



Civil Evidence Act 1968

1968 CHAPTER 64

PART II

MISCELLANEOUS AND GENERAL

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.

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- (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.
- (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)

C1 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 F1

Textual Amendments

F1 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 ^{M1} (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 ^{M2} (under which the evidence of a husband or wife is admissible 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

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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 ^{M3}Evidence Further Amendment Act 1869 and, in section 43(2) of the ^{M4}Matrimonial Causes Act 1965, the words from “but ” to the end of the subsection shall cease to have effect.

Modifications etc. (not altering text)

- C2** 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

- M1** 1853 c. 83
M2 1965 c. 72
M3 1869 c. 68.
M4 1965 c. 72.

17 Consequential amendments relating to privilege.

- (1) In relation to England and Wales—
- (a) section 1(3) of the ^{M5}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 ^{M6}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) ^{F2}

- (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).

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- (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

F2 S. 17(2) repealed by [Evidence \(Proceedings in Other Jurisdictions\) Act 1975 \(c. 34\), Sch. 2](#)

Marginal Citations

M5 1921 c. 7.

M6 1967 c. 13.

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