



Police and Criminal Evidence Act 1984

1984 CHAPTER 60

PART VIII

EVIDENCE IN CRIMINAL PROCEEDINGS—GENERAL

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 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.
- [^{F1}(3) This section shall not apply in the case of proceedings before a magistrates' court inquiring into an offence as examining justices.]

Extent Information

- E1** S. 78 extends to England and Wales only with exceptions as regards courts martial, see s. 120(1)(6)-(8)

Textual Amendments

- F1** 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)

- C1** 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)**

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Changes to legislation: Police and Criminal Evidence Act 1984, Cross Heading: Miscellaneous is up to date with all changes known to be in force on or before 18 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)

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)

- C2 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 [^{F2}Competence and] compellability of accused's spouse [^{F3} or civil partner].

[^{F4}(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.]

[^{F5}(2) In any proceedings the [^{F6}spouse or civil partner] of a person charged in the proceedings shall, subject to subsection (4) below, be compellable to give evidence on behalf of that person.

(2A) In any proceedings the [^{F6}spouse or civil partner] of a person charged in the proceedings shall, subject to subsection (4) below, be compellable—

- (a) to give evidence on behalf of any other person charged in the proceedings but only in respect of any specified offence with which that other person is charged; or
- (b) to give evidence for the prosecution but only in respect of any specified offence with which any person is charged in the proceedings.

(3) In relation to the [^{F6}spouse or civil partner] of a person charged in any proceedings, an offence is a specified offence for the purposes of subsection (2A) above if—

- (a) it involves an assault on, or injury or a threat of injury to, the [^{F6}spouse or civil partner] or a person who was at the material time under the age of 16;
- (b) it 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) it 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) No person who is charged in any proceedings shall be compellable by virtue of subsection (2) or (2A) above to give evidence in the proceedings.

(4A) References in this section to a person charged in any proceedings do not include a person who is not, or is no longer, liable to be convicted of any offence in the proceedings (whether as a result of pleading guilty or for any other reason).]

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- (5) In any proceedings a person who has been but is no longer married to the accused shall be [^{F7}competent and] compellable to give evidence as if that person and the accused had never been married.
- [^{F8}(5A) In any proceedings a person who has been but is no longer the civil partner of the accused shall be compellable to give evidence as if that person and the accused had never been civil partners.]
- (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 [^{F9}the Sexual Offences Act 1956, the ^{M1}Indecency with Children Act ^{M2}1960, the Sexual Offences Act 1967, section 54 of the ^{M3}Criminal Law Act ^{M4}1977 or] the ^{M5}Protection of Children Act 1978 [^{F10}or Part 1 of the Sexual Offences Act 2003] .
- [^{F4}(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 ^{M6}Matrimonial Causes Act ^{M7}1965 (evidence as to marital intercourse) shall cease to have effect.

Extent Information

- E2** S. 80 extends to England and Wales only with exceptions as regards courts martial, see s. 120(1)(6)-(8)

Textual Amendments

- F2** S. 80: words in side-note omitted (24.7.2002 for E.W.) by virtue of 1999 c. 23, ss. 67(1), 68(3), Sch. 4 para. 13(4) (with Sch. 7 paras. 3(3), 5(2)); S.I. 2002/1739, **art. 2(f)**
- F3** S. 80: words in heading inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 261(1), 263, **Sch. 27 para. 97(4)**; S.I. 2005/3175, **art. 2(2)**
- F4** S. 80(1)(8) repealed (24.7.2002 for E.W.) by 1999 c. 23, ss. 67(1)(3), 68(3), Sch. 4 para. 13(2), **Sch. 6** (with Sch. 7 paras. 3(3), 5(2)); S.I. 2002/1739, {art. 2(f)(g)(ii)}
- F5** S. 80(2)-(4A) substituted for s. 80(2)-(4) (24.7.2002 for E.W.) by 1999 c. 23, ss. 67(1), 68(3), Sch. 4 para. 13(3) (with Sch. 7 paras. 3(3), 5(2)); S.I. 2002/1739, **art. 2(f)**
- F6** Words in s. 80(2)(2A)(3) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 261(1), 263, **Sch. 27 para. 97(2)**; S.I. 2005/3175, **art. 2(2)**
- F7** Words in s. 80(5) repealed (24.7.2002 for E.W.) by 1999 c. 23, ss. 67(1)(3), 68(3), Sch. 4 para. 13(4), Sch. 6 (with Sch. 7 paras. 3(3), 5(2)); S.I. 2002/1739, **art. 2(f)(g)(ii)**
- F8** S. 80(5A) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 261(1), 263 {Sch. 27 para. 97(3)}; S.I. 2005/3175, **art. 2(2)**
- F9** Words in s. 80(7) repealed (E.W.) (1.5.2004) by Sexual Offences Act 2003 (c. 42), ss. 140, 141, **Sch. 7**; S.I. 2004/874, **art. 2**
- F10** Words in s. 80(7) inserted (E.W.) (1.5.2004) by Sexual Offences Act 2003 (c. 42), ss. 139, 141, **Sch. 6 para. 28(2)**; S.I. 2004/874, **art. 2**

Modifications etc. (not altering text)

- C3** 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)**

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C4 S. 80(3)(c) modified (1.10.2008) by Serious Crime Act 2007 (c. 27), ss. 63(1), 91(1), 94, **Sch. 6 para. 9** (with Sch. 13 para. 5); S.I. 2008/2504, **art. 2(a)**

Marginal Citations

M1 1960 c. 33.
M2 1967 c. 60.
M3 1977 c. 45.
M4 1978 c. 37.
M5 1978 c. 37.
M6 1965 c. 72.
M7 1965 c. 72.

[80A] ^{F11}Rule where accused’s spouse [^{F12}or civil partner] not compellable.

The failure of the [^{F13}spouse or civil partner] 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

E3 S. 80A extends to England and Wales only with exceptions as regards courts martial, see s. 120(1)(6)-(8)

Textual Amendments

F11 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)**
F12 S. 80A: words in heading inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 261(1), 263, **Sch. 27 para. 98(b)**; S.I. 2005/3175, **art. 2(2)**
F13 Words in s. 80A substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 261(1), 263, **Sch. 27 para. 98(a)**; S.I. 2005/3175, **art. 2(2)**

81 Advance notice of expert evidence in Crown Court.

- (1) [^{F14}Criminal Procedure 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) [^{F14}Criminal Procedure 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.

Textual Amendments

F14 Words in s. 81(1)(2) substituted (1.9.2004) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 286**; S.I. 2004/2066, **art. 2(c)(xii)** (subject to art. 3)

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Modifications etc. (not altering text)

- C5 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)

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