



# Police and Criminal Evidence Act 1984

## 1984 CHAPTER 60

### PART VIII

#### EVIDENCE IN CRIMINAL PROCEEDINGS—GENERAL

##### *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,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

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- (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).
- <sup>F1</sup>(9) .....

#### **Extent Information**

**E1** S. 76 extends to England and Wales only with exceptions as regards courts martial, see s. 120(1)(6)-(8)

#### **Textual Amendments**

**F1** S. 76(9) repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 3 para. 56\(4\)](#), [Sch. 37 Pt. 4](#); [S.I. 2012/1320](#), art. 4(1)(c)(d)(2)(3) (with art. 5) (see [S.I. 2012/2574](#), art. 4(2) and [S.I. 2013/1103](#), art. 4); [S.I. 2012/2574](#), art. 2(2)(3)(c)(d), [Sch. \(with arts. 34\)](#) (as amended (4.11.2012) by [S.I. 2012/2761](#), art. 2) (with [S.I. 2013/1103](#), art. 4); [S.I. 2013/1103](#), art. 2(1)(c)(d)(2)(3) (with [arts. 34](#))

#### **Modifications etc. (not altering text)**

**C1** 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\(c\)](#)

### **[<sup>F2</sup>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,

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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

**F2** 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](#))

## 77 Confessions by mentally handicapped persons.

- (1) Without prejudice to the general duty of the court at a trial on indictment [<sup>F3</sup>with a jury] 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

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on indictment [<sup>F4</sup>with a jury] , the court shall treat the case as one in which there is a special need for caution before convicting the accused on his confession.

[<sup>F5</sup>(2A) In any case where at the trial on indictment without a jury 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 with a jury, 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 [<sup>F6</sup>section 101(2) of the <sup>M1</sup>Police Act 1996].

#### Extent Information

**E2** S. 77 extends to England and Wales only with exceptions as regards courts martial, see s. 120(1)(6)-(8)

#### Textual Amendments

**F3** Words in s. 77(1) inserted (24.7.2006 for E.W. and 8.1.2007 for N.I.) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 331, 336, [Sch. 36 Pt. 4 para. 48\(2\)](#); S.I. 2006/1835, [art. 2\(g\)\(h\)](#) (subject to art. 3); S.I. 2006/3422, [art. 2\(c\)\(i\)](#)

**F4** Words in s. 77(2) inserted (24.7.2006 for E.W. and 8.1.2007 for N.I.) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 331, 336, [Sch. 36 Pt. 4 para. 48\(3\)](#); S.I. 2006/1835, [art. 2\(g\)\(h\)](#) (subject to art. 3); S.I. 2006/3422, [art. 2\(c\)\(i\)](#)

**F5** S. 77(2A) inserted (24.7.2006 for E.W. and 8.1.2007 for N.I.) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 331, 336, [Sch. 36 Pt. 4 para. 48\(4\)](#); S.I. 2006/1835, [art. 2\(g\)\(h\)](#) (subject to art. 3); S.I. 2006/3422, [art. 2\(c\)\(i\)](#)

**F6** 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)

**C2** 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\(d\)](#)

**C3** S. 77 applied (with modifications) (4.11.2015) by [The Police and Criminal Evidence Act 1984 \(Application to Revenue and Customs\) Order 2015 \(S.I. 2015/1783\)](#), arts. 1, 3(1), [Sch. 1](#) (with art. 3(2), (3), 4-19, [Sch. 2](#))

**C4** S. 77 applied (with modifications) (30.4.2017) by [The Police and Criminal Evidence Act 1984 \(Application to Labour Abuse Prevention Officers\) Regulations 2017 \(S.I. 2017/520\)](#), regs. 1, 2, 3(u), [Sch.](#)

**C5** S. 77 applied (with modifications) (E.W.) (1.4.2018) by [The Welsh Revenue Authority \(Powers to Investigate Criminal Offences\) Regulations 2018 \(S.I. 2018/400\)](#), regs. 1(2), 3(1)(3), [Sch.](#) (with regs. 4-8)

#### Marginal Citations

**M1** 1996 c. 16

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