

Changes to legislation: Criminal Justice and Public Order Act 1994, Cross Heading: *Inferences from accused's silence* is up to date with all changes known to be in force on or before 21 July 2023. 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](#)

[^{F1} SCHEDULE 10

CONSEQUENTIAL AMENDMENTS]

Extent Information

E1 The provisions of Sch. 10 are co-extensive with the enactments they affect, see s. 172(16)

Textual Amendments

F1 Words in Act substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), s. 148\(1\), Sch. 11 para. 1\(2\); S.I. 2009/1604, art. 2\(d\)](#)

Inferences from accused's silence

- 61 (1) The ^{M1}Criminal Evidence (Northern Ireland) Order 1988 shall be amended as follows.
- (2) In Article 3(1)(a), after the word “questioned” there shall be inserted the words “under caution”.
- (3) In Article 4—
- (a) in paragraph (1)—
- (i) for the words “to (7)” there shall be substituted the words “and (4)”;
- (ii) in sub-paragraph (b), the words “be called upon to” shall be omitted;
- (iii) for the words from “if” onwards there shall be substituted the words “, 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”;
- (b) for paragraphs (2) and (3) there shall be substituted the following paragraph—
- “(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.”;
- (c) in paragraph (4)—
- (i) at the beginning there shall be inserted the words “Where this paragraph applies,”;
- (ii) in sub-paragraph (a), for the words “from the refusal as appear proper” there shall be substituted the words “as appear proper from the failure of the accused to give evidence or his refusal, without good cause, to answer any question”;
- (d) in paragraph (5), for the words “refusal to be sworn” there shall be substituted the words “failure to do so”; and

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- (e) paragraphs (9) and (10) shall be omitted.
- (4) In Article 5(1)(b), for the words “the constable” there shall be substituted the words “that or another constable investigating the case”.
- (5) In Article 5(2), after sub-paragraph (a), for the word “and” there shall be substituted the following sub-paragraph—
 - “(aa) a judge, in deciding whether to grant an application made by the accused under Article 5 of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988 (application for dismissal of charge where a case of fraud has been transferred from a magistrates’ court to the Crown Court under Article 3 of that Order); and”.
- (6) In Article 5, after paragraph 3, there shall be inserted the following paragraph—
 - “(3A) This Article applies in relation to officers of customs and excise as it applies in relation to constables.”.
- (7) In Article 6(1)(b), for the words “the constable” there shall be substituted the words “that or another constable investigating the case”.
- (8) In Article 6(2), after sub-paragraph (a), for the word “and” there shall be substituted the following sub-paragraph—
 - “(aa) a judge, in deciding whether to grant an application made by the accused under Article 5 of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988 (application for dismissal of charge where a case of fraud has been transferred from a magistrates’ court to the Crown Court under Article 3 of that Order); and”.
- (9) In Article 6, after paragraph 2, there shall be inserted the following paragraph—
 - “(2A) This Article applies in relation to officers of customs and excise as it applies in relation to constables.”.
- (10) In Article 6(3), for the words “do so” there shall be substituted the words “comply with the request”.

Marginal Citations

M1 [S.I. 1988/1987 \(N.I.20\)](#).

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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. 51(10)(a)(ia) inserted by [2003 c. 44 Sch. 36 para. 11\(3\)](#)