

EVIDENCE.

No. 9 of 1965.

AN ACT to amend the *Evidence Act* 1910.

[22 June 1965.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

Short title
and citation.

1—(1) This Act may be cited as the *Evidence Act* 1965.

(2) The *Evidence Act* 1910, as subsequently amended, is in this Act referred to as the Principal Act.

Power to
send for
witnesses and
documents.

2 Section fourteen of the Principal Act is amended—

(a) by omitting paragraph (b) of subsection (1) thereof and substituting therefor the following paragraph:—

“(b) by order-in-council or under the authority of any Act, appoints a board of inquiry (consisting either of one person or of more persons than one) to inquire into any matters specified in the instrument of appointment.”;

(b) by omitting from that subsection the words “the chairman of such board” and substituting therefor the words “, in the case of such a board of inquiry, the chairman of the board or the sole member thereof, as the case may be.”;

(c) by inserting in that subsection, after the word “commission” (third occurring), the words “or board”; and

(d) by adding at the end of subsection (2) thereof the words “, or the sole member thereof, as the case may be.”.

3 After section forty of the Principal Act the following Division is inserted:—

" Division IIA—Business records.

"40A—(1) Subject to subsection (2) of this section, a writing purporting to be a memorandum or record of any act, matter, or event is admissible in evidence as proof of the facts stated therein if it appears to the court or judge that—

Admissibility of certain business records in evidence.

- (a) the memorandum or record was made in the regular course of a business at or about the time of the doing or occurrence of the act, matter, or event; and
- (b) the source of information, and the method and time of the preparation of the memorandum or record, were such as to indicate its trustworthiness.

"(2) Subsection (1) of this section does not require a court or judge to admit a writing in evidence if it appears to the court or judge that the interests of justice would not be served by the admission thereof.

"(3) For the purposes of this section, a court or judge, in considering whether a writing should be admitted in evidence, shall have regard to all relevant circumstances, including (but without prejudice to the generality of this subsection)—

- (a) the source from which the writing is produced; and
- (b) the circumstances of its receipt and custody by the person producing it or by any person from whom it has been obtained for the purpose of producing it in evidence.

"(4) In the exercise of the discretion conferred on a court or judge by this section, the court or judge is not obliged to receive formal testimony but may inform its or his mind in any way that it or he thinks fit and in particular (but without prejudice to the generality of this subsection) by the affidavit, oath, affirmation, or certificate of any person who professes to have knowledge of any of the matters to which the writing relates or of the circumstances relating to its preparation.

"(5) In this section—

- 'business' includes any business, profession, occupation, calling, trade, or undertaking whether engaged in or carried on by the Crown, or by a statutory authority, or by any other person;
- 'writing' includes any photographic reproduction or photostatic reproduction of a document."

4 Section seventy-six of the Principal Act is amended by inserting after paragraph (b) of subsection (1) thereof the following paragraph:—

Convictions, acquittals, and other judicial proceedings.

- "(ba) That any person was ordered by any court, judge, or justice, to enter into a recognizance;"