

# POLICE, CRIME, SENTENCING AND COURTS ACT 2022 - procedure

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3 Paper Buildings

## S28 for adults

1. From 12<sup>th</sup> May 2022, an extension of s28 is available to victims of rape across the Western circuit. This allows for the provision of pre-recorded cross-examination and is available for all complainants in sexual offences and modern slavery.

### Headline

- (a) Expect more applications;*
- (b) Identify in the Magistrates' Court – BCM form.*

## Section 49: Time limit to s39 of the Criminal Justice Act 1988

### Headline

*Extending the prosecution time limit for domestic abuse-related common assault and battery charges from 6 months of the offence to 6 months of it being formally reported to the police, up to a maximum of 2 years.*

2. After section 39 of the Criminal Justice Act 1988 insert-

**Time limit for prosecution of common assault or battery in domestic abuse cases**

- (1) This section applies to proceedings for an offence of common assault or battery where –
- (a) the alleged behaviour of the accused amounts to domestic abuse, and
  - (b) the condition in subsection (2) or (3) is met.
- (2) The condition in this subsection is that-
- (a) the complainant has made a witness statement with a view to its possible admission as evidence in the proceedings, and
  - (b) the complainant has provided the statement to-
    - (i) a constable of a police force, or
    - (ii) a person authorised by a constable of a police force to receive the statement.
- (3) The condition in this subsection is that-
- (a) the complainant has been interviewed by-
    - (i) a constable of a police force, or
    - (ii) a person authorised by a constable of a police force to interview the complainant, and
  - (b) a video recording of the interview has been made with a view to its possible admission as the complainant's evidence in chief in the proceedings.
- (4) Proceedings to which this section applies may be commenced at any time which is both –
- (a) within two years from the date of the offence to which the proceedings relate, and
  - (b) within six months from the first date on which either of the conditions in subsection (2) or (3) was met.

## S200 Use of CVP – s51 CJA 2003

### Headline

*New rules to end the need for participants to travel unnecessarily to court by allowing criminal courts to maximise the use of video and audio technology as it develops.*

4. 51(1) The court may, by a direction, require or permit a person to take part in eligible criminal proceedings through –
- (a) a live audio link, or
  - (b) a live video link.
- (2) A direction under this section may be given in relation to a member of a jury only if the direction requires all members of the jury to take part through a live video link while present at the same place.
- (3) In this Part “eligible criminal proceedings” means
- (a) a preliminary hearing...,
  - (b) a summary trial,
  - (c) a criminal appeal to the Crown Court and any proceedings that are preliminary or incidental to such an appeal,
  - (d) a trial on indictment or any other trial in the Crown Court for an offence,
  - (e) proceedings under section 4A or 5 of the Criminal Procedure (Insanity) Act 1964,
  - (f) proceedings under Part 3 of the Mental Health Act 1983,
  - (g) proceedings under –
  - (i) section 11 of the Powers of Criminal Courts (Sentencing) Act 2000, or

- (ii) section 81(1)(g) of the Senior Courts Act 1981 or section 16 of this Act in respect of a person who has been remanded by a magistrates' court on adjourning a case under that section of the 2000 Act,
  - (h) an appeal to the criminal division of the Court of Appeal and any proceedings that are preliminary or incidental to such an appeal,
  - (i) a reference to the Court of Appeal by the Attorney General under Part 4 of the Criminal Justice Act 1988 and any proceedings that are preliminary or incidental to such a reference,
  - (j) the hearing of a reference under section 9 or 11 of the Criminal Appeal Act 1995 and any proceedings that are preliminary or incidental to such a hearing,
  - (k) a hearing before a magistrates' court or the Crown Court which is held after the defendant has entered a plea of guilty,
  - (l) a hearing under section 142(1) or (2) of the Magistrates' Courts Act 1980,
  - (m) a hearing before the Court of Appeal under section 80 of this Act and any proceedings that are preliminary or incidental to such a hearing,
  - (n) any hearing following conviction held for the purpose of making a decision about bail in respect of the person convicted,
  - (o) a sentencing hearing (see section 56(1)) or
  - (p) an enforcement hearing (see section 56(1)).
- (4) The court may not give a direction under this section unless-
- (a) the court is satisfied that it is in the interests of justice for the person to whom the direction relates to take part in the proceedings in accordance with the direction through the live audio link or live video link,
  - (b) the parties to the proceedings have been given the opportunity to make representations, and
  - (c) if so required by section 52(9), the relevant youth offending team has been given the opportunity to make representations.
- (5) In deciding whether to give a direction under this section, the court must consider-

- (a) any guidance given by the Lord Chief Justice, and
  - (b) all the circumstances of the case.
- (6) Those circumstances include in particular-
- (a) the availability of the person to whom the direction would relate,
  - (b) any need for that person to attend in person,
  - (c) the views of that person,
  - (d) the suitability of the facilities at the place where that person would take part in the proceedings in accordance with the direction,
  - (e) whether that person would be able to take part in the proceedings effectively if the person took part in accordance with the direction,
  - (f) in the case of a direction relating to a witness-
    - (i) the importance of the witness's evidence to the proceedings, and
    - (ii) whether the direction might tend to inhibit any party to the proceedings from effectively testing the witness's evidence, and
  - (g) the arrangements that would or could be put in place for members of the public to see or hear the proceedings as conducted in accordance with the direction

### **s196 BSL interpreters for deaf jurors – s9B The Juries Act 1975**

#### Headline

For the first time, profoundly deaf people who need a BSL interpreter to sit on juries can do so. Current laws ban the presence of a 'stranger' being in the jury deliberation room. This will be scrapped and instead allow a British Sign Language interpreter in the room.

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