
STATUTORY INSTRUMENTS

1990 No. 143

EVIDENCE

Children (Admissibility of Hearsay Evidence) Order 1990

Made - - - - *1st February 1990*
Laid Before Parliament *12th February 1990*
Coming into force - - *10th March 1990*

The Lord Chancellor, in exercise of the powers conferred on him by sections 96(3) and 104(1) of the Children Act 1989(1), and of all other powers enabling him in that behalf, hereby makes the following Order:

1. This Order may be cited as the Children (Admissibility of Hearsay Evidence) Order 1990 and shall come into force on 10th March 1990.

2.—(1) In civil proceedings before the High Court or a county court, evidence given in connection with the upbringing, maintenance or welfare of a child, shall be admissible notwithstanding any rule of law relating to hearsay.

(2) In civil proceedings before a juvenile court:—

- (a) a statement made by a child,
- (b) a statement made by a person concerned with or having control of a child, that he has assaulted, neglected or ill-treated the child,
- (c) a statement included in any report made by a guardian ad litem under rule 25(3)(a) of the Magistrates' Courts (Children and Young Persons) Rules 1988(2) or by a local authority under section 9(1) of the Children and Young Persons Act 1969(3),

shall be admissible as evidence in connection with the upbringing, maintenance or welfare of a child notwithstanding any rule of law relating to hearsay.

Dated 1st February 1990

Mackay of Clashfern, C.

(1) 1989 c. 41.

(2) S.I.1988/913.

(3) 1969 c. 54; section 9(1) will be, from a date to be appointed, amended by the Children Act 1989 (c. 41), Schedule 15.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order exercises the power taken by the Lord Chancellor in the Children Act 1989 to abrogate the hearsay rule in respect of evidence given in civil proceedings in connection with the upbringing, maintenance or welfare of a child.

Article 2(1) abolishes the rule precluding hearsay evidence given in connection with the upbringing, maintenance or welfare of a child in proceedings before the High Court or a county court. Issues about the upbringing, maintenance or welfare of a child may arise in those courts under the inherent jurisdiction or statutory jurisdictions including those under the Guardianship of Minors Act 1971 (c. 3), the Guardianship Act 1973 (c. 29), the Matrimonial Causes Act 1973 (c. 18), the Children Act 1975 (c. 72), the Adoption Act 1976 (c. 36) and the Family Law Reform Act 1987 (c. 42).

Article 2(2) relaxes the rules relating to hearsay in civil proceedings in the juvenile courts which are presently governed by the Evidence Act 1938 (c. 28) and common law exceptions to the hearsay rule. Issues about the upbringing, maintenance or welfare of a child may arise in the juvenile court including in proceedings under the Children and Young Persons Act 1969 (c. 54), the Children Act 1975 (c. 72) and the Child Care Act 1980 (c. 5).

By Article 2(2)(a) and (b), the hearsay rule is disapplied in respect of statements by children, and in respect of statements against interest by those with control or concerned with the control of the child.

Article 2(2)(c) disapplies the hearsay rule in respect of statements contained in reports submitted by a guardian ad litem or statements by a local authority.