



# Civil Evidence Act (Northern Ireland) 1971

## 1971 CHAPTER 36

*Part I (ss. 1-6) rep. by 1997 NI 21*

### PART II

#### MISCELLANEOUS AND GENERAL

##### CONVICTIONS, ETC. AS EVIDENCE IN CIVIL PROCEEDINGS

#### **7 Convictions as evidence in civil proceedings.**

- (1) In any civil proceedings the fact that a person has been convicted of an offence by or before any court in the United Kingdom or by a court-martial there or elsewhere shall (subject to subsection (3)) be admissible in evidence for the purpose of proving, where to do so is relevant to any issue in those proceedings, that he committed that offence, whether he was so convicted upon a plea of guilty or otherwise and whether or not he is a party to the civil proceedings; but no conviction other than a subsisting one shall be admissible in evidence by virtue of this section.
- (2) In any civil proceedings in which by virtue of this section a person is proved to have been convicted of an offence by or before any court in the United Kingdom or by a court-martial there or elsewhere—
  - (a) he shall be taken to have committed that offence 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 conviction was based, the contents of any document which is admissible as evidence of the conviction, and the contents of the information, complaint, indictment or charge-sheet on which the person in question was convicted, shall be admissible in evidence for that purpose.

*Status: Point in time view as at 01/01/2006.*

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- (3) Nothing in this section shall prejudice the operation of section 9 or any other enactment whereby a conviction or a finding of fact in any criminal proceedings is for the purposes of any other proceedings made conclusive evidence of any fact.
- (4) Where in any civil proceedings the contents of any document are admissible in evidence by virtue of subsection (2), a copy of that document, or of the material part thereof, purporting to be certified or otherwise authenticated by or on behalf of the court or authority having custody of that document shall be admissible in evidence and shall be taken to be a true copy of that document or part unless the contrary is shown.
- (5) Nothing in any of the following statutory provisions, that is to say—
- Para. (a) rep. by 1996 NI 24*
- (b) section 12<sup>F1</sup> of the Criminal Justice Act 1948 (which makes similar provision in respect of convictions on indictment in England and Wales); and
- (c) section 9<sup>F2</sup> of the Criminal Justice (Scotland) Act 1949 (which corresponds to the said section 8);
- or any enactment of the Parliament of the United Kingdom corresponding to the said section 8, shall affect the operation of this section; and for the purposes of this section any order made by a court of summary jurisdiction in Scotland under section 1<sup>F3</sup> or section 2<sup>F3</sup> of the said Act of 1949 shall be treated as a conviction.
- (6) In this section “court-martial” means a court-martial constituted under the Army Act 1955, the Air Force Act 1955 or the Naval Discipline Act 1957<sup>F4</sup>. . . , and in relation to a court-martial “conviction”,<sup>F5</sup>. . . means a finding of guilty which is, or falls to be treated as, the finding of the court, and “convicted” shall be construed accordingly.

<b>F1</b>	1973 c.62
<b>F2</b>	1975 c.21
<b>F3</b>	1975 c.21
<b>F4</b>	2001 c. 19
<b>F5</b>	1996 c.46

## 8 Findings of adultery and paternity as evidence in civil proceedings.

- (1) In any civil proceedings—
- (a) the fact that a person has been found guilty of adultery in any matrimonial proceedings; and
- [<sup>F6</sup>(b) the fact that a person has been found to be the father of a child in relevant proceedings before any court in Northern Ireland or England and Wales or has been adjudged to be the father of a child in affiliation proceedings before any court in the United Kingdom;]
- shall (subject to subsection (3)) 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 or, as the case may be, is (or was) the father of that child, whether or not he offered any defence to the allegation of adultery or paternity and whether or not he is a party to the civil proceedings; but no finding or adjudication other than a subsisting one shall be admissible in evidence by virtue of this section.
- (2) In 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) or [<sup>F6</sup> to have been found or adjudged] to be the father of a child as mentioned in subsection (1)( b)—

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- (a) he shall be taken to have committed the adultery to which the finding relates or, as the case may be, to be (or have been) the father of that child, 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 or adjudication was based, the contents of any document which was before the court, or which contains any pronouncement of the court, in the<sup>F6</sup> other proceedings] in question shall be admissible in evidence for that purpose.
- (3) Nothing in this section shall prejudice the operation of any statutory provision whereby a finding of fact in any matrimonial<sup>F6</sup> or relevant] or affiliation proceedings is for the purposes of any other proceedings made conclusive evidence of any fact.
- (4) Section 7(4) shall apply for the purposes of this section as if the reference to subsection (2) of that section were a reference to subsection (2) of this section.
- (5) In this section—
- “matrimonial proceedings” means any matrimonial cause in the High Court<sup>F7</sup> or a divorce county court] or in the High Court or a county court in England and Wales, any consistorial action in Scotland, or any appeal arising out of any such cause or action;
- <sup>F6</sup>“relevant proceedings” means—
- (a) proceedings under Article 101 of the Health and Personal Social Services (Northern Ireland) Order 1972 or section 101 of the Social Security Administration (Northern Ireland) Act 1992;
- Para. (b) rep. by 2000 c. 4 (NI)*
- (c) proceedings under the Children (Northern Ireland) Order 1995;
- (d) proceedings under section 5A of the Guardianship of Infants Act 1886 or section 27 of the Judicature (Northern Ireland) Act 1978;
- (e) proceedings which are relevant proceedings as defined in section 12(5) of the Civil Evidence Act 1968;]
- “affiliation proceedings” means, in relation to Scotland, any action of affiliation and aliment;
- and in this subsection<sup>F7</sup> “divorce county court” has the same meaning as in the Matrimonial Causes (Northern Ireland) Order 1978 and] “consistorial action” does not include an action of aliment only between husband and wife raised in the Court of Session or an action of interim aliment raised in the sheriff court.

F6 1995 NI 2

F7 1989 NI 4

## 9 Conclusiveness of convictions for purposes of defamation actions.

- (1) In an action for libel or slander in which the question whether<sup>F8</sup> the plaintiff] did or did not commit a criminal offence is relevant to an issue arising in the action, proof that, at the time when that issue falls to be determined,<sup>F8</sup> he] stands convicted of that offence shall be conclusive evidence that he committed that offence; and his conviction thereof shall be admissible in evidence accordingly.
- (2) In any such action as aforesaid in which by virtue of this section<sup>F8</sup> the plaintiff] is proved to have been convicted of an offence, the contents of any document which

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is admissible as evidence of the conviction, and the contents of the information, complaint, indictment or charge-sheet on which<sup>F8</sup> he] was convicted, shall, without prejudice to the reception of any other admissible evidence for the purpose of identifying the facts on which the conviction was based, be admissible in evidence for the purpose of identifying those facts.

- [<sup>F8</sup>(2A) In the case of an action for libel or slander in which there is more than one plaintiff—
- (a) the references in subsections (1) and (2) to the plaintiff shall be construed as references to any of the plaintiffs, and
  - (b) proof that any of the plaintiffs stands convicted of an offence shall be conclusive evidence that he committed that offence so far as that fact is relevant to any issue arising in relation to his cause of action or that of any other plaintiff.]
- (3) For the purposes of this section a person shall be taken to stand convicted of an offence if but only if there subsists against him a conviction of that offence by or before a court in the United Kingdom or by a court-martial there or elsewhere.
  - (4) Section 7(4) to (6) shall apply for the purposes of this section as they apply for the purposes of that section, but as if in section 7(4) the reference to subsection (2) of section 7 were a reference to subsection (2) of this section.
  - (5) The foregoing provisions of this section shall apply for the purposes of any action begun after the passing of this Act, whenever the cause of action arose, but shall not apply for the purposes of any action begun before the passing of this Act or any appeal or other proceedings arising out of any such action.

F8 1996 c.31

## PRIVILEGE

### 10 Privilege against incrimination of self or spouse<sup>F9</sup> or civil partner].

- (1) The right of a person in any legal proceedings other than criminal proceedings to refuse to answer any question or produce any document or thing if to do so would tend to expose that person to proceedings for an offence or for the recovery of a penalty—
  - (a) shall apply only as regards criminal offences under the law of any part of the United Kingdom and penalties provided for by such law; and
  - (b) shall include a like right to refuse to answer any question or produce any document or thing if to do so would tend to expose the<sup>F9</sup> spouse or civil partner] of that person to proceedings for any such criminal offence or for the recovery of any such penalty.
- (2) In so far as any existing statutory provision conferring (in whatever words) powers of inspection or investigation confers on a person (in whatever words) any right otherwise than in criminal proceedings to refuse to answer any question or give any evidence tending to incriminate that person, subsection (1) shall apply to that right as it applies to the right described in that subsection; and every such existing statutory provision shall be construed accordingly.

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- (3) In so far as any existing statutory provision provides (in whatever words) that in any proceedings other than criminal proceedings a person shall not be excused from answering any question or giving any evidence on the ground that to do so may incriminate that person, that provision shall be construed as providing also that in such proceedings a person shall not be excused from answering any question or giving any evidence on the ground that to do so may incriminate the husband or wife of that person.
- (4) Where any existing statutory provision (however worded) that—
- (a) confers powers of inspection or investigation; or
  - (b) provides as mentioned in subsection (3),
- further provides (in whatever words) that any answer or evidence given by a person shall not be admissible in evidence against that person in any proceedings or class of proceedings (however described, and whether criminal or not), that enactment shall be construed as providing also that any answer or evidence given by that person shall not be admissible in evidence against the husband or wife of that person in the proceedings or class of proceedings in question.
- (5) In this section “existing statutory provision” means any statutory provision passed before this Act; and the references to giving evidence are references to giving evidence in any manner, whether by furnishing information, making discovery, producing documents or otherwise.

**F9** 2004 c.33

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

- C1** S. 10(1) applied (30.10.2006) by [Measuring Instruments \(Automatic Rail-weighbridges\) Regulations 2006 \(S.I. 2006/1256\)](#), regs. 32(3), 33, **Sch. 5 para. 5** (with reg. 32(1)(2));
- S. 10(1) applied (30.10.2006) by [Measuring Instruments \(Automatic Catchweighers\) Regulations 2006 \(S.I. 2006/1257\)](#), regs. 34(3), 35, **Sch. 6 para. 5** (with reg. 34(1)(2));
- S. 10(1) applied (30.10.2006) by [Measuring Instruments \(Automatic Gravimetric Filling Instruments\) Regulations 2006 \(S.I. 2006/1258\)](#), regs. 32(3), 34, **Sch. 6 para. 5** (with reg. 32(1)(2));
- S. 10(1) applied (30.10.2006) by [Measuring Instruments \(Beltweighers\) Regulations 2006 \(S.I. 2006/1259\)](#), regs. 32(3), 33, **Sch. 6 para. 5** (with reg. 32(1)(2));
- S. 10(1) applied (30.10.2006) by [Measuring Instruments \(Capacity Serving Measures\) Regulations 2006 \(S.I. 2006/1264\)](#), regs. 29(3), 30, **Sch. 6 para. 5** (with reg. 29(1)(2));
- S. 10(1) applied (30.10.2006) by [Measuring Instruments \(Liquid Fuel and Lubricants\) Regulations 2006 \(S.I. 2006/1266\)](#), regs. 31(3), 32, **Sch. 6 para. 5** (with reg. 31(1)(2));
- S. 10(1) applied (30.10.2006) by [Measuring Instruments \(Material Measures of Length\) Regulations 2006 \(S.I. 2006/1267\)](#), regs. 29(3), 30, **Sch. 5 para. 5** (with reg. 29(1)(2));
- S. 10(1) applied (30.10.2006) by [Measuring Instruments \(Cold - water Meters\) Regulations 2006 \(S.I. 2006/1268\)](#), regs. 31(3), 32, **Sch. 5 para. 5** (with reg. 31(1)(2));
- S. 10(1) applied (30.10.2006) by [Measuring Instruments \(Liquid Fuel delivered from Road Tankers\) Regulations 2006 \(S.I. 2006/1269\)](#), regs. 32(3), 33, **Sch. 5 para. 5** (with reg. 32(1)(2));
- S. 10(1) extended (30.10.2006) by [Measuring Instruments \(Taximeters\) Regulations 2006 \(S.I. 2006/2304\)](#), regs. 25(3), 26, **Sch. 5 para. 3** (with reg. 25(1)(2));
- S. 10(1) modified (30.10.2006) by [Measuring Instruments \(Active Electrical Energy Meters\) Regulations 2006 \(S.I. 2006/1679\)](#), regs. 24, 27(3), **Sch. 5 para. 3** (with reg. 27(1)(2));
- S. 10(1) modified (30.10.2006) by [Measuring Instruments \(Gas Meters\) Regulations 2006 \(S.I. 2006/2647\)](#), regs. 24, 27(3), **Sch. 5 para. 3** (with reg. 27(1)(2));

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## 12 Abolition of certain privileges.

- (1) The following rules of law are hereby abrogated except in relation to criminal proceedings, that is to say—
  - (a) the rule whereby, in any legal proceedings, a person cannot be compelled to answer any question or produce any document or thing if to do so would tend to expose him to a forfeiture; and
  - (b) the rule whereby, in any legal proceedings, a person other than a party to the proceedings cannot be compelled to produce any deed or other document relating to his title to any land.
- (2) The rule of law whereby, in any civil proceedings, a party to the proceedings cannot be compelled to produce any document or thing relating solely to his own case and in no way tending to impeach that case or support the case of any opposing party is hereby abrogated.
- (3) Section 3 of the Evidence (Amendment) Act 1853 (which provides that a husband or wife shall not be compellable to disclose any communication made to him or her by his or her spouse during the marriage) shall cease to have effect except in relation to criminal proceedings.

*Subs. (4) rep. by 1989 NI 12*

- (5) A witness in any proceedings instituted in consequence of adultery, whether a party to the proceedings or not, shall not be excused from answering any question by reason that it tends to show that he or she has been guilty of adultery; and accordingly ... *residue repeals proviso to s.3 of 1869 c.68; s.25(1)(pt.) of 1939 c.13 (NI)*

## 13 Consequential amendments relating to privilege.

- (1) <sup>F10</sup> . . . any<sup>F10</sup> . . . existing statutory provision, however framed or worded, which in relation to any tribunal, investigation or inquiry (however described) confers on persons required to answer questions or give evidence any privilege described by reference to the privileges of witnesses in proceedings before any court shall, unless the contrary intention appears, be construed as referring to the privileges of witnesses in civil proceedings before that court.

*Subs. (2) rep. by 1975 c. 34*

- (3) Without prejudice to the generality of section 10(2) to (4), the enactments mentioned in the Schedule shall have effect subject to the amendments provided for by that Schedule (being verbal amendments to bring those enactments into conformity with the provisions of that section).
- (4) Section 10(5) shall apply for the purposes of this section as it applies for the purposes of that section.

<p><b>F10</b> 2005 c.12</p>
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## GENERAL

### 14 General interpretation, and savings.

- (1) In this Act “civil proceedings” includes, in addition to civil proceedings in any of the ordinary courts of law—
  - (a) civil proceedings before any other tribunal, being proceedings in relation to which the strict rules of evidence apply; and
  - (b) an arbitration or reference, whether under statutory provisions or not,but does not include civil proceedings in relation to which the strict rules of evidence do not apply.
- (2) In this Act—

“court” does not include a court-martial, and, in relation to an arbitration or reference, means the arbitrator or umpire and, in relation to proceedings before a tribunal (not being one of the ordinary courts of law), means the tribunal;

“legal proceedings” includes an arbitration or reference, whether under a statutory provision or not;

and for the avoidance of doubt it is hereby declared that in this Act, and in any amendment made by this Act in any other statutory provision, references to a person's husband or wife do not include references to a person who is no longer married to that person.
- [<sup>F11</sup>(3) In this Act “statutory provision” has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954.]
- (4) Without prejudice to section 11 of the Interpretation Act (Northern Ireland) 1954, any reference in this Act to any other statutory provision is a reference thereto as applied by or under any other statutory provision.
- (5) Nothing in this Act shall prejudice the operation of any statutory provision which provides (in whatever words) that any answer or evidence given by a person in specified circumstances shall not be admissible in evidence against him or some other person in any proceedings or class of proceedings (however described). In this subsection the reference to giving evidence is a reference to giving evidence in any manner whether by furnishing information, making discovery, producing documents or otherwise.
- (6) Nothing in this Act shall prejudice—
  - (a) any power of a court, in any legal proceedings, to exclude evidence (whether by preventing questions from being put or otherwise) at its discretion; or
  - (b) the operation of any agreement (whenever made) between the parties to any legal proceedings as to the evidence which is to be admissible (whether generally or for any particular purpose) in those proceedings.
- (7) It is hereby declared that where, by reason of any defect of speech or hearing from which he is suffering, a person called as a witness in any legal proceedings gives his evidence in writing or by signs, that evidence is to be treated for the purposes of this Act as being given orally.

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**15 Short title, repeals and commencement.**

(1) This Act may be cited as the Civil Evidence Act (Northern Ireland) 1971.

*Subs. (2) rep. by 1997 NI 21*

(3) *Commencement*



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