



# Evidence Act 1851

1851 CHAPTER 99 14 and 15 Vict

**E+W+N.I.**

An Act to amend the Law of Evidence.

[7th August 1851]

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

- C1 Short title given by [Short Titles Act 1896 \(c. 14\)](#)
- C2 Preamble omitted under authority of [Statute Law Revision Act 1892 \(c. 19\)](#)

1 .....<sup>F1</sup> **E+W+N.I.**

**Textual Amendments**

- F1 [Ss. 1, 12 and 20](#) repealed by [Statute Law Revision Act 1875 \(c. 66\)](#)

**2 Parties to be admissible witnesses.** **E+W+N.I.**

On the trial of any issue joined, or of any matter or question, or on any inquiry arising in any suit, action, or other proceeding in any court of justice, or before any person having by law, or by consent of parties, authority to hear, receive, and examine evidence, the parties thereto, and the persons in whose behalf any such suit, action, or other proceeding may be brought or defended, shall, except as herein-after excepted, be competent and compellable to give evidence, either viva voce or by deposition, according to the practice of the court, on behalf of either or any of the parties to the said suit, action, or other proceeding.

**3 Nothing herein to compel persons charged with criminal offence to give evidence tending to criminate himself, &c.** **E+W+N.I.**

But nothing herein contained shall render any person who in any criminal proceeding is charged with the commission of any indictable offence, or any offence punishable

*Changes to legislation: There are currently no known outstanding effects for the Evidence Act 1851. (See end of Document for details)*

on summary conviction, competent or compellable to give evidence for or against himself or herself, or shall render any person compellable to answer any question tending to criminate himself or herself, or shall in any criminal proceeding render any husband competent or compellable to give evidence for or against his wife, or any wife competent or compellable to give evidence for or against her husband.

4 .....<sup>F2</sup> **E+W+N.I.**

**Textual Amendments**  
**F2** S. 4 repealed by Evidence Further Amendment Act 1869 (c. 68), s. 1

5 **Nothing to repeal any provisions of 7 Will. 4 & 1 Vict. c. 26.** **E+W+N.I.**

Nothing herein contained shall repeal any provision contained in the<sup>M1</sup>Wills Act 1837.

**Marginal Citations**  
**M1** 1837 c. 26.

6 .....<sup>F3</sup> **E+W+N.I.**

**Textual Amendments**  
**F3** S. 6 repealed (N.I.) by Judicature (Northern Ireland) Act 1978 (c. 23), ss. 122(2), 123(2), Sch. 7 Pt. 1 and repealed (E.W.) by Supreme Court Act 1981 (c. 54, SIF 37), s. 152(4), Sch. 7

7 **Foreign and colonial acts of state, judgments, &c. provable by certified copies, without proof of seal or signature or judicial character of person signing the same.** **E+W+N.I.**

All proclamations, treaties, and other acts of state of any foreign state or of any British colony, and all judgments, decrees, orders, and other judicial proceedings of any court of justice in any foreign state or in any British colony, and all affidavits, pleadings, and other legal documents filed or deposited in any such court, may be proved in any court of justice, or before any person having by law or by consent of parties authority to hear, receive, and examine evidence, either by examined copies or by copies authenticated as herein-after mentioned; that is to say, if the document sought to be proved be a proclamation, treaty, or other act of state, the authenticated copy to be admissible in evidence must purport to be sealed with the seal of the foreign state or British colony to which the original document belongs; and if the document sought to be proved be a judgment, decree, order, or other judicial proceeding of any foreign or colonial court, or an affidavit, pleading, or other legal document filed or deposited in any such court, the authenticated copy to be admissible in evidence must purport either to be sealed with the seal of the foreign or colonial court to which the original document belongs, or, in the event of such court having no seal, to be signed by the judge, or, if there be more than one judge, by any one of the judges of the said court, and such judge shall attach to his signature a statement in writing on the said copy that the court whereof he

*Changes to legislation: There are currently no known outstanding effects for the Evidence Act 1851. (See end of Document for details)*

is a judge has no seal; but if any of the aforesaid authenticated copies shall purport to be sealed or signed as herein-before respectively directed, the same shall respectively be admitted in evidence in every case in which the original document could have been received in evidence, without any proof of the seal where a seal is necessary, or of the signature, or of the truth of the statement attached thereto, where such signature and statement are necessary, or of the judicial character of the person appearing to have made such signature and statement.

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

- C3 Power to extend s. 7 conferred by [Foreign Jurisdiction Act 1890 \(c. 37\)](#), s. 5, [Sch. 1](#)
- C4 [S. 7](#) extended by [S.I. 1980/701](#), art. 7, [Sch. para. 3\(1\)](#)

8 ..... F4 **E+W+N.I.**

**Textual Amendments**

- F4 [S. 8](#) repealed by [Statute Law \(Repeals\) Act 1989 \(c. 43\)](#), s. 1(1), [Sch. 1 Pt. V](#)

**9 Documents admissible without proof of seal, &c. in England or Wales equally admissible in Ireland. **E+W+N.I.****

Every document which by any law now in force or hereafter to be in force is or shall be admissible in evidence of any particular in any court of justice in England or Wales without proof of the seal or stamp or signature authenticating the same, or of the judicial or official character of the person appearing to have signed the same, shall be admitted in evidence to the same extent and for the same purposes in any court of justice in Ireland, or before any person having in Ireland by law or by consent of parties authority to hear, receive, and examine evidence, without proof of the seal or stamp or signature authenticating the same, or of the judicial or official character of the person appearing to have signed the same.

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

- C5 References to Ireland to be construed as exclusive of Republic of Ireland: [S.R. & O. 1923/405 \(Rev. X\)](#), p. 298: 1923, p. 400), art. 2

**10 Documents admissible without proof of seal, &c. in Ireland equally admissible in England and Wales. **E+W+N.I.****

Every document which by any law now in force or hereafter to be in force is or shall be admissible in evidence of any particular in any court of justice in Ireland without proof of the seal or stamp or signature authenticating the same, or of the judicial or official character of the person appearing to have signed the same, shall be admitted in evidence to the same extent and for the same purposes in any court of justice in England or Wales, or before any person having in England or Wales by law or by consent of parties authority to hear, receive, and examine evidence, without proof of the seal or stamp or signature authenticating the same, or of the judicial or official character of the person appearing to have signed the same.

*Changes to legislation: There are currently no known outstanding effects for the Evidence Act 1851. (See end of Document for details)*

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

- C6** References to Ireland to be construed as exclusive of Republic of Ireland: S.R. & O. 1923/405 (Rev. X, p. 298: 1923, p. 400), art. 2

**11 Documents admissible without proof of seal, &c. in England, Wales, or Ireland equally admissible in the colonies. E+W+N.I.**

Every document which by any law now in force or hereafter to be in force is or shall be admissible in evidence of any particular in any court of justice in England or Wales or Ireland without proof of the seal or stamp or signature authenticating the same, or of the judicial or official character of the person appearing to have signed the same, shall be admitted in evidence to the same extent and for the same purposes in any court of justice of any of the British colonies, or before any person having in any of such colonies by law or by consent of parties authority to hear, receive, and examine evidence, without proof of the seal or stamp or signature authenticating the same, or of the judicial or official character of the person appearing to have signed the same.

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

- C7** Power to extend s. 11 conferred by [Foreign Jurisdiction Act 1890 \(c. 37\)](#), s. 5, [Sch. 1](#)
- C8** References to Ireland to be construed as exclusive of Republic of Ireland: S.R. & O. 1923/405 (Rev. X, p. 298: 1923, p. 400), art. 2

**12** ..... <sup>F5</sup> E+W+N.I.

**Textual Amendments**

- F5** [Ss. 1, 12 and 20](#) repealed by [Statute Law Revision Act 1875 \(c. 66\)](#)

**[<sup>F6</sup>13 Where necessary to prove conviction or acquittal of person charged, not necessary to produce record, but may be certified under hand of clerk of court. E+W+N.I.**

- (1) . . . <sup>F7</sup> Whenever in any proceeding whatever it may be necessary to prove the trial and conviction or acquittal of any person charged with any indictable offence, it shall not be necessary to produce the record of the conviction or acquittal of such person, or a copy thereof; but it shall be sufficient that it be certified or purport to be certified [<sup>F8</sup>by the proper officer of the court where such conviction or acquittal took place] that the paper produced is a copy of the record of the indictment, trial, conviction, and judgment or acquittal, as the case may be, omitting the formal parts thereof.]

[<sup>F9</sup>(2) In subsection (1) “proper officer” means—

- (a) in relation to a magistrates’ court in England and Wales, the [<sup>F10</sup>designated officer]<sup>F10</sup> for the court; and
- (b) in relation to any other court, the clerk of the court or other officer having the custody of the records of the court, or the deputy of such clerk or other officer.]

*Changes to legislation: There are currently no known outstanding effects for the Evidence Act 1851. (See end of Document for details)*

**Textual Amendments**

- F6** S. 13 repealed in relation to criminal proceedings (E.W.) by [Police and Criminal Evidence Act 1984 \(c. 60, SIF 95\)](#), s. 119, **Sch. 7 Pt. IV**
- F7** Recital omitted under authority of [Statute Law Revision Act 1892 \(c. 19\)](#)
- F8** Words in s. 13(1) substituted (1.4.2001) by 1999 c. 22, s. 90, **Sch. 13 para. 2(2)**(with Sch. 14 para. 7(2)); S.I. 2001/916, **arts. 2(a)(ii)**, 4 (with transitional provisions and savings in [Sch. 2 para. 2](#))
- F9** S. 13(2) inserted (1.4.2001) by 1999 c. 22, s. 90, **Sch. 13 para. 2(3)**(with Sch. 14 para. 7(2)); S.I. 2001/916, **arts. 2(a)(ii)**, 4 (with transitional provisions and savings in [Sch. 2 para. 2](#))
- F10** Words in s. 13(2)(a) substituted (1.4.2005) by [Courts Act 2003 \(c. 39\)](#), ss. 109(1), 110, **Sch. 8 para. 34**; S.I. 2005/910, **art. 3(y)(bb)** (with S.I. 2005/911, {arts. 2, 4, 5})

**14 Examined or certified copies of documents admissible in evidence. E+W+N.I.**

Whenever any book or other document is of such a public nature as to be admissible in evidence on its mere production from the proper custody, and no Statute exists which renders its contents provable by means of a copy, any copy thereof or extract therefrom shall be admissible in evidence in any court of justice, or before any person now or hereafter having by law or by consent of parties authority to hear, receive, and examine evidence, provided it be proved to be an examined copy or extract, or provided it purport to be signed and certified as a true copy or extract by the officer to whose custody the original is intrusted, and which officer is hereby required to furnish such certified copy or extract to any person applying at a reasonable time for the same, upon payment of a reasonable sum for the same, not exceeding fourpence for every folio of ninety words.

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

- C9** S. 14 extended (E.W.) by [Law of Property Act 1922 \(c. 16\)](#), s. 144
- C10** Reference to fourpence to be read as reference to equivalent amount in new currency: [Decimal Currency Act 1969 \(c. 19\)](#), s. 10(1)

**15 Certifying a false document a misdemeanor. E+W+N.I.**

If any officer authorized or required by this Act to furnish any certified copies or extracts shall wilfully certify any document as being a true copy or extract, knowing that the same is not a true copy or extract, as the case may be, he shall be guilty of a misdemeanor, and be liable, upon conviction, to imprisonment for any term not exceeding eighteen months.

**16 Court, &c. may administer oaths. E+W+N.I.**

Every court, judge, justice, officer, commissioner, arbitrator, or other person, now or hereafter having by law or by consent of parties authority to hear, receive, and examine evidence, is hereby empowered to administer an oath to all such witnesses as are legally called before them respectively.

**17 .....<sup>F11</sup> E+W+N.I.**

*Changes to legislation:* There are currently no known outstanding effects for the Evidence Act 1851. (See end of Document for details)

**Textual Amendments**

**F11** S. 17 repealed by Forgery Act 1913 (c. 27), Sch. Pt. I

**18 Act not to extend to Scotland. E+W+N.I.**

This Act shall not extend to Scotland.

**19 Interpretation of “British Colony.” E+W+N.I.**

The words “British Colony” as used in this Act shall apply . . . <sup>F12</sup> to the islands of Guernsey, Jersey, Alderney, Sark, and Man, and to all other possessions of the British Crown, wheresoever and whatsoever.

**Textual Amendments**

**F12** Words repealed by Statute Law Revision Act 1892 (c. 19)

**20** ..... <sup>F13</sup> **E+W+N.I.**

**Textual Amendments**

**F13** Ss. 1, 12 and 20 repealed by Statute Law Revision Act 1875 (c. 66)

**Changes to legislation:**

There are currently no known outstanding effects for the Evidence Act 1851.