proceedings for an offence; and
 - (b) enables the court in the circumstances provided for in sections 57B, 57C and 57E to direct the use of a live link for securing the accused's attendance at a hearing to which this Part applies.
- (2) The accused is to be treated as present in court when, by virtue of a live link direction under this Part, he attends a hearing through a live link.
- (3) In this Part—

“custody”—

Status: Point in time view as at 14/11/2008. This version of this provision has been superseded.

Changes to legislation: There are currently no known outstanding effects for the Police and Justice Act 2006, Section 45. (See end of Document for details)

(a) includes local authority accommodation to which a person is remanded or committed by virtue of section 23 of the Children and Young Persons Act 1969; but

(b) does not include police detention;

“live link” means an arrangement by which a person (when not in the place where the hearing is being held) is able to see and hear, and to be seen and heard by, the court during a hearing (and for this purpose any impairment of eyesight or hearing is to be disregarded);

“police detention” has the meaning given by section 118(2) of the Police and Criminal Evidence Act 1984;

“preliminary hearing” means a hearing in the proceedings held before the start of the trial (within the meaning of subsection (11A) or (11B) of section 22 of the 1985 Act) including, in the case of proceedings in the Crown Court, a preparatory hearing held under—

(a) section 7 of the Criminal Justice Act 1987 (cases of serious or complex fraud); or

(b) section 29 of the Criminal Procedure and Investigations Act 1996 (other serious, complex or lengthy cases);

“sentencing hearing” means any hearing following conviction which is held for the purpose of—

(a) proceedings relating to the giving or rescinding of a direction under section 57E;

(b) proceedings (in a magistrates' court) relating to committal to the Crown Court for sentencing; or

(c) sentencing the offender or determining how the court should deal with him in respect of the offence.

57B Use of live link at preliminary hearings where accused is in custody

- (1) This section applies in relation to a preliminary hearing in a magistrates' court or the Crown Court.
- (2) Where it appears to the court before which the preliminary hearing is to take place that the accused is likely to be held in custody during the hearing, the court may give a live link direction under this section in relation to the attendance of the accused at the hearing.
- (3) A live link direction under this section is a direction requiring the accused, if he is being held in custody during the hearing, to attend it through a live link from the place at which he is being held.
- (4) If a hearing takes place in relation to the giving or rescinding of such a direction, the court may require or permit a person attending the hearing to do so through a live link.
- (5) The court shall not give or rescind such a direction (whether at a hearing or otherwise) unless the parties to the proceedings have been given the opportunity to make representations.
- (6) If in a case where it has power to do so a magistrates' court decides not to give a live link direction under this section, it must—
 - (a) state in open court its reasons for not doing so; and

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- (b) cause those reasons to be entered in the register of its proceedings.

57C Use of live link at preliminary hearings where accused is at police station

- (1) This section applies in relation to a preliminary hearing in a magistrates' court.
- (2) Where subsection (3) or (4) applies to the accused, the court may give a live link direction in relation to his attendance at the preliminary hearing.
- (3) This subsection applies to the accused if—
 - (a) he is in police detention at a police station in connection with the offence; and
 - (b) it appears to the court that he is likely to remain at that station in police detention until the beginning of the preliminary hearing.
- (4) This subsection applies to the accused if he is at a police station in answer to live link bail in connection with the offence.
- (5) A live link direction under this section is a direction requiring the accused to attend the preliminary hearing through a live link from the police station.
- (6) But a direction given in relation to an accused to whom subsection (3) applies has no effect if he does not remain in police detention at the police station until the beginning of the preliminary hearing.
- (7) A live link direction under this section may not be given unless the accused has given his consent to the court.
- (8) A magistrates' court may rescind a live link direction under this section at any time before or during a hearing to which it relates.
- (9) A magistrates' court may require or permit—
 - (a) the accused to give or withhold consent under subsection (7) through a live link; and
 - (b) any party to the proceedings who wishes to make representations in relation to the giving or rescission of a live link direction under this section to do so through a live link.
- (10) Where a live link direction under this section is given in relation to an accused person who is answering to live link bail he is to be treated as having surrendered to the custody of the court (as from the time when the direction is given).
- (11) In this section, “live link bail” means bail granted under Part 4 of the Police and Criminal Evidence Act 1984 subject to the duty mentioned in section 47(3)(b) of that Act.”

57D Continued use of live link for sentencing hearing following a preliminary hearing

- (1) Subsection (2) applies where—
 - (a) a live link direction under section 57B or 57C is in force;
 - (b) the accused is attending a preliminary hearing through a live link by virtue of the direction;

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- (c) the court convicts him of the offence in the course of that hearing (whether by virtue of a guilty plea or an indication of an intention to plead guilty); and
 - (d) the court proposes to continue the hearing as a sentencing hearing in relation to the offence.
- (2) The accused may continue to attend through the live link by virtue of the direction if—
- (a) the hearing is continued as a sentencing hearing in relation to the offence;
 - (b) the accused consents to his continuing to attend through the live link; and
 - (c) the court is satisfied that it is not contrary to the interests of justice for him to do so.
- (3) But the accused may not give oral evidence through the live link during a continued hearing under subsection (2) unless—
- (a) he consents to give evidence in that way; and
 - (b) the court is satisfied that it is not contrary to the interests of justice for him to give it in that way.

57E Use of live link in sentencing hearings

- (1) This section applies where the accused is convicted of the offence.
- (2) If it appears to the court by or before which the accused is convicted that it is likely that he will be held in custody during any sentencing hearing for the offence, the court may give a live link direction under this section in relation to that hearing.
- (3) A live link direction under this section is a direction requiring the accused, if he is being held in custody during the hearing, to attend it through a live link from the place at which he is being held.
- (4) Such a direction—
 - (a) may be given by the court of its own motion or on an application by a party; and
 - (b) may be given in relation to all subsequent sentencing hearings before the court or to such hearing or hearings as may be specified or described in the direction.
- (5) The court may not give such a direction unless—
 - (a) the offender has given his consent to the direction; and
 - (b) the court is satisfied that it is not contrary to the interests of justice to give the direction.
- (6) The court may rescind such a direction at any time before or during a hearing to which it relates if it appears to the court to be in the interests of justice to do so (but this does not affect the court's power to give a further live link direction in relation to the offender).

The court may exercise this power of its own motion or on an application by a party.

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- (7) The offender may not give oral evidence while attending a hearing through a live link by virtue of this section unless—
- (a) he consents to give evidence in that way; and
 - (b) the court is satisfied that it is not contrary to the interests of justice for him to give it in that way.
- (8) The court must—
- (a) state in open court its reasons for refusing an application for, or for the rescission of, a live link direction under this section; and
 - (b) if it is a magistrates' court, cause those reasons to be entered in the register of its proceedings.”

Commencement Information

- I1** S. 45 in force at 15.1.2007 for specified purposes by S.I. 2006/3364, **art. 2(g)** (with art. 4)
- I2** S. 45 in force at 1.4.2007 for specified purposes by S.I. 2007/709, **art. 3(n)** (with arts. 6, 7)
- I3** S. 45 in force at 14.11.2008 for specified purposes by S.I. 2008/2785, **art. 2**

Status:

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Changes to legislation:

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