



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

## 1985 CHAPTER 73

### *Provisions relating to civil jurisdiction and procedure*

#### **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.
- (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

---

**Changes to legislation:** Law Reform (Miscellaneous Provisions) (Scotland) Act 1985, Section 15 is up to date with all changes known to be in force on or before 17 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

---

(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>F1</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

- F1** 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))
- 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](#).

**Changes to legislation:**

Law Reform (Miscellaneous Provisions) (Scotland) Act 1985, Section 15 is up to date with all changes known to be in force on or before 17 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.

[View outstanding changes](#)

**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\(3\)](#)