Civil Evidence Act (Northern Ireland) 1971

1971 CHAPTER 36

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 **[**[F1]of a service offence (anywhere)**]** 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 **[**[F2]of a service offence**]**—

(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.

(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[F3] of the Criminal Justice Act 1948 (which makes similar provision in respect of convictions on indictment in England and Wales); and

[[F4](bb) section 187 of the Armed Forces Act 2006 (which makes similar provision in respect of service convictions);**]**

(c) section 9[F5] 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[F6] or section 2[F6] of the said Act of 1949 shall be treated as a conviction.

[[F7](7) In this section—

"service offence" has the same meaning as in the Armed Forces Act 2006;

"conviction" includes anything that under section 376(1) and (2) of that Act is to be treated as a conviction, and "convicted" is to be read accordingly.**]**

F1 Words in s. 7(1) substituted (28.3.2009 for specified purposes and otherwise 31.10.2009) by Armed Forces Act 2006 (c. 52), ss. 378(1), 383(2), **Sch. 16 para. 59(2)**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**

F2 Words in s. 7(2) substituted (28.3.2009 for specified purposes and otherwise 31.10.2009) by Armed Forces Act 2006 (c. 52), ss. 378(1), 383(2), **Sch. 16 para. 59(3)**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**

F3 1973 c.62

F4 S. 7(5)(bb) inserted (28.3.2009 for specified purposes and otherwise 31.10.2009) by Armed Forces Act 2006 (c. 52), ss. 378(1), 383(2), **Sch. 16 para. 59(4)**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**

F5 1975 c.21

F6 1975 c.21

F7 S. 7(7) substituted (28.3.2009 for specified purposes and otherwise 31.10.2009) for s. 7(6) by Armed Forces Act 2006 (c. 52), ss. 378(1), 383(2), **Sch. 16 para. 59(5)**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**

Modifications etc. (not altering text)

C1 S. 7 modified (24.4.2009 for specified purposes and otherwise 31.10.2009) by Armed Forces Act 2006 (Transitional Provisions etc) Order 2009 (S.I. 2009/1059), arts. 1(3), 205, **Sch. 1 para. 12(1)**

C2 S. 7(5)(bb) modified (24.4.2009 for specified purposes and otherwise 31.10.2009) by Armed Forces Act 2006 (Transitional Provisions etc) Order 2009 (S.I. 2009/1059), arts. 1(3), 205, **Sch. 1 para. 12(2)**

Status: *Point in time view as at 28/03/2009.*
Changes to legislation: *There are currently no known outstanding effects for the Civil Evidence Act (Northern Ireland) 1971. (See end of Document for details)*

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

[[F8](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**[**[F8] to have been found or adjudged**]** to be the father of a child as mentioned in subsection (1)(*b*)—

(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**[**[F8] 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**[**[F8] 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**[**[F9] 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;

[[F8]"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**[**[F9] "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.

F8 1995 NI 2
F9 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**[**[F10] 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,**[**[F10] 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**[**[F10] the plaintiff**]** is proved to have been convicted of an offence, 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**[**[F10] 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.

[[F10](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 **[**[F11](in the case of a service offence) a conviction (anywhere) of that service offence**]** .

(4) Section 7(4) to **[**[F12](7)**]** 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.

F10 1996 c.31
F11 Words in s. 9(3) substituted (28.3.2009 for specified purposes and otherwise 31.10.2009) by Armed Forces Act 2006 (c. 52), ss. 378(1), 383(2), **Sch. 16 para. 60(a)**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**
F12 Words in s. 9(4) substituted (28.3.2009 for specified purposes and otherwise 31.10.2009) by Armed Forces Act 2006 (c. 52), ss. 378(1), 383(2), **Sch. 16 para. 60(b)**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**

Modifications etc. (not altering text)

C3 S. 9 modified (24.4.2009 for specified purposes and otherwise 31.10.2009) by Armed Forces Act 2006 (Transitional Provisions etc) Order 2009 (S.I. 2009/1059), arts. 1(3), 205, **Sch. 1 para. 12(1)**

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There are currently no known outstanding effects for the Civil Evidence Act (Northern Ireland) 1971.