



# Domestic Violence, Crime and Victims Act 2004

## 2004 CHAPTER 28

### PART 1

#### DOMESTIC VIOLENCE ETC

##### *Causing or allowing the death of a child or vulnerable adult*

#### **6 Evidence and procedure: 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).

---

*Status: This is the original version (as it was originally enacted).*

---

(5) An offence under section 5 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);

section 8 of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) (power and duty to remit young offenders to youth courts for sentence).