



Evidence (Scotland) Act 1840

1840 CHAPTER 59 3 and 4 Vict

3 Presence in court not to disqualify witnesses in certain cases.

In any trial before any judge of the Court of Session or Court of Justiciary, or before any [^{F1}sheriff principal] in Scotland, it shall not be imperative on the court to reject any witness against whom it is objected that he or she has, without the permission of the court, and without the consent of the party objecting, been present in court during all or any part of the proceedings; but it shall be competent for the court, in its discretion, to admit the witness, where it shall appear to the court that the presence of the witness was not the consequence of culpable negligence or criminal intent, and that the witness has not been unduly instructed or influenced by what took place during his or her presence, or that injustice will not be done by his or her examination.

Textual Amendments

F1 Words substituted by virtue of [Sheriff Courts \(Scotland\) Act 1971 \(c. 58\), s. 4](#)

Modifications etc. (not altering text)

C1 S. 3 excluded (S.) by [Civil Evidence \(Scotland\) Act 1988 \(c. 32, SIF 47\), ss. 4\(2\), 10\(3\)](#)

C2 S. 3 repealed so far as relating to criminal proceedings by [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\), Sch. 10 Pt. I](#)

Changes to legislation:

There are currently no known outstanding effects for the Evidence (Scotland) Act 1840, Section 3.