



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 ^{M1}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.”

Changes to legislation: *Youth Justice and Criminal Evidence Act 1999, Section 58 is up to date with all changes known to be in force on or before 21 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(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.”

Commencement Information

- I1** S. 58(5) in force for certain purposes at Royal Assent, see s. 68(4)(d)
 - I2** S. 58(1)-(4) in force at 1.4.2003 for E.W. by [S.I. 2003/707](#), **art. 2(a)**
 - I3** S. 58(5) in force at 1.4.2003 for E.W. in so far as not already in force by [S.I. 2003/707](#), **art. 2(a)**
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Marginal Citations

- M1** 1994 c. 33.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 33BA33BB inserted by [2009 c. 25 s. 104\(1\)](#)