



# Civil Evidence Act 1995

## 1995 CHAPTER 38

### *Supplementary provisions as to hearsay evidence*

#### **5 Competence and credibility.**

- (1) Hearsay evidence shall not be admitted in civil proceedings if or to the extent that it is shown to consist of, or to be proved by means of, a statement made by a person who at the time he made the statement was not competent as a witness.

For this purpose “not competent as a witness” means suffering from such mental or physical infirmity, or lack of understanding, as would render a person incompetent as a witness in civil proceedings; but a child shall be treated as competent as a witness if he satisfies the requirements of section 96(2)(a) and (b) of the <sup>M1</sup>Children Act 1989 (conditions for reception of unsworn evidence of child).

- (2) Where in civil proceedings hearsay evidence is adduced and the maker of the original statement, or of any statement relied upon to prove another statement, is not called as a witness—
- (a) evidence which if he had been so called would be admissible for the purpose of attacking or supporting his credibility as a witness is admissible for that purpose in the proceedings; and
  - (b) evidence tending to prove that, whether before or after he made the statement, he made any other statement inconsistent with it is admissible for the purpose of showing that he had contradicted himself.

Provided that evidence may not be given of any matter of which, if he had been called as a witness and had denied that matter in cross-examination, evidence could not have been adduced by the cross-examining party.

#### **Marginal Citations**

**M1** 1989 c. 41.

**Changes to legislation:**

There are currently no known outstanding effects for the Civil Evidence Act 1995, Section 5.