



ANALYSIS

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1990, No. 46

An Act to amend the Evidence Act 1908

[29 June 1990]

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title and commencement—(1) This Act may be cited as the Evidence Amendment Act 1990 and shall be read together with and deemed part of the Evidence Act 1908 (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the 1st day of July 1990.

2. Interpretation—In sections 4, 7, 8, and 9 of this Act—

“Australian Act” means—

- (a) An Act of the Commonwealth of Australia;
- (b) An Act of a State of the Commonwealth of Australia;
- (c) An Act or an Ordinance of a Territory of the Commonwealth of Australia;

“Australian regulation” means a regulation, order, notice, proclamation, or instrument made, given, or issued under an Australian Act.

3. Application—Sections 4 to 10 and 12 of this Act apply in relation to—

- (a) Proceedings commenced in the High Court in which a matter for determination arises under—
 - (i) Any of sections 36A, 98H, or 99A of the Commerce Act 1986; or
 - (ii) A provision of Part VI or Part VII of the Commerce Act 1986 in so far as it relates to any of sections 36A, 98H, or 99A of that Act:
- (b) An interlocutory proceeding related to proceedings of the kind referred to in paragraph (a) of this section:
- (c) An application for the issue of execution or enforcement of a judgment or order or injunction given or made or granted in a proceeding of the kind referred to in paragraph (a) of this section:
- (d) Every application under Part IA of the Reciprocal Enforcement of Judgments Act 1934—
 - (i) To register a judgment or order or injunction:
 - (ii) To register a judgment or order varying a judgment or order or injunction registered under that Part of that Act:
 - (iii) To set aside, or stay the execution of, a judgment or order or injunction registered under that Part of that Act.

4. Judicial notice of Australian Acts and regulations— Judicial notice shall be taken of Australian Acts and Australian regulations.

5. Facsimiles— Subject to any Rules of Court made under section 51c of the Judicature Act 1908, and to any contrary direction by the Court—

- (a) A facsimile of a document or thing that is admissible in evidence under this Act is admissible evidence of that document or thing:
- (b) Judicial notice shall be taken of a facsimile of a document or thing of which judicial notice is required to be taken under this Act.

6. Judicial notice of certain signatures, seals, and stamps—(1) Judicial notice shall be taken of—

- (a) The impression of the seal or stamp of the Federal Court of Australia and of the High Court of Australia; and
- (b) The signature of a Judge, a Registrar, a District Registrar, a Deputy Registrar, or a Deputy District Registrar of the Federal Court of Australia or of the High Court of Australia; and

- (c) The official signature of a person who holds, or has held, an office in Australia to which the Governor-General, by Order in Council, declares this section to apply; and
- (d) The impression of the official seal or stamp of a person referred to in paragraph (b) or paragraph (c) of this subsection; and
- (e) If judicial notice is taken of a signature or the impression of a stamp or seal under paragraph (b) or paragraph (c) or paragraph (d) of this subsection, the fact that a person referred to in paragraph (b) or paragraph (c) holds, or has held, the office concerned—

if the signature or the impression appears on an official or judicial document.

(2) An order may be made under paragraph (c) of subsection (1) of this section even though the office has ceased to exist.

(3) An order that is made under paragraph (c) of subsection (1) of this section continues to apply in relation to an office and to a person who held the office even though the office ceases to exist after the order is made.

7. Copies of Australian Acts and regulations to be evidence—Every copy of an Australian Act and every copy of any Australian regulations appearing to have been printed or published, whether before or after the commencement of this section, by the Government Printer of the Government of the Commonwealth of Australia or of the Government of a State of Australia or under the authority of such Government shall, unless the contrary is proved, be deemed—

- (a) To be a correct copy of the Australian Act or Australian regulations; and
- (b) To have been so printed and published.

8. Evidence of official Australian documents—(1) In this section “official Australian document” means a document that appears to be made or issued by a person who appears to have, under an Australian Act, the authority or power to make or issue it.

(2) Prima facie evidence of the making or issue of an official Australian document may be given by producing—

- (a) An original of the document; or
- (b) A copy of an Australian Government *Gazette* that contains a copy of the document; or
- (c) A copy of the document that appears to have been printed by the Government Printer of the

Government of the Commonwealth of Australia or of the Government of a State of Australia or under the authority of such Government; or

- (d) A written copy of, or extract from, the document that appears to have been certified by the person who made or issued the document or by a person who appears to have power to issue or make the document.

9. Evidence of public documents by reference to Australian law—(1) In this section “public document” means an official or public document; and includes a certificate, an entry in a register, and a record of any proceedings.

(2) Without limiting subsection (4) of this section, a public document that is admissible in evidence under an Australian Act is admissible in evidence to the same extent and for the same purpose if it appears to be sealed, stamped, signed, signed and sealed, or signed and stamped in accordance with that Act.

(3) A certified copy of, or a certified extract from, a public document that is admissible in evidence pursuant to subsection (2) of this section is also admissible in evidence.

(4) A public document that is admissible in evidence under Australian law, to any extent or for any purpose, without proof of—

- (a) The seal, stamp, or signature that authenticates it; or
(b) The judicial or official character of the person who appears to have signed it—

is admissible in evidence to the same extent and for the same purpose without such proof.

10. Evidence of other public documents—A copy of, or extract from, an Australian document that is, by reason of its public nature, admissible in evidence in Australia merely on its production from the proper custody, is admissible in evidence if—

- (a) The copy or extract is proved to be an examined copy or extract; or
(b) The copy or extract appears to be signed or certified as a true copy or extract by the person who has custody of the document and that person also certifies that he or she has custody of it.

11. New section substituted—The principal Act is hereby amended by repealing section 41, and substituting the following section:

“41. **‘Country’ defined**—In sections 37 to 40 of this Act ‘country’ includes a State, territory, province, or other part of a country.”

12. Other laws not affected—Nothing in this Act limits or affects the provisions of any other Act or a rule of law relating to the admissibility of evidence or the taking of judicial notice of a matter or thing.

This Act is administered in the Department of Justice.
