



# Criminal Evidence (Witness Anonymity) Act 2008

## 2008 CHAPTER 15

An Act to make provision for the making of orders for securing the anonymity of witnesses in criminal proceedings. 9 [21st July 2008]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### *Introduction*

#### <sup>F1</sup> New rules relating to anonymity of witnesses

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#### **Textual Amendments**

- F1** Ss. 1-9 repealed (1.1.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), ss. 96, 182(3)(a), [Sch. 23 Pt. 3](#) (with [s. 180](#), [Sch. 22 para. 16](#), [Sch. 22 para. 17](#))

### *Witness anonymity orders*

#### <sup>F12</sup> Witness anonymity orders

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*Changes to legislation: There are currently no known outstanding effects for the Criminal Evidence (Witness Anonymity) Act 2008. (See end of Document for details)*

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### Textual Amendments

- F1** Ss. 1-9 repealed (1.1.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), ss. 96, 182(3)(a), **Sch. 23 Pt. 3** (with [s. 180](#), [Sch. 22 para. 16](#), [Sch. 22 para. 17](#))

## <sup>F1</sup>3 Applications

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### Textual Amendments

- F1** Ss. 1-9 repealed (1.1.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), ss. 96, 182(3)(a), **Sch. 23 Pt. 3** (with [s. 180](#), [Sch. 22 para. 16](#), [Sch. 22 para. 17](#))

## <sup>F1</sup>4 Conditions for making order

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### Textual Amendments

- F1** Ss. 1-9 repealed (1.1.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), ss. 96, 182(3)(a), **Sch. 23 Pt. 3** (with [s. 180](#), [Sch. 22 para. 16](#), [Sch. 22 para. 17](#))

## <sup>F1</sup>5 Relevant considerations

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### Textual Amendments

- F1** Ss. 1-9 repealed (1.1.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), ss. 96, 182(3)(a), **Sch. 23 Pt. 3** (with [s. 180](#), [Sch. 22 para. 16](#), [Sch. 22 para. 17](#))

## <sup>F1</sup>6 Discharge or variation of order

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### Textual Amendments

- F1** Ss. 1-9 repealed (1.1.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), ss. 96, 182(3)(a), **Sch. 23 Pt. 3** (with [s. 180](#), [Sch. 22 para. 16](#), [Sch. 22 para. 17](#))

## <sup>F1</sup>7 Warning to jury

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**Changes to legislation:** There are currently no known outstanding effects for the Criminal Evidence (Witness Anonymity) Act 2008. (See end of Document for details)

#### Textual Amendments

- F1** Ss. 1-9 repealed (1.1.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), ss. 96, 182(3)(a), [Sch. 23 Pt. 3](#) (with [s. 180](#), [Sch. 22 para. 16](#), [Sch. 22 para. 17](#))

### **<sup>F1</sup>8 Special provisions for service courts**

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#### Textual Amendments

- F1** Ss. 1-9 repealed (1.1.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), ss. 96, 182(3)(a), [Sch. 23 Pt. 3](#) (with [s. 180](#), [Sch. 22 para. 16](#), [Sch. 22 para. 17](#))

*Application of provisions etc.*

### **<sup>F1</sup>9 Proceedings to which new rules apply**

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#### Textual Amendments

- F1** Ss. 1-9 repealed (1.1.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), ss. 96, 182(3)(a), [Sch. 23 Pt. 3](#) (with [s. 180](#), [Sch. 22 para. 16](#), [Sch. 22 para. 17](#))

## **10 Pre-commencement anonymity orders: existing proceedings**

**<sup>F2</sup>(1)** .....

**<sup>F2</sup>(2)** .....

**<sup>F2</sup>(3)** .....

**<sup>F2</sup>(4)** .....

**<sup>F2</sup>(5)** .....

**<sup>F2</sup>(6)** .....

**<sup>F2</sup>(7)** .....

(8) In this section—

“commencement” means the day on which this Act is passed;

“pre-commencement anonymity order” means an order made before commencement that falls within section 1(2).

#### Textual Amendments

- F2** [S. 10\(1\)-\(7\)](#) repealed (1.1.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), [s. 182\(3\)\(d\)](#), [Sch. 23 Pt. 3](#) (with [s. 180](#))

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*Changes to legislation:* There are currently no known outstanding effects for the Criminal Evidence (Witness Anonymity) Act 2008. (See end of Document for details)

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## 11 Pre-commencement anonymity orders: appeals

(1) This section applies where—

- (a) an appeal court is considering an appeal against a conviction in criminal proceedings in a case where the trial ended before commencement, and
- (b) the court from which the appeal lies (“the trial court”) made a pre-commencement anonymity order in relation to a witness at the trial.

(2) The appeal court—

- (a) may not treat the conviction as unsafe solely on the ground that the trial court had no power at common law to make the order mentioned in subsection (1)(b), but
- (b) must treat the conviction as unsafe if it considers—
  - (i) that the order was not one that the trial court could have made if this Act had been in force at the material time, and
  - (ii) that, as a result of the order, the defendant did not receive a fair trial.

(3) In this section—

“appeal court” means—

- (a) the Court of Appeal;
  - (b) the Court of Appeal in Northern Ireland; or
  - (c) the Courts-Martial Appeal Court or the Court Martial Appeal Court;
- “commencement” and “pre-commencement anonymity order” have the meanings given by section 10(8).

### Modifications etc. (not altering text)

**C1** S. 11(2)(b)(i) modified (1.1.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), s. 182(3)(b), [Sch. 22 para. 17\(2\)](#) (with s. 180)

## Supplementary

## 12 Interpretation

(1) In this Act—

“court” means—

- (a) in relation to England and Wales, a magistrates' court, the Crown Court or the criminal division of the Court of Appeal;
- (b) in relation to Northern Ireland, a magistrates' court, the Crown Court, a county court exercising its criminal jurisdiction or the Court of Appeal in Northern Ireland; or
- (c) a service court;

“criminal proceedings” means—

- (a) in relation to a court within paragraph (a) or (b) above, criminal proceedings consisting of a trial or other hearing at which evidence falls to be given;
- (b) in relation to a service court, proceedings in respect of a service offence consisting of a trial or other hearing at which evidence falls to be given;

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“the defendant”, in relation to any criminal proceedings, means any person charged with an offence to which the proceedings relate (whether or not convicted);

“prosecutor” means an individual or body charged with duties to conduct criminal prosecutions;

“service court” has the meaning given by subsection (2);

“service offence” has the meaning given by subsection (3);

“witness”, in relation to any criminal proceedings, means any person called, or proposed to be called, to give evidence at the trial or hearing in question;

“witness anonymity order” has the meaning given by section 2.

(2) In this Act “service court” means—

- (a) a court-martial constituted under the Army Act 1955 (3 & 4 Eliz. 2 c. 18), the Air Force Act 1955 (3 & 4 Eliz. 2 c. 19) or the Naval Discipline Act 1957 (c. 53) or the Court Martial established by the Armed Forces Act 2006 (c. 52);
- (b) the Summary Appeal Court established by any of those Acts;
- (c) a Standing Civilian Court established under the Armed Forces Act 1976 (c. 52) or the Service Civilian Court established by the Armed Forces Act 2006; or
- (d) the Courts-Martial Appeal Court or the Court Martial Appeal Court.

(3) In this Act “service offence” means—

- (a) any offence against any provision of Part 2 of the Army Act 1955, Part 2 of the Air Force Act 1955 or Part 1 of the Naval Discipline Act 1957; or
- (b) any offence under Part 1 of the Armed Forces Act 2006.

## 13 Commencement

This Act comes into force on the day on which it is passed.

## <sup>F3</sup>14 Expiry of power to make witness anonymity orders

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### Textual Amendments

- F3** S. 14 repealed (1.1.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), ss. 96, 182(3)(a), [Sch. 23 Pt. 3](#) (with [s. 180](#))

## 15 Short title and extent

(1) This Act may be cited as the Criminal Evidence (Witness Anonymity) Act 2008.

(2) Subject to subsection (3), this Act extends to England and Wales and Northern Ireland.

(3) The service courts provisions of this Act extend to England and Wales, Scotland and Northern Ireland; and in section 384 of the Armed Forces Act 2006 (c. 52) (extent to Channel Islands etc.) any reference to that Act includes a reference to the service courts provisions of this Act.

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**Changes to legislation:** There are currently no known outstanding effects for the Criminal Evidence (Witness Anonymity) Act 2008. (See end of Document for details)

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- (4) In subsection (3) “the service courts provisions of this Act” means the provisions of this Act so far as having effect in relation to service courts.

**Changes to legislation:**

There are currently no known outstanding effects for the Criminal Evidence (Witness Anonymity) Act 2008.