



# Civil Evidence Act 1968

## 1968 CHAPTER 64

### PART II

#### MISCELLANEOUS AND GENERAL

##### *Convictions, etc. as evidence in civil proceedings*

#### **11 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) below) 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.
- (3) Nothing in this section shall prejudice the operation of section 13 of this Act 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.

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- (4) Where in any civil proceedings the contents of any document are admissible in evidence by virtue of subsection (2) above, 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 enactments, that is to say—
- (a) [<sup>F1</sup>section 13 of the <sup>M1</sup>Powers of Criminal Courts Act 1973] (under which a conviction leading to probation or discharge is to be disregarded except as therein mentioned);
  - (b) [<sup>F2</sup>section 191 of the <sup>M2</sup>Criminal Procedure (Scotland) Act 1975] (which makes similar provision in respect of convictions on indictment in Scotland); and
  - (c) section 8 of the <sup>M3</sup>Probation Act (Northern Ireland) 1950 (which corresponds to the said section 12) or any corresponding enactment of the Parliament of Northern Ireland for the time being in force,
- 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 [<sup>F2</sup>section 383 or section 384 of the said Act of 1975] shall be treated as a conviction.
- (6) In this section “court-martial ” means a court-martial constituted under the <sup>M4</sup>Army Act 1955, the <sup>M5</sup>Air Force Act 1955 or the <sup>M6</sup>Naval Discipline Act 1957 or a disciplinary court constituted under section 50 of the said Act of 1957, and in relation to a court-martial “conviction ”, as regards a court-martial constituted under either of the said Acts of 1955, means a finding of guilty which is, or falls to be treated as, a finding of the court duly confirmed and, as regards a court-martial or disciplinary court constituted under the said Act of 1957, means a finding of guilty which is, or falls to be treated as, the finding of the court, and “convicted ” shall be construed accordingly.

#### Textual Amendments

- F1** Words substituted by [Powers of Criminal Courts Act 1973 \(c. 62\), Sch. 5 para. 31](#)
- F2** Words substituted by virtue of [Interpretation Act 1889 \(c. 63\), s. 38\(1\)](#)

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

- C1** [S. 11](#) extended by [S.R. 1983/153, art. 18](#) and [S.I. 1983/887, art. 18](#)
- C2** [S. 11](#) extended by [Fair Trading Act 1973 \(c. 41\), s. 36\(1\)](#)

#### Marginal Citations

- M1** [1973 c. 62.](#)
- M2** [1975 c. 21.](#)
- M3** [1950 c. 7 \(N.I.\)](#)
- M4** [1955 c. 18.](#)
- M5** [1955 c. 19.](#)
- M6** [1957 c. 53.](#)

## 12 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

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[<sup>F3</sup>(b) the fact that a person has been found to be the father of a child in relevant proceedings before any court in 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) below) 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) above or [<sup>F4</sup>to have been found or adjudged] to be the father of a child as mentioned in subsection (1)(b) above—

(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>F4</sup>other proceedings] in question shall be admissible in evidence for that purpose.

(3) Nothing in this section shall prejudice the operation of any enactment whereby a finding of fact in any matrimonial or affiliation proceedings is for the purposes of any other proceedings made conclusive evidence of any fact.

(4) Subsection (4) of section 11 of this Act shall apply for the purposes of this section as if the reference to subsection (2) were a reference to subsection (2) of this section.

(5) In this section—

“matrimonial proceedings” means any matrimonial cause in the High Court or a county court in England and Wales or in the High Court in Northern Ireland, any consistorial action in Scotland, or any appeal arising out of any such cause or action; [<sup>F5</sup>]<sup>F6</sup> “relevant proceedings” means—

(a) proceedings on a complaint under section 42 of the National Assistance Act <sup>M7</sup>1948 or section 26 of the <sup>M8</sup>Social Security Act 1986;

(b) proceedings on an application for an order under any of the following, namely—

(i) section 6 of the <sup>M9</sup>Family Law Reform Act 1969;

(ii) the <sup>M10</sup>Guardianship of Minors Act 1971;

(iii) section 34(1)(a), (b) or (c) of the <sup>M11</sup>Children Act 1975;

[ section 47 of the <sup>M12</sup>Child Care Act 1980; and]

<sup>F7</sup>(iv)

[ paragraph 23 of Schedule 2 to the Children Act 1989.]

<sup>F7</sup>(iv)

(v) section 4 of the <sup>M13</sup>Family Law Reform Act 1987;

(c) proceedings on an application under section 35 of the said Act of 1975 for the revocation of a custodianship order;]<sup>F6</sup> “relevant proceedings” means—

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- (a) proceedings on a complaint under section 42 of the National Assistance Act 1948 or section 26 of the Social Security Act 1986;
- (b) proceedings under the Children Act 1989;
- (c) proceedings which would have been relevant proceedings for the purposes of this section in the form in which it was in force before the passing of the Children Act 1989.]]

“affiliation proceedings ” means, in relation to Scotland, any action of affiliation and aliment;

and in this subsection “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.

#### Textual Amendments

- F3** Words substituted by [Family Law Reform Act 1987 \(c. 42, SIF 49:7\)](#), ss. 29(1)(2), 33(2), Sch. 3 paras. 1, 6
- F4** Words substituted by [Family Law Reform Act 1987 \(c. 42, SIF 49:7\)](#), ss. 29(3), 33(2), Sch. 3 paras. 1, 6
- F5** Definition of “relevant proceedings ” inserted by [Family Law Reform Act 1987 \(c. 42, SIF 49:7\)](#), ss. 29(4), 33(2), Sch. 3 paras. 1, 6
- F6** Definition of “relevant proceedings ” ending “passing of the Children Act 1989. ” substituted (*prosp.*) for definition of “relevant proceedings ” ending “custodianship order; ” by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), ss. 116, 125(4), **Sch. 16 para. 2(1)**
- F7** Para. (iv) beginning “(iv) paragraph 23 ” substituted (*prosp.*) for para. (iv) beginning “(iv) section 47 ” by [Children Act 1989 \(c. 41, SIF 20\)](#), s. 108(2)(5), **Sch. 13 para. 24**

#### Marginal Citations

- M7** 1948 c.29 (81:3).
- M8** 1986 c.50 (113:1).
- M9** 1969 c.46 (49:7).
- M10** 1971 c.3 (49:2).
- M11** 1975 c.72 (49:9, 10).
- M12** 1980 c.5 (20).
- M13** 1987 c.42 (49:7).

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

- (1) In an action for libel or slander in which the question whether a person 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, that person 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 a person 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 that person 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.

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- (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) Subsections (4) to (6) of section 11 of this Act shall apply for the purposes of this section as they apply for the purposes of that section, but as if in the said subsection (4) the reference to subsection (2) 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.

### *Privilege*

#### **14 Privilege against incrimination of self or spouse.**

- (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 husband or wife 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 enactment 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) above shall apply to that right as it applies to the right described in that subsection; and every such existing enactment shall be construed accordingly.
- (3) In so far as any existing enactment 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 enactment 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 enactment (however worded) that—
  - (a) confers powers of inspection or investigation; or
  - (b) provides as mentioned in subsection (3) above,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.

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- (5) In this section “existing enactment ” means any enactment 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.

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

**C3** S. 14(1) extended by [Weights and Measures Act 1985 \(c. 72, SIF 31\)](#), **ss. 81(4), 96(1)** Sch. 11 para. 21(2)

**15** ..... **F8**

**Textual Amendments**

**F8** S. 15 repealed by [Patents Act 1977 \(c. 37\)](#), **Sch. 6**

**16 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 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 <sup>M14</sup> (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.
- (4) In section 43(1) of the Matrimonial Causes Act 1965 <sup>M15</sup> (under which the evidence of a husband or wife is admissable in any proceedings to prove that marital intercourse did or did not take place between them at any period, but a husband or wife is not compellable in any proceedings to give evidence of the matters aforesaid), the words from “but a husband or wife ” to the end of the subsection shall cease to have effect except in relation to criminal proceedings.
- (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 the proviso to section 3 of the <sup>M16</sup>Evidence Further Amendment Act 1869 and, in section 43(2) of the <sup>M17</sup>Matrimonial Causes Act 1965, the words from “but ” to the end of the subsection shall cease to have effect.

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

- C4** The text of s. 16(3)(4), 20(2) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Marginal Citations**

- M14** 1853 c. 83  
**M15** 1965 c. 72  
**M16** 1869 c. 68.  
**M17** 1965 c. 72.

**17 Consequential amendments relating to privilege.**

(1) In relation to England and Wales—

- (a) section 1(3) of the <sup>M18</sup>Tribunals of Inquiry (Evidence) Act 1921 (under which a witness before a tribunal to which that Act has been applied is entitled to the same privileges as if he were a witness before the High Court) shall have effect as if after the word “witness”, in the second place where it occurs, there were inserted the words “in civil proceedings”; and
- (b) section 8(5) of the <sup>M19</sup>Parliamentary Commissioner Act 1967 (which provides that, subject as there mentioned, no person shall be compelled for the purposes of an investigation under that Act to give evidence or produce any document which he could not be compelled to give or produce in proceedings before the High Court) shall have effect as if before the word “proceedings” there were inserted the word “civil”;

and so far as it applies to England and Wales, any other existing enactment, 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.

(2) ..... <sup>F9</sup>

(3) Without prejudice to the generality of subsections (2) to (4) of section 14 of this Act, the enactments mentioned in the Schedule to this Act 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) Subsection (5) of section 14 of this Act shall apply for the purposes of this section as it applies for the purposes of that section.

**Textual Amendments**

- F9** S. 17(2) repealed by [Evidence \(Proceedings in Other Jurisdictions\) Act 1975 \(c. 34\)](#), [Sch. 2](#)

**Marginal Citations**

- M18** 1921 c. 7.  
**M19** 1967 c. 13.

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*General*

**18 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 an enactment 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 an enactment 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 enactment, references to a person’s husband or wife do not include references to a person who is no longer married to that person.

(3) Any reference in this Act to any other enactment is a reference thereto as amended, and includes a reference thereto as applied, by or under any other enactment.

(4) Nothing in this Act shall prejudice the operation of any enactment 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.

(5) 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.

(6) 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.

19 ..... F10

**Textual Amendments**  
F10 S. 19 repealed by Northern Ireland Constitution Act 1973 (c. 36), Sch. 6 Pt. I



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## **20 Short title, repeals, extent and commencement.**

- (1) This Act may be cited as the Civil Evidence Act 1968.
- (2) Sections 1, 2, 6(1) (except the words from “‘Proceedings’ ” to “‘references’ ”) and 6(2) (b) of the Evidence Act 1938 <sup>M20</sup> are hereby repealed.
- (3) This Act shall not extend to Scotland or, . . . <sup>F11</sup> to Northern Ireland.
- (4) The following provisions of this Act, namely sections 13 to 19, this section (except subsection (2)) and the Schedule, shall come into force on the day this Act is passed, and the other provisions of this Act shall come into force on such day as the Lord Chancellor may by order made by statutory instrument appoint; and different days may be so appointed for different purposes of this Act or for the same purposes in relation to different courts or proceedings or otherwise in relation to different circumstances.

### **Textual Amendments**

**F11** Words repealed by [Northern Ireland Constitution Act 1973 \(c. 36\)](#), **Sch. 6 Pt. I**

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

- C5** The text of s. 16(3)(4), 20(2) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.
- C6** Power of appointment conferred by s. 20(4) partly exercised: [S.I. 1968/1734](#), 1969/1104 and 1970/18

### **Marginal Citations**

**M20** [1938 c. 28](#)

**Status:**

Point in time view as at 01/02/1991.

**Changes to legislation:**

There are currently no known outstanding effects for the Civil Evidence Act 1968, Part II.