

s11
General Powers Confirmed

s28(a)(b)
ORDER, EXC>CXM>RXM

Dic t
"leading question" means
(a) directly or indirectly suggests a particular answer to the question, or
(b) assumes the existence of a fact the existence of which is in dispute in the proceeding and as to the existence of which the W has not given E before the question is asked.

s37(1)
LEADING Q + EXCEPT
Maves(1913) DLR

s26
(a)way(b)docs(c)order(d)presense. Behv.
FinChill

s39
RXM (a)maters raised by CXM (s108 credit) (b) with leave s192 other matters

s27
Preserve CL right to question any W

AMBIT

Wide

Court tries to make short as possible

Wakeley (1990)HCA
Kaia (1974)

s42
CXM

(1) Ok to lead unless court.

(2) not limit.(a)(c), sympathtic (d) competency issues, infirity
(3) Facts othewsie better served
(4) Reserves power to court
Pantoja (1998) CCA

s32
Notes 4 Mem in cout, notes
2(b)(i) Note Fresh/ more expansive reading than Graham
Beelen Singh
Graham (1998)HCA
Adam aka Drchad

s192 Leave Req

s38(1)
EXiC [CXM own Wit. with leave if]
(1)(a) E given by W -ve 2 own -ve = not fav; propitious; adverse;disadvantageous, Unhelpfull (obiter Adam) Patrtial (Pantoja)
(1)(b) no genuine attempt
(1)(c) contradicts
Lozano (1997) CCA
Adam (2001) HCA
Souleyman (1996)NSWLR
Pantoja (1998) CCA

s192 Leave Req

s38(3)
Credit--> pt 3.7
Order, Crown CXM --> D CXM But not fatal
open slather is avial in some circumstances
Parkes(2003) CCA
White [2003] CCA
s38(4)
s38(5)

s38(6)
s38(6) Notice, and subject matter
s192 Leave Req
(1) such terms as the court thinks fit.
(2) Without limiting it is to take into account:
(a) time effects and
(b) the extent unfair to party or witness, and
(c) the importance of the E
(d) the nature of the proceeding, and
(e) the power (if any) of the court to adjourn the hearing or to make another order or to give a direction in relation to E

Discretions

s275A
CXM Limit CRIM (assumes relevance)

(1) must disallow put 2 W in CXM|| inform W ans not req if court is of the opinion as "disallowable question":
(a) is misleading or confusing, or
(b) is unduly annoying, harassing, intimidating, offensive, oppressive, humiliating or repetitive, or
(c) is put to the witness in a manner or tone that is belittling, insulting or otherwise inappropriate, or
(d) has no basis other than a sexist, racial, cultural or ethnic stereotype.
(2) Without limiting the matters that the court may take into account for the purposes of subsection (1), it is to take into account:
(a) any relevant condition or characteristic of the witness, including age, education, ethnic and cultural background, language background and skills, level of maturity and understanding and personality, and
(b) any mental, intellectual or physical disability to which the witness is or appears to be subject.
(3) A question is not a disallowable question merely because:
(a) the question challenges the truthfulness of the witness or the consistency or accuracy of any statements made by the witness, or
(b) the question requires the witness to discuss a subject that could be considered to be distasteful or private.
(4) A party to criminal proceedings may object to a question put to a witness on the ground that it is a disallowable question.
(5) However, the duty imposed on the court by this section applies whether or not an objection is raised to a particular question.
(6) A failure by the court to disallow a question under this section, or to inform the witness that it need not be answered, does not affect the admissibility in evidence of any answer given by the witness in response to the question.
(7) Section 41 of the Evidence Act 1995 does not apply to criminal proceedings to which this section applies.
(8) A person must not, without the express permission of a court, print or publish any question that the court has disallowed under this section.
Maximum penalty: 60 penalty units.
(9) In this section:"criminal proceedings" means proceedings against a person for an offence (whether summary or indictable), and includes the following:
(a) committal proceedings, (b) proceedings relating to bail, (c) proceedings relating to sentencing, (d) proceedings on an appeal against conviction or sentence.

s41
CXM Limit CIVIL (assumes relevance)
(a) misleading
(b) unduly annoying, harassing, intimidating, offensive, oppressive or repedative
Breach Judge may terminate
R v Ta
RE kay

s43
CXM about inconsistant statement
s44
CXM other persons statement
s45
CXM about document

s46(1)(2)
recall W for RXM
Leave, for (a) contradicts or (b) could have given E in XMIC
Birks
Browne v Dunn

s28,192
2 includes inference
Reopen CXM, s28 + 192 or s46, B vD.
Cheshire (1995)