Civil Evidence Act 1972

1972 CHAPTER 30

An Act to make, for civil proceedings in England and Wales, provision as to the admissibility in evidence of statements of opinion and the reception of expert evidence; and to facilitate proof in such proceedings of any law other than that of England and Wales. [12th June 1972]

Modifications etc. (not altering text)

C1 Act applied (1.3.1994) by S.I. 1994/288, **rule 16**

1 [F1] . . . . . .

Textual Amendments

F1 S. 1 repealed (31.1.1997) by 1995 c. 38 s. 15(2), Sch. 2 (with ss. 1(3),6(4)(5),14); S.I. 1996/3217, **art. 2**

2 Rules of court with respect to expert reports and oral expert evidence.

[F2](1) . . . . . .

[F2](2) . . . . . .

(3) Notwithstanding any enactment or rule of law by virtue of which documents prepared for the purpose of pending or contemplated civil proceedings or in connection with the obtaining or giving of legal advice are in certain circumstances privileged from disclosure provision may be made by rules of court—

(a) for enabling the court in any civil proceedings to direct, with respect to medical matters or matters of any other class which may be specified in the direction, that the parties or some of them shall each by such date as may be so specified (or such later date as may be permitted or agreed in accordance with the rules) disclose to the other or others in the form of one or more

expert reports the expert evidence on matters of that class which he proposes to adduce as part of his case at the trial; and

(b) for prohibiting a party who fails to comply with a direction given in any such proceedings under rules of court made by virtue of paragraph (a) above from adducing in evidence [F3]. . . ,except with the leave of the court, any statement (whether of fact or opinion) contained in any expert report whatsoever in so far as that statement deals with matters of any class specified in the direction.

(4) Provision may be made by rules of court as to the conditions subject to which oral expert evidence may be given in civil proceedings.

(5) Without prejudice to the generality of subsection (4) above, rules of court made in pursuance of that subsection may make provision for prohibiting a party who fails to comply with a direction given as mentioned in subsection (3)(b) above from adducing, except with the leave of the court, any oral expert evidence whatsoever with respect to matters of any class specified in the direction.

(6) Any rules of court made in pursuance of this section may make different provision for different classes of cases, for expert reports dealing with matters of different classes, and for other different circumstances.

(7) References in this section to an expert report are references to a written report by a person dealing wholly or mainly with matters on which he is (or would if living be) qualified to give expert evidence.

(8) [F4]. . . . . .

Textual Amendments

F2 S. 2(1)(2) repealed (31.1.1997) by 1995 c. 38 s. 15(2), Sch.2 (with ss. 1(3), 6(4)(5), 14); S.I. 1996/3217, **art. 2**

F3 Words in s. 2(3)(b) repealed (31.1.1997) by 1995 c. 38, s. 15(2), **Sch. 2** (with ss. 1(3), 6(4)(5), 14); S.I. 1996/3217, **art. 2**

F4 S. 2(8) repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1)(3), 110, Sch. 8 para. 165, **Sch. 10**; S.I. 2005/910, **art. 3(y)(aa)(bb)**

3 Admissibility of expert opinion and certain expressions of non-expert opinion.

(1) Subject to any rules of court made in pursuance of [F5]. . . this Act, where a person is called as a witness in any civil proceedings, his opinion on any relevant matter on which he is qualified to give expert evidence shall be admissible in evidence.

(2) It is hereby declared that where a person is called as a witness in any civil proceedings, a statement of opinion by him on any relevant matter on which he is not qualified to give expert evidence, if made as a way of conveying relevant facts personally perceived by him, is admissible as evidence of what he perceived.

(3) In this section “relevant matter” includes an issue in the proceedings in question.

Textual Amendments

F5 Words in S. 3(1) repealed (31.1.1997) by 1995 c. 38, s. 15(2), **Sch. 2** (with ss. 1(3), 6(4)(5), 14); S.I 1996/3217 art. 2

4 Evidence of foreign law.

(1) It is hereby declared that in civil proceedings a person who is suitably qualified to do so on account of his knowledge or experience is competent to give expert evidence as to the law of any country or territory outside the United Kingdom, or of any part of the United Kingdom other than England and Wales, irrespective of whether he has acted or is entitled to act as a legal practitioner there.

(2) Where any question as to the law of any country or territory outside the United Kingdom, or of any part of the United Kingdom other than England and Wales, with respect to any matter has been determined (whether before or after the passing of this Act) in any such proceedings as are mentioned in subsection (4) below, then in any civil proceedings (not being proceedings before a court which can take judicial notice of the law of that country, territory or part with respect to that matter)—

(a) any finding made or decision given on that question in the first-mentioned proceedings shall, if reported or recorded in citable form, be admissible in evidence for the purpose of proving the law of that country, territory or part with respect to that matter; and

(b) if that finding or decision, as so reported or recorded, is adduced for that purpose, the law of that country, territory or part with respect to that matter shall be taken to be in accordance with that finding or decision unless the contrary is proved:

Provided that paragraph (b) above shall not apply in the case of a finding or decision which conflicts with another finding or decision on the same question adduced by virtue of this subsection in the same proceedings.

(3) Except with the leave of the court, a party to any civil proceedings shall not be permitted to adduce any such finding or decision as is mentioned in subsection (2) above by virtue of that subsection unless he has in accordance with rules of court given to every other party to the proceedings notice that he intends to do so.

(4) The proceedings referred to in subsection (2) above are the following, whether civil or criminal, namely—

(a) proceedings at first instance in any of the following courts, namely the High Court, the Crown Court, a court of quarter sessions, the Court of Chancery of the county palatine of Lancaster and the Court of Chancery of the county palatine of Durham;

(b) appeals arising out of any such proceedings as are mentioned in paragraph (a) above;

(c) proceedings before the Judicial Committee of the Privy Council on appeal (whether to Her Majesty in Council or to the Judicial Committee as such) from any decision of any court outside the United Kingdom.

(5) For the purposes of this section a finding or decision on any such question as is mentioned in subsection (2) above shall be taken to be reported or recorded in citable form if, but only if, it is reported or recorded in writing in a report, transcript or other document which, if that question had been a question as to the law of England and Wales, could be cited as an authority in legal proceedings in England and Wales.

5 Interpretation, application to arbitrations etc. and savings.

[[F6](1) In this Act "civil proceedings" means civil proceedings, before any tribunal, in relation to which the strict rules of evidence apply, whether as a matter of law or by agreement of the parties; and references to "the court" shall be construed accordingly.**]**

[[F7](2) The rules of court made for the purposes of the application of sections 2 and 4 of this Act to proceedings in the High Court apply, except in so far as their application is excluded by agreement, to proceedings before tribunals other than the ordinary courts of law, subject to such modifications as may be appropriate.

Any question arising as to what modifications are appropriate shall be determined, in default of agreement, by the tribunal.**]**

(3) Nothing in this Act shall prejudice—

(a) any power of a court, in any civil 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 civil proceedings as to the evidence which is to be admissible (whether generally or for any particular purpose) in those proceedings.

Textual Amendments

F6 S. 5(1) substituted (31.1.1997) by 1995 c. 38, s. 15(1), **Sch. 1 para. 7** (with ss. 1(3), 6(4)(5), 14); S.I. 1996/3217, **art. 2**

F7 S. 5(2) substituted (31.1.1997) by 1995 c. 38, s. 15(1), **Sch. 1 para. 7** (with ss. 1(3), 6(4)(5), 14); S.I. 1996/3217, **art. 2**

6 Short title, extent and commencement.

(1) This Act may be cited as the Civil Evidence Act 1972.

(2) This Act shall not extend to Scotland or Northern Ireland.

(3) This Act, except sections [F8]. . . 4(2) to (5), shall come into force on 1st January 1973, and sections [F8]. . . 4(2) to (5) 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 or for the same purposes in relation to different courts or proceedings or otherwise in relation to different circumstances.

Textual Amendments

F8 Words in s.6(3) repealed (31.1.1997) by 1995 c. 38, s. 15(2), **Sch. 2** (with ss. 1(3), 6(4)(5), 14); S.I. 1996/3217, **art. 2**

Modifications etc. (not altering text)

C2 Power of appointment conferred by s. 6(3) partly exercised: S.I. 1974/280, 1137

Changes to legislation:
There are currently no known outstanding effects for the Civil Evidence Act 1972.