



# Youth Justice and Criminal Evidence Act 1999

## 1999 CHAPTER 23

### PART II

#### GIVING OF EVIDENCE OR INFORMATION FOR PURPOSES OF CRIMINAL PROCEEDINGS

#### CHAPTER IV

#### REPORTING RESTRICTIONS

#### *Reports relating to persons under 18*

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

- (1) This section applies (subject to subsection (3)) where a criminal investigation has begun in respect of—
  - (a) an alleged offence against the law of—
    - (i) England and Wales, or
    - (ii) Northern Ireland; or
  - (b) an alleged civil offence (other than an offence falling within paragraph (a)) committed (whether or not in the United Kingdom) by a person subject to service law.
- (2) No matter relating to any person involved in the offence shall while he is under the age of 18 be included in any publication if it is likely to lead members of the public to identify him as a person involved in the offence.
- (3) The restrictions imposed by subsection (2) cease to apply once there are proceedings in a court (whether a court in England and Wales, a service court or a court in Northern Ireland) in respect of the offence.

*Status: Point in time view as at 01/04/2010.*

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- (4) For the purposes of subsection (2) any reference to a person involved in the offence is to—
- (a) a person by whom the offence is alleged to have been committed; or
  - (b) if this paragraph applies to the publication in question by virtue of subsection (5)—
    - (i) a person against or in respect of whom the offence is alleged to have been committed, or
    - (ii) a person who is alleged to have been a witness to the commission of the offence;
 except that paragraph (b)(i) does not include a person in relation to whom section 1 of the <sup>M1</sup>Sexual Offences (Amendment) Act 1992 (anonymity of victims of certain sexual offences) applies in connection with the offence.
- (5) Subsection (4)(b) applies to a publication if—
- (a) where it is a relevant programme, it is transmitted, or
  - (b) in the case of any other publication, it is published,
- on or after such date as may be specified in an order made by the Secretary of State.
- (6) The matters relating to a person in relation to which the restrictions imposed by subsection (2) apply (if their inclusion in any publication is likely to have the result mentioned in that subsection) include in particular—
- (a) his name,
  - (b) his address,
  - (c) the identity of any school or other educational establishment attended by him,
  - (d) the identity of any place of work, and
  - (e) any still or moving picture of him.
- (7) Any appropriate criminal court may by order dispense, to any extent specified in the order, with the restrictions imposed by subsection (2) in relation to a person if it is satisfied that it is necessary in the interests of justice to do so.
- (8) However, when deciding whether to make such an order dispensing (to any extent) with the restrictions imposed by subsection (2) in relation to a person, the court shall have regard to the welfare of that person.
- (9) In subsection (7) “appropriate criminal court” means—
- (a) in a case where this section applies by virtue of subsection (1)(a)(i) or (ii), any court in England and Wales or (as the case may be) in Northern Ireland which has any jurisdiction in, or in relation to, any criminal proceedings (but not a service court unless the offence is alleged to have been committed by a person subject to service law);
  - (b) in a case where this section applies by virtue of subsection (1)(b), any court falling within paragraph (a) or a service court.
- (10) The power under subsection (7) of a magistrates’ court in England and Wales may be exercised by a single justice.
- (11) In the case of a decision of a magistrates’ court in England and Wales, or a court of summary jurisdiction in Northern Ireland, to make or refuse to make an order under subsection (7), the following persons, namely—
- (a) any person who was a party to the proceedings on the application for the order,
- and

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- (b) with the leave of the Crown Court [<sup>F1</sup>, or in Northern Ireland a county court], any other person,  
may, in accordance with [<sup>F2</sup>Criminal Procedure Rules in England and Wales, or rules of court in Northern Ireland], appeal to the Crown Court [<sup>F1</sup>, or in Northern Ireland a county court,] against that decision or appear or be represented at the hearing of such an appeal.
- (12) On such an appeal the Crown Court [<sup>F3</sup>or in Northern Ireland a county court]—
- (a) may make such order as is necessary to give effect to its determination of the appeal; and
- (b) may also make such incidental or consequential orders as appear to it to be just.
- (13) In this section—
- (a) “civil offence” means an act or omission which, if committed in England and Wales, would be an offence against the law of England and Wales;
- (b) any reference to a criminal investigation, in relation to an alleged offence, is to an investigation conducted by police officers, or other persons charged with the duty of investigating offences, with a view to it being ascertained whether a person should be charged with the offence;
- (c) any reference to a person subject to service law is to—
- <sup>F4</sup>(i) a person subject to service law within the meaning of the Armed Forces Act 2006; or
- (ii) a civilian subject to service discipline within the meaning of that Act.]

#### Textual Amendments

- F1** Words in s. 44(11) inserted (N.I.) (28.7.2003) by [The Criminal Justice \(Northern Ireland\) Order 2003 \(S.I. 2003/1247\)](#), art. 1(3), **Sch. 1 para. 23(a)**; S.R. 2003/352, art. 2(d)
- F2** Words in s. 44(11) substituted (1.9.2004) by [Courts Act 2003 \(c. 39\)](#), s. 110(1), **Sch. 8 para. 386**; S.I. 2004/2066, art. 2(c)(xix) (with art. 3)
- F3** Words in s. 44(12) inserted (N.I.) (28.7.2003) by [The Criminal Justice \(Northern Ireland\) Order 2003 \(S.I. 2003/1247\)](#), art. 1(3), **Sch. 1 para. 23(b)**; S.R. 2003/352, art. 2(d)
- F4** S. 44(13)(c)(i)(ii) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), **Sch. 16 para. 158**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

#### Modifications etc. (not altering text)

- C1** S. 44(1)(b) modified (24.4.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [The Armed Forces Act 2006 \(Transitional Provisions etc\) Order 2009 \(S.I. 2009/1059\)](#), art. 1(3), **Sch. 1 para. 44(1)**
- C2** S. 44(9) modified (24.4.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [The Armed Forces Act 2006 \(Transitional Provisions etc\) Order 2009 \(S.I. 2009/1059\)](#), art. 1(3), **Sch. 1 para. 44(1)**

#### Commencement Information

- I1** Pt. II Chs. 1-4 (ss. 16-52) in force for certain purposes at Royal Assent, see s. 68(4)

#### Marginal Citations

- M1** 1992 c. 34.

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#### **45 Power to restrict reporting of criminal proceedings involving persons under 18.**

- (1) This section applies (subject to subsection (2)) in relation to—
  - (a) any criminal proceedings in any court (other than a service court) in England and Wales or Northern Ireland; and
  - (b) any proceedings (whether in the United Kingdom or elsewhere) in any service court.
- (2) This section does not apply in relation to any proceedings to which section 49 of the <sup>M2</sup>Children and Young Persons Act 1933 applies.
- (3) The court may direct that no matter relating to any person concerned in the proceedings shall while he is under the age of 18 be included in any publication if it is likely to lead members of the public to identify him as a person concerned in the proceedings.
- (4) The court or an appellate court may by direction (“an excepting direction”) dispense, to any extent specified in the excepting direction, with the restrictions imposed by a direction under subsection (3) if it is satisfied that it is necessary in the interests of justice to do so.
- (5) The court or an appellate court may also by direction (“an excepting direction”) dispense, to any extent specified in the excepting direction, with the restrictions imposed by a direction under subsection (3) if it is satisfied—
  - (a) that their effect is to impose a substantial and unreasonable restriction on the reporting of the proceedings, and
  - (b) that it is in the public interest to remove or relax that restriction;
 but no excepting direction shall be given under this subsection by reason only of the fact that the proceedings have been determined in any way or have been abandoned.
- (6) When deciding whether to make—
  - (a) a direction under subsection (3) in relation to a person, or
  - (b) an excepting direction under subsection (4) or (5) by virtue of which the restrictions imposed by a direction under subsection (3) would be dispensed with (to any extent) in relation to a person,
 the court or (as the case may be) the appellate court shall have regard to the welfare of that person.
- (7) For the purposes of subsection (3) any reference to a person concerned in the proceedings is to a person—
  - (a) against or in respect of whom the proceedings are taken, or
  - (b) who is a witness in the proceedings.
- (8) The matters relating to a person in relation to which the restrictions imposed by a direction under subsection (3) apply (if their inclusion in any publication is likely to have the result mentioned in that subsection) include in particular—
  - (a) his name,
  - (b) his address,
  - (c) the identity of any school or other educational establishment attended by him,
  - (d) the identity of any place of work, and
  - (e) any still or moving picture of him.
- (9) A direction under subsection (3) may be revoked by the court or an appellate court.

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- (10) An excepting direction—
- (a) may be given at the time the direction under subsection (3) is given or subsequently; and
  - (b) may be varied or revoked by the court or an appellate court.
- (11) In this section “appellate court”, in relation to any proceedings in a court, means a court dealing with an appeal (including an appeal by way of case stated) arising out of the proceedings or with any further appeal.

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**Modifications etc. (not altering text)**

**C3** S. 45 applied (E.W.) (31.8.2009 for specified purposes, 1.4.2010 for specified purposes, 1.11.2010 for specified purposes) by [Violent Crime Reduction Act 2006 \(c. 38\)](#), **ss. 11(8)(b)**, 66(2); [S.I. 2009/1840](#), art. 3(c); [S.I. 2010/469](#), arts. 3(c), 4, **Schs.**; [S.I. 2010/2541](#), arts. 3(c), 4, **Schs.**

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**Commencement Information**

**I2** Pt. II Chs. 1-4 (ss. 16-52) in force for certain purposes at Royal Assent, see s. 68(4)

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**Marginal Citations**

**M2** 1933 c. 12.

**Status:**

Point in time view as at 01/04/2010.

**Changes to legislation:**

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