



Law Reform (Miscellaneous Provisions) (Scotland) Act 1968

1968 CHAPTER 70

PART III

AMENDMENT OF THE LAW OF EVIDENCE IN CIVIL PROCEEDINGS

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 by a court-martial there or else-where 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.
- (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 by a court-martial there or elsewhere—
 - (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.

Status: Point in time view as at 01/04/1997.

Changes to legislation: There are currently no known outstanding effects for the Law Reform (Miscellaneous Provisions) (Scotland) Act 1968, Cross Heading: Convictions, etc., as evidence in civil proceedings. (See end of Document for details)

- (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) [^{F1}section 13 of the ^{M1}Powers of Criminal Courts Act 1973] (under which a conviction leading to probation or discharge is to be disregarded except as therein mentioned) ;
 - (b) [^{F2}section 191 of the ^{M2}Criminal Procedure (Scotland) Act 1975] (which makes similar provision in respect of convictions on indictment in Scotland) ;
 - (c) section 8 of the ^{M3}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 [^{F2}section 383 of the said Act of 1975] shall be treated as a conviction.
- (6) In this section “court-martial” means a court-martial constituted under the ^{M4}Army Act 1955, the ^{M5}Air Force Act 1955 or the ^{M6}Naval Discipline Act 1957 or a disciplinary court constituted under section 50 of the said Act of 1957, and in relation to a court-martial “conviction”, [^{F3} . . .], means a finding of guilty which is, or falls to be treated as, the finding of the court, and “convicted” shall be construed accordingly.

Textual Amendments

- F1** Words substituted by Powers of Criminal Courts Act 1973 (c. 62), **Sch. 5 para. 32**
- F2** Words substituted by virtue of Interpretation Act 1889 (c. 63), **s. 38(1)**
- F3** Words in s. 10(6) repealed (1.4.1997 subject to transitional provisions in arts. 2-4 of the commencing S.I.) by 1996 c. 46, ss. 35(2), 36(2), **Sch. 7 Pt. II**; S.I. 1997/304, **arts. 2-4**

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**)

Marginal Citations

- M1** 1973 c. 62.
- M2** 1975 c. 21.
- M3** 1950 c. 7 (N.I.).
- M4** 1955 c. 18.
- M5** 1955 c. 19.
- M6** 1957 c. 53.

Status: Point in time view as at 01/04/1997.

Changes to legislation: There are currently no known outstanding effects for the Law Reform (Miscellaneous Provisions) (Scotland) Act 1968, Cross Heading: Convictions, etc., as evidence in civil proceedings. (See end of Document for details)

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, . . . ^{F4}

(b) ^{F4}

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 . . . ^{F5}, whether or not he offered any defence to the allegation of adultery . . . ^{F5} 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 . . . ^{F5}—

(a) he shall be taken to have committed the adultery to which the finding relates . . . ^{F5}, 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 . . . ^{F5} 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 . . . ^{F5} 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 [^{F6}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 High Court in Northern Ireland, or any appeal arising out of any such action or cause, and

(b) ^{F7}

Textual Amendments

F4 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**

F5 Words repealed by Law Reform (Parent and Child) (Scotland) Act 1986 (c. 9, SIF 49:8), ss. 9, 10(2), **Sch. 2**

F6 Words substituted by Divorce (Scotland) Act 1976 (c. 39), **Sch. 1 para. 4**

F7 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**

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12 Conclusiveness of convictions for purposes of defamation actions.

(1) In an action for defamation in which the question whether [^{F8}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, [^{F8}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 [^{F8}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 [^{F8}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.

[^{F9}(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 by a court-martial there elsewhere.

(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.

Textual Amendments

F8 Words in S. 12(1)(2) substituted (4.9.1996) by 1996 c. 31, ss. 12(2), 19 (with s. 20(2))

F9 S. 12(2A) inserted (4.9.1996) by 1996 c. 31, ss. 12(2), 19 (with s. 20(2))

13— ^{F10}
16.

Textual Amendments

F10 Ss. 13–16 repealed by Civil Evidence (Scotland) Act 1988 (c. 32, SIF 47), s. 10(1)(3), Sch.

Status:

Point in time view as at 01/04/1997.

Changes to legislation:

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