
STATUTORY INSTRUMENTS

2020 No. 759

The Criminal Procedure Rules 2020

PART 23

RESTRICTION ON CROSS-EXAMINATION BY A DEFENDANT

GENERAL RULES

When this Part applies

23.1. This Part applies where—

- (a) a defendant may not cross-examine in person a witness because of section 34 or section 35 of the Youth Justice and Criminal Evidence Act 1999⁽¹⁾ (Complainants in proceedings for sexual offences; Child complainants and other child witnesses); or
- (b) the court can prohibit a defendant from cross-examining in person a witness under section 36 of that Act⁽²⁾ (Direction prohibiting accused from cross-examining particular witness).

[Note. Under section 34 of the Youth Justice and Criminal Evidence Act 1999, no defendant charged with a sexual offence may cross-examine in person a witness who is the complainant, either—

- (a) in connection with that offence; or*
- (b) in connection with any other offence (of whatever nature) with which that defendant is charged in the proceedings.*

Under section 35 of the 1999 Act, no defendant charged with an offence listed in that section may cross-examine in person a protected witness, either—

- (a) in connection with that offence; or*
- (b) in connection with any other offence (of whatever nature) with which that defendant is charged in the proceedings.*

A 'protected witness' is one who—

- (a) either is the complainant or is alleged to have been a witness to the commission of the offence; and*
- (b) either is a child, within the meaning of section 35, or is due to be cross-examined after giving evidence in chief—*
 - (i) by means of a video recording made when the witness was a child, or*
 - (ii) in any other way when the witness was a child.*

(1) 1999 c. 23; section 35 was amended by sections 139 and 140 of, and paragraph 41 of Schedule 6 and Schedule 7 to, the Sexual Offences Act 2003 (c. 42), section 148 of, and paragraphs 35 and 36 of Schedule 26 to, the Criminal Justice and Immigration Act 2008 (c. 4) and section 105 of the Coroners and Justice Act 2009 (c. 25).

(2) 1999 c. 23.

Changes to legislation: There are currently no known outstanding effects for the
The Criminal Procedure Rules 2020, Section 23.1. (See end of Document for details)

Under section 36 of the 1999 Act, where neither section 34 nor section 35 applies the court may give a direction prohibiting the defendant from cross-examining, or further cross-examining, in person a witness, on application by the prosecutor or on the court's own initiative. See also rules 23.3 to 23.7.]

Commencement Information

II Rule 23.1 in force at 5.10.2020, see Preamble

Changes to legislation:

There are currently no known outstanding effects for the The Criminal Procedure Rules 2020, Section 23.1.