



# Police and Criminal Evidence Act 1984

## 1984 CHAPTER 60

### PART VIII

#### EVIDENCE IN CRIMINAL PROCEEDINGS—GENERAL

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

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

#### *Convictions and acquittals*

### 73 **Proof of convictions and acquittals.**

- (1) Where in any proceedings the fact that a person has in the United Kingdom [<sup>F1</sup>or any other member State] been convicted or acquitted of an offence otherwise than by a Service court is admissible in evidence, it may be proved by producing a certificate of conviction or, as the case may be, of acquittal relating to that offence, and proving that the person named in the certificate as having been convicted or acquitted of the offence is the person whose conviction or acquittal of the offence is to be proved.
- (2) For the purposes of this section a certificate of conviction or of acquittal—
  - (a) shall, as regards a conviction or acquittal on indictment, consist of a certificate, signed by the [<sup>F2</sup>proper officer] of the court where the conviction or acquittal took place, giving the substance and effect (omitting the formal parts) of the indictment and of the conviction or acquittal; and
  - (b) shall, as regards a conviction or acquittal on a summary trial, consist of a copy of the conviction or of the dismissal of the information, signed by the [<sup>F2</sup>proper officer] of the court where the conviction or acquittal took place or by the [<sup>F2</sup>proper officer] of the court, if any, to which a memorandum of the conviction or acquittal was sent [<sup>F3</sup>]; and

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- (c) shall, as regards a conviction or acquittal by a court in a member State (other than the United Kingdom), consist of a certificate, signed by the proper officer of the court where the conviction or acquittal took place, giving details of the offence, of the conviction or acquittal, and of any sentence;]

and a document purporting to be a duly signed certificate of conviction or acquittal under this section shall be taken to be such a certificate unless the contrary is proved.

[<sup>F4</sup>(3) In subsection (2) above “proper officer” means—

- (a) in relation to a magistrates’ court in England and Wales, the [<sup>F5</sup>designated officer] for the court; and
- (b) in relation to any other court [<sup>F6</sup>in the United Kingdom], the clerk of the court, his deputy or any other person having custody of the court record [<sup>F7</sup>, and
- (c) in relation to any court in another member State (“the EU court”), a person who would be the proper officer of the EU court if that court were in the United Kingdom.]]

- (4) The method of proving a conviction or acquittal authorised by this section shall be in addition to and not to the exclusion of any other authorised manner of proving a conviction or acquittal.

#### Extent Information

**E1** S. 73 extends to England and Wales only with exceptions as regards courts martial, see s. 120(1)(6)-(8)

#### Textual Amendments

- F1** Words in s. 73(1) inserted (15.8.2010) by Coroners and Justice Act 2009 (c. 25), ss. 144, 182, **Sch. 17 para. 13(2)** (with s. 180, Sch. 22); S.I. 2010/1858, **art. 3(a)(d)(vii)**
- F2** Words in s. 73(2)(a)(b) substituted (1.4.2001) by 1999 c. 22, s. 90, **Sch. 13 para. 128(1)(2)** (with Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2**
- F3** S. 73(2)(c) and preceding word inserted (15.8.2010) by Coroners and Justice Act 2009 (c. 25), ss. 144, 182, **Sch. 17 para. 13(3)** (with s. 180, Sch. 22); S.I. 2010/1858, **art. 3(a)(d)(vii)**
- F4** S. 73(3) substituted (1.4.2001) by 1999 c. 22, ss. 90, **Sch. 13 para. 128(1)(3)** (with Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2**
- F5** Words in s. 73(3)(a) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, Sch. 8 para. 285; S.I. 2005/910, **art. 3(y)**
- F6** Words in s. 73(3)(b) inserted (15.8.2010) by Coroners and Justice Act 2009 (c. 25), ss. 144, 182, **Sch. 17 para. 13(4)(a)** (with s. 180, Sch. 22); S.I. 2010/1858, **art. 3(a)(d)(vii)**
- F7** S. 73(3)(c) and preceding word added (15.8.2010) by Coroners and Justice Act 2009 (c. 25), ss. 144, 182, **Sch. 17 para. 13(4)(b)** (with s. 180, Sch. 22); S.I. 2010/1858, **art. 3(a)(d)(vii)**

## 74 Conviction as evidence of commission of offence.

- (1) In any proceedings the fact that a person other than the accused has been convicted of an offence by or before any court in the United Kingdom [<sup>F8</sup>or any other member State] or by a Service court outside the United Kingdom shall be admissible in evidence for the purpose of proving, [<sup>F9</sup>that that person committed that offence, where evidence of his having done so is admissible] , whether or not any other evidence of his having committed that offence is given.
- (2) In any proceedings in which by virtue of this section a person other than the accused is proved to have been convicted of an offence by or before any court in the United Kingdom [<sup>F10</sup>or any other member State] or by a Service court outside the United

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Kingdom, he shall be taken to have committed that offence unless the contrary is proved.

(3) In any proceedings where evidence is admissible of the fact that the accused has committed an offence,<sup>F11</sup> . . . , if the accused is proved to have been convicted of the offence—

(a) by or before any court in the United Kingdom [<sup>F12</sup>or any other member State];  
or

(b) by a Service court outside the United Kingdom,

he shall be taken to have committed that offence unless the contrary is proved.

(4) Nothing in this section shall prejudice—

(a) the admissibility in evidence of any conviction which would be admissible apart from this section; or

(b) the operation of any enactment whereby a conviction or a finding of fact in any proceedings is for the purposes of any other proceedings made conclusive evidence of any fact.

#### Textual Amendments

**F8** Words in s. 74(1) inserted (15.8.2010) by Coroners and Justice Act 2009 (c. 25), ss. 144, 182, **Sch. 17 para. 14(2)** (with s. 180, Sch. 22); S.I. 2010/1858, **art. 3(a)(d)(vii)**

**F9** Words in s. 74(1) substituted (15.12.2004) by Criminal Justice Act 2003 (c. 44), 331, 336, {Sch. 36 para. 85(2)}; S.I. 2004/3033, **art. 3(1)(2)(d)**

**F10** Words in s. 74(2) inserted (15.8.2010) by Coroners and Justice Act 2009 (c. 25), ss. 144, 182, **Sch. 17 para. 14(3)** (with s. 180, Sch. 22); S.I. 2010/1858, **art. 3(a)(d)(vii)**

**F11** Words in s. 74(3) repealed (15.12.2004) by Criminal Justice Act 2003 (c. 44), ss. 331, 332, 336, Sch. 36 para. 85(3), **Sch. 37 Pt. 5**; S.I. 2004/3033, **art. 3(1)(2)(d)(e)(i)**

**F12** Words in s. 74(3)(a) inserted (15.8.2010) by Coroners and Justice Act 2009 (c. 25), ss. 144, 182, **Sch. 17 para. 14(4)** (with s. 180, Sch. 22); S.I. 2010/1858, **art. 3(a)(d)(vii)**

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

**C2** S. 74 modified (2.10.2000) by S.I. 2000/2370, rule 27(2), **Sch. 3 Pt. III para. 18(b)**

S. 74 modified (2.10.2000) by S.I. 2000/2371, rule 27(2), **Sch. 3 Pt. III para. 18(b)**

S. 74 modified (2.10.2000) by S.I. 2000/2372, rule 27(2), **Sch. 3 Pt. III para. 18(b)**

## 75 Provisions supplementary to section 74.

(1) Where evidence that a person has been convicted of an offence is admissible by virtue of section 74 above, then without prejudice to the reception of any other admissible evidence for the purpose of identifying the facts on which the conviction was based—

(a) the contents of any document which is admissible as evidence of the conviction; and

[<sup>F13</sup>(b) the contents of—

(i) the information, complaint, indictment or charge-sheet on which the person in question was convicted, or

(ii) in the case of a conviction of an offence by a court in a member State (other than the United Kingdom), any document produced in relation to the proceedings for that offence which fulfils a purpose similar to any document or documents specified in sub-paragraph (i),]

shall be admissible in evidence for that purpose.

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- (2) Where in any proceedings the contents of any document are admissible in evidence by virtue of subsection (1) above, a copy of that document, or of the material part of it, purporting to be certified or otherwise authenticated by or on behalf of the court or authority having custody of that document shall be admissible in evidence and shall be taken to be a true copy of that document or part unless the contrary is shown.
- (3) Nothing in any of the following—
- (a) [<sup>F14</sup>Section 14 of the Powers of Criminal Courts (Sentencing ) Act 2000](under which a conviction leading to probation or discharge is to be disregarded except as mentioned in that section);
  - [<sup>F15</sup>(aa) section 187 of the Armed Forces Act 2006 (which makes similar provision in respect of service convictions);]
  - (b) [<sup>F16</sup>section 247 of the Criminal Procedure (Scotland) Act 1995] (which makes similar provision in respect of convictions on indictment in Scotland); and
  - (c) section 8 of the Probation Act (Northern Ireland) 1950 (which corresponds to section 13 of the Powers of Criminal Courts Act 1973) or any legislation which is in force in Northern Ireland for the time being and corresponds to that section,
- shall affect the operation of section 74 above; and for the purposes of that section any order made by a court of summary jurisdiction in Scotland under section 182 or section 183 of the said Act of 1975 shall be treated as a conviction.
- (4) Nothing in section 74 above shall be construed as rendering admissible in any proceedings evidence of any conviction other than a subsisting one.

#### **Extent Information**

**E2** S. 75 extends to England and Wales only with exceptions as regards courts martial, see s. 120(1)(6)-(8)

#### **Textual Amendments**

**F13** S. 75(1)(b) substituted (15.8.2010) by Coroners and Justice Act 2009 (c. 25), ss. 144, 182, **Sch. 17 para. 15** (with s. 180, Sch. 22); S.I. 2010/1858, **art. 3(a)(d)(vii)**

**F14** Words in s. 75(3)(a) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 98**

**F15** S. 75(3)(aa) inserted (28.3.2009 for certain purposes and otherwise 31.10.2009) by Armed Forces Act 2006 (c. 52), ss. 378, 383, **Sch. 16 para. 103**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**

**F16** Words in s. 75(3)(b) substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), **Sch. 4 para. 55(a)**

### *Confessions*

#### **76 Confessions.**

- (1) In any proceedings a confession made by an accused person may be given in evidence against him in so far as it is relevant to any matter in issue in the proceedings and is not excluded by the court in pursuance of this section.
- (2) If, in any proceedings where the prosecution proposes to give in evidence a confession made by an accused person, it is represented to the court that the confession was or may have been obtained—
- (a) by oppression of the person who made it; or

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- (b) in consequence of anything said or done which was likely, in the circumstances existing at the time, to render unreliable any confession which might be made by him in consequence thereof,  
the court shall not allow the confession to be given in evidence against him except in so far as the prosecution proves to the court beyond reasonable doubt that the confession (notwithstanding that it may be true) was not obtained as aforesaid.
- (3) In any proceedings where the prosecution proposes to give in evidence a confession made by an accused person, the court may of its own motion require the prosecution, as a condition of allowing it to do so, to prove that the confession was not obtained as mentioned in subsection (2) above.
- (4) The fact that a confession is wholly or partly excluded in pursuance of this section shall not affect the admissibility in evidence—
- (a) of any facts discovered as a result of the confession; or
- (b) where the confession is relevant as showing that the accused speaks, writes or expresses himself in a particular way, of so much of the confession as is necessary to show that he does so.
- (5) Evidence that a fact to which this subsection applies was discovered as a result of a statement made by an accused person shall not be admissible unless evidence of how it was discovered is given by him or on his behalf.
- (6) Subsection (5) above applies—
- (a) to any fact discovered as a result of a confession which is wholly excluded in pursuance of this section; and
- (b) to any fact discovered as a result of a confession which is partly so excluded, if the fact is discovered as a result of the excluded part of the confession.
- (7) Nothing in Part VII of this Act shall prejudice the admissibility of a confession made by an accused person.
- (8) In this section “oppression” includes torture, inhuman or degrading treatment, and the use or threat of violence (whether or not amounting to torture).

<sup>F17</sup>(9) .....

#### Extent Information

**E3** S. 76 extends to England and Wales only with exceptions as regards courts martial, see s. 120(1)(6)-(8)

#### Textual Amendments

**F17** S. 76(9) repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 3 para. 56\(4\)](#), [Sch. 37 Pt. 4](#); [S.I. 2012/1320](#), art. 4(1)(c)(d)(2)(3) (with art. 5) (see [S.I. 2012/2574](#), art. 4(2) and [S.I. 2013/1103](#), art. 4); [S.I. 2012/2574](#), art. 2(2)(3)(c)(d), [Sch.](#) (with [arts. 34](#)) (as amended (4.11.2012) by [S.I. 2012/2761](#), art. 2) (with [S.I. 2013/1103](#), art. 4); [S.I. 2013/1103](#), art. 2(1)(c)(d)(2)(3) (with [arts. 34](#))

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

**C3** S. 76 modified (2.10.2000) by [S.I. 2000/2370](#), rule 27(2), [Sch. 3 Pt. III para. 18\(c\)](#)  
S. 76 modified (2.10.2000) by [S.I. 2000/2371](#), rule 27(2), [Sch. 3 Pt. III para. 18\(c\)](#)  
S. 76 modified (2.10.2000) by [S.I. 2000/2370](#), rule 27(2), [Sch. 3 Pt. III para. 18\(c\)](#)

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## **[<sup>F18</sup>76A Confessions may be given in evidence for co-accused**

- (1) In any proceedings a confession made by an accused person may be given in evidence for another person charged in the same proceedings (a co-accused) in so far as it is relevant to any matter in issue in the proceedings and is not excluded by the court in pursuance of this section.
- (2) If, in any proceedings where a co-accused proposes to give in evidence a confession made by an accused person, it is represented to the court that the confession was or may have been obtained—
  - (a) by oppression of the person who made it; or
  - (b) in consequence of anything said or done which was likely, in the circumstances existing at the time, to render unreliable any confession which might be made by him in consequence thereof,

the court shall not allow the confession to be given in evidence for the co-accused except in so far as it is proved to the court on the balance of probabilities that the confession (notwithstanding that it may be true) was not so obtained.
- (3) Before allowing a confession made by an accused person to be given in evidence for a co-accused in any proceedings, the court may of its own motion require the fact that the confession was not obtained as mentioned in subsection (2) above to be proved in the proceedings on the balance of probabilities.
- (4) The fact that a confession is wholly or partly excluded in pursuance of this section shall not affect the admissibility in evidence—
  - (a) of any facts discovered as a result of the confession; or
  - (b) where the confession is relevant as showing that the accused speaks, writes or expresses himself in a particular way, of so much of the confession as is necessary to show that he does so.
- (5) Evidence that a fact to which this subsection applies was discovered as a result of a statement made by an accused person shall not be admissible unless evidence of how it was discovered is given by him or on his behalf.
- (6) Subsection (5) above applies—
  - (a) to any fact discovered as a result of a confession which is wholly excluded in pursuance of this section; and
  - (b) to any fact discovered as a result of a confession which is partly so excluded, if the fact is discovered as a result of the excluded part of the confession.
- (7) In this section “oppression” includes torture, inhuman or degrading treatment, and the use or threat of violence (whether or not amounting to torture).]

### **Textual Amendments**

**F18** S. 76A inserted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), **ss. 128(1)**, 336; S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 6 (subject to [art. 2\(2\)](#), Sch. 2) (as amended by S.I. 2005/2122, art. 2)

## **77 Confessions by mentally handicapped persons.**

- (1) Without prejudice to the general duty of the court at a trial on indictment [<sup>F19</sup>with a jury] to direct the jury on any matter on which it appears to the court appropriate to do so, where at such a trial—

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- (a) the case against the accused depends wholly or substantially on a confession by him; and
- (b) the court is satisfied—
  - (i) that he is mentally handicapped; and
  - (ii) that the confession was not made in the presence of an independent person,

the court shall warn the jury that there is special need for caution before convicting the accused in reliance on the confession, and shall explain that the need arises because of the circumstances mentioned in paragraphs (a) and (b) above.

- (2) In any case where at the summary trial of a person for an offence it appears to the court that a warning under subsection (1) above would be required if the trial were on indictment [<sup>F20</sup>with a jury], the court shall treat the case as one in which there is a special need for caution before convicting the accused on his confession.

[<sup>F21</sup>(2A) In any case where at the trial on indictment without a jury of a person for an offence it appears to the court that a warning under subsection (1) above would be required if the trial were with a jury, the court shall treat the case as one in which there is a special need for caution before convicting the accused on his confession.]

- (3) In this section—

“independent person” does not include a police officer or a person employed for, or engaged on, police purposes;

“mentally handicapped”, in relation to a person, means that he is in a state of arrested or incomplete development of mind which includes significant impairment of intelligence and social functioning; and

“police purposes” has the meaning assigned to it by [<sup>F22</sup>section 101(2) of the <sup>M1</sup>Police Act 1996].

#### Extent Information

**E4** S. 77 extends to England and Wales only with exceptions as regards courts martial, see s. 120(1)(6)-(8)

#### Textual Amendments

**F19** Words in s. 77(1) inserted (24.7.2006 for E.W. and 8.1.2007 for N.I.) by **Criminal Justice Act 2003** (c. 44), ss. 331, 336, **Sch. 36 Pt. 4 para. 48(2)**; S.I. 2006/1835, **art. 2(g)(h)** (subject to art. 3); S.I. 2006/3422, **art. 2(c)(i)**

**F20** Words in s. 77(2) inserted (24.7.2006 for E.W. and 8.1.2007 for N.I.) by **Criminal Justice Act 2003** (c. 44), ss. 331, 336, **Sch. 36 Pt. 4 para. 48(3)**; S.I. 2006/1835, **art. 2(g)(h)** (subject to art. 3); S.I. 2006/3422, **art. 2(c)(i)**

**F21** S. 77(2A) inserted (24.7.2006 for E.W. and 8.1.2007 for N.I.) by **Criminal Justice Act 2003** (c. 44), ss. 331, 336, **Sch. 36 Pt. 4 para. 48(4)**; S.I. 2006/1835, **art. 2(g)(h)** (subject to art. 3); S.I. 2006/3422, **art. 2(c)(i)**

**F22** Words in the definition of "police purposes" in s. 77(3) substituted (22.8.1996) by 1996 c. 16, ss. 103(1), 104(2), **Sch. 7 Pt. II para.38**

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

**C4** S. 77 excluded (2.10.2000) by S.I. 2000/2370, rule 27(2), **Sch. 3 Pt. III para. 18(d)**  
S. 77 excluded (2.10.2000) by S.I. 2000/2371, rule 27(2), **Sch. 3 Pt. III para. 18(d)**  
S. 77 excluded (2.10.2000) by S.I. 2000/2372, rule 27(2), **Sch. 3 Pt. III para. 18(d)**

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- C5** S. 77 applied (with modifications) (4.11.2015) by [The Police and Criminal Evidence Act 1984 \(Application to Revenue and Customs\) Order 2015 \(S.I. 2015/1783\)](#), arts. 1, 3(1), **Sch. 1** (with art. 3(2), (3), 4-19, **Sch. 2**)
- C6** S. 77 applied (with modifications) (30.4.2017) by [The Police and Criminal Evidence Act 1984 \(Application to Labour Abuse Prevention Officers\) Regulations 2017 \(S.I. 2017/520\)](#), regs. 1, 2, 3(u), **Sch.**
- C7** S. 77 applied (with modifications) (E.W.) (1.4.2018) by [The Welsh Revenue Authority \(Powers to Investigate Criminal Offences\) Regulations 2018 \(S.I. 2018/400\)](#), regs. 1(2), 3(1)(3), **Sch.** (with regs. 4-8)

#### Marginal Citations

**M1** 1996 c. 16

### *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>F23</sup>(3) .....

#### Extent Information

**E5** S. 78 extends to England and Wales only with exceptions as regards courts martial, see s. 120(1)(6)-(8)

#### Textual Amendments

**F23** S. 78(3) repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), **Sch. 3 para. 56(5)**, **Sch. 37 Pt. 4**; [S.I. 2012/1320](#), art. 4(1)(c)(d)(2)(3) (with art. 5) (see [S.I. 2012/2574](#), art. 4(2) and [S.I. 2013/1103](#), art. 4); [S.I. 2012/2574](#), art. 2(2)(3)(c)(d), **Sch.** (with arts. 34) (as amended (4.11.2012) by [S.I. 2012/2761](#), art. 2) (with [S.I. 2013/1103](#), art. 4); [S.I. 2013/1103](#), art. 2(1)(c)(d)(2)(3) (with arts. 34)

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

**C8** 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)**

#### 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,



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

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

- C9 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 [F24Competence and] compellability of accused's spouse [F25or civil partner].**

<sup>F26</sup>[(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.]

<sup>F27</sup>(2) In any proceedings the [<sup>F28</sup>spouse or civil partner] of a person charged in the proceedings shall, subject to subsection (4) below, be compellable to give evidence on behalf of that person.

(2A) In any proceedings the [<sup>F28</sup>spouse or civil partner] of a person charged in the proceedings shall, subject to subsection (4) below, be compellable—

- (a) to give evidence on behalf of any other person charged in the proceedings but only in respect of any specified offence with which that other person is charged; or
- (b) to give evidence for the prosecution but only in respect of any specified offence with which any person is charged in the proceedings.

(3) In relation to the [<sup>F28</sup>spouse or civil partner] of a person charged in any proceedings, an offence is a specified offence for the purposes of subsection (2A) above if—

- (a) it involves an assault on, or injury or a threat of injury to, the [<sup>F28</sup>spouse or civil partner] or a person who was at the material time under the age of 16;
- (b) it 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) it 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) No person who is charged in any proceedings shall be compellable by virtue of subsection (2) or (2A) above to give evidence in the proceedings.

(4A) References in this section to a person charged in any proceedings do not include a person who is not, or is no longer, liable to be convicted of any offence in the proceedings (whether 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 [<sup>F29</sup>competent and] compellable to give evidence as if that person and the accused had never been married.

<sup>F30</sup>(5A) In any proceedings a person who has been but is no longer the civil partner of the accused shall be compellable to give evidence as if that person and the accused had never been civil partners.]

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- (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 [<sup>F31</sup>the Sexual Offences Act 1956, the <sup>M2</sup>Indecency with Children Act <sup>M3</sup>1960, the Sexual Offences Act 1967, section 54 of the <sup>M4</sup>Criminal Law Act <sup>M5</sup>1977 or] the <sup>M6</sup>Protection of Children Act 1978 [<sup>F32</sup>or Part 1 of the Sexual Offences Act 2003][<sup>F33</sup>], or an offence under section 2 of the Modern Slavery Act 2015 (human trafficking) committed with a view to exploitation that consists of or includes behaviour within section 3(3) of that Act (sexual exploitation).]
- [<sup>F26</sup>(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>M7</sup>Matrimonial Causes Act <sup>M8</sup>1965 (evidence as to marital intercourse) shall cease to have effect.

#### Extent Information

**E6** S. 80 extends to England and Wales only with exceptions as regards courts martial, see s. 120(1)(6)-(8)

#### Textual Amendments

- F24** S. 80: words in side-note omitted (24.7.2002 for E.W.) by virtue of 1999 c. 23, ss. 67(1), 68(3), Sch. 4 para. 13(4) (with Sch. 7 paras. 3(3), 5(2)); S.I. 2002/1739, art. 2(f)
- F25** S. 80: words in heading inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 261(1), 263, Sch. 27 para. 97(4); S.I. 2005/3175, art. 2(2)
- F26** S. 80(1)(8) repealed (24.7.2002 for E.W.) by 1999 c. 23, ss. 67(1)(3), 68(3), Sch. 4 para. 13(2), Sch. 6 (with Sch. 7 paras. 3(3), 5(2)); S.I. 2002/1739, {art. 2(f)(g)(ii)}
- F27** S. 80(2)-(4A) substituted for s. 80(2)-(4) (24.7.2002 for E.W.) by 1999 c. 23, ss. 67(1), 68(3), Sch. 4 para. 13(3) (with Sch. 7 paras. 3(3), 5(2)); S.I. 2002/1739, art. 2(f)
- F28** Words in s. 80(2)(2A)(3) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 261(1), 263, Sch. 27 para. 97(2); S.I. 2005/3175, art. 2(2)
- F29** Words in s. 80(5) repealed (24.7.2002 for E.W.) by 1999 c. 23, ss. 67(1)(3), 68(3), Sch. 4 para. 13(4), Sch. 6 (with Sch. 7 paras. 3(3), 5(2)); S.I. 2002/1739, art. 2(f)(g)(ii)
- F30** S. 80(5A) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 261(1), 263 {Sch. 27 para. 97(3)}; S.I. 2005/3175, art. 2(2)
- F31** Words in s. 80(7) repealed (E.W.) (1.5.2004) by Sexual Offences Act 2003 (c. 42), ss. 140, 141, Sch. 7; S.I. 2004/874, art. 2
- F32** Words in s. 80(7) inserted (E.W.) (1.5.2004) by Sexual Offences Act 2003 (c. 42), ss. 139, 141, Sch. 6 para. 28(2); S.I. 2004/874, art. 2
- F33** Words in s. 80(7) inserted (17.3.2016) by The Modern Slavery Act 2015 (Consequential Amendments) Regulations 2016 (S.I. 2016/244), regs. 1(1), 5

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

- C10** 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)
- C11** S. 80(3)(c) modified (1.10.2008) by Serious Crime Act 2007 (c. 27), ss. 63(1), 91(1), 94, Sch. 6 para. 9 (with Sch. 13 para. 5); S.I. 2008/2504, art. 2(a)

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#### Marginal Citations

- M2 1960 c. 33.
- M3 1967 c. 60.
- M4 1977 c. 45.
- M5 1978 c. 37.
- M6 1978 c. 37.
- M7 1965 c. 72.
- M8 1965 c. 72.

### [80A <sup>F34</sup>Rule where accused's spouse [<sup>F35</sup>or civil partner] not compellable.

The failure of the [<sup>F36</sup>spouse or civil partner] 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

- E7 S. 80A extends to England and Wales only with exceptions as regards courts martial, see s. 120(1)(6)-(8)

#### Textual Amendments

- F34 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)
- F35 S. 80A: words in heading inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 261(1), 263, Sch. 27 para. 98(b); S.I. 2005/3175, art. 2(2)
- F36 Words in s. 80A substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 261(1), 263, Sch. 27 para. 98(a); S.I. 2005/3175, art. 2(2)

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

- (1) [<sup>F37</sup>Criminal Procedure 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
  - (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) [<sup>F37</sup>Criminal Procedure 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.

#### Textual Amendments

- F37 Words in s. 81(1)(2) substituted (1.9.2004) by Courts Act 2003 (c. 39), ss. 109(1), 110, Sch. 8 para. 286; S.I. 2004/2066, art. 2(c)(xii) (subject to art. 3)

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

- C12 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)

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S. 81 excluded (2.10.2000) by [S.I. 2000/2372](#) rule, 27(2), Sch. 3 Pt. III para. 18(g)

### *Part VIII—supplementary*

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

- C13** Pt. VIII modified (2.10.2000) by [S.I. 2000/2370](#), rule 27(2), **Sch. 3 Pt. III para. 18(a)**  
 Pt. VIII modified (2.10.2000) by [S.I. 2000/2371](#) rule, 27(2), Sch. 3 Pt. III para. 18(a)

## **82 Part VIII— interpretation.**

(1) In this Part of this Act—

“confession”, includes any statement wholly or partly adverse to the person who made it, whether made to a person in authority or not and whether made in words or otherwise;

<sup>F38</sup> .....

“proceedings” means criminal proceedings, including [<sup>F39</sup>service proceedings;]

“Service court” means [<sup>F40</sup>the Court Martial or the Service Civilian Court].

[<sup>F41</sup>(1A) In subsection (1) “service proceedings” means proceedings before a court (other than a civilian court) in respect of a service offence; and “service offence” and “civilian court” here have the same meanings as in the Armed Forces Act 2006.]

(2) <sup>F42</sup> .....

(3) Nothing in this Part of this Act shall prejudice any power of a court to exclude evidence (whether by preventing questions from being put or otherwise) at its discretion.

#### **Extent Information**

- E8** S. 82 extends to England and Wales only with exceptions as regards courts martial, see [s. 120\(1\)\(6\)-\(8\)](#)

#### **Textual Amendments**

- F38** S. 82(1): definition of “court-martial” repealed (28.3.2009 for certain purposes and otherwise prosp.) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378, 383, Sch. 16 para. 104(2)(a), **Sch. 17**; [S.I. 2009/812](#), **art. 3** (with transitional provisions in [S.I. 2009/1059](#))
- F39** S. 82(1): words in definition of “Proceedings” substituted (28.3.2009 for certain purposes and otherwise 31.10.2009) for “paragraphs (a) to (c)” by virtue of [Armed Forces Act 2006 \(c. 52\)](#), ss. 378, 383 {Sch. 16 para. 104(2)(b)}; [S.I. 2009/812](#), **art. 3** (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), **art. 4**
- F40** S. 82(1): words in definition of “Service Court” substituted (28.3.2009 for certain purposes and otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378, 383 {Sch. 16 para. 104(2)(c)}; [S.I. 2009/812](#), **art. 3** (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), **art. 4**
- F41** S. 82(1A) inserted (28.3.2009 for certain purposes and otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378, 383, **Sch. 16 para. 104(3)**; [S.I. 2009/812](#), **art. 3** (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), **art. 4**
- F42** S. 82(2) repealed (28.3.2009 for certain purposes and otherwise prosp.) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378, 383, Sch. 16 para. 104(4), **Sch. 17**; [S.I. 2009/812](#), **art. 3** (with transitional provisions in [S.I. 2009/1059](#))

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

- C14** S. 82 applied (with modifications) (30.4.2017) by [The Police and Criminal Evidence Act 1984 \(Application to Labour Abuse Prevention Officers\) Regulations 2017 \(S.I. 2017/520\)](#), regs. 1, 2, 3(v), [Sch.](#)
- C15** S. 82(1) modified (24.4.2009 for certain purposes and 31.10.2009 otherwise) by [The Armed Forces Act 2006 \(Transitional Provisions etc\) Order 2009 \(S.I. 2009/1059\)](#), arts. 1(3), 205, [Sch. 1 para. 28\(1\)](#)

**Status:**

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**Changes to legislation:**

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