



Civil Evidence Act 1995

1995 CHAPTER 38

Safeguards in relation to hearsay evidence

2 Notice of proposal to adduce hearsay evidence

- (1) A party proposing to adduce hearsay evidence in civil proceedings shall, subject to the following provisions of this section, give to the other party or parties to the proceedings—
 - (a) such notice (if any) of that fact, and
 - (b) on request, such particulars of or relating to the evidence,as is reasonable and practicable in the circumstances for the purpose of enabling him or them to deal with any matters arising from its being hearsay.
- (2) Provision may be made by rules of court—
 - (a) specifying classes of proceedings or evidence in relation to which subsection (1) does not apply, and
 - (b) as to the manner in which (including the time within which) the duties imposed by that subsection are to be complied with in the cases where it does apply.
- (3) Subsection (1) may also be excluded by agreement of the parties; and compliance with the duty to give notice may in any case be waived by the person to whom notice is required to be given.
- (4) A failure to comply with subsection (1), or with rules under subsection (2)(b), does not affect the admissibility of the evidence but may be taken into account by the court—
 - (a) in considering the exercise of its powers with respect to the course of proceedings and costs, and
 - (b) as a matter adversely affecting the weight to be given to the evidence in accordance with section 4.

3 Power to call witness for cross-examination on hearsay statement

Rules of court may provide that where a party to civil proceedings adduces hearsay evidence of a statement made by a person and does not call that person as a witness,

any other party to the proceedings may, with the leave of the court, call that person as a witness and cross-examine him on the statement as if he had been called by the first-mentioned party and as if the hearsay statement were his evidence in chief.

4 Considerations relevant to weighing of hearsay evidence

- (1) In estimating the weight (if any) to be given to hearsay evidence in civil proceedings the court shall have regard to any circumstances from which any inference can reasonably be drawn as to the reliability or otherwise of the evidence.
- (2) Regard may be had, in particular, to the following—
 - (a) whether it would have been reasonable and practicable for the party by whom the evidence was adduced to have produced the maker of the original statement as a witness;
 - (b) whether the original statement was made contemporaneously with the occurrence or existence of the matters stated;
 - (c) whether the evidence involves multiple hearsay;
 - (d) whether any person involved had any motive to conceal or misrepresent matters;
 - (e) whether the original statement was an edited account, or was made in collaboration with another or for a particular purpose;
 - (f) whether the circumstances in which the evidence is adduced as hearsay are such as to suggest an attempt to prevent proper evaluation of its weight.