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## STATUTORY INSTRUMENTS

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### 1988 No. 1987

#### The Criminal Evidence (Northern Ireland) Order 1988

##### Accused to be called upon to give evidence at trial

4.—(1) At the trial of any person (other than a child) for an offence paragraphs (2)<sup>[F1]</sup> and (4) apply unless—

- (a) the accused's guilt is not in issue; or
- (b) it appears to the court that the physical or mental condition of the accused makes it undesirable for him to<sup>F2</sup> . . . give evidence;

but paragraph (2) does not apply<sup>F3</sup> at the conclusion of the evidence for the prosecution, his legal representative informs the court that the accused will give evidence or, where he is unrepresented, the court ascertains from him that he will give evidence].

<sup>F4</sup>(2) Where this paragraph applies, the court shall, at the conclusion of the evidence for the prosecution, satisfy itself (in the case of proceedings on indictment conducted with a jury, in the presence of the jury) that the accused is aware that the stage has been reached at which evidence can be given for the defence and that he can, if he wishes, give evidence and that, if he chooses not to give evidence, or having been sworn, without good cause refuses to answer any question, it will be permissible for the court or jury to draw such inferences as appear proper from his failure to give evidence or his refusal, without good cause, to answer any question.]

(4) <sup>F5</sup>Where this paragraph applies,] the court or jury, in determining whether the accused is guilty of the offence charged, may—

- (a) draw such inferences<sup>F6</sup> as appear proper from the failure of the accused to give evidence or his refusal, without good cause, to answer any question];

*Sub#para. (b) rep. by 1996 NI 24*

(5) This Article does not render the accused compellable to give evidence on his own behalf, and he shall accordingly not be guilty of contempt of court by reason of a<sup>F7</sup> failure to do so].

(6) For the purposes of this Article a person who, having been sworn, refuses to answer any question shall be taken to do so without good cause unless—

- (a) he is entitled to refuse to answer the question by virtue of any statutory provision, or on the ground of privilege; or
- (b) the court in the exercise of its general discretion excuses him from answering it.

(7) Where the age of any person is material for the purposes of paragraph (1), his age shall for those purposes be taken to be that which appears to the court to be his age.

(8) This Article applies—

- (a) in relation to proceedings on indictment for an offence, only if the person charged with the offence is arraigned on or after the commencement of this Article;
- (b) in relation to proceedings in a magistrates' court, only if the time when the court begins to receive evidence in the proceedings falls after that commencement.

*Paras. (9), (10) rep. by 1994 c. 33*

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**Changes to legislation:** *The Criminal Evidence (Northern Ireland) Order 1988, Section 4 is up to date with all changes known to be in force on or before 16 January 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](#)*

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- F1** 1994 c. 33
- F2** 1994 c. 33
- F3** 1994 c. 33
- F4** 1994 c. 33
- F5** 1994 c. 33
- F6** 1994 c. 33
- F7** 1994 c. 33

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**Changes and effects yet to be applied to :**

- Instrument am (prosp) by [1994 c. 33 s. 168\(2\)Sch.10 para 61](#)
- Instrument rev in pt (prosp) by [1994 c. 33 s. 168\(3\)Sch.11](#)

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

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

- art. 3(2)(b)(iii) and word substituted for word by [2015 c. 9 \(N.I.\) Sch. 2 para. 5\(1\)\(b\)](#)
- art. 5(2)(aa)(iii) and word substituted for word by [2015 c. 9 \(N.I.\) Sch. 2 para. 5\(2\)\(b\)](#)
- art. 5(2)(aa)(iii) words substituted in earlier affecting provision [2015 c. 9 \(N.I.\)](#), Sch. 2 para. 5(2)(b) by [2022 c. 4 \(N.I.\) s. 4\(9\)\(d\)](#)
- art. 6(2)(aa)(iii) and word substituted for word by [2015 c. 9 \(N.I.\) Sch. 2 para. 5\(3\)\(b\)](#)
- art. 6(2)(aa)(iii) words substituted in earlier affecting provision [2015 c. 9 \(N.I.\)](#), Sch. 2 para. 5(3)(b) by [2022 c. 4 \(N.I.\) s. 4\(9\)\(d\)](#)