



# Evidence (Scotland) Act 1852

1852 CHAPTER 27 15 and 16 Vict

An Act to amend the Law of Evidence in Scotland.

[17th June 1852]

## Modifications etc. (not altering text)

- C1 Unrepealed provisions of this Act repealed so far as relating to criminal proceedings by [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), [Sch. 10 Pt. I](#)
- C2 Short title given by [Short Titles Act 1896 \(c. 14\)](#)
- C3 Preamble omitted under authority of [Statute Law Revision Act 1892 \(c. 19\)](#)

**[1.] Witnesses not to be excluded by reason of crime, &c. Right to examine witnesses as to credibility not affected. Not competent to adduce as a witness any person who shall be acting as an agent in the action. Where any person adduced has been an agent no plea of confidentiality allowable.**

No person adduced as a witness in Scotland before any court or before any person having by law or by consent of parties authority to take evidence, shall be excluded from giving evidence, by reason of having been convicted of or having suffered punishment for crime, or by reason of interest, or by reason of agency or of partial counsel, or by reason of having appeared without citation, or by reason of having been precognosced subsequently to the date of citation; but every person so adduced, who is not otherwise by law disqualified from giving evidence, shall be admissible as a witness, and shall be admitted to give evidence as aforesaid, notwithstanding of any objections offered on the above-mentioned grounds: Provided always, that nothing herein contained shall affect the right of any party in the action or proceeding in which such witness shall be adduced to examine him on any point tending to affect his credibility: Provided also, that . . . . .<sup>F1</sup> where any person who is or has been an agent shall be adduced and examined as a witness for his client, touching any matter or thing to prove which he could not competently have been adduced and examined according to the existing law and practice of Scotland, it shall not be competent to the party adducing such witness to object, on the ground of confidentiality, to any question proposed to be put to such witness on matter pertinent to the issue.

*Changes to legislation: There are currently no known outstanding effects for the Evidence (Scotland) Act 1852. (See end of Document for details)*

**Textual Amendments**

**F1** Words repealed by Evidence (Scotland) Act 1853 (c. 20), s. 2

**2** ..... **F2**

**Textual Amendments**

**F2** S. 2 repealed by Evidence (Scotland) Act 1853 (c. 20), s. 1

**3** ..... **F3**

**Textual Amendments**

**F3** S. 3 repealed (S.) by Civil Evidence (Scotland) Act 1988 (c. 32, SIF 47), s. 10(1)(3), **Sch.**

**4** **Witness may be recalled, after examination.**

It shall be competent to the presiding judge or other person before whom any trial or proof shall proceed, on the motion of either party, to permit any witness who shall have been examined in the course of such trial or proof to be recalled.

**5** ..... **F4**

**Textual Amendments**

**F4** S. 5 repealed by Statute Law Revision Act 1892 (c. 19)

**Changes to legislation:**

There are currently no known outstanding effects for the Evidence (Scotland) Act 1852.