



# Civil Evidence Act (Northern Ireland) 1971

## 1971 CHAPTER 36

### PART II

#### MISCELLANEOUS AND GENERAL

##### PRIVILEGE

#### **10 Privilege against incrimination of self or spouse<sup>F1</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>F1</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.
- (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

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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 [<sup>F2</sup>spouse or civil partner] 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 [<sup>F3</sup>spouse or civil partner] 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.

**F1** 2004 c.33

**F2** Words in s. 10(3) substituted (13.1.2020) by [The Marriage \(Same-sex Couples\) and Civil Partnership \(Opposite-sex Couples\) \(Northern Ireland\) Regulations 2019 \(S.I. 2019/1514\)](#), regs. 1(2), **129(2)** (with regs. 6-9)

**F3** Words in s. 10(4) substituted (13.1.2020) by [The Marriage \(Same-sex Couples\) and Civil Partnership \(Opposite-sex Couples\) \(Northern Ireland\) Regulations 2019 \(S.I. 2019/1514\)](#), regs. 1(2), **129(2)** (with regs. 6-9)

#### **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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*S. 11 rep. by 1977 c. 37*

## 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>F4</sup> . . . any<sup>F4</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.

**Changes to legislation:**

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