



Police and Criminal Evidence Act 1984

1984 CHAPTER 60

PART VIII

EVIDENCE IN CRIMINAL PROCEEDINGS—GENERAL

Modifications etc. (not altering text)

- C1** Pt. VIII modified (2.10.2000) by S.I. 2000/2370, rule 27(2), **Sch. 3 Pt. III para. 18(a)**
Pt. VIII modified (2.10.2000) by S.I. 2000/2371, rule 27(2), **Sch. 3 Pt. III para. 18(a)**
Pt. VIII modified (2.10.2000) by S.I. 2000/2372, rule 27(2), **Sch. 3 Pt. III para. 18(a)**

Convictions and acquittals

73 Proof of convictions and acquittals.

- (1) Where in any proceedings the fact that a person has in the United Kingdom been convicted or acquitted of an offence otherwise than by a Service court is admissible in evidence, it may be proved by producing a certificate of conviction or, as the case may be, of acquittal relating to that offence, and proving that the person named in the certificate as having been convicted or acquitted of the offence is the person whose conviction or acquittal of the offence is to be proved.
- (2) For the purposes of this section a certificate of conviction or of acquittal—
- (a) shall, as regards a conviction or acquittal on indictment, consist of a certificate, signed by the clerk of the court where the conviction or acquittal took place, giving the substance and effect (omitting the formal parts) of the indictment and of the conviction or acquittal; and
 - (b) shall, as regards a conviction or acquittal on a summary trial, consist of a copy of the conviction or of the dismissal of the information, signed by the clerk of the court where the conviction or acquittal took place or by the clerk of the court, if any, to which a memorandum of the conviction or acquittal was sent;

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and a document purporting to be a duly signed certificate of conviction or acquittal under this section shall be taken to be such a certificate unless the contrary is proved.

- (3) References in this section to the clerk of a court include references to his deputy and to any other person having the custody of the court record.
- (4) The method of proving a conviction or acquittal authorised by this section shall be in addition to and not to the exclusion of any other authorised manner of proving a conviction or acquittal.

74 Conviction as evidence of commission of offence.

- (1) In any proceedings the fact that a person other than the accused has been convicted of an offence by or before any court in the United Kingdom or by a Service court outside the United Kingdom shall be admissible in evidence for the purpose of proving, where to do so is relevant to any issue in those proceedings, that that person committed that offence, whether or not any other evidence of his having committed that offence is given.
- (2) In any proceedings in which by virtue of this section a person other than the accused is proved to have been convicted of an offence by or before any court in the United Kingdom or by a Service court outside the United Kingdom, he shall be taken to have committed that offence unless the contrary is proved.
- (3) In any proceedings where evidence is admissible of the fact that the accused has committed an offence, in so far as that evidence is relevant to any matter in issue in the proceedings for a reason other than a tendency to show in the accused a disposition to commit the kind of offence with which he is charged, if the accused is proved to have been convicted of the offence—
 - (a) by or before any court in the United Kingdom; or
 - (b) by a Service court outside the United Kingdom,
 he shall be taken to have committed that offence unless the contrary is proved.
- (4) Nothing in this section shall prejudice—
 - (a) the admissibility in evidence of any conviction which would be admissible apart from this section; or
 - (b) the operation of any enactment whereby a conviction or a finding of fact in any proceedings is for the purposes of any other proceedings made conclusive evidence of any fact.

Modifications etc. (not altering text)

- C2** S. 74 modified (2.10.2000) by S.I. 2000/2370, rule 27(2), **Sch. 3 Pt. III para. 18(b)**
 S. 74 modified (2.10.2000) by S.I. 2000/2371, rule 27(2), **Sch. 3 Pt. III para. 18(b)**
 S. 74 modified (2.10.2000) by S.I. 2000/2372, rule 27(2), **Sch. 3 Pt. III para. 18(b)**

75 Provisions supplementary to section 74.

- (1) Where evidence that a person has been convicted of an offence is admissible by virtue of section 74 above, then without prejudice to the reception of any other admissible evidence for the purpose of identifying the facts on which the conviction was based—

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- (a) the contents of any document which is admissible as evidence of the conviction; and
 - (b) the contents of the information, complaint, indictment or charge-sheet on which the person in question was convicted,
- shall be admissible in evidence for that purpose.
- (2) Where in any proceedings the contents of any document are admissible in evidence by virtue of subsection (1) above, a copy of that document, or of the material part of it, purporting to be certified or otherwise authenticated by or on behalf of the court or authority having custody of that document shall be admissible in evidence and shall be taken to be a true copy of that document or part unless the contrary is shown.
- (3) Nothing in any of the following—
- (a) section 13 of the Powers of Criminal Courts Act 1973 (under which a conviction leading to probation or discharge is to be disregarded except as mentioned in that section);
 - (b) [F1section 247 of the Criminal Procedure (Scotland) Act 1995] (which makes similar provision in respect of convictions on indictment in Scotland); and
 - (c) section 8 of the Probation Act (Northern Ireland) 1950 (which corresponds to section 13 of the Powers of Criminal Courts Act 1973) or any legislation which is in force in Northern Ireland for the time being and corresponds to that section,
- shall affect the operation of section 74 above; and for the purposes of that section any order made by a court of summary jurisdiction in Scotland under section 182 or section 183 of the said Act of 1975 shall be treated as a conviction.
- (4) Nothing in section 74 above shall be construed as rendering admissible in any proceedings evidence of any conviction other than a subsisting one.

Extent Information

E1 S. 75 extends to England and Wales only with exceptions as regards courts martial, see s. 120(1)(6)-(8)

Textual Amendments

F1 Words in s. 75(3)(b) substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), Sch. 4 para. 55(a)

Confessions

76 Confessions.

- (1) In any proceedings a confession made by an accused person may be given in evidence against him in so far as it is relevant to any matter in issue in the proceedings and is not excluded by the court in pursuance of this section.
- (2) If, in any proceedings where the prosecution proposes to give in evidence a confession made by an accused person, it is represented to the court that the confession was or may have been obtained—
- (a) by oppression of the person who made it; or
 - (b) in consequence of anything said or done which was likely, in the circumstances existing at the time, to render unreliable any confession which might be made by him in consequence thereof,

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the court shall not allow the confession to be given in evidence against him except in so far as the prosecution proves to the court beyond reasonable doubt that the confession (notwithstanding that it may be true) was not obtained as aforesaid.

- (3) In any proceedings where the prosecution proposes to give in evidence a confession made by an accused person, the court may of its own motion require the prosecution, as a condition of allowing it to do so, to prove that the confession was not obtained as mentioned in subsection (2) above.
- (4) The fact that a confession is wholly or partly excluded in pursuance of this section shall not affect the admissibility in evidence—
 - (a) of any facts discovered as a result of the confession; or
 - (b) where the confession is relevant as showing that the accused speaks, writes or expresses himself in a particular way, of so much of the confession as is necessary to show that he does so.
- (5) Evidence that a fact to which this subsection applies was discovered as a result of a statement made by an accused person shall not be admissible unless evidence of how it was discovered is given by him or on his behalf.
- (6) Subsection (5) above applies—
 - (a) to any fact discovered as a result of a confession which is wholly excluded in pursuance of this section; and
 - (b) to any fact discovered as a result of a confession which is partly so excluded, if the fact is discovered as a result of the excluded part of the confession.
- (7) Nothing in Part VII of this Act shall prejudice the admissibility of a confession made by an accused person.
- (8) In this section “oppression” includes torture, inhuman or degrading treatment, and the use or threat of violence (whether or not amounting to torture).
- [^{F2}(9) Where the proceedings mentioned in subsection (1) above are proceedings before a magistrates’ court inquiring into an offence as examining justices this section shall have effect with the omission of—
 - (a) in subsection (1) the words “and is not excluded by the court in pursuance of this section”, and
 - (b) subsections (2) to (6) and (8).]

Extent Information

E2 S. 76 extends to England and Wales only with exceptions as regards courts martial, see s. 120(1)(6)-(8)

Textual Amendments

F2 S. 76(9) inserted (4.7.1996 with effect as mentioned in Sch. 1 Pt. III para. 39 and S.I. 1997/683, art. 1(2)) by 1996 c. 25, s. 47, **Sch. 1 Pt. II Para.25** (with s. 78(1))

Modifications etc. (not altering text)

C3 S. 76 modified (2.10.2000) by S.I. 2000/2370, rule 27(2), **Sch. 3 Pt. III para. 18(c)**
 S. 76 modified (2.10.2000) by S.I. 2000/2371, rule 27(2), **Sch. 3 Pt. III para. 18(c)**
 S. 76 modified (2.10.2000) by S.I. 2000/2370, rule 27(2), **Sch. 3 Pt. III para. 18(c)**

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VALID FROM 04/04/2005

[^{F3}76A Confessions may be given in evidence for co-accused

- (1) In any proceedings a confession made by an accused person may be given in evidence for another person charged in the same proceedings (a co-accused) in so far as it is relevant to any matter in issue in the proceedings and is not excluded by the court in pursuance of this section.
- (2) If, in any proceedings where a co-accused proposes to give in evidence a confession made by an accused person, it is represented to the court that the confession was or may have been obtained—
 - (a) by oppression of the person who made it; or
 - (b) in consequence of anything said or done which was likely, in the circumstances existing at the time, to render unreliable any confession which might be made by him in consequence thereof,the court shall not allow the confession to be given in evidence for the co-accused except in so far as it is proved to the court on the balance of probabilities that the confession (notwithstanding that it may be true) was not so obtained.
- (3) Before allowing a confession made by an accused person to be given in evidence for a co-accused in any proceedings, the court may of its own motion require the fact that the confession was not obtained as mentioned in subsection (2) above to be proved in the proceedings on the balance of probabilities.
- (4) The fact that a confession is wholly or partly excluded in pursuance of this section shall not affect the admissibility in evidence—
 - (a) of any facts discovered as a result of the confession; or
 - (b) where the confession is relevant as showing that the accused speaks, writes or expresses himself in a particular way, of so much of the confession as is necessary to show that he does so.
- (5) Evidence that a fact to which this subsection applies was discovered as a result of a statement made by an accused person shall not be admissible unless evidence of how it was discovered is given by him or on his behalf.
- (6) Subsection (5) above applies—
 - (a) to any fact discovered as a result of a confession which is wholly excluded in pursuance of this section; and
 - (b) to any fact discovered as a result of a confession which is partly so excluded, if the fact is discovered as a result of the excluded part of the confession.
- (7) In this section “oppression” includes torture, inhuman or degrading treatment, and the use or threat of violence (whether or not amounting to torture).]

Textual Amendments

- F3** S. 76A inserted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), [ss. 128\(1\)](#), 336; [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 6](#) (subject to [art. 2\(2\)](#), [Sch. 2](#)) (as amended by [S.I. 2005/2122](#), [art. 2](#))

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77 Confessions by mentally handicapped persons.

(1) Without prejudice to the general duty of the court at a trial on indictment to direct the jury on any matter on which it appears to the court appropriate to do so, where at such a trial—

- (a) the case against the accused depends wholly or substantially on a confession by him; and
- (b) the court is satisfied—
 - (i) that he is mentally handicapped; and
 - (ii) that the confession was not made in the presence of an independent person,

the court shall warn the jury that there is special need for caution before convicting the accused in reliance on the confession, and shall explain that the need arises because of the circumstances mentioned in paragraphs (a) and (b) above.

(2) In any case where at the summary trial of a person for an offence it appears to the court that a warning under subsection (1) above would be required if the trial were on indictment, the court shall treat the case as one in which there is a special need for caution before convicting the accused on his confession.

(3) In this section—

“independent person” does not include a police officer or a person employed for, or engaged on, police purposes;

“mentally handicapped”, in relation to a person, means that he is in a state of arrested or incomplete development of mind which includes significant impairment of intelligence and social functioning; and

“police purposes” has the meaning assigned to it by [^{F4}section 101(2) of the ^{M1}Police Act 1996].

Extent Information

E3 S. 77 extends to England and Wales only with exceptions as regards courts martial, see s. 120(1)(6)-(8)

Textual Amendments

F4 Words in the definition of "police purposes" in s. 77(3) substituted (22.8.1996) by 1996 c. 16, ss. 103(1), 104(2), **Sch. 7 Pt. II para.38**

Modifications etc. (not altering text)

C4 S. 77 excluded (2.10.2000) by S.I. 2000/2370, rule 27(2), **Sch. 3 Pt. III para. 18(d)**
 S. 77 excluded (2.10.2000) by S.I. 2000/2371, rule 27(2), **Sch. 3 Pt. III para. 18(d)**
 S. 77 excluded (2.10.2000) by S.I. 2000/2372, rule 27(2), **Sch. 3 Pt. III para. 18(d)**

Marginal Citations

M1 1996 c. 16

Miscellaneous

78 Exclusion of unfair evidence.

(1) In any proceedings the court may refuse to allow evidence on which the prosecution proposes to rely to be given if it appears to the court that, having regard to all the

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circumstances, including the circumstances in which the evidence was obtained, the admission of the evidence would have such an adverse effect on the fairness of the proceedings that the court ought not to admit it.

(2) Nothing in this section shall prejudice any rule of law requiring a court to exclude evidence.

[^{F5}(3) This section shall not apply in the case of proceedings before a magistrates' court inquiring into an offence as examining justices.]

Extent Information

E4 S. 78 extends to England and Wales only with exceptions as regards courts martial, see s. 120(1)(6)-(8)

Textual Amendments

F5 S. 78(3) inserted (4.7.1996 with effect as mentioned in Sch. 1 Pt. III para. 39 and S.I. 1997/683, art. 1(2)) by 1996 c. 25, s. 47, Sch. 1 Pt. II Para.26 (with s. 78(1))

Modifications etc. (not altering text)

C5 S. 78(1) modified (2.10.2000) by S.I. 2000/2370, rule 27(2), Sch. 3 Pt. III para. 18(c)
S. 78(1) modified (2.10.2000) by S.I. 2000/2371, rule 27(2), Sch. 3 Pt. III para. 18(c)
S. 78(1) modified (2.10.2000) by S.I. 2000/2372, rule 27(2), Sch. 3 Pt. III para. 18(c)

79 Time for taking accused's evidence.

If at the trial of any person for an offence—

- (a) the defence intends to call two or more witnesses to the facts of the case; and
- (b) those witnesses include the accused,

the accused shall be called before the other witness or witnesses unless the court in its discretion otherwise directs.

Modifications etc. (not altering text)

C6 S. 79 modified (2.10.2000) by S.I. 2000/2370, rule 27(2), Sch. 3 Pt. III para. 18(e)
S. 79 modified (2.10.2000) by S.I. 2000/2371, rule 27(2), Sch. 3 Pt. III para. 18(e)
S. 79 modified (2.10.2000) by S.I. 2000/2372, rule 27(2), Sch. 3 Pt. III para. 18(e)

80 Competence and compellability of accused's spouse.

(1) In any proceedings the wife or husband of the accused shall be competent to give evidence—

- (a) subject to subsection (4) below, for the prosecution; and
- (b) on behalf of the accused or any person jointly charged with the accused.

(2) In any proceedings the wife or husband of the accused shall, subject to subsection (4) below, be compellable to give evidence on behalf of the accused.

(3) In any proceedings the wife or husband of the accused shall, subject to subsection (4) below, be compellable to give evidence for the prosecution or on behalf of any person jointly charged with the accused if and only if—

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- (a) the offence charged involves an assault on, or injury or a threat of injury to, the wife or husband of the accused or a person who was at the material time under the age of sixteen; or
 - (b) the offence charged is a sexual offence alleged to have been committed in respect of a person who was at the material time under that age; or
 - (c) the offence charged consists of attempting or conspiring to commit, or of aiding, abetting, counselling, procuring or inciting the commission of, an offence falling within paragraph (a) or (b) above.
- (4) Where a husband and wife are jointly charged with an offence neither spouse shall at the trial be competent or compellable by virtue of subsection (1)(a), (2) or (3) above to give evidence in respect of that offence unless that spouse is not, or is no longer, liable to be convicted of that offence at the trial as a result of pleading guilty or for any other reason.
- (5) In any proceedings a person who has been but is no longer married to the accused shall be competent and compellable to give evidence as if that person and the accused had never been married.
- (6) Where in any proceedings the age of any person at any time is material for the purposes of subsection (3) above, his age at the material time shall for the purposes of that provision be deemed to be or to have been that which appears to the court to be or to have been his age at that time.
- (7) In subsection (3)(b) above “sexual offence” means an offence under the Sexual Offences Act 1956, the ^{M2}Indecency with Children Act ^{M3}1960, the Sexual Offences Act 1967, section 54 of the ^{M4}Criminal Law Act ^{M5}1977 or the ^{M6}Protection of Children Act 1978.
- (8) The failure of the wife or husband of the accused to give evidence shall not be made the subject of any comment by the prosecution.
- (9) Section 1(d) of the Criminal Evidence Act 1898 (communications between husband and wife) and section 43(1) of the ^{M7}Matrimonial Causes Act ^{M8}1965 (evidence as to marital intercourse) shall cease to have effect.

Modifications etc. (not altering text)

- C7** S. 80 modified (2.10.2000) by S.I. 2000/2370, rule 27(2), **Sch. 3 Pt. III para. 18(f)**
 S. 80 modified (2.10.2000) by S.I. 2000/2371, rule 27(2), **Sch. 3 Pt. III para. 18(f)**
 S. 80 modified (2.10.2000) by S.I. 2000/2372, rule 27(2), **Sch. 3 Pt. III para. 18(f)**

Marginal Citations

- M2** 1960 c. 33.
M3 1967 c. 60.
M4 1977 c. 45.
M5 1978 c. 37.
M6 1978 c. 37.
M7 1965 c. 72.
M8 1965 c. 72.

Status: Point in time view as at 01/04/1997. This version of this part contains provisions that are not valid for this point in time.

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VALID FROM 24/07/2002

[80A F⁶Rule where accused's spouse not compellable.

The failure of the wife or husband of a person charged in any proceedings to give evidence in the proceedings shall not be made the subject of any comment by the prosecution.]

Extent Information

E5 S. 80A extends to England and Wales only with exceptions as regards courts martial, see s. 120(1)(6)-(8)

Textual Amendments

F6 S. 80A inserted (24.7.2002 for E.W.) by 1999 c. 23, s. 67(1), Sch. 4 para. 14 (with Sch. 7 paras. 3(3), 5(2)); S.I. 2002/1739, art. 2(f)

81 Advance notice of expert evidence in Crown Court.

(1) Crown Court Rules may make provision for—

- (a) requiring any party to proceedings before the court to disclose to the other party or parties any expert evidence which he proposes to adduce in the proceedings; and
- (b) prohibiting a party who fails to comply in respect of any evidence with any requirement imposed by virtue of paragraph (a) above from adducing that evidence without the leave of the court.

(2) Crown Court Rules made by virtue of this section may specify the kinds of expert evidence to which they apply and may exempt facts or matters of any description specified in the rules.

Modifications etc. (not altering text)

C8 S. 81 excluded (2.10.2000) by S.I. 2000/2370, rule 27(2), Sch. 3 Pt. III para. 18(g)
S. 81 excluded (2.10.2000) by S.I. 2000/2371, rule, 27(2), Sch. 3 Pt. III para. 18(g)
S. 81 excluded (2.10.2000) by S.I. 2000/2372 rule, 27(2), Sch. 3 Pt. III para. 18(g)

Part VIII—supplementary

Modifications etc. (not altering text)

C9 Pt. VIII modified (2.10.2000) by S.I. 2000/2370, rule 27(2), Sch. 3 Pt. III para. 18(a)
Pt. VIII modified (2.10.2000) by S.I. 2000/2371 rule, 27(2), Sch. 3 Pt. III para. 18(a)

82 Part VIII—interpretation.

(1) In this Part of this Act—

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“confession”, includes any statement wholly or partly adverse to the person who made it, whether made to a person in authority or not and whether made in words or otherwise;

“court-martial” means a court-martial constituted under the ^{M9}Army Act 1955, the ^{M10}Air Force Act 1955 or the ^{M11}Naval Discipline Act 1957 or a disciplinary court constituted under [^{F7}section 52G] of the said Act of 1957;

“proceedings” means criminal proceedings, including—

- (a) proceedings in the United Kingdom or elsewhere before a court-martial constituted under the Army Act 1955 [^{F8}, the Air Force Act 1955 or the Naval Discipline Act 1957];
- (b) proceedings in the United Kingdom or elsewhere before the Courts-Martial Appeal Court—
 - (i) on an appeal from a court-martial so constituted ^{F9}. . . ; or
 - (ii) on a reference under section 34 of the ^{M12}Courts-Martial (Appeals) Act 1968; and
- (b) proceedings before a Standing Civilian Court; and

“Service court” means a court-martial or a Standing Civilian Court.

- (2) In this Part of this Act references to conviction before a Service court are [^{F10}references to a finding of guilty which is, or falls to be treated as, the finding of the court; and]“convicted” shall be construed accordingly.
- (3) Nothing in this Part of this Act shall prejudice any power of a court to exclude evidence (whether by preventing questions from being put or otherwise) at its discretion.

Extent Information

E6 S. 82 extends to England and Wales only with exceptions as regards courts martial, see s. 120(1)(6)-(8)

Textual Amendments

F7 Words in the definition of “court martial”

in s. 82(1) substituted (1.4.1997) by 1996 c. 46, s. 5, **Sch. 1 Pt. IV para.105**; S.I. 1997/304, **art.2** (with savings in **art. 3(1)(3)** and transitional provisions in **art. 4, Sch. 2 para. 1**)

F8 Words in the definition of “proceedings”

in s. 82(1) substituted (1.4.1997) by 1996 c. 46, s. 5, **Sch. 1 Pt. IV para. 107(a)**; S.I. 1997/304, **art.2** (with savings in **art. 3(1)(3)** and transitional provisions in **art. 4, Sch. 2 para. 1**)

F9 Words in s. 82(1)(b)(i) ceased to have effect (1.4.1997) and repealed (*prosp.*) by virtue of 1996 c. 46, ss. 5, 35(2), 36(2), **Sch. 1 Pt. IV para. 107(b)**, **Sch. 7 Pt.I**; S.I. 1997/304, **art.2** (with saving in **art. 3(1)(3)** and transitional provisions in **art. 4, Sch. 2 para. 1**)

F10 Words in s. 82(2) substituted (1.4.1997) by 1996 c. 46, s. 35(1), **Sch. 6 para. 14**; S.I. 1997/304, **art.2** (with savings in **art 3(3)** and transitional provisions in **art. 4, Sch. 2 para. 1**)

Marginal Citations

M9 1955 c. 18.

M10 1955 c. 19.

M11 1957 c. 53.

M12 1968 c. 20.

Status:

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