

CIVIL||CRIM

If called to give E, the hearsay rule does not apply to evidence of the Rep that is given by:  
(a) that person, or  
(b) a PPRRepBM, if, Rep of assert FII fresh in memory of representor

(4) A document containing a Rep to which subsection (3)/(2) applies must not be tendered before the conclusion of the examination in chief of the person who made the R, unless the court gives leave.

s66

(3) If a Rep was made for the purpose of indicating the evidence that the person who made it would be able to give in an Australian or overseas proceeding, ss (2) does not apply to evidence adduced by the prosecutor of the representation unless the representation concerns the identity of a person, place or thing.

(9) E adduced by a defendant admitted, the hearsay rule does not apply to E of another Rep about the matter

(a) adduced by another party, and  
(b) is given by a PPRRepBM

65(9)Retaliation

65(9)

(4) If there is more than one defendant in the criminal proceeding, evidence of a previous R that:  
(a) is given in an Australian or overseas proceeding, and  
(b) is admitted into evidence in the criminal proceeding because of subsection (3) cannot be used against a D who did not cross-examine, and did not have a reasonable opportunity to cross-examine.

(5) For the purposes of ss(3) (4), a D has a reasonable opportunity to CXM a person if the D was not present at a time when the cross-examination of a person might have been conducted here:  
(a) if present could have CXM the person.  
(b) if present could have CXM the person.

(6) E of the making of a representation to which subsection (3) applies may be adduced by producing a transcript, or a recording, of the representation that is authenticated by:  
(a) the person to whom, or the court or other body to which, the representation was made, or  
(b) if applicable, the registrar or other proper officer of the court or other body to which the representation was made, or  
(c) the person or body responsible for producing the transcript or recording.

65(4)(5)(6)

(3) E in an Australian or overseas proceeding if, in that proceeding, the D in the proceeding to which this section is being applied:  
(a) CXM the person who made the representation about it, or  
(b) had a reasonable opportunity to CXM the person who made the R about it

65(3)

CRIM

(2) E of a previous Rep given by a PPRRepBM, if Rep was  
(a) under a duty to make Rep or to make Rep of that kind||  
(b) close in time and unlikely to be a fabrication|| [Williams sday2long]  
(c) circxits make it highly probable Rep is reliable|| (Conway c->b)

(d) against the interests of maker at time. s(7)-->  
[s(7) has non limiting examples] (a) damage own reputation  
(b) admit 2 unconvicted offence  
(c) liable in an action for damages.

65(2),(7)

65(8)(a)(4)DefI\*

65(8)(b)D#

Exception to proof of previous rep  
PPRepBM

a document so far as it contains the Rep, or another Rep to which it is reasonably necessary to refer in order to understand the Rep.#

s63(2)(b)#

if >>\$, Delay, impractical

s64(2)(b)

CIVIL

E of Rep given by a PPRemBM\*

s63(2)(a)\*

if >>\$, Delay, impractical

s64(2)(a)

Maker Not Avail.  
63(1), 65(1)

Defn, CL4 Pt2  
Dead,  
uncompellable  
Cannot be located

Caterpillar No2 (2000) ALR, not sufficeint  
just to write letter to USA, aslo s 7  
Foreign Exchange Act

Tsang (1996) Contact 2 weeks prior and  
phone book insufficient

Suteski (no 4) risk of jail for Contempt  
sufficent to be deemed unavialable

Maker Avail.  
64(1), 66(1)