



# Law Reform (Miscellaneous Provisions) (Scotland) Act 1985

## 1985 CHAPTER 73

*Provisions relating to civil jurisdiction and procedure*

**<sup>F1</sup>14 Remit from Court of Session to sheriff.**

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**Textual Amendments**

**F1** S. 14 repealed (22.9.2015) by [Courts Reform \(Scotland\) Act 2014 \(asp 18\)](#), s. 138(2), [Sch. 5 para. 25](#); [S.S.I. 2015/247](#), art. 2, [Sch.](#) (with art. 3(3))

**15 Withdrawal of privilege against self-incrimination in certain proceedings relating to intellectual property.**

- (1) In any proceeding to which this subsection applies a person shall not be excused, by reason that to do so would tend to expose him to proceedings for a related offence or for the recovery of a related penalty—
  - (a) from answering any questions put to him in the first mentioned proceedings ;  
or
  - (b) from complying with any order made in those proceedings.
- (2) Subsection (1) above applies to civil proceedings in the Court of Session or the sheriff court—
  - (a) for infringement of rights pertaining to any intellectual property or for passing off ;
  - (b) brought to obtain disclosure of information relating to any infringement of such rights or to any passing off ; and
  - (c) brought to prevent any apprehended infringement of such rights or any apprehended passing off.

*Changes to legislation: Law Reform (Miscellaneous Provisions) (Scotland) Act 1985, Cross Heading: Provisions relating to civil jurisdiction and procedure is up to date with all changes known to be in force on or before 15 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (3) The proceedings referred to in subsection (2) above include—
- (a) proceedings on appeal arising out of these proceedings ;
  - (b) proceedings under section 1(1) of the <sup>M1</sup>Administration of Justice (Scotland) Act 1972 (provision in relation to the power of the court to order inspection of documents and other property etc.) which relate to civil proceedings falling within subsection (2) above which are likely to be brought.
- (4) No statement or admission made by a person—
- (a) in answering a question put to him in any proceedings to which subsection (1) above applies ; or
  - (b) in complying with any order made in such proceedings,
- shall in proceedings for any related offence, or for the recovery of any related penalty, be admissable in evidence against him :

Provided that this subsection shall not render ant such statement or admission inadmissable against him in proceedings for perjury or contempt of court.

- (5) In this section—

“intellectual property” means any patent, trade mark, copyright [<sup>F2</sup>or design right], registered design, technical or commercial information or other intellectual property ;

“related offence”, in relation to any proceedings to which subsection (1) above relates, 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 ing fringement 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 pursuer relies in those proceedings.

“related penalty”, in relation to any proceedings to which subsection (1) above relates, 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 pursuer relies in those proceedings.

#### Textual Amendments

**F2** Words inserted by [Copyright, Designs and Patents Act 1988 \(c. 48, SIF 67A\)](#), ss. 303(1), **Sch. 7 para. 32**

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

**C1** S. 15 extended by [Copyright, Designs and Patents Act 1988 \(c. 48, SIF 67A\)](#), **ss. 296(6)(b)**, 298(4)

**C2** S. 15 extended (with modifications) by [S.I. 1987/1497](#)

**C3** S. 15 applied (31.10.2003) by 1988 c. 48, ss. 296(7)(b), 296ZA(5)(b), 296ZD(6)(b) (as inserted by [The Copyright and Related Rights Regulations 2003 \(S.I. 2003/2498\)](#), regs. 1, **24(1)** (with regs. 31-40))

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- C4** S. 15 applied (31.10.2003) by 1988 c. 48, s. 296ZG(6) (as inserted by [The Copyright and Related Rights Regulations 2003 \(S.I. 2003/2498\)](#), regs. 1, **25** (with regs. 31-40))
- C5** S. 15(5) extended by [Patents, Designs and Marks Act 1986 \(c. 39, SIF 67A\)](#), s. 2, **Sch. 2 Pt. I para. 1(2)(h)**  
S. 15(5) amended (31.10.1994) by 1994 c. 26, s. 106(1), **Sch. 4 para. 1(2)**; S.I. 1994/2550, **art.2**

**Marginal Citations**

- M1** 1972 c. 59.

**16** ..... <sup>F3</sup>

**Textual Amendments**

- F3** S. 16 repealed by [Family Law Act 1986 \(c. 55, SIF 49:3\)](#), ss. 68(2), 69(5)(6)(7), **Sch. 2**

<sup>F4</sup>**17** **Power of sheriff to order sheriff clerk to execute deeds relating to heritage.**

**Textual Amendments**

- F4** S. 17 repealed (28.11.2016) by [The Courts Reform \(Scotland\) Act 2014 \(Relevant Officer and Consequential Provisions\) Order 2016 \(S.S.I. 2016/387\)](#), art. 1, **sch. 1 para. 1(a)** (with art. 4(1))

<sup>F5</sup>**18** **Small claims.**

**Textual Amendments**

- F5** S. 18 repealed (28.11.2016) by [The Courts Reform \(Scotland\) Act 2014 \(Relevant Officer and Consequential Provisions\) Order 2016 \(S.S.I. 2016/387\)](#), art. 1, **sch. 1 para. 1(b)** (with art. 4(1))

**19** **Disclosure of names in certain proceedings.**

In section 1 of the <sup>M2</sup>Administration of Justice (Scotland) Act 1972 (which makes provision in relation to the powers of the court to order inspection of documents and other property), after subsection (1) there shall be inserted the following subsection—

- “(1A) Without prejudice to the existing powers of the Court of Session and of the sheriff court, those courts shall have power, subject to subsection (4) of this section, to order any person to disclose such information as he has as to the identity of any persons who appear to the court to be persons who—
- (a) might be witnesses in any existing civil proceedings before that court or in civil proceedings which are likely to be brought; or
  - (b) might be defenders in any civil proceedings which appear to the court to be likely to be brought.”

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### Marginal Citations

**M2** [1972 c. 59](#).

**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. 8(5A) inserted by [2007 asp 3 s. 48\(3\)](#)