



ANNO VICESIMO SEPTIMO

ELIZABETHAE II REGINAE

A.D. 1979

No. 9 of 1979

An Act to amend the Evidence Act, 1929-1978.

[Assented to 1st March, 1979]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

Short titles.

1. (1) This Act may be cited as the "Evidence Act Amendment Act, 1979".

(2) The Evidence Act, 1929-1978, is hereinafter referred to as "the principal Act".

(3) The principal Act, as amended by this Act, may be cited as the "Evidence Act, 1929-1979".

Amendment of
principal Act,
s. 4—
Interpretation.

2. Section 4 of the principal Act is amended by striking out from the definitions of "electric telegraph" and "telegraph station" the passage "Postmaster General of the Commonwealth" wherever it occurs and inserting in lieu thereof, in each case, the passage "Australian Telecommunication Commission".

Repeal of
s. 32 of
principal Act.

3. Section 32 of the principal Act is repealed.

Amendment of
principal Act,
s. 37—
Proof of
orders in
Council, etc.

4. Section 37 of the principal Act is amended—

(a) by striking out paragraph (a) of subsection (2) and inserting in lieu thereof the following paragraph:—

(a) a document purporting to be a copy of—

(i) the *Gazette* that contains the order-in-Council;
or

(ii) the page or pages of the *Gazette* that contains or
contain the order-in-Council; ;

and

(b) by striking out subsection (3) and inserting in lieu thereof the following subsection:—

(3) A date—

(a) printed on a document purporting to be a copy of—

(i) the *Gazette* that contains an order-in-Council;

or

(ii) the page or pages of the *Gazette* that contains or contain an order-in-Council;

and

(b) apparently intended to indicate the date of publication of the *Gazette*,

shall be evidence that the order-in-Council was published on that date.

5. The following section is enacted and inserted in the principal Act after section 37b thereof:—

Enactment of
s. 37c of
principal Act.

37c. (1) In this section—

Proof of
Imperial
orders-in-
Council.

“Imperial order-in-Council” means—

(a) any letters patent or Imperial order-in-Council;

or

(b) any admiralty map or chart issued by, or under the authority of, the Government of Great Britain, or the United Kingdom.

(2) Evidence of the making and contents of an Imperial order-in-Council may be given by production of a document purporting to be certified by the Secretary to the Attorney-General as a true copy of the Imperial order-in-Council.

(3) A statement in a document produced in evidence under subsection (2) of this section as to the date of publication of the Imperial order-in-Council shall be evidence that the Imperial order-in-Council was published on that date.

6. Section 45a of the principal Act is amended by inserting in paragraph (a) of subsection (2) after the passage “that the person by” the word “whom”.

Amendment of
principal Act,
s. 45a—
Admission of
business
records in
evidence.

7. Section 45b of the principal Act is amended by inserting in paragraph (a) of subsection (3) after the passage “that the person by” the word “whom”.

Amendment of
principal Act,
s. 45b—
Admission of
certain
documents in
evidence.

8. Section 59b of the principal Act is amended by inserting in subsection (1) after the word “civil” the passage “or criminal”.

Amendment of
principal Act,
s. 59b—
Admissibility
of computer
output.

9. Section 61 of the principal Act is repealed.

Repeal of
s. 61 of
principal Act.

10. Section 65 of the principal Act is amended by striking out from paragraph (a) the passage “Post and Telegraph Department” and inserting in lieu thereof the passage “Australian Postal Commission”.

Amendment of
principal Act,
s. 65—
Reference by
court to books,
official
certificates,
etc.

Enactment of
s. 67ab of
principal Act.

11. The following section is enacted and inserted in the principal Act after section 67a thereof:—

Taking of
evidence in
this State
by foreign
authorities.

67ab. (1) Subject to subsection (2) of this section, a foreign authority may—

(a) take evidence;

and

(b) administer an oath to any witness for the purpose of taking evidence,

in this State.

(2) Where—

(a) the foreign authority is not a court constituted of a person who holds judicial office under the laws of the place in which the court is established;

or

(b) the evidence to be taken by the foreign authority relates to criminal proceedings,

it shall not be lawful for the foreign authority to take evidence, or to administer an oath, in this State without the authority of the Attorney-General.

(3) In this section—

“foreign authority” means—

(a) a court established under the law of a place outside this State;

(b) any body or person authorized under the law of a place outside this State to take evidence;

or

(c) any person commissioned or otherwise authorized by any such court, body or person to act on its behalf in taking evidence in this State.

Repeal of
s. 69 of
principal Act
and enactment
of section in
its place.

12. Section 69 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Power to
suppress
publication
of evidence,
etc.

69. (1) Where a court considers it desirable to exercise powers conferred by this section—

(a) in the interests of the administration of justice;

or

(b) in order to prevent undue prejudice or undue hardship to any person,

it may, by order—

(c) direct that any persons specified (by name or otherwise) by the court, or that all persons except those specified, absent themselves from the place in which the court is being held during the whole or any specified part of the proceedings before the court;

(d) forbid the publication of specified evidence, or of any account or report of specified evidence either absolutely, or subject to conditions determined by the court;

or

(e) forbid the publication of the name of—

(i) any party or witness;

or

(ii) any person alluded to in the course of proceedings before the court,

and of any other material tending to identify any such person.

(2) When a court makes an order under paragraph (d) or (e) of subsection (1) of this section, the court shall report the fact to the Attorney-General and shall embody in its report a statement of—

(a) the evidence or name (as the case may be) forbidden to be published;

and

(b) the circumstances in which the order was made.

(3) An order made under this section may be varied or revoked by the court by which the order was made (whether constituted of the same or a different judicial officer).

(4) An appeal shall lie against a decision of a court to make, or not to make, an order under this section.

(5) The appeal shall be heard and determined as expeditiously as reasonably practicable—

(a) by the court to which appeals against final judgments or orders of the court by which the decision was made lie;

or

(b) where there is no such court—by the Supreme Court constituted of a single judge.

13. Section 71 of the principal Act is amended—

(a) by striking out from subsection (1) the passage “paragraph (a) of subsection (1) of section 69” and inserting in lieu thereof the passage “paragraph (c) of subsection (1) of section 69”;

and

(b) by striking out from subsection (2) the passage “paragraph (b) or paragraph (c) of subsection (1) of section 69” and inserting in lieu thereof the passage “paragraph (d) or paragraph (e) of subsection (1) of section 69”.

Amendment of
principal Act
s. 71—
Penalty for
non-
compliance
with order.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

K. D. SEAMAN, Governor