

*These notes refer to the Youth Justice and Criminal Evidence Act 1999 (c.23) which received Royal Assent on 27 July 1999*

# **YOUTH JUSTICE AND CRIMINAL EVIDENCE ACT 1999**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part II: Giving of evidence or information for purposes of criminal proceedings**

##### *Chapter VI: Restrictions on use of evidence*

##### *Section 59 and Schedule 3: Restrictions on use of answers etc. obtained under compulsion*

199. [Section 59](#) introduces Schedule 3 which amends various statutory provisions in the light of the judgment of the European Court of Human Rights in *Saunders v United Kingdom*. The court ruled that the admission in a criminal trial of statements given under section 434 of the Companies Act 1985 was in breach of Article 6 of the Convention because the statement in question was given under compulsion (i.e. there could have been a penalty for not giving it).
200. The amendments therefore restrict the use that can be made in criminal trials of evidence that has been obtained under compulsory powers. Several statutes that regulate commercial or financial activities do not only contain powers to compel answers: they also allow the answers to be used in evidence against the person giving them. The amendments qualify those provisions by restricting the use that the prosecution can make of the answers at trial to the following circumstances:
- where the defendant himself introduces them in evidence, or
  - where the defendant is being prosecuted for his failure or refusal to answer a question, or his failure to disclose a material fact, or his having given an untruthful answer.