
EXPLANATORY NOTE

(This note is not part of the Order)

This Order applies, with modifications, provisions of Chapters 1 to 3 and 5 of Part 2 (and sections 62, 63 and 65 so far as having effect for the purposes of those Chapters) of the Youth Justice and Criminal Evidence Act 1999 (c. 23) (“the Act”) to proceedings before the Court Martial, the Service Civilian Court and the Court Martial Appeal Court. These Chapters contain a range of measures designed to help young, disabled, vulnerable or intimidated witnesses give evidence in criminal proceedings. This Order also modifies the effect of Chapter 4 of Part 2 (and sections 63 and 65 so far as having effect for the purposes of that Chapter) of the Act for the purposes of proceedings before the Court Martial, the Service Civilian Court and the Court Martial Appeal Court. Chapter 4 deals with reporting restrictions.

Articles 3 and 4 apply, with modifications, the provisions of Chapter 1. This Chapter sets out which witnesses are eligible for assistance and the special measures available to assist them (including the use of screens, live television links and video-recorded evidence).

Articles 5 and 6 apply, with modifications, the provisions of Chapter 2. This Chapter provides protection for vulnerable witnesses from cross-examination by an accused in person.

Articles 7 and 8 apply, with modifications, the provisions of Chapter 3. This Chapter provides protection to complainants in proceedings for sexual offences by restricting evidence or questioning about the complainant’s sexual history.

Articles 9 and 10 apply, with modifications, the provisions of Chapter 5, which deal with the competence of witnesses and capacity to be sworn.

Articles 11 and 12 apply, with modifications sections 62, 63 and 65 (“the general and final provisions”) so far as having effect for the purposes of Chapter 1 to 3 and 5.

Article 13 modifies the effect of Chapter 4 (and sections 63 and 65 so far as having effect for the purposes of that Chapter). Chapter 4 already has effect for the purposes of proceedings before the Court Martial, the Service Civilian Court and the Court Martial Appeal Court (in so far as it has been brought into force) and contains provisions allowing a court to impose reporting restrictions in certain proceedings involving vulnerable persons. As at the date of this Order, sections 44 and 45 in Chapter 4 have not yet been commenced but article 13 contains modifications to section 45 which will take effect automatically in relation to proceedings before the Court Martial, the Service Civilian Court and the Court Martial Appeal Court when section 45 is commenced under section 68(3) of the Act. This Order does not operate to commence sections 44 or 45.

Article 14 revokes three Orders which previously applied provisions of the Act (with modifications) to service courts and which are replaced by this Order.