

1993

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

Presented and read a first time

(Attorney-General)

A BILL

FOR

**An Act to make transitional provisions and certain
amendments relating to the *Evidence and Procedure*
(*New Zealand*) Act 1993**

The Parliament of Australia enacts:

Short title

1. This Act may be cited as the *Evidence and Procedure (New Zealand) (Transitional Provisions and Consequential Amendments) Act 1993*.

5 **Commencement**

2.(1) Sections 1 and 2 commence on the day on which this Act receives the Royal Assent.

(2) Sections 3 and 4 and the Schedule commence on the day on which Parts 2 to 7 of the *Evidence and Procedure (New Zealand) Act 1993* commence.

Proceedings already begun

3.(1) A provision of the *Evidence and Procedure (New Zealand) Act 1993* does not apply in relation to a proceeding: 5

- (a) if the proceeding is a proceeding covered by Part IIIA of the *Federal Court of Australia Act 1976*—that began before the commencement of this section; or
- (b) otherwise—the hearing of which began before the commencement of this section. 10

(2) A provision of the *Evidence Act 1905* that is repealed or omitted under section 4 of this Act continues to apply (as in force immediately before the commencement of this section) in relation to a proceeding that:

- (a) is a proceeding covered by Part VA of the *Evidence Act 1905* (as so in force); and 15
- (b) began before the commencement of this section.

(3) A provision of the *Federal Court of Australia Act 1976* that is repealed, omitted or otherwise amended under section 4 of this Act continues to apply (as in force immediately before the commencement of this section) in relation to a proceeding that: 20

- (a) is a proceeding covered by Part IIIA of the *Federal Court of Australia Act 1976* (as so in force); and
- (b) began before the commencement of this section.

Amendments of other Acts

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4. The Acts referred to in the Schedule are amended as set out in the Schedule.

SCHEDULE

Section 4

AMENDMENTS OF OTHER ACTS

Evidence Act 1905

Sections 11B and 11D:

Repeal the sections.

Paragraphs 11F(1)(c) and (d):

Omit the paragraphs.

Sections 11G, 11H, 11J and 11K:

Repeal the sections.

Federal Court of Australia Act 1976

Section 32B (definitions of “Australian subpoena”, “New Zealand subpoena”, “person named”, “subpoena”, “subpoena for production” and “subpoena to give evidence”):

Omit the definitions.

Subsection 32C(4):

Omit the subsection.

Section 32D:

Repeal the section, substitute:

**New Zealand counsel entitled to practise in Federal Court
in New Zealand**

“32D. A person who is entitled to practise as a barrister, solicitor or both before the High Court of New Zealand is entitled to practice as a barrister, solicitor or both in an Australian proceeding before the Federal Court sitting in New Zealand.”

Subsection 32E(2):

Omit the subsection.

Subsection 32E(3):

Omit “, grant an injunction or issue a subpoena”, substitute “or grant an injunction”.

Section 32F:

Omit “, and an Australian subpoena,”.

SCHEDULE—continued

Sections 32G, 32H, 32J, 32K and 32L:

Repeal the sections.

Subsections 32M(3) and (6):

Omit the subsections.

Subsection 32M(7):

Omit the subsection, substitute:

“(7) Without limiting subsections (1) to (5):

(a) the Judicature Act 1908 of New Zealand; and

(b) the High Court Rules made by or under that Act that apply to New Zealand proceedings generally;

also apply, by force of this subsection, to the practice and procedure of the High Court of New Zealand in a proceeding that is a New Zealand proceeding for the purposes of this Part so far as the proceeding is conducted or continued in Australia.”.

Section 32N:

Repeal the section, substitute:

Privileges, protection and immunity of participants in New Zealand proceedings

“32N.(1) A Judge of the High Court of New Zealand has, at a sitting in Australia of the High Court in a New Zealand proceeding, the same privileges, protection and immunity as a Judge of the Federal Court.

“(2) A person appearing as a barrister, solicitor or both in a New Zealand proceeding has, at a sitting in Australia of the High Court of New Zealand, the same protection and immunity a barrister has in appearing for a party in a proceeding before the Federal Court.

“(3) A person appearing as a witness in a New Zealand proceeding has, at a sitting in Australia of the High Court of New Zealand, the same protection as a witness in a proceeding in the Federal Court.”.

Subsection 32P(1):

Omit the subsection, substitute:

“(1) The High Court of New Zealand may, at a sitting in Australia of the High Court in a New Zealand proceeding, administer an oath or affirmation in accordance with the practice and procedure of the High Court.”.

Section 32Q:

Omit “, and a New Zealand subpoena.”.

SCHEDULE—continued

Sections 32R and 32S:

Repeal the sections.

Section 32ZD:

Repeal the section.

Paragraph 32ZF(2)(b):

Omit “or” (last occurring).

Paragraph 32ZF(2)(c):

Omit the paragraph.

Paragraph 59(2)(v):

Omit “, for the purposes of Part IIIA of this Act and Part VA of the *Evidence Act 1905*,” substitute “from New Zealand”.

Paragraphs 59(2)(w) and (x):

Omit “for the purposes of Part IIIA”.

Paragraph 59(2)(z):

Omit the paragraph.

Paragraph 59(2)(zc):

Omit “under section 32S”.





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