

2006 No. 2890

DEFENCE

**The Criminal Justice Act 1988 (Application to Service Courts)
(Evidence) Order 2006**

<i>Made</i>	- - - -	<i>30th October 2006</i>
<i>Laid before Parliament</i>		<i>6th November 2006</i>
<i>Coming into force</i>	- -	<i>6th December 2006</i>

The Secretary of State, in exercise of the powers conferred upon him by paragraphs 8, 9 and 10 of Schedule 13 to the Criminal Justice Act 1988(a), makes the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Criminal Justice Act 1988 (Application to Service Courts) (Evidence) Order 2006 and shall come into force on 6th December 2006.

(2) In this Order—

“the Act” means the Criminal Justice Act 1988;

“the 1996 Order” means the Criminal Justice Act 1988 (Application to Service Courts) (Evidence) Order 1996(b);

“continuing proceedings” means proceedings instituted before the date on which this Order comes into force;

“existing special measures power” means any existing power of the court to make an order or give leave for the taking of measures in relation to a witness which are similar to those which could be provided for by a special measures direction;

“Service courts” has the meaning given in paragraph 1 of Schedule 13 to the Act;

“special measures direction” means a direction under section 19 of the Youth Justice and Criminal Evidence Act 1999(c).

Revocation and transitional provisions

2.—(1) The 1996 Order is revoked.

(2) The revocation of the 1996 Order shall not affect the continued operation in relation to a witness in continuing proceedings before Service courts of—

(a) section 32 (evidence through television links) or section 32A (video recordings of testimony of child witnesses) of the Act where leave was given in connection with those proceedings by virtue of section 32(1)(b) or section 32A, as the case may be, or

(a) 1988 c. 33; Paragraph 8 of Schedule 13 is amended by the Youth Justice and Criminal Evidence Act 1999 (c. 23), section 67(3) and Schedule 6. Paragraphs 9 and 10 were inserted by the Armed Forces Act 1996 (c. 46), section 7.

(b) S.I. 1996/2592.

(c) 1999 c. 23.

(b) any order made or leave given under any existing special measures power exercised by the court,
before the date this Order comes into force.

Application of section 32 of the Act

3. Section 32(1)(a) and (3) of the Act(a) shall continue to have effect in relation to proceedings before Service courts subject to the modifications for which paragraph 8(2) of Schedule 13 to the Act provides, and to the further modifications specified in the Schedule to this Order.

30th October 2006

Derek Twigg
Parliamentary Under Secretary of State
Ministry of Defence

SCHEDULE

Article 3

<i>Section</i>	<i>Modifications</i>
Section 32	In subsection (1), for the words “to which subsection (1A) below applies” there shall be substituted the words “before Service courts as defined in paragraph 1 of Schedule 13 to this Act”.

(a) Section 32 was amended by the Criminal Justice Act 1991 (c. 53), section 55. The repeal of section 32(1)(b), (2), (3A) to (3E) and (6) was commenced (except in so far as applied to proceedings before Service courts by the 1996 Order) by the Youth Justice and Criminal Evidence Act 1999 (Commencement No. 7) Order 2002 (S.I. 2002/1739).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order revokes the Criminal Justice Act 1988 (Application to Service Courts) (Evidence) Order 1996 (S.I. 1996/2592) (“the 1996 Order”) which applied the provisions of sections 32(1) to (3), 32A and 34A of the Criminal Justice Act 1988 (c. 33) (“the 1988 Act”), with modifications, to proceedings before Service courts. The provisions related to the giving of evidence by witnesses other than the accused through a live television link and by video recording of an interview with a child witness, and prohibited the cross-examination of a child witness by the accused in person.

The repeal of section 32(1)(b), (2), (3A) to (3E) and (6) and section 32A of the 1988 Act was commenced by the Youth Justice and Criminal Evidence Act 1999 (Commencement No. 7) Order 2002 (S.I. 2002/1739) except in so far as applied to proceedings before Service courts by the 1996 Order. Those savings are now revoked with the 1996 Order but section 32(1)(a) and (3), which allows a witness who is not in the country where the court is sitting to give evidence by live television link, is saved for Service courts with modifications. The repeal of section 34A of the 1988 Act was commenced by the Youth Justice and Criminal Evidence Act 1999 (Commencement No. 4) Order 2000 (S.I.2000/2091).

Article 2(2) contains transitional provisions in respect of continuing proceedings.

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