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# Police and Criminal Evidence Act 1984

## 1984 CHAPTER 60

### PART VIII

#### EVIDENCE IN CRIMINAL PROCEEDINGS—GENERAL

##### *Miscellaneous*

#### 78 Exclusion of unfair evidence.

- (1) In any proceedings the court may refuse to allow evidence on which the prosecution proposes to rely to be given if it appears to the court that, having regard to all the circumstances, including the circumstances in which the evidence was obtained, the admission of the evidence would have such an adverse effect on the fairness of the proceedings that the court ought not to admit it.
- (2) Nothing in this section shall prejudice any rule of law requiring a court to exclude evidence.

[<sup>F1</sup>(3) This section shall not apply in the case of proceedings before a magistrates' court inquiring into an offence as examining justices.]

#### Extent Information

**E1** S. 78 extends to England and Wales only with exceptions as regards courts martial, see s. 120(1)(6)-(8)

#### Textual Amendments

**F1** S. 78(3) inserted (4.7.1996 with effect as mentioned in Sch. 1 Pt. III para. 39 and S.I. 1997/683, art. 1(2)) by 1996 c. 25, s. 47, Sch. 1 Pt. II Para.26 (with s. 78(1))

#### Modifications etc. (not altering text)

**C1** S. 78(1) modified (2.10.2000) by S.I. 2000/2370, rule 27(2), Sch. 3 Pt. III para. 18(c)  
S. 78(1) modified (2.10.2000) by S.I. 2000/2371, rule 27(2), Sch. 3 Pt. III para. 18(c)  
S. 78(1) modified (2.10.2000) by S.I. 2000/2372, rule 27(2), Sch. 3 Pt. III para. 18(c)

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## 79 Time for taking accused’s evidence.

If at the trial of any person for an offence—

- (a) the defence intends to call two or more witnesses to the facts of the case; and
- (b) those witnesses include the accused,

the accused shall be called before the other witness or witnesses unless the court in its discretion otherwise directs.

### Modifications etc. (not altering text)

- C2 S. 79 modified (2.10.2000) by S.I. 2000/2370, rule 27(2), Sch. 3 Pt. III para. 18(e)  
 S. 79 modified (2.10.2000) by S.I. 2000/2371, rule 27(2), Sch. 3 Pt. III para. 18(e)  
 S. 79 modified (2.10.2000) by S.I. 2000/2372, rule 27(2), Sch. 3 Pt. III para. 18(e)

## 80 Competence and compellability of accused’s spouse.

- (1) In any proceedings the wife or husband of the accused shall be competent to give evidence—
  - (a) subject to subsection (4) below, for the prosecution; and
  - (b) on behalf of the accused or any person jointly charged with the accused.
- (2) In any proceedings the wife or husband of the accused shall, subject to subsection (4) below, be compellable to give evidence on behalf of the accused.
- (3) In any proceedings the wife or husband of the accused shall, subject to subsection (4) below, be compellable to give evidence for the prosecution or on behalf of any person jointly charged with the accused if and only if—
  - (a) the offence charged involves an assault on, or injury or a threat of injury to, the wife or husband of the accused or a person who was at the material time under the age of sixteen; or
  - (b) the offence charged is a sexual offence alleged to have been committed in respect of a person who was at the material time under that age; or
  - (c) the offence charged consists of attempting or conspiring to commit, or of aiding, abetting, counselling, procuring or inciting the commission of, an offence falling within paragraph (a) or (b) above.
- (4) Where a husband and wife are jointly charged with an offence neither spouse shall at the trial be competent or compellable by virtue of subsection (1)(a), (2) or (3) above to give evidence in respect of that offence unless that spouse is not, or is no longer, liable to be convicted of that offence at the trial as a result of pleading guilty or for any other reason.
- (5) In any proceedings a person who has been but is no longer married to the accused shall be competent and compellable to give evidence as if that person and the accused had never been married.
- (6) Where in any proceedings the age of any person at any time is material for the purposes of subsection (3) above, his age at the material time shall for the purposes of that provision be deemed to be or to have been that which appears to the court to be or to have been his age at that time.
- (7) In subsection (3)(b) above “sexual offence” means an offence under the Sexual Offences Act 1956, the <sup>M1</sup>Indecency with Children Act <sup>M2</sup>1960, the Sexual Offences

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Act 1967, section 54 of the <sup>M3</sup>Criminal Law Act <sup>M4</sup>1977 or the <sup>M5</sup>Protection of Children Act 1978.

- (8) The failure of the wife or husband of the accused to give evidence shall not be made the subject of any comment by the prosecution.
- (9) Section 1(d) of the Criminal Evidence Act 1898 (communications between husband and wife) and section 43(1) of the <sup>M6</sup>Matrimonial Causes Act <sup>M7</sup>1965 (evidence as to marital intercourse) shall cease to have effect.

#### Modifications etc. (not altering text)

- C3** S. 80 modified (2.10.2000) by S.I. 2000/2370, rule 27(2), **Sch. 3 Pt. III para. 18(f)**  
S. 80 modified (2.10.2000) by S.I. 2000/2371, rule 27(2), **Sch. 3 Pt. III para. 18(f)**  
S. 80 modified (2.10.2000) by S.I. 2000/2372, rule 27(2), **Sch. 3 Pt. III para. 18(f)**

#### Marginal Citations

- M1** 1960 c. 33.  
**M2** 1967 c. 60.  
**M3** 1977 c. 45.  
**M4** 1978 c. 37.  
**M5** 1978 c. 37.  
**M6** 1965 c. 72.  
**M7** 1965 c. 72.

VALID FROM 24/07/2002

#### **[80A** <sup>F2</sup>**Rule where accused's spouse not compellable.**

The failure of the wife or husband of a person charged in any proceedings to give evidence in the proceedings shall not be made the subject of any comment by the prosecution.]

#### Extent Information

- E2** S. 80A extends to England and Wales only with exceptions as regards courts martial, see s. 120(1)(6)-(8)

#### Textual Amendments

- F2** S. 80A inserted (24.7.2002 for E.W.) by 1999 c. 23, s. 67(1), Sch. 4 para. 14 (with Sch. 7 paras. 3(3), 5(2)); S.I. 2002/1739, **art. 2(f)**

#### **81 Advance notice of expert evidence in Crown Court.**

- (1) Crown Court Rules may make provision for—
- (a) requiring any party to proceedings before the court to disclose to the other party or parties any expert evidence which he proposes to adduce in the proceedings; and

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- (b) prohibiting a party who fails to comply in respect of any evidence with any requirement imposed by virtue of paragraph (a) above from adducing that evidence without the leave of the court.
- (2) Crown Court Rules made by virtue of this section may specify the kinds of expert evidence to which they apply and may exempt facts or matters of any description specified in the rules.

**Modifications etc. (not altering text)**

- C4** S. 81 excluded (2.10.2000) by S.I. 2000/2370, rule 27(2), Sch. 3 Pt. III para. 18(g)  
S. 81 excluded (2.10.2000) by S.I. 2000/2371, rule, 27(2), Sch. 3 Pt. III para. 18(g)  
S. 81 excluded (2.10.2000) by S.I. 2000/2372 rule, 27(2), Sch. 3 Pt. III para. 18(g)

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