



# Senior Courts Act 1981

## 1981 CHAPTER 54

### PART III **E+W+S**

#### PRACTICE AND PROCEDURE

#### THE HIGH COURT

#### *Other provisions*

#### 72 **Withdrawal of privilege against incrimination of self or spouse in certain proceedings.** **E+W**

- (1) In any proceedings to which this subsection applies a person shall not be excused, by reason that to do so would tend to expose that person, or his or her spouse [<sup>F1</sup>or civil partner], to proceedings for a related offence or for the recovery of a related penalty—
- (a) from answering any questions put to that person in the first-mentioned proceedings; or
  - (b) from complying with any order made in those proceedings.
- (2) Subsection (1) applies to the following civil proceedings in the High Court, namely—
- (a) proceedings for infringement of rights pertaining to any intellectual property or for passing off;
  - (b) proceedings brought to obtain disclosure of information relating to any infringement of such rights or to any passing off; and
  - (c) proceedings brought to prevent any apprehended infringement of such rights or any apprehended passing off.
- (3) Subject to subsection (4), no statement or admission made by a person—
- (a) in answering a question put to him in any proceedings to which subsection (1) applies; or
  - (b) in complying with any order made in any such proceedings,
- shall, in proceedings for any related offence or for the recovery of any related penalty, be admissible in evidence against that person or (unless they [<sup>F2</sup>married or became

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civil partners after the making of the statement or admission) against the spouse or civil partner] of that person.

(4) Nothing in subsection (3) shall render any statement or admission made by a person as there mentioned inadmissible in evidence against that person in proceedings for perjury or contempt of court.

(5) In this section—

“intellectual property” means any patent, trade mark, copyright [<sup>F3</sup>, design right], registered design, technical or commercial information or other intellectual property;

“related offence”, in relation to any proceedings to which subsection (1) applies, means—

(a) in the case of proceedings within subsection (2)(a) or (b)—

(i) any offence committed by or in the course of the infringement or passing off to which those proceedings relate; or

(ii) any offence not within sub-paragraph (i) committed in connection with that infringement or passing off, being an offence involving fraud or dishonesty;

(b) in the case of proceedings within subsection (2)(c), any offence revealed by the facts on which the plaintiff relies in those proceedings;

“related penalty”, in relation to any proceedings to which subsection (1) applies means—

(a) in the case of proceedings within subsection (2)(a) or (b), any penalty incurred in respect of anything done or omitted in connection with the infringement or passing off to which those proceedings relate;

(b) in the case of proceedings within subsection (2)(c), any penalty incurred in respect of any act or omission revealed by the facts on which the plaintiff relies in those proceedings.

(6) Any reference in this section to civil proceedings in the High Court of any description includes a reference to proceedings on appeal arising out of civil proceedings in the High Court of that description.

#### Textual Amendments

**F1** Words in s. 72(1) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), ss. 261(1), 263, **Sch. 27 para. 69(2)**; S.I. 2005/3175, **art. 2(2)** (subject to art. 2(3)-(5))

**F2** Words in s. 72(3) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), ss. 261(1), 263, **Sch. 27 para. 69(3)**; S.I. 2005/3175, **art. 2(2)** (subject to art. 2(3)-(5))

**F3** Words inserted by [Copyright, Designs and Patents Act 1988 \(c. 48, SIF 67A\)](#), s. 303(1), **Sch. 7 para. 28(1)(2)**

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

**C1** S. 72 extended by [Cable and Broadcasting Act 1984 \(c. 46, SIF 96\)](#), s. 54(6) ([Cable and Broadcasting Act 1984 \(c. 46\)](#) is repealed by [Broadcasting Act 1990 \(c. 42, SIF 96\)](#), ss. 4(6), 87(6), 134, 203(3) (4), **Sch. 12 Pt. II para. 1**, **Sch. 21**, **Sch. 22 para. 4**, the repeal being in force 1.1.1991 subject to the provisions of art. 3 of S.I. 1990/2347)

S. 72(5) amended (31.10.1994) by 1994 c. 26, s. 106(1), **Sch. 4 para. 1(2)**; S.I. 1994/2550, **art.2**

**C2** S. 72 extended by [Copyright, Designs and Patents Act 1988 \(c. 48, SIF 67A\)](#), ss. 296(6)(b), 298(4)

**C3** S. 72 applied (28.5.2000) by 1988 c. 48, s. 298(4) (as substituted (28.5.2000) by S.I. 2000/1175, **reg. 2(3)**)

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- C4** S. 72 applied (31.10.2003) by 1988 c. 48, ss. 296(7), 296ZA(5), 296ZD(6) (as inserted by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 24(1)** (with regs. 31-40))
- C5** S. 72 applied (31.10.2003) by 1988 (c. 48), s. 296ZG (as inserted by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 25** (with regs. 31-40))
- C6** Definition of “intellectual property” extended by Patents, Designs and Marks Act 1986 (c. 39, SIF 67A), s. 2(3), **Sch. 2 Pt I para. 1(2)(h)**

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 31(3)(a) word inserted by [2015 c. 2 s. 85\(1\)\(a\)](#)
- s. 31(3)(a) word inserted by [2015 c. 2 s. 85\(1\)\(a\)](#)
- s. 31(3)(b) and word inserted by [2015 c. 2 s. 85\(1\)\(b\)](#)
- s. 31(3)(b) and word inserted by [2015 c. 2 s. 85\(1\)\(b\)](#)
- s. 31(3A)(3B) inserted by [2015 c. 2 s. 85\(2\)](#)
- s. 31(3A)(3B) inserted by [2015 c. 2 s. 85\(2\)](#)