



Domestic Violence, Crime and Victims Act 2004

2004 CHAPTER 28

PART 1

DOMESTIC VIOLENCE ETC

[^{F1}Causing or allowing a child or vulnerable adult to die or suffer serious physical harm]

7 [^{F1}Evidence and procedure in cases of death: Northern Ireland]

- (1) Subsections (2) to (4) apply where a person (“the defendant”) is charged in the same proceedings with an offence of murder or manslaughter and with an offence under section 5 in respect of the same death (“the section 5 offence”).
- (2) Where by virtue of Article 4(4) of the Criminal Evidence (Northern Ireland) Order 1988 (S.I. 1988/1987 (N.I. 20)) a court or jury is permitted, in relation to the section 5 offence, to draw such inferences as appear proper from the defendant’s failure to give evidence or refusal to answer a question, the court or jury may also draw such inferences in determining whether he is guilty—
 - (a) of murder or manslaughter, or
 - (b) of any other offence of which he could lawfully be convicted on the charge of murder or manslaughter,even if there would otherwise be no case for him to answer in relation to that offence.
- (3) Where a magistrates' court is considering under Article 37 of the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26)) whether to commit the defendant for trial for the offence of murder or manslaughter, if there is sufficient evidence to put him upon trial for the section 5 offence there is deemed to be sufficient evidence to put him upon trial for the offence of murder or manslaughter.
- (4) At the defendant’s trial the question whether there is a case to answer on the charge of murder or manslaughter is not to be considered before the close of all the evidence

Changes to legislation: Domestic Violence, Crime and Victims Act 2004, Section 7 is up to date with all changes known to be in force on or before 24 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) View outstanding changes

(or, if at some earlier time he ceases to be charged with the section 5 offence, before that earlier time).

- (5) An offence under section 5 [^{F2} of causing or allowing a person's death] is an offence of homicide for the purposes of the following provisions—

Article 17 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I. 9)) (mode of trial of child for indictable offence);

Article 32 of that Order (power and duty to remit children to youth courts for sentence).

Textual Amendments

- F1** S. 7 heading substituted (14.3.2016) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), s. 106(2), [Sch. 6 para. 3\(1\)](#) (with [Sch. 8 para. 11](#)); S.R. 2016/136, art. 2(b)
- F2** Words in s. 7(5) inserted (14.3.2016) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), s. 106(2), [Sch. 6 para. 3\(2\)](#) (with [Sch. 8 para. 11](#)); S.R. 2016/136, art. 2(b)

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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):

- Sch. 9 para. 26A inserted by [2015 c. 2 Sch. 3 para. 12](#)