



ANNO TRICESIMO TERTIO

ELIZABETHAE II REGINAE

A.D. 1984

No. 56 of 1984

An Act to amend the Evidence Act, 1929, and the Criminal Law Consolidation Act, 1935; and to make related amendments to the Acts Interpretation Act, 1915, the Local and District Criminal Courts Act, 1926, the Oaths Act, 1936, and the Supreme Court Act, 1935.

[Assented to 24 May 1984]

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

- Short title. 1. This Act may be cited as the "Statutes Amendment (Oaths and Affirmations) Act, 1984".
- Commencement. 2. This Act shall come into operation on a day to be fixed by proclamation.
- Amendment of Evidence Act, 1929. 3. The Evidence Act, 1929, is amended—
- (a) by striking out from section 4 the definition of "court" and substituting the following definition:
- "court" includes a tribunal, authority or person invested by law with judicial or quasi-judicial powers, or with authority to make any inquiry or to receive evidence; ;
- and
- (b) by repealing sections 6, 7 and 8 and substituting the following sections:
- Oaths, affirmations, etc. 6. (1) An oath shall be administered and taken as follows:
- (a) the person taking the oath shall hold a copy of the Bible (being a book that contains the New Testament, the Old Testament or both) in his hand and, after the oath has been tendered to him, shall say "I swear";
- (b) in any other manner and form which the person taking the oath declares to be binding on his conscience;

or

(c) in any other manner or form authorized or permitted by law.

(2) Where an oath has been lawfully administered and taken, the fact that the person taking the oath had no religious belief, or that the oath was not taken so as to be binding on his conscience, shall not affect, at law, the validity or effect of the oath.

(3) A person shall be permitted to make an affirmation instead of an oath in all circumstances in which, and for all purposes for which, an oath is required or permitted by law.

(4) A person taking an affirmation shall say: "I, A.B., do solemnly and truly declare and affirm" and then shall proceed with the words of the appropriate oath, omitting any words of imprecation or calling to witness.

(5) Every affirmation has, at law, the same force and effect as an oath.

(6) No oath or affirmation is invalid by reason of a procedural or formal error or deficiency.

7. (1) Every court has authority to administer an oath or an affirmation. Oaths or affirmations taken before a court.

(2) Where an oath or affirmation is to be taken before a court, or in connection with proceedings before a court, it may be administered by—

(a) the court itself;

(b) an officer of the court;

(c) any person authorized by the court to administer the oath or affirmation;

or

(d) any other person authorized by law to administer the oath or affirmation.

4. The Criminal Law Consolidation Act, 1929, is amended by repealing section 239 and substituting the following section: Amendment of Criminal Law Consolidation Act, 1935.

239. (1) A person who makes a false statement under oath is guilty of perjury. Perjury and subornation.

(2) A person who incites, procures, induces, aids or abets another to make a false statement under oath is guilty of subornation of perjury.

(3) In proceedings upon a charge of perjury or subornation of perjury, an apparently genuine document that appears to be a transcript of evidence given before a court in some other proceedings shall be accepted as evidence—

(a) of the evidence given in those other proceedings;

(b) where evidence appears from the transcript to have been given by a particular person—that it was so given;

and

(c) where evidence appears from the transcript to have been given under oath—that it was so given.

(4) Where it appears to a court that there are reasonable grounds to believe that a person appearing as a witness before the court has made, under oath, a false statement in evidence given before the court, the court may direct that the person be prosecuted for perjury, and in that event the person shall be immediately taken before a justice to be dealt with upon a charge of perjury.

(5) It is not necessary for the conviction of a person for perjury or subornation of perjury that evidence of the perjury be corroborated.

(6) A person who is convicted of perjury or subornation of perjury is liable to imprisonment for a term not exceeding four years.

(7) For the purposes of this section—

(a) “court” includes a tribunal, authority or person invested by law with judicial or quasi-judicial powers, or with authority to make any inquiry or to receive evidence:

“oath” includes an affirmation;

and

(b) a statement shall be taken to be false if it is false in a material particular and—

(i) in the case of perjury—the person by whom it was made knew it to be false or did not believe it to be true;

or

(ii) in the case of subornation of perjury—the person who incited, procured, induced, aided or abetted the other person to make the statement knew it to be false or did not believe it to be true.

Amendment of
the Acts
Interpretation
Act, 1915.

5. Sections 41 and 51 of the Acts Interpretation Act, 1915, are repealed.

Amendment of
the Local and
District Criminal
Courts Act, 1926.

6. Section 299 of the Local and District Criminal Courts Act, 1926, is repealed.

Amendment of
the Oaths Act,
1936.

7. Section 29 of the Oaths Act, 1936, is repealed.

Amendment of
the Supreme
Court Act, 1935.

8. Sections 37 and 118 of the Supreme Court Act, 1935, are repealed.

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

D. B. DUNSTAN, Governor