



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]

6 [^{F1}Evidence and procedure in cases of death: England and Wales]

- (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 section 35(3) of the Criminal Justice and Public Order Act 1994 (c. 33) 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) The charge of murder or manslaughter is not to be dismissed under paragraph 2 of Schedule 3 to the Crime and Disorder Act 1998 (c. 37) (unless the section 5 offence is dismissed).
- (4) At the defendant’s trial the question whether there is a case for the defendant to answer on the charge of murder or manslaughter is not to be considered before the close of all the evidence (or, if at some earlier time he ceases to be charged with the section 5 offence, before that earlier time).

Changes to legislation: Domestic Violence, Crime and Victims Act 2004, Section 6 is up to date with all changes known to be in force on or before 23 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

- (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 enactments—
- sections 24 and 25 of the Magistrates' Courts Act 1980 (c. 43) (mode of trial of child or young person for indictable offence);
 - section 51A of the Crime and Disorder Act 1998 (sending cases to the Crown Court: children and young persons);
 - [^{F3}section 25 of the Sentencing Code] (power and duty to remit young offenders to youth courts for sentence).

Textual Amendments

- F1** S. 6 heading substituted (2.7.2012) by [Domestic Violence, Crime and Victims \(Amendment\) Act 2012](#) (c. 4), s. 4(2), [Sch. para. 8\(2\)](#); S.I. 2012/1432, art. 2
- F2** Words in s. 6(5) inserted (2.7.2012) by [Domestic Violence, Crime and Victims \(Amendment\) Act 2012](#) (c. 4), s. 4(2), [Sch. para. 8\(1\)](#); S.I. 2012/1432, art. 2
- F3** Words in s. 6(5) substituted (1.12.2020) by [Sentencing Act 2020](#) (c. 17), s. 416(1), [Sch. 24 para. 251](#) (with [Sch. 24 para. 447](#), [Sch. 27](#)); S.I. 2020/1236, reg. 2

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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](#)