



Protection of Children Act 1978

1978 CHAPTER 37

2 Evidence

- (1) On a charge of an offence under section 1(1)(a) of this Act, the wife or husband of the accused shall be competent to give evidence at every stage of the proceedings, whether for the defence or for the prosecution, and whether the accused is charged solely or jointly with any other person:

Provided that—

- (a) the wife or husband shall not be compellable either to give evidence or, in giving evidence, to disclose any communications made to her or him during the marriage by the accused ; and
- (b) the failure of a wife or husband of the accused to give evidence shall not be made the subject of any comment by the prosecution.

This subsection shall not affect section 1 of the Criminal Evidence Act 1898 (competency of witnesses in criminal cases), or any case where the wife or husband of the accused may at common law be called as a witness without the consent of the accused.

- (2) In section 27(4) of the Children and Young Persons Act 1963 (definition of " sexual offence " for purposes of provisions of that section about calling children's evidence), after " the Indecency with Children Act 1960 " there shall be inserted " or section 1(1) (a) of the Protection of Children Act 1978 " .
- (3) In proceedings under this Act a person is to be taken as having been a child at any material time if it appears from, the evidence as a whole that he was then under the age of 16.