



Law Reform (Miscellaneous Provisions) (Scotland) Act 1968

1968 CHAPTER 70

PART III **S**

AMENDMENT OF THE LAW OF EVIDENCE IN CIVIL PROCEEDINGS

Convictions, etc., as evidence in civil proceedings

11 Findings of adultery and paternity as evidence in civil proceedings. **S**

(1) In any civil proceedings—

(a) the fact that a person has been found guilty of adultery in any matrimonial proceedings, . . . ^{F1}

(b) ^{F1}

shall (subject to subsection (3) of this section) be admissible in evidence for the purpose of proving, where to do so is relevant to any issue in those civil proceedings, that he committed the adultery to which the finding relates . . . ^{F2}, whether or not he offered any defence to the allegation of adultery . . . ^{F2} and whether or not he is a party to the civil proceedings ; but no finding other than a subsisting one shall be admissible in evidence by virtue of this section.

(2) If any civil proceedings in which by virtue of this section a person is proved to have been found guilty of adultery as mentioned in subsection (1)(a) of this section . . . ^{F2}—

(a) he shall be taken to have committed the adultery to which the finding relates . . . ^{F2}, unless the contrary is proved ; and

(b) without prejudice to the reception of any other admissible evidence for the purpose of identifying the facts on which the finding was based, the contents of any document which was before the court, or which contains any pronouncement of the court, in the matrimonial . . . ^{F2} proceedings in question shall be admissible in evidence for that purpose.

Changes to legislation: There are currently no known outstanding effects for the Law Reform (Miscellaneous Provisions) (Scotland) Act 1968, Section 11. (See end of Document for details)

- (3) Nothing in this section shall affect the operation of any enactment whereby a finding of fact in any matrimonial . . . ^{F2} proceedings is for the purposes of any other proceedings made conclusive evidence of any fact.
- (4) Nothing in this section shall entitle the Court of Session to pronounce a decree of divorce without [^{F3}receiving evidence from the pursuer].
- (5) Subsection (4) of section 10 of this Act shall apply for the purposes of this section as if the reference therein to subsection (2) were a reference to subsection (2) of this section.
- (6) In this section—
- (a) “matrimonial proceedings” means any consistorial action, any matrimonial cause in the High Court or a county court in England and Wales or in the High Court in Northern Ireland, or any appeal arising out of any such action or cause, and
- (b) ^{F4}

Textual Amendments

- F1** S. 11(1)(b) and word “and” immediately preceding it repealed by [Law Reform \(Parent and Child\) \(Scotland\) Act 1986 \(c. 9, SIF 49:8\)](#), ss. 9, 10(2), [Sch. 2](#)
- F2** Words repealed by [Law Reform \(Parent and Child\) \(Scotland\) Act 1986 \(c. 9, SIF 49:8\)](#), ss. 9, 10(2), [Sch. 2](#)
- F3** Words substituted by [Divorce \(Scotland\) Act 1976 \(c. 39\)](#), [Sch. 1 para. 4](#)
- F4** S. 11(6)(b) repealed by [Law Reform \(Parent and Child\) \(Scotland\) Act 1986 \(c. 9, SIF 49:8\)](#), ss. 9, 10(2), [Sch. 2](#)

Changes to legislation:

There are currently no known outstanding effects for the Law Reform (Miscellaneous Provisions) (Scotland) Act 1968, Section 11.