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STATUTORY INSTRUMENTS

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**2013 No. 2971**

**CRIMINAL PROCEDURE,  
ENGLAND AND WALES**

**The Special Measures for Child Witnesses  
(Sexual Offences) Regulations 2013**

*Made* - - - - *21st November 2013*  
*Laid before Parliament* *26th November 2013*  
*Coming into force* - - *18th December 2013*

The Secretary of State is a Minister designated<sup>(1)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(2)</sup> in relation to criminal justice.

The Secretary of State makes the following Regulations in exercise of the powers conferred by that section.

**Citation, commencement and extent**

**1.** These Regulations—

- (a) may be cited as the Special Measures for Child Witnesses (Sexual Offences) Regulations 2013;
- (b) come into force on 18th December 2013; and
- (c) extend to England and Wales.

**Amendments to the Youth Justice and Criminal Evidence Act 1999**

**2.** In section 33 of the Youth Justice and Criminal Evidence Act 1999<sup>(3)</sup> (Interpretation etc of Chapter 1)—

- (a) in subsection (5), for “a human trafficking offence” substitute “a relevant offence”; and
- (b) for subsection (6), substitute—

“(6) In subsection (5) “relevant offence” means—

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(1) [S.I. 2012/2752](#).

(2) [1972 c. 68](#); section 2(2) was amended by section 27 of the Regulatory Reform Act [2006 \(c. 51\)](#) and Part 1 of the Schedule to the European Union (Amendment) Act [2008 \(c. 7\)](#).

(3) [1999 c. 23](#); section 33 was amended by S.I. 2013/554.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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- (a) a sexual offence;
- (b) an offence under section 1 of the Protection of Children Act 1978<sup>(4)</sup>;
- (c) an offence under section 160 of the Criminal Justice Act 1988<sup>(5)</sup>;
- (d) an offence under section 4 of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004<sup>(6)</sup>.”.

21st November 2013

*Damian Green*  
Minister of State  
Ministry of Justice

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(4) 1978 c. 37; section 1 was amended by section 139 of, and paragraph 24 of Schedule 6 to, the Sexual Offences Act 2003 (c. 42), by sections 84 and 168 of, and Schedule 11 to, the Criminal Justice and Public Order Act 1994 (c. 33), and by section 37 of, and Schedule 2 to, the Extradition Act 1989 (c. 33). The Extradition Act 1989 is now repealed.

(5) 1988 c. 33; section 160 was amended by section 41 of the Criminal Justice and Court Services Act 2000 (c. 43), by section 139 of, and paragraph 29 of Schedule 6 to, the Sexual Offences Act 2003; by section 148 of, and Schedule 26 to, the Criminal Justice and Immigration Act 2008 (c. 4), and by sections 84, 86 and 168 of, and Schedule 11 to, the Criminal Justice and Public Order Act 1994 (c. 33).

(6) 2004 c. 19; in relation to England and Wales, section 4 was amended by section 31 of the UK Borders Act 2007 (c. 30), by paragraph 7 of Schedule 6 to the Human Tissue Act 2004 (c. 30), by section 54 of the Borders, Citizenship and Immigration Act 2009 (c. 11), and by section 110 of the Protection of Freedoms Act 2012 (c. 9).

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

These Regulations are made as part of the implementation in England and Wales of Directive 2011/93/EU(7) of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA.

Regulation 2 amends the Youth Justice and Criminal Evidence Act 1999 (c. 23) so that a complainant of a relevant offence whose age is uncertain will be presumed to be under the age of 18 if there are reasons to believe that person is under the age of 18. The effect is that a complainant to whom the presumption applies will be eligible for “special measures” under section 16 of that Act. Special measures are measures intended to assist and protect certain categories of witnesses in the giving of evidence in criminal proceedings. Previously the presumption only applied to a complainant of a human trafficking offence (an offence under section 59A of the Sexual Offences Act 2003 (c. 42) or an offence under section 4 of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (c. 19)). The presumption will now additionally apply to a complainant of a sexual offence (as defined by section 62 of the 1999 Act) and a complainant of an offence under section 1 of the Protection of Children Act 1978 (c. 37) and a complainant under section 160 of the Criminal Justice Act 1988 (c. 33).

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sector is foreseen.

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(7) OJ No L 335 of 17.12.2011, p1.