

EVIDENCE (AMENDMENT) BILL 1998

COMMITTEE STAGE

Amendments to be moved by the Secretary for Justice

Clause

Proposed Amendment

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(a) In the proposed section 47, by deleting subsection (1) and substituting-

“(1) In civil proceedings evidence shall not be excluded on the ground that it is hearsay unless-

(a) a party against whom the evidence is to be adduced objects to the admission of the evidence; and

(b) the court is satisfied, having regard to the circumstances of the case, that the exclusion of the evidence is not prejudicial to the interests of justice.

(1A) The court may determine whether or not to exclude evidence on the ground that it is hearsay-

- (a) in the case of civil proceedings before a jury, at the beginning of the proceedings and in the absence of the jury;
- (b) in the case of any other civil proceedings, at the conclusion of the proceedings.”.

(b) By adding -

“47A. Notice of proposal to adduce hearsay evidence

(1) Provision may be made by rules of court-

- (a) specifying classes of hearsay evidence, or classes of civil proceedings, in relation to which subsection (2) shall apply; and
- (b) as to the manner in which (including the time within

which) the duties imposed by
that subsection shall be
complied with in the cases
where it does apply.

(2) A party proposing to adduce in civil proceedings hearsay evidence which falls within subsection (1)(a), or proposing to adduce hearsay evidence in civil proceedings which fall within that subsection, shall, subject to subsections (3) and (4), 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.

(3) Subsection (2) may 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 (2), or with rules under subsection (1)(b), shall 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 49.

[cf. 1995 c. 38 s. 2 U.K.]”.