



Police and Criminal Evidence Act 1984

1984 CHAPTER 60

PART VIII

EVIDENCE IN CRIMINAL PROCEEDINGS—GENERAL

Confessions

77 **Confessions by mentally handicapped persons.**

- (1) Without prejudice to the general duty of the court at a trial on indictment [^{F1}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 on indictment [^{F2}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.

[^{F3}(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—

Changes to legislation: *Police and Criminal Evidence Act 1984, Section 77 is up to date with all changes known to be in force on or before 13 May 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*

“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 [^{F4}section 101(2) of the ^{M1}Police Act 1996].

Extent Information

- E1** S. 77 extends to England and Wales only with exceptions as regards courts martial, see s. 120(1)(6)-(8)

Textual Amendments

- F1** 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\(c\)\(i\)](#)
- F2** 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\(c\)\(i\)](#)
- F3** 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\(c\)\(i\)](#)
- F4** 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)

- C1** 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\(d\)](#)
- C2** 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](#))
- C3** 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.](#)
- C4** 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

Changes to legislation:

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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. 17(1)(cza) inserted by [2021 c. 17 s. 26\(9\)](#)
- s. 47A(3A) substituted by [2022 c. 35 Sch. 2 para. 7](#)
- s. 61(6BA) inserted by [2008 c. 28 s. 10\(1\)](#) (This amendment not applied to legislation.gov.uk. S. 10 omitted (14.12.2011) by virtue of 2011 c. 23, ss. 29, 31(2), Sch. 7 para. 5(3))
- s. 63(3D) inserted by [2008 c. 28 s. 10\(2\)](#) (This amendment not applied to legislation.gov.uk. S. 10 omitted (14.12.2011) by virtue of 2011 c. 23, ss. 29, 31(2), Sch. 7 para. 5(3))
- s. 64(1AA) inserted by [2008 c. 28 s. 10\(4\)](#) (This amendment not applied to legislation.gov.uk. S. 10 omitted (14.12.2011) by virtue of 2011 c. 23, ss. 29, 31(2), Sch. 7 para. 5(3))
- s. 64A(1B)(cb) inserted by [2022 c. 32 Sch. 11 para. 18\(a\)](#)
- Sch. 1A para. 21A added by 1995 c. 32, s. 8B(1) (as inserted) by [2006 c. 12 Sch. 3 para. 13](#)