



# Domestic Violence, Crime and Victims (Amendment) Act 2012

## 2012 CHAPTER 4

### 2 Evidence and procedure in cases of serious physical harm

After section 6 of the Domestic Violence, Crime and Victims Act 2004 insert—

#### **“6A Evidence and procedure in cases of serious physical harm: England and Wales**

- (1) Subsections (3) to (5) apply where a person (“the defendant”) is charged in the same proceedings with a relevant offence and with an offence under section 5 in respect of the same harm (“the section 5 offence”).
- (2) In this section “relevant offence” means—
  - (a) an offence under section 18 or 20 of the Offences against the Person Act 1861 (grievous bodily harm etc);
  - (b) an offence under section 1 of the Criminal Attempts Act 1981 of attempting to commit murder.
- (3) Where by virtue of section 35(3) of the Criminal Justice and Public Order Act 1994 a court or jury is permitted, in relation to the section 5 offence, to draw such inferences as appear proper from the defendant's failure to give evidence or refusal to answer a question, the court or jury may also draw such inferences in determining whether the defendant is guilty of a relevant offence, even if there would otherwise be no case for the defendant to answer in relation to that offence.
- (4) The charge of the relevant offence is not to be dismissed under paragraph 2 of Schedule 3 to the Crime and Disorder Act 1998 (unless the section 5 offence is dismissed).
- (5) At the defendant's trial the question whether there is a case for the defendant to answer on the charge of the relevant offence is not to be considered before the

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**Changes to legislation:** *There are currently no known outstanding effects for the Domestic Violence, Crime and Victims (Amendment) Act 2012, Section 2. (See end of Document for details)*

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close of all the evidence (or, if at some earlier time the defendant ceases to be charged with the section 5 offence, before that earlier time).”

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**Commencement Information**

**II** [S. 2](#) in force at 2.7.2012 by [S.I. 2012/1432](#), [art. 2](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Domestic Violence, Crime and Victims (Amendment) Act 2012, Section 2.