



# Evidence (Scotland) Act 1853

1853 CHAPTER 20 16 and 17 Vict

An Act to alter and amend an Act of the Fifteenth Year of Her present Majesty for amending the Law of Evidence in Scotland. [9th May 1853]

**Modifications etc. (not altering text)**

C1 Short title given by [Short Titles Act 1896 \(c. 14\)](#)

**Commencement Information**

II Act wholly in force at Royal Assent

1, 2. ....<sup>F1</sup>

**Textual Amendments**

F1 [Ss. 1, 2](#) repealed by [Statute Law Revision Act 1875 \(c. 66\)](#)

**3 As to examination of witnesses, whether named in the record or not.**

It shall be competent to adduce and examine as a witness in any action or proceeding in Scotland any party to such action or proceeding, or the husband or wife of any party, whether he or she shall be individually named in the record or proceeding or not; but nothing herein contained shall render any person, or the husband or wife of any person, who in any criminal proceeding is charged with the commission of any indictable offence, or any offence punishable on summary conviction, competent or compellable to give evidence for or against himself or herself, his wife or her husband, excepting in so far as the same may be at present competent by the law and practice of Scotland, or shall render any person compellable to answer any question tending to criminate himself or herself, or shall in any proceeding render any husband competent or compellable to give against his wife evidence of any matter communicated by her to him during the marriage, or any wife competent or compellable to give against her husband evidence of any matter communicated by him to her during the marriage.

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*Changes to legislation: There are currently no known outstanding effects for the Evidence (Scotland) Act 1853. (See end of Document for details)*

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**Modifications etc. (not altering text)**

**C2** S. 3 applied (1.7.1992) by [Social Security Administration Act 1992 \(c. 5\)](#), **ss. 59(4)(b)**, 192(4)  
S. 3 extended (8.9.1998, 15.7.1999, 6.10.1999, 5.10.1999 for certain purposes) by 1998 c. 14, **s. 16(5)(b)**; S.I. 1998/2209 art. 2(a), Sch. Pt. I; S.I. 1999/1958, art. 2, **Sch. 1**; S.I. 1999/2422, art. 2, **Sch. 1** (subject to transitional provisions in [Sch. 14](#)); S.I. 1999/2739, art. 2, **Sch. 1** (subject to transitional provisions in [Sch. 2](#))

**4** ..... F2

**Textual Amendments**

**F2** S. 4 repealed by [Evidence Further Amendment \(Scotland\) Act 1874 \(c. 64\)](#), **s. 1**

**5 Adducing of party as a witness not to have effect of reference to his oath.**

The adducing of any party as a witness in any cause or proceeding by the adverse party shall not have the effect of a reference to the oath of the party so adduced: Provided always, that it shall not be competent to any party who has called and examined the opposite party as a witness thereafter to refer the cause or any part of it to his oath; and that in all other respects the right of reference to oath shall remain as at present established by the law and practice of Scotland.

**6 Not to affect authority of courts as to judicial examination.**

Nothing herein contained shall alter or affect the authority or practice of the courts in Scotland as to judicial examination.

**Changes to legislation:**

There are currently no known outstanding effects for the Evidence (Scotland) Act 1853.