



# Criminal Justice and Public Order Act 1994

## 1994 CHAPTER 33

### PART III

#### COURSE OF JUSTICE: EVIDENCE, PROCEDURE, ETC.

##### *Inferences from accused's silence*

#### **37 Effect of accused's failure or refusal to account for presence at a particular place**

(1) Where—

- (a) a person arrested by a constable was found by him at a place at or about the time the offence for which he was arrested is alleged to have been committed; and
- (b) that or another constable investigating the offence reasonably believes that the presence of the person at that place and at that time may be attributable to his participation in the commission of the offence; and
- (c) the constable informs the person that he so believes, and requests him to account for that presence; and
- (d) the person fails or refuses to do so,

then if, in any proceedings against the person for the offence, evidence of those matters is given, subsection (2) below applies.

(2) Where this subsection applies—

- (a) a magistrates' court, in deciding whether to grant an application for dismissal made by the accused under section 6 of the Magistrates' Courts Act 1980 (application for dismissal of charge in course of proceedings with a view to transfer for trial);
- (b) a judge, in deciding whether to grant an application made by the accused under—

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*Status: This is the original version (as it was originally enacted).*

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- (i) section 6 of the Criminal Justice Act 1987 (application for dismissal of charge of serious fraud in respect of which notice of transfer has been given under section 4 of that Act); or
  - (ii) paragraph 5 of Schedule 6 to the Criminal Justice Act 1991 (application for dismissal of charge of violent or sexual offence involving child in respect of which notice of transfer has been given under section 53 of that Act);
  - (c) the court, in determining whether there is a case to answer; and
  - (d) the court or jury, in determining whether the accused is guilty of the offence charged,
- may draw such inferences from the failure or refusal as appear proper.
- (3) Subsections (1) and (2) do not apply unless the accused was told in ordinary language by the constable when making the request mentioned in subsection (1)(c) above what the effect of this section would be if he failed or refused to comply with the request.
  - (4) This section applies in relation to officers of customs and excise as it applies in relation to constables.
  - (5) This section does not preclude the drawing of any inference from a failure or refusal of the accused to account for his presence at a place which could properly be drawn apart from this section.
  - (6) This section does not apply in relation to a failure or refusal which occurred before the commencement of this section.
  - (7) In relation to any time before the commencement of section 44 of this Act, this section shall have effect as if the reference in subsection (2)(a) to the grant of an application for dismissal was a reference to the committal of the accused for trial.