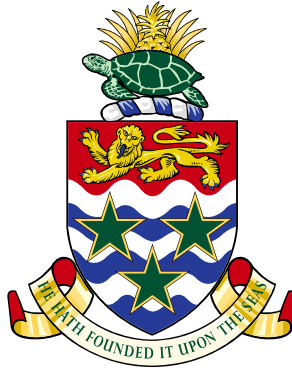


CAYMAN ISLANDS



EVIDENCE (AMENDMENT) LAW, 2020

(Law 37 of 2020)

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PUBLISHING DETAILS



CAYMAN ISLANDS**EVIDENCE (AMENDMENT) LAW, 2020****(Law 37 of 2020)****Arrangement of Sections**

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CAYMAN ISLANDS

(Law 37 of 2020)

I Assent,

**Martyn Roper**
Governor

Date: 4th day of September, 2020

EVIDENCE (AMENDMENT) LAW, 2020

(Law 37 of 2020)

A LAW TO AMEND THE EVIDENCE LAW (2019 REVISION) AS A CONSEQUENCE OF THE ENACTMENT OF THE CIVIL PARTNERSHIP LAW, 2020; AND FOR INCIDENTAL AND CONNECTED PURPOSES

ENACTED by the Governor in accordance with section 81 of the Constitution, after consultation with the Premier, with the prior approval of the Secretary of State, and pursuant to instructions issued in accordance with section 31 of the Constitution.

Short title and commencement

- (1) This Law may be cited as the Evidence (Amendment) Law, 2020.
- (2) This Law comes into force immediately after the commencement of the *Civil Partnership Law, 2020*.

Amendment of section 2 of the Evidence Law (2019 Revision) - definitions

- The *Evidence Law (2019 Revision)*, in this Law referred to as the “principal Law”, is amended in section 2 by inserting in the appropriate alphabetical sequence the following definitions —

“**civil partner**” has the meaning assigned by the *Civil Partnership Law, 2020*; and

“**civil partnership**” has the meaning assigned by the *Civil Partnership Law, 2020*.”.

Repeal of section 19 and substitution - competence and compellability of accused's spouse

3. The principal Law is amended by repealing section 19 and substituting the following section —

“Competence and compellability of accused's spouse or civil partner

19. (1) In any criminal proceedings the wife, husband or civil partner of the accused shall be competent to give evidence —
- (a) subject to subsection (4), for the prosecution; and
 - (b) on behalf of the accused or any person jointly charged with the accused.
- (2) In any criminal proceedings the wife, husband or civil partner of the accused shall, subject to subsection (4), be compellable to give evidence on behalf of the accused.
- (3) In any criminal proceedings the wife, husband or civil partner of the accused shall, subject to subsection (4), be compellable to give evidence for the prosecution or on behalf of any person jointly charged with the accused if —
- (a) the offence charged involves an assault on, or injury or threat of injury to, the wife, husband or civil partner of the accused or a person who was at the material time under the age of sixteen;
 - (b) the offence charged is a sexual offence alleged to have been committed in respect of a person who was at the material time under that age; or
 - (c) the offence charged consists of attempting or conspiring to commit, or of aiding, abetting, counselling, procuring or inciting the commission of, an offence falling within paragraph (a) or (b).
- (4) Where a husband and wife or civil partners are jointly charged with an offence neither spouse or civil partner shall, at the trial, be competent or compellable by virtue of subsection (1)(a), (2) or (3) to give evidence in respect of that offence unless that spouse or civil partner is not, or is no longer, liable to be convicted of that offence at the trial as a result of pleading guilty or for any other reason.
- (5) In any criminal proceedings a person who has been but is no longer married to the accused or in a civil partnership with the accused shall be competent and compellable to give evidence as if that person and the accused had never been married or in a civil partnership.



- (6) Where in any criminal proceedings the age of a person at any time is material for the purposes of subsection (3), the age of the person at the material time shall for the purposes of that provision be deemed to be or to have been that which appears to the court to be or have been the person's age at that time.
- (7) The failure of the wife, husband or civil partner of the accused to give evidence shall not be made the subject of any comment by the prosecution.”.

Amendment of section 42 - parties as witnesses in civil cases

4. The principal Law is amended in section 42 by inserting after the word “spouses” the words “or civil partners”.

Amendment of section 51 - admissibility of certain hearsay evidence formerly admissible at common law

5. The principal Law is amended in section 51(4)(b) as follows —
 - (a) by inserting after the word “marriage” where it twice appears the words “or civil partnership”;
 - (b) by deleting the words “, as the case may be”.

Amendment of section 53 - findings of adultery and paternity as evidence in civil proceedings

6. The principal Law is amended in section 53 as follows —
 - (a) in subsection (1)(a), by inserting after the word “matrimonial” the words “or a civil partnership”;
 - (b) in subsection (2)(b), by inserting after the word “matrimonial” the words “, civil partnership”;
 - (c) in subsection (3), by inserting after the word “matrimonial” the words “, civil partnership”.

Amendment of section 55 - privilege against incrimination of self or spouse, etc.

7. The principal Law is amended in section 55 as follows —
- (a) in the section heading, by inserting after the word “spouse” the words “or civil partner”; and
 - (b) in subsections (1), (3) and (4) by deleting the words “or wife” wherever they appear and substituting the words “, wife or civil partner.”.

Assented to by the Governor the 4th day of September, 2020.

