



# Law Reform (Miscellaneous Provisions) (Scotland) Act 1968

## 1968 CHAPTER 70

### PART I

#### SUCCESSION, CONSTRUCTION OF DEEDS, ETC., IN CASES OF ILLEGITIMACY

1—6. ....<sup>F1</sup>

#### Textual Amendments

**F1** Ss. 1–6 repealed by Law Reform (Parent and Child) (Scotland) Act 1986 (c. 9, SIF 49:8), s. 10(2), Sch. 2

#### *Protection of trustees and executors*

**F2** **Protection of trustees and executors.**

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#### Textual Amendments

**F2** S. 7 repealed (1.11.2016) by Succession (Scotland) Act 2016 (asp 7), s. 31(2), sch. para. 2; S.S.I. 2016/210, reg. 2(1)(b) (with reg. 3(5))

*Changes to legislation: There are currently no known outstanding effects for the Law Reform (Miscellaneous Provisions) (Scotland) Act 1968. (See end of Document for details)*

**PART II**

APPLICATION OF SUCCESSION (SCOTLAND) ACT 1964 TO TENANCIES OF CROFTS

**8 Application of Succession (Scotland) Act 1964 to tenancies of crofts.**

The provisions of the <sup>M1</sup>Succession (Scotland) Act 1964 shall—

- (a) apply to the tenancy of any croft within the meaning of section 3(1) of the <sup>M2</sup>Crofters (Scotland) Act 1955, and
- (b) have effect in relation to the succession to, and devolution of, any such tenancy,

as if the said Act of 1964 had come into operation at the commencement of this Act ; and accordingly, in relation to the estate of any person dying after such commencement—

- (i) the enactments mentioned in Part I of Schedule 2 to this Act shall have effect subject to the modifications specified in relation thereto in the said Part I, and
- (ii) sections 11 and 14 of the said Act of 1955, section 6 of the <sup>M3</sup>Crofters (Scotland) Act 1961 and section 16 of the said Act of 1964, as so modified, shall have effect as set out in Part II of the said Schedule.

**Marginal Citations**

**M1** 1964 c. 41.  
**M2** 1955 c. 21.  
**M3** 1961 c. 58.

**PART III**

AMENDMENT OF THE LAW OF EVIDENCE IN CIVIL PROCEEDINGS

**9** ..... <sup>F3</sup>

**Textual Amendments**

**F3** S. 9 repealed by [Civil Evidence \(Scotland\) Act 1988 \(c. 32, SIF 47\)](#), s. 10(1)(3), [Sch.](#)

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

**10 Convictions as evidence in civil proceedings.**

- (1) If any civil proceedings the fact that a person has been convicted of an offence by or before any court in the United Kingdom or [<sup>F4</sup>of a service offence (anywhere)] shall (subject to subsection (3) of this section) 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.

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- (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 [<sup>F5</sup>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 purposes of identifying the facts which constituted that offence, the contents of any document which is admissible as evidence of the conviction, and the contents of the complaint, information, 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 affect the operation of section 12 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.
- (4) Where in any civil proceedings the contents of any document are admissible in evidence by virtue of subsection (2) of this section, 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>F6</sup>section 82 of the Sentencing Code] (under which a conviction leading to probation or discharge is to be disregarded except as therein mentioned) ;
  - [<sup>F7</sup>(aa) section 187 of the Armed Forces Act 2006 (which makes similar provision in respect of service convictions);]
  - (b) [<sup>F8</sup>section 191 of the <sup>M4</sup>Criminal Procedure (Scotland) Act 1975] (which makes similar provision in respect of convictions on indictment in Scotland) ;
  - (c) section 8 of the <sup>M5</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 under [<sup>F8</sup>section 383 of the said Act of 1975] shall be treated as a conviction.

[<sup>F9</sup>(6) 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.]

#### Textual Amendments

- F4** Words in s. 10(1) substituted (31.10.2009) by [The Armed Forces Act 2006 \(Consequential Amendments\) Order 2009 \(S.I. 2009/2054\)](#), art. 2, [Sch. 1 para. 6\(2\)](#)
- F5** Words in s. 10(2) substituted (31.10.2009) by [The Armed Forces Act 2006 \(Consequential Amendments\) Order 2009 \(S.I. 2009/2054\)](#), art. 2, [Sch. 1 para. 6\(3\)](#)
- F6** Words in s. 10(5)(a) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 22](#) (with [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2
- F7** S. 10(5)(aa) inserted (31.10.2009) by [The Armed Forces Act 2006 \(Consequential Amendments\) Order 2009 \(S.I. 2009/2054\)](#), art. 2, [Sch. 1 para. 6\(4\)](#)

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- F8** Words substituted by virtue of Interpretation Act 1889 (c. 63), s. 38(1)  
**F9** S. 10(6) substituted (31.10.2009) by The Armed Forces Act 2006 (Consequential Amendments) Order 2009 (S.I. 2009/2054), art. 2, Sch. 1 para. 6(5) (with Sch. 2 para. 2)

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

- C1** S. 10 extended by Fair Trading Act 1973 (c. 41), s. 36(1)  
**C2** S. 10 extended by S.R. 1983/153, art. 18 and S.I. 1983/887, art. 18  
**C3** S. 10 explained (1.4.1996) by 1995 c. 43, s. 46(13)  
**C4** S. 10 extended (31.3.1996) by 1995 c. 20, s. 112(13) (which s. 112 was repealed (1.4.1996) by 1995 c. 40, ss. 4, 6(1), Sch. 3 Pt. II para. 16(3), Sch. 5)  
 S. 10 extended (20.6.2003) by 2002 c. 40, ss. 228(1)(b), 279; S.I. 2003/1397, art. 2, Sch.

**Marginal Citations**

- M4** 1975 c. 21.  
**M5** 1950 c. 7 (N.I.).

**11 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, . . . <sup>F10</sup>
  - (b) . . . . . <sup>F10</sup>
- shall (subject to subsection (3) of this section) 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 . . . <sup>F11</sup>, whether or not he offered any defence to the allegation of adultery . . . <sup>F11</sup> and whether or not he is a party to the civil proceedings ; but no finding other than a subsisting one shall be admissible in evidence by virtue of this section.
- (2) If 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) of this section . . . <sup>F11</sup>—
- (a) he shall be taken to have committed the adultery to which the finding relates . . . <sup>F11</sup>, 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 was based, the contents of any document which was before the court, or which contains any pronouncement of the court, in the matrimonial . . . <sup>F11</sup> proceedings in question shall be admissible in evidence for that purpose.
- (3) Nothing in this section shall affect the operation of any enactment whereby a finding of fact in any matrimonial . . . <sup>F11</sup> proceedings is for the purposes of any other proceedings made conclusive evidence of any fact.
- (4) Nothing in this section shall entitle the Court of Session to pronounce a decree of divorce without [<sup>F12</sup>receiving evidence from the pursuer].
- (5) Subsection (4) of section 10 of this Act shall apply for the purposes of this section as if the reference therein to subsection (2) were a reference to subsection (2) of this section.
- (6) In this section—
- (a) “matrimonial proceedings” means any consistorial action, any matrimonial cause in the High Court or a county court in England and Wales or in the

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High Court in Northern Ireland, or any appeal arising out of any such action or cause, and

(b) ..... <sup>F13</sup>

**Textual Amendments**

**F10** S. 11(1)(b) and word “and” immediately preceding it repealed by Law Reform (Parent and Child) (Scotland) Act 1986 (c. 9, SIF 49:8), ss. 9, 10(2), **Sch. 2**

**F11** Words repealed by Law Reform (Parent and Child) (Scotland) Act 1986 (c. 9, SIF 49:8), ss. 9, 10(2), **Sch. 2**

**F12** Words substituted by Divorce (Scotland) Act 1976 (c. 39), **Sch. 1 para. 4**

**F13** S. 11(6)(b) repealed by Law Reform (Parent and Child) (Scotland) Act 1986 (c. 9, SIF 49:8), ss. 9, 10(2), **Sch. 2**

**12 Conclusiveness of convictions for purposes of defamation actions.**

(1) In an action for defamation in which the question whether [<sup>F14</sup>the pursuer] 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>F14</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>F14</sup>the pursuer] 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 complaint, information, indictment or charge-sheet on which [<sup>F14</sup>he] was convicted, shall, without prejudice to the reception of any other admissible evidence for the purpose of identifying the facts which constituted that offence, be admissible in evidence for the purpose of identifying those facts.

[<sup>F15</sup>(2A) In the case of an action for defamation in which there is more than one pursuer—

(a) the references in subsections (1) and (2) above to the pursuer shall be construed as references to any of the pursuers, and

(b) proof that any of the pursuers 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 pursuer.]

(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 [<sup>F16</sup>(in the case of a service offence) a conviction (anywhere) of that service offence].

(4) Subsections (4) to (6) of section 10 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 section (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 coming into operation of this section, whenever the cause of action arose, but shall not apply for the purposes of any action begun before such commencement or any appeal or other proceedings arising out of any such action.

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**Textual Amendments**

**F14** Words in S. 12(1)(2) substituted (4.9.1996) by 1996 c. 31, **ss. 12(2)**, 19 (with s. 20(2))

**F15** S. 12(2A) inserted (4.9.1996) by 1996 c. 31, **ss. 12(2)**, 19 (with s. 20(2))

**F16** Words in s. 12(3) substituted (31.10.2009) by The Armed Forces Act 2006 (Consequential Amendments) Order 2009 (S.I. 2009/2054), art. 2, **Sch. 1 para. 6(6)**

13— ..... <sup>F17</sup>  
16.

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**Textual Amendments**

**F17** Ss. 13–16 repealed by Civil Evidence (Scotland) Act 1988 (c. 32, SIF 47), s. 10(1)(3), **Sch.**

*General*

**17 Interpretation of Part III, saving, etc.**

- (1) In this Part of 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, except proceedings in relation to which the strict rules of evidence do not apply, and
  - (b) an arbitration, whether under an enactment or not,
 and “court” shall be construed accordingly.

- (2) In this Part of this Act “consistorial action” does not include an action of ailment only between husband and wife raised in the Court of Session or an action of interim aliment raised in the sheriff court.

- (3) In this Part of this Act—

... <sup>F18</sup>

“document” includes, in addition to a document in writing—

- (a) any map, plan, graph or drawing ;
- (b) any photograph ;
- (c) any disc, tape, sound track or other device in which sounds or other data (not being visual images) are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced therefrom ; and
- (d) any film, negative, tape or other device in which one or more visual images are embodied so as to be capable (as aforesaid) of being reproduced therefrom ;

“film” includes a microfilm ;

“statement” includes any representation of fact, whether made in words or otherwise.

- (4) In this Part of this Act any reference to a copy of a document includes—

- (a) in the case of a document falling within paragraph (c) but not (d) of the definition of “document” in subsection (3) of this section, a transcript of the sounds or other data embodied therein ;

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*Changes to legislation: There are currently no known outstanding effects for the Law Reform (Miscellaneous Provisions) (Scotland) Act 1968. (See end of Document for details)*

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- (b) in the case of a document falling within paragraph (d) but not (c) of that definition, a reproduction or still reproduction of the image or images embodied therein, whether enlarged or not ;
  - (c) in the case of a document falling within both those paragraphs, such a transcript together with such a still reproduction ; and
  - (d) in the case of a document not falling within the said paragraph (d) of which a visual image is embodied in a document falling within that paragraph, a reproduction of that image, whether enlarged or not ;
- and any reference to a copy of the material part of a document shall be construed accordingly.
- (5) The clerk of any court having custody of any document shall, on the application of any person who wishes to rely, by virtue of section 10(2), section 11(2) or section 12(2) of this Act or any corresponding provision for the time being in force in any part of the United Kingdom outside Scotland, on the contents of that document in proceedings which he proposes to raise, or which are pending, in any court in the United Kingdom, and on payment by that person of such fee as may be prescribed by act of adjournal or act of sederunt, as the case may be, made with the approval of the Treasury, issue to that person a copy of that document, or of the material part thereof, certified or otherwise authenticated by or on behalf of the court.
- (6) Nothing in this Part of this Act shall prejudice the operation of any agreement (whenever made) between the parties to any proceedings as to the evidence which is to be admissible (whether generally or for any particular purpose) in those proceedings.

#### Textual Amendments

**F18** Definition repealed by [Civil Evidence \(Scotland\) Act 1988 \(c. 32, SIF 47\)](#), s. 10(1)(3), [Sch.](#)

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

- C5** [S. 17\(4\)](#) applied by [1988 c. 52, s. 46B\(4\)](#) (as inserted (11.4.2003) by [1999 c. 12, ss. 4, 9\(2\)](#); S.I. 2003/1095, [art. 2](#))
- C6** [S. 17\(4\)](#) applied by [Finance Act 1988 \(c. 39, SIF 63:1\)](#), [s. 127\(5\)\(a\)](#)
- C7** [S. 17\(4\)](#) applied (1.9.1994) by [1994 c. 22, s. 52\(4\)\(b\)\(5\)](#) (with [s. 57\(4\)](#))
- C8** [S. 17\(4\)](#) applied by [1969 c. 27, s. 27\(4\)\(b\)](#) (as substituted (31.1.1997) by [1995 c. 38, s. 15\(1\)](#), [Sch. 1 para. 5\(3\)](#) (with [ss. 1\(3\), 6\(4\)\(5\), 14](#)); S.I. 1996/3217, [art. 2](#))
- C9** [S. 17\(4\)](#) applied by [1994 c. 22, s. 52\(4\)](#) (as substituted (31.1.1997) by [1995 c. 38, s. 15\(1\)](#), [Sch. 1 para. 19](#) (with [ss. 1\(3\), 6\(4\)\(5\), 14](#)); S.I. 1996/3217, [art. 2](#))

## PART IV

### MISCELLANEOUS AMENDMENTS OF LAW

#### 18 Restriction on duration of liferents.

- (1) Where by any deed executed after the commencement of this Act there is created a liferent interest in any property and a person who was not living or in utero at the date of the coming into operation of the said deed becomes entitled to that interest, then—
- (a) if that person is of full age at the date on which he becomes entitled to the liferent interest, as from that date, or

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- (b) if that person is not of full age at that date, as from the date on which, being still entitled to the liferent interest, he becomes of full age, the said property shall, subject to subsection (2) of this section, belong absolutely to that person, and, if the property is vested in trustees, those trustees shall, subject as aforesaid, be bound to convey, deliver or make over the property to that person.
- (2) The fact that, by virtue of subsection (1) of this section, any property has come to belong absolutely to any person shall not affect—
- (a) the rights in the property of any person holding a security over the property ;
  - (b) any rights in the property created independently of the deed by which the liferent interest in question was created ;
  - (c) <sup>F19</sup> .....
- (3) The expenses of the conveyance, delivery or making over of any property to any person in pursuance of subsection (1) of this section shall be borne by that person.
- (4) Section 48 of the <sup>M6</sup>Entail Amendment Act 1848 and section 9 of the <sup>M7</sup>Trusts (Scotland) Act 1921 shall not have effect in relation to any deed executed after the commencement of this Act.
- (5) For the purposes of this section—
- (a) the date of the coming into operation of any testamentary or other mortis causa deed shall, subject to paragraph (c) below, be taken to be the date of the death of the granter thereof ;
  - (b) the date of the coming into operation of any marriage contract shall, subject as aforesaid, be taken to be the date of the dissolution of the marriage ;
  - (c) the date of the execution, or of the coming into operation, of any deed made in the exercise of a special power of appointment shall be taken to be the date of the execution, or as the case may be of the coming into operation, of the deed creating that power.

#### Textual Amendments

**F19** S. 18(2)(c) repealed (28.11.2004) by 2000 asp 5, ss. 76(2), 77(2), Sch. 13 Pt. 1 (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

#### Marginal Citations

**M6** 1848 c. 36.

**M7** 1921 c. 58.

## 19 Amendment of s. 15(1) of Succession (Scotland) Act 1964.

Section 15(1) of the <sup>M8</sup>Succession (Scotland) Act 1964 (which makes provision for the use of a confirmation of an executor as a link in title to heritable property) shall have effect, and be deemed always to have had effect, as if after the words “Provided that a confirmation” there were inserted the words “ (other than an implied confirmation within the meaning of the said section 5(2)) ”.



*Changes to legislation: There are currently no known outstanding effects for the Law Reform (Miscellaneous Provisions) (Scotland) Act 1968. (See end of Document for details)*

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

**C10** The text of ss. 19–21 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**

**M8** 1964 c. 41.

**20 Agreement to prorogate jurisdiction of particular sheriff court in certain moneylenders' contracts to be void.**

Section 4 of the <sup>M9</sup>Law Reform (Miscellaneous Provisions) (Scotland) Act 1940 (which makes void any provision or agreement in or in relation to a contract to which that section applies, whereby any party to such contract prorogates the jurisdiction of a particular sheriff court) shall have effect as if at the end of subsection (2) thereof (wherein are specified the contracts to which the section applies) there were added the following words:—

“and

- (c) any contract entered into by a moneylender within the meaning of the Moneylenders Acts 1900 to 1927 in the course of his business as a moneylender, being a contract which contains an agreement with respect to the advance or repayment of money, or in respect of money lent, or as to the taking or release of any security in respect of money lent.”.

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

**C11** The text of ss. 19–21 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**

**M9** 1940 c. 42.

**21 Removal of restriction on purchase etc., of land by trade unions.**

Section 7 of the <sup>M10</sup>Trade Union Act 1871 (which empowers trade unions to purchase or take upon lease, and to deal otherwise with, land not exceeding one acre in extent) shall have effect as if the words “not exceeding one acre” were omitted.

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

**C12** The text of ss. 19–21 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**

**M10** 1871 c. 31.

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## PART V

### SUPPLEMENTARY

#### 22 Short title, interpretation, repeals, extent and commencement.

(1) This Act may be cited as the Law Reform (Miscellaneous Provisions) (Scotland) Act 1968.

(2) In this Act—

- (a) “enactment” includes any instrument having effect by virtue of an Act ;
- (b) any reference to any enactment shall be construed as a reference to that enactment as amended, and as including a reference thereto as extended or applied, by or under any other enactment including, unless the context otherwise requires, this Act.

(3) The enactments mentioned in Schedule 3 to this Act are hereby repealed to the extent specified in relation thereto in column 3 of that Schedule :

Provided that no repeal effected by this subsection in any of the provisions of the <sup>M11</sup>Crofters (Scotland) Act 1955 or the <sup>M12</sup>Succession (Scotland) Act 1964 shall have effect in relation to the estate of any person dying before the commencement of this Act.

(4) This Act shall extend to Scotland only.

(5) This Act (except sections 10 to 15 thereof) shall come into operation on the expiry of a period of one month beginning with the date on which it is passed ; and sections 10 to 15 of this Act shall come into operation on such date as the Secretary of State may appoint by an order made by statutory instrument, and different days may be appointed under this section for different purposes.

Any reference in this Act or in any other enactment to the commencement of this Act shall be construed as a reference to the date on which this Act (except sections 10 to 15 thereof) comes into operation.

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

**C13** Power of appointment conferred by s. 22(5) fully exercised: [S.I. 1968/1958](#), 1969/1609

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#### **Marginal Citations**

**M11** [1955 c. 21](#).

**M12** [1964 c. 41](#).

**Changes to legislation:**

There are currently no known outstanding effects for the Law Reform (Miscellaneous Provisions) (Scotland) Act 1968.