



# Youth Justice and Criminal Evidence Act 1999

## 1999 CHAPTER 23

### PART II

#### GIVING OF EVIDENCE OR INFORMATION FOR PURPOSES OF CRIMINAL PROCEEDINGS

#### CHAPTER VI

#### RESTRICTIONS ON USE OF EVIDENCE

#### *Additional restrictions*

#### **58 Inferences from silence not permissible where no prior access to legal advice**

- (1) Sections 34 and 36 to 38 of the Criminal Justice and Public Order Act 1994 (inferences from accused's silence) shall be amended as follows.
- (2) In section 34 (effect of accused's failure to mention facts when questioned or charged), after subsection (2) there shall be inserted—

“(2A) Where the accused was at an authorised place of detention at the time of the failure, subsections (1) and (2) above do not apply if he had not been allowed an opportunity to consult a solicitor prior to being questioned, charged or informed as mentioned in subsection (1) above.”
- (3) In section 36 (effect of accused's failure or refusal to account for objects, substances or marks), after subsection (4) there shall be inserted—

“(4A) Where the accused was at an authorised place of detention at the time of the failure or refusal, subsections (1) and (2) above do not apply if he had not been allowed an opportunity to consult a solicitor prior to the request being made.”

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*Status: This is the original version (as it was originally enacted).*

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(4) In section 37 (effect of accused’s failure or refusal to account for presence at a particular place), after subsection (3) there shall be inserted—

“(3A) Where the accused was at an authorised place of detention at the time of the failure or refusal, subsections (1) and (2) do not apply if he had not been allowed an opportunity to consult a solicitor prior to the request being made.”

(5) In section 38 (interpretation), after subsection (2) there shall be inserted—

“(2A) In each of sections 34(2A), 36(4A) and 37(3A) “authorised place of detention” means—

- (a) a police station; or
- (b) any other place prescribed for the purposes of that provision by order made by the Secretary of State;

and the power to make an order under this subsection shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

## **59 Restriction on use of answers etc. obtained under compulsion**

Schedule 3, which amends enactments providing for the use of answers and statements given under compulsion so as to restrict in criminal proceedings their use in evidence against the persons giving them, shall have effect.