



# Criminal Evidence Act 1898

1898 CHAPTER 36 61 and 62 Vict

An Act to amend the Law of Evidence.

[12th August 1898]

## Textual Amendments

- F1** Act repealed (S.), except so far as relating to courts-martial, by [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), [Sch. 10 Pt. 1](#)

## 1 Competency of witnesses in criminal cases.

<sup>F2</sup>Every person charged with an offence, <sup>F3</sup>and the wife or husband, as the case may be, of the person so charged], shall be a competent witness for the defence at every stage of the proceedings, whether the person so charged is charged solely or jointly with any other person. Provided as follows:—]

<sup>F4</sup>(1) A person <sup>F5</sup>charged in criminal proceedings] shall not be called as a witness <sup>F5</sup>in the proceedings] except upon his own application:

<sup>F6</sup>(b) .....

<sup>F7</sup>(c) The wife or husband of the person charged shall not, save as in this Act mentioned, be called as a witness in pursuance of this Act except upon the application of the person so charged:]

<sup>F8</sup>(d) Nothing in this Act shall make a husband compellable to disclose any communication made to him by his wife during the marriage, or a wife compellable to disclose any communication made to her by her husband during the marriage:]

<sup>F4</sup>(2) <sup>F9</sup>Subject to section 101 of the Criminal Justice Act 2003 (admissibility of evidence of defendant's bad character), a person charged <sup>F10</sup>in criminal proceedings who is called as a witness in the proceedings] may be asked any question in cross-examination notwithstanding that it would tend to criminate him as to <sup>F10</sup>any offence with which he is charged in the proceedings]:

<sup>F4</sup>(3) <sup>F11</sup>A person charged <sup>F12</sup>in criminal proceedings who is called as a witness in the proceedings] shall not be asked, and if asked shall not be required to answer, any question tending to show that he has committed or been convicted of or been charged with any offence other than <sup>F12</sup>one with which] he is then charged, or is of bad character, unless—

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- (i) the proof that he has committed or been convicted of such other offence is admissible evidence to show that he is guilty of [<sup>F12</sup>an offence with which] he is then charged; or
- (ii) he has personally or by his advocate asked questions of the witnesses for the prosecution with a view to establish his own good character, or has given evidence of his good character, or the nature or conduct of the defence is such as to involve imputations on the character of the prosecutor or the witnesses for the prosecution; or [<sup>F13</sup>the deceased victim of the alleged crime; or]
- (iii) he has given evidence against any other person charged [<sup>F14</sup>in the same proceedings]:]
- [<sup>F4</sup>(4)] Every person [<sup>F15</sup>charged in criminal proceedings who is called as a witness in the proceedings] shall, unless otherwise ordered by the court, give his evidence from the witness box or other place from which the other witnesses give their evidence:
- (h) ..... <sup>F16</sup>

#### Textual Amendments

- F2** Words in s. 1 repealed (24.7.2002 (E.W.) and otherwise*prosp.*) by 1999 c. 23, ss. 67, 68, Sch. 4 para. 1(2), Sch. 6 (with Sch. 7 paras. 3(3), **5(2)**); S.I. 2002/1739, **art. 2(f)(g)(i)**
- F3** Words repealed (E.W.) by Police and Criminal Evidence Act 1984 (c. 60, SIF 95), s. 119, **Sch. 7 Pt. V**
- F4** S. 1: paras. (a)(e)(f)(g) renumbered as s. 1(1)-(4) respectively (24.7.2002 (E.W.) and otherwise*prosp.*) by 1999 c. 23, ss. 67, 68, Sch. 4 para. 1(7) (with Sch. 7 paras. 3(3), **5(2)**); S.I. 2002/1739, **art. 2(f)(g)(i)**
- F5** Words in s. 1(a) substituted (24.7.2002 (E.W.) and otherwise*prosp.*) by 1999 c. 23, ss. 67, 68, Sch. 4 para. 1(3) (with Sch. 7 paras. 3(3), **5(2)**); S.I. 2002/1739, **art. 2(f)(g)(i)**
- F6** S. 1 proviso (b) repealed (10.4.1995) by 1994 c. 33, s. 168(2)(3), Sch. 10 para. 2, **Sch. 11**; S.I. 1995/721, art. 2, **Sch.**
- F7** S. 1(c) repealed (E.W.) by Police and Criminal Evidence Act 1984 (c. 60, SIF 95), s. 119, **Sch. 7 Pt. V**
- F8** S. 1(d) repealed (E.W.) by Police and Criminal Evidence Act 1984 (c. 60, SIF 95), ss. 80(9), 82(3), 119, **Sch. 7 Pt. V**
- F9** Words in s. 1(2) inserted (E.W.) (15.12.2004) by Criminal Justice Act 2003 (c. 44), ss. 331, 336, **Sch. 36 para. 80(a)**; S.I. 2004/3033, **art. 3**
- F10** Words in s. 1(e) substituted (24.7.2002 (E.W.) and otherwise*prosp.*) by 1999 c. 23, ss. 67, 68, Sch. 4 para. 1(4) (with Sch. 7 paras. 3(3), **5(2)**); S.I. 2002/1739, **art. 2(f)(g)(i)**
- F11** S. 1(3) repealed (E.W.) (15.12.2004) by Criminal Justice Act 2003 (c. 44), ss. 331, 332, 336, Sch. 36 para. 80(b), **Sch. 37**; S.I. 2004/3033, **art. 3**
- F12** Words in s. 1(f) substituted (24.7.2002 (E.W.) and otherwise*prosp.*) by 1999 c. 23, ss. 67, 68, Sch. 4 para. 1(5) (with Sch. 7 paras. 3(3), **5(2)**); S.I. 2002/1739, **art. 2(f)(g)(i)**
- F13** Words in a. 1(f)(ii) inserted (E.W.) (3.2.1995) by 1994 c. 33, **s. 31**; S.I. 1995/127, art. 2(1), **Sch. 1** (subject to the transitional provisions in Sch. 2 para. 2 of the said S.I.)
- F14** Words substituted by Criminal Evidence Act 1979 (c. 16, SIF 47), **s. 1(1)** (subject to a saving in s. 1(2))
- F15** Words in s. 1(g) substituted (24.7.2002 (E.W.) and otherwise*prosp.*) by 1999 c. 23, ss. 67, 68, Sch. 4 para. 1(6) (with Sch. 7 paras. 3(3), **5(2)**); S.I. 2002/1739, **art. 2(f)(g)(i)**
- F16** S. 1(h) repealed by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 78, **Sch. 16**

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

- C1** S. 1 excluded (E.W.) by Children and Young Persons Act 1963 (c. 37), **s. 16(2)**

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**2 Evidence of person charged.**

Where the only witness to the facts of the case called by the defence is the person charged, he shall be called as a witness immediately after the close of the evidence for the prosecution.

**3 Right of reply.**

[<sup>F17</sup>In cases where the right of reply depends upon the question whether evidence has been called for the defence,] the fact that the person charged has been called as a witness shall not of itself confer on the prosecution the right of reply.

**Textual Amendments**

**F17** Words repealed (E.W.) by [Criminal Procedure \(Right of Reply\) Act 1964 \(c. 34\), s. 1\(2\)](#)

**[<sup>F18</sup>4 Calling of wife or husband in certain cases.**

- (1) The wife or husband of a person charged with an offence under any enactment mentioned in the schedule to this Act may be called as a witness either for the prosecution or defence and without the consent of the person charged.
- (2) Nothing in this Act shall affect a case where the wife or husband of a person charged with an offence may at common law be called as a witness without the consent of that person.]

**Textual Amendments**

**F18** [S. 4](#) repealed (E.W.) by [Police and Criminal Evidence Act 1984 \(c. 60, SIF 95\), s. 119, Sch. 7 Pt. V](#)

**5 ..... <sup>F19</sup>**

**Textual Amendments**

**F19** [S. 5](#) repealed by [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\), Sch. 10 Pt. I](#)

**6 Provisions as to previous Acts.**

- (1) This Act shall apply to all criminal proceedings [<sup>F20</sup>[<sup>F21</sup>including proceedings in courts-martial]]<sup>F22</sup> under the <sup>M1</sup>Army Act 1955 and the <sup>M2</sup>Air Force Act 1955, and proceedings in courts-martial <sup>F23</sup> . . . under the <sup>M3</sup>Naval Discipline Act 1957]]<sup>F24</sup> and in Standing Civilian Courts established under the <sup>M4</sup>Armed Forces Act 1976], [<sup>F25</sup>notwithstanding any enactment in force at the commencement of this Act.] . . . <sup>F26</sup>

[<sup>F27</sup>(1A) This Act applies in relation to service proceedings as it applies in relation to criminal proceedings before a court in England and Wales.

(1B) In this section “service proceedings” means proceedings before a court (other than a civilian court) in respect of a service offence; and “service offence” and “civilian court” here have the same meanings as in the Armed Forces Act 2006.]

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(2) ..... F28

#### Textual Amendments

- F20** Words in s. 6(1) repealed (28.3.2009 for specified purposes and otherwise prosp.) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378, 383, [Sch. 16 para. 12\(2\)](#), [Sch. 17](#); S.I. 2009/812, [art. 3](#) (subject to transitional provisions in S.I. 2009/1059)
- F21** Words inserted by [Revision of the Army and Air Force Acts \(Transitional Provisions\) Act 1955 \(c. 20\)](#), [Sch. 2 para. 5](#)
- F22** Words inserted by [Armed Forces Act 1971 \(c. 33\)](#), [s. 49\(3\)](#)
- F23** Words in s. 6(1) repealed (28.2.2002) by 2001 c. 19, s. 38, [Sch. 7 Pt. 1](#); S.I. 2002/345, [arts. 2, 3](#)
- F24** Words inserted by [Armed Forces Act 1976 \(c. 52\)](#), [Sch. 9 para. 1](#)
- F25** Words from “notwithstanding” to the end repealed (E.W.) by [Police and Criminal Evidence Act 1984 \(c. 60, SIF 95\)](#), s. 119, [Sch. 7 Pt. V](#)
- F26** Words from “except that” onwards repealed by [Statute Law \(Repeals\) Act 1981 \(c. 19\)](#), s. 1(1), [Sch. 1 Pt. I](#)
- F27** S. 6(1A)(1B) inserted (28.3.2009 for specified purposes and otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378, 383, [Sch. 16 para. 12\(3\)](#); S.I. 2009/812, [art. 3](#) (subject to transitional provisions in 2009/1059); S.I. 2009/1167, [art. 4](#)
- F28** S. 6(2) repealed by [Revision of the Army and Air Force Acts \(Transitional Provisions\) Act 1955 \(c. 20\)](#), [Sch. 4](#)

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

- C2** S. 6(1B) modified (24.4.2009 for specified purposes and otherwise 31.10.2009) by [The Armed Forces Act 2006 \(Transitional Provisions etc\) Order 2009 \(S.I. 2009/1059\)](#), arts. 1, 205, [Sch. 1 para. 2](#)

#### Marginal Citations

- M1** 1955 c. 18.  
**M2** 1955 c. 19.  
**M3** 1957 c. 53.  
**M4** 1976 c. 52.

#### 7 †Extent, commencement and short title.

(1) This Act shall not extend to Ireland.

(2) ..... F29

(3) This Act may be cited as the Criminal Evidence Act 1898.

#### Textual Amendments

- F29** S. 7(2) repealed by [Statute Law Revision Act 1908 \(c. 49\)](#)

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

- C3** Unreliable marginal note

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## [<sup>F30</sup>SCHEDULE

### ENACTMENTS REFERRED TO

#### Textual Amendments

**F30** Sch. repealed (E.W.) by [Police and Criminal Evidence Act 1984 \(c. 60, SIF 95\)](#), s. 119, [Sch. 7 Pt. V](#)

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

**C4** Sch. extended by [Children and Young Persons Act 1933 \(c. 12\)](#), ss. 15, 108(6), [Sch. 1](#)

Session and Chapter.	Short Title.	Enactments referred to.
...	...	... <a href="#">F31</a>
...	...	... <a href="#">F32</a>
...	...	... <a href="#">F33</a>
[ <sup>F34</sup> 48 & 49 Vict. c. 69.]	[ <sup>F34</sup> The Criminal Law Amendment Act 1885.]	[ <sup>F34</sup> The whole Act.]
...	...	... <a href="#">F35</a>
[ <sup>F36</sup> 19 & 20 Geo. 5. c. 34.]	[ <sup>F36</sup> Infant Life (Preservation) Act 1929.]	[ <sup>F36</sup> The whole Act.]
[ <sup>F37</sup> 11 & 12 Geo. 6 c. 29]	[ <sup>F37</sup> National Assistance Act 1948]	[ <sup>F37</sup> Section 51.]]

#### Textual Amendments

**F31** Entries repealed by [Theft Act 1968 \(c. 60\)](#), [Sch. 3 Pt. II](#)

**F32** Entry relating to the Poor Law (Scotland) Act 1845 repealed by [Statute Law \(Repeals\) Act 1981 \(c. 19\)](#), s. 1(1), [Sch. 1 Pt. I](#)

**F33** Entries repealed by [Sexual Offences Act 1956 \(c. 69\)](#), [Sch. 4](#) and [Theft Act 1968 \(c. 60\)](#), [Sch. 3 Pt. III](#)

**F34** Entry repealed (E.W.) by [Sexual Offences Act 1956 \(c. 69\)](#), [Sch. 4](#)

**F35** Entries repealed by [Sexual Offences Act 1956 \(c. 69\)](#), [Sch. 4](#) and [Theft Act 1968 \(c. 60\)](#), [Sch. 3 Pt. II](#)

**F36** Entry inserted by [Infant Life \(Preservation\) Act 1929 \(c. 34\)](#), s. 2(5)

**F37** Entry inserted by [S.I. 1952/1334 \(1952 II, p. 2029\)](#), Sch. Pt. II

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