



Evidence Amendment Act 2000

Public Act 2000 No 62
Date of assent 14 November 2000
Commencement see section 2

Contents

1	Title		
2	Commencement		
3	New sections 45A to 45C inserted		
	45A Foreign public documents: interpretation		45C Foreign public documents: Convention certificates sufficient authentication of certain matters
	45B Foreign public documents: certificates as to contracting States under Convention	4	Schedule added
			<hr/>
			Schedule
			Schedule added to principal Act

The Parliament of New Zealand enacts as follows:

1 Title

- (1) This Act is the Evidence Amendment Act 2000.
- (2) In this Act, the Evidence Act 1908 is called “the principal Act”.

2 Commencement

This Act comes into force on a date to be appointed by the Governor-General by Order in Council.

3 New sections 45A to 45C inserted

The principal Act is amended by inserting, immediately before section 46, the following sections:

“45A Foreign public documents: interpretation

In this section, and sections 45B and 45C,—

“**Convention** means the Hague Convention Abolishing the Requirement of Legalisation for Foreign Public Documents,

done at The Hague on 5 October 1961, the English text of which is set out in the Schedule

“**Convention certificate** means a certificate issued under the Convention in relation to a foreign public document by the competent authority of the State from which the foreign public document emanates

“**foreign public document** means a public document that—

“(a) has to be produced in New Zealand; and

“(b) was executed in a foreign country that—

“(i) is a contracting State under the Convention; and

“(ii) did not raise an objection to New Zealand’s accession to the Convention

“**legalisation** means the formality by which New Zealand’s diplomatic or consular agents certify, in relation to a public document that has to be produced in New Zealand and that was executed in a foreign country,—

“(a) the authenticity of the signature on the public document; and

“(b) the capacity in which the person signing the public document has acted; and

“(c) where appropriate, the identity of the stamp or seal that the public document bears

“**New Zealand authority** means any person in New Zealand (including any Court, any person acting judicially, and any person exercising a power or performing a function under a New Zealand law) to whom a foreign public document has to be produced

“**public document**—

“(a) includes any of the following documents:

“(i) a document emanating from an authority or from an official connected with the Courts or tribunals of a State, including a document emanating from a public prosecutor, a clerk of a court, or a process server (‘huissier de justice’); and

“(ii) an administrative document (other than an administrative document dealing directly with commercial or customs operations); and

“(iii) a notarial act; and

“(iv) an official certificate which is placed on a document signed by a person in the person’s private capacity (for example, an official certificate

recording the registration of a document or the fact that the document was in existence on a certain date, or an official or notarial authentication of a signature); but

“(b) does not include a document executed by a diplomatic or consular agent.

“45B Foreign public documents: certificates as to contracting States under Convention

A certificate purporting to be signed by the Secretary of Foreign Affairs and Trade, and stating that a country is a contracting State under the Convention that did not raise an objection to New Zealand’s accession to the Convention, is sufficient evidence of those matters, unless the contrary is proved.

“45C Foreign public documents: Convention certificates sufficient authentication of certain matters

- “(1) A Convention certificate placed on, or attached to, a foreign public document is the only formality that a New Zealand authority may require, in relation to the document, as evidence or certification of—
- “(a) the authenticity of the signature on the document; and
 - “(b) the capacity in which the person signing the document has acted; and
 - “(c) where appropriate, the identity of the seal or stamp that the document bears.
- “(2) If a foreign public document is not subject to a requirement of legalisation, no New Zealand authority may require, in relation to the document, a Convention certificate as evidence or certification of the matters referred to in subsection (1)(a) to (c).
- “(3) A New Zealand authority must accept, in relation to a foreign public document, a Convention certificate placed on, or attached to, the document as sufficient evidence or certification of the matters referred to in subsection (1)(a) to (c), unless the contrary is proved.
- “(4) Subsection (3) does not prevent a New Zealand authority from accepting, in relation to a foreign public document, a lesser formality than a Convention certificate placed on, or attached

to, the document as evidence or certification of the matters referred to in subsection (1)(a) to (c).

Compare: Foreign Evidence Act 1994 (Australia) ss 37, 38, 39”.

4 Schedule added

The principal Act is amended by adding the Schedule set out in the Schedule.

s 4

Schedule
Schedule added to principal Act

s 45A

Schedule
**Hague Convention abolishing the requirement of
legalisation for foreign public documents**

The States signatory to the present Convention,
Desiring to abolish the requirement of diplomatic or consular
legalisation for foreign public documents,
Have resolved to conclude a Convention to this effect and have
agreed upon the following provisions:

Article 1

The present Convention shall apply to public documents which
have been executed in the territory of one Contracting State and
which have to be produced in the territory of another Contracting
State.

For the purposes of the present Convention, the following are
deemed to be public documents:

- a) documents emanating from an authority or an official connected
with the courts or tribunals of the State, including those emanat-
ing from a public prosecutor, a clerk of a court or a process server
(‘huissier de justice’);
- b) administrative documents;
- c) notarial acts;
- d) official certificates which are placed on documents signed by
persons in their private capacity, such as official certificates
recording the registration of a document or the fact that it was in
existence on a certain date and official and notarial authentica-
tions of signatures.

However, the present Convention shall not apply:

- a) to documents executed by diplomatic or consular agents;
- b) to administrative documents dealing directly with commercial or
customs operations.

Article 2

Each Contracting State shall exempt from legalisation documents
to which the present Convention applies and which have to be
produced in its territory. For the purposes of the present Convention,
legalisation means only the formality by which the diplomatic or

consular agents of the country in which the document has to be produced certify the authenticity of the signature, the capacity in which the person signing the document has acted and, where appropriate, the identity of the seal or stamp which it bears.

Article 3

The only formality that may be required in order to certify the authenticity of the signature, the capacity in which the person signing the document has acted and, where appropriate, the identity of the seal or stamp which it bears, is the addition of the certificate described in Article 4, issued by the competent authority of the State from which the document emanates.

However, the formality mentioned in the preceding paragraph cannot be required when either the laws, regulations, or practice in force in the State where the document is produced or an agreement between two or more Contracting States have abolished or simplified it, or exempt the document itself from legalisation.

Article 4

The certificate referred to in the first paragraph of Article 3 shall be placed on the document itself or on an “allonge”, it shall be in the form of the model annexed to the present Convention.

It may, however, be drawn up in the official language of the authority which issues it. The standard terms appearing therein may be in a second language also. The title “Apostille (Convention de La Haye du 5 octobre 1961)” shall be in the French language.

Article 5

The certificate shall be issued at the request of the person who has signed the document or of any bearer.

When properly filled in, it will certify the authenticity of the signature, the capacity in which the person signing the document has acted and, where appropriate, the identity of the seal or stamp which the document bears.

The signature, seal and stamp on the certificate are exempt from all certification.

Article 6

Each Contracting State shall designate by reference to their official function, the authorities who are competent to issue the certificate referred to in the first paragraph of Article 3.

It shall give notice of such designation to the Ministry of Foreign Affairs of the Netherlands at the time it deposits its instrument of ratification or of accession or its declaration of extension. It shall also give notice of any change in the designated authorities.

Article 7

Each of the authorities designated in accordance with Article 6 shall keep a register or card index in which it shall record the certificates issued, specifying:

- a) the number and date of the certificate,
- b) the name of the person signing the public document and the capacity in which he has acted, or in the case of unsigned documents, the name of the authority which has affixed the seal or stamp.

At the request of any interested person, the authority which has issued the certificate shall verify whether the particulars in the certificate correspond with those in the register or card index.

Article 8

When a treaty, convention or agreement between two or more Contracting States contains provisions which subject the certification of a signature, seal or stamp to certain formalities, the present Convention will only override such provisions if those formalities are more rigorous than the formality referred to in Articles 3 and 4.

Article 9

Each Contracting State shall take the necessary steps to prevent the performance of legalisations by its diplomatic or consular agents in cases where the present Convention provides for exemption.

Article 10

The present Convention shall be open for signature by the States represented at the Ninth Session of the Hague Conference on Private International Law and Iceland, Ireland, Liechtenstein and Turkey.

It shall be ratified, and the instruments of ratification shall be deposited with the Ministry of Foreign Affairs of the Netherlands.

Article 11

The present Convention shall enter into force on the sixtieth day after the deposit of the third instrument of ratification referred to in the second paragraph of Article 10.

The Convention shall enter into force for each signatory State which ratifies subsequently on the sixtieth day after the deposit of its instrument of ratification.

Article 12

Any State not referred to in Article 10 may accede to the present Convention after it has entered into force in accordance with the first paragraph of Article 11. The instrument of accession shall be deposited with the Ministry of Foreign Affairs of the Netherlands.

Such accession shall have effect only as regards the relations between the acceding State and those Contracting States which have not raised an objection to its accession in the six months after the receipt of the notification referred to in sub-paragraph d) of Article 15. Any such objection shall be notified to the Ministry of Foreign Affairs of the Netherlands.

The Convention shall enter into force as between the acceding State and the States which have raised no objection to its accession on the sixtieth day after the expiry of the period of six months mentioned in the preceding paragraph.

Article 13

Any State may, at the time of signature, ratification or accession, declare that the present Convention shall extend to all the territories for the international relations of which it is responsible, or to one or more of them. Such a declaration shall take effect on the date of entry into force of the Convention for the State concerned.

At any time thereafter, such extensions shall be notified to the Ministry of Foreign Affairs of the Netherlands.

When the declaration of extension is made by a State which has signed and ratified, the Convention shall enter into force for the territories concerned in accordance with Article 11. When the declaration of extension is made by a State which has acceded, the Convention shall enter into force for the territories concerned in accordance with Article 12.

Article 14

The present Convention shall remain in force for five years from the date of its entry into force in accordance with the first paragraph of Article 11, even for States which have ratified it or acceded to it subsequently.

If there has been no denunciation, the Convention shall be renewed tacitly every five years.

Any denunciation shall be notified to the Ministry of Foreign Affairs of the Netherlands at least six months before the end of the five year period.

It may be limited to certain of the territories to which the Convention applies.

The denunciation will only have effect as regards the State which has notified it. The Convention shall remain in force for the other Contracting States.

Article 15

The Ministry of Foreign Affairs of the Netherlands shall give notice to the States referred to in Article 10, and to the States which have acceded in accordance with Article 12, of the following:

- a)* the notifications referred to in the second paragraph of Article 6;
- b)* the signatures and ratifications referred to in Article 10;
- c)* the date on which the present Convention enters into force in accordance with the first paragraph of Article 11;
- d)* the accessions and objections referred to in Article 12 and the date on which such accessions take effect;
- e)* the extensions referred to in Article 13 and the date on which they take effect;
- f)* the denunciations referred to in the third paragraph of Article 14.

In witness whereof the undersigned, being duly authorised thereto, have signed the present Convention.

Done at The Hague the 5th October 1961, in French and in English, the French text prevailing in case of divergence between the two texts, in a single copy which shall be deposited in the archives of the Government of the Netherlands, and of which a certified copy shall be sent, through the diplomatic channel, to each of the States represented at the Ninth Session of the Hague Conference on Private International Law and also to Iceland, Ireland, Liechtenstein and Turkey.

Signatures omitted

Annex to the Convention

Model of certificate

The certificate will be in the form of a square with sides at least 9 centimetres long

APOSTILLE	
(Convention de La Haye du 5 octobre 1961)	
1. Country:	
This public document	
2. has been signed by.....	
3. acting in the capacity of	
4. bears the seal/stamp of	
Certified	
5. at	6. the
7. by.....	
8. No	
9. Seal/stamp:	10. Signature:

Legislative history

9 November 2000

Divided from the Statutes Amendment Bill (No 7) as reported from the Justice and Electoral Committee (Bill 334–A2), third reading

14 November 2000

Royal assent

This Act is administered in the Ministry of Justice.
