

CORONERS AND JUSTICE ACT 2009

EXPLANATORY NOTES

THE ACT

Commentary on Sections

Part 3 - Criminal evidence, investigations and procedure

Chapter 3: Vulnerable and intimidated witnesses

Section 99: Eligibility for special measures: offences involving weapons

492. Section 17(1) of the 1999 Act provides that a witness is eligible for assistance if the court is satisfied that the quality of the witness's evidence would be reduced on the grounds of fear or distress about testifying. Section 17(4) of the 1999 Act gives automatic eligibility for complainants in respect of sexual offences who are witnesses. Automatic eligibility means that the court does not need to be satisfied that the quality of the witness's evidence will be diminished for the purposes of establishing eligibility.
493. **Section 99** extends section 17 and gives automatic eligibility for assistance to witnesses in proceedings related to "relevant offences". The court does not need to be satisfied that the quality of the witness's evidence will be diminished for the purposes of establishing eligibility. However under section 19 of the 1999 Act, the court still has to determine whether any of the available special measures will in fact improve the quality of the witness's evidence and consider whether any such measure or measures might inhibit the evidence being effectively tested. Relevant offences are specified gun and knife crimes which are listed in new Schedule 1A to the 1999 Act (inserted by Schedule 14 to the Act). A witness can inform the court that he or she does not wish to be eligible for assistance.
494. The list of relevant offences is inserted as a new Schedule 1A to the 1999 Act and the list can be amended by order made by the Secretary of State. The effect of *subsection (3)* is that the order-making power is subject to the affirmative resolution procedure.