



Criminal Justice and Public Order Act 1994

1994 CHAPTER 33

PART III

COURSE OF JUSTICE: EVIDENCE, PROCEDURE, ETC.

Inferences from accused's silence

35 Effect of accused's silence at trial

- (1) At the trial of any person who has attained the age of fourteen years for an offence, subsections (2) and (3) below 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 give evidence;but subsection (2) below does not apply if, 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.
- (2) Where this subsection applies, the court shall, at the conclusion of the evidence for the prosecution, satisfy itself (in the case of proceedings on indictment, 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.
- (3) Where this subsection applies, the court or jury, in determining whether the accused is guilty of the offence charged, may draw such inferences as appear proper from the

Status: This is the original version (as it was originally enacted).

failure of the accused to give evidence or his refusal, without good cause, to answer any question.

- (4) This section 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 failure to do so.
- (5) For the purposes of this section 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 enactment, whenever passed or made, or on the ground of privilege; or
 - (b) the court in the exercise of its general discretion excuses him from answering it.
- (6) Where the age of any person is material for the purposes of subsection (1) above, his age shall for those purposes be taken to be that which appears to the court to be his age.
- (7) This section 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 section;
 - (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 the commencement of this section.