



# Evidence Act 1905

No. 4, 1905

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Prepared by the Office of Parliamentary Counsel, Canberra

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## About this compilation

### **This compilation**

This is a compilation of the *Evidence Act 1905* that shows the text of the law as amended and in force on 1 April 1995 (the *compilation date*).

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

### **Application, saving and transitional provisions for provisions and amendments**

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

### **Modifications**

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified.

### **Self-repealing provisions**

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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# **An Act relating to the Law of Evidence**

## **Part I—Preliminary**

### **1 Short title**

This Act may be cited as the *Evidence Act 1905*.

### **2 Interpretation**

In this Act, unless the contrary intention appears:

***joint sitting of the Parliament*** means a joint sitting of the members of the Senate and of the House of Representatives convened by the Governor-General in pursuance of section 57 of the Constitution or held pursuant to any Act;

***Courts*** includes the High Court, the Commonwealth Court of Conciliation and Arbitration, the Commonwealth Industrial Court, all Courts exercising federal jurisdiction and all Courts of the several States and parts of the Commonwealth, and all Judges and justices and all arbitrators under any law of the Commonwealth or of a State, and all persons authorized by the law of the Commonwealth or of a State or by consent of parties to hear, receive, and examine evidence.

## Part II—Judicial Notice

### 3 Seal of Commonwealth to be judicially noticed

All Courts shall take judicial notice of the impression of the Great Seal of Australia without evidence of the seal having been impressed or any other evidence relating thereto.

### 4 Certain signatures etc. to be judicially noticed

- (1) All Courts shall take judicial notice of:
- (a) the official signature of any person who holds or has held the office of Governor-General, Minister of State, President of the Senate, Speaker of the House of Representatives, Secretary to the Federal Executive Council, Justice of the High Court, Chief Executive and Principal Registrar of the High Court, Senior Registrar or Deputy Registrar of the High Court, Clerk of the High Court, Registrar of the High Court, President or Deputy President of the Commonwealth Court of Conciliation and Arbitration, President, Deputy President or other member of the Commonwealth Conciliation and Arbitration Commission or of the Australian Industrial Relations Commission, Industrial Registrar or Deputy Industrial Registrar, or President or Judge or member of any Federal Court, or any office to which the Governor-General, by order published in the Gazette, declares this section to apply; and
  - (b) the official seal of every such person or Court, of the Commonwealth Conciliation and Arbitration Commission or of the Australian Industrial Relations Commission; and
  - (c) the fact that such person holds or has held such office; if the signature or seal purports to be attached or appended to any judicial or official document.
- (1A) An order may be made under subsection (1) in relation to an office that has ceased to exist prior to the making of the order.

- (1B) An order under subsection (1) continues to apply in relation to an office, notwithstanding that the office ceases to exist after the making of the order.
- (2) All Courts shall take judicial notice of the official signature of any person who is presiding, or has presided, at a joint sitting of the Parliament and of the fact that the person is so presiding or has so presided, if the signature purports to be attached to any official document.

#### **4A Certain instruments to be judicially noticed**

Judicial notice shall be taken of all:

- (a) proclamations and orders by the Governor-General made, or purporting to be made, under an Act or Imperial Act;
- (b) regulations, rules or by-laws made, or purporting to be made, under an Act;
- (c) Ordinances of a Territory; and
- (d) regulations, rules or by-laws made, or purporting to be made, under a law (whether an Ordinance, Imperial Act or State Act) in force in a Territory.

## Part III—Proof of Certain Instruments

### 5 Proof of commissions and orders

Evidence of any commission issued by the Governor-General, or of any order made by or under the authority of a Minister, may be given in all Courts:

- (a) by the production of the Gazette purporting to contain it;
- (b) by the production of a document purporting to be a copy thereof, and purporting to be printed by the Government Printer or by the authority of the Government of the Commonwealth.
- (c) in the case of a commission issued by the Governor-General—by the production of a document purporting to be certified by the Secretary to the Federal Executive Council as a true copy thereof or extract therefrom; or
- (d) in the case of an order made by or under the authority of a Minister by the production of a document purporting to be certified by a Minister as a true copy thereof or extract therefrom.

### 6 Proof of public books and documents

- (1) Whenever any book or document of the Commonwealth is of such a public nature as to be admissible in evidence on its mere production from the proper custody, any copy thereof or extract therefrom shall be admissible in evidence in all Courts if:
  - (a) it is proved to be an examined copy or extract; or
  - (b) it purports to be signed and certified as a true copy or extract by the officer to whose custody the original is entrusted.
- (2) Subject to subsections (3) and (4), where an officer entrusted with the custody of a book or document to which subsection (1) applies is required by a Court to produce the book or document, it is sufficient compliance with the requirement for the officer to produce a copy of or extract from the book or document if it



purports to be signed and certified by the officer as a true copy or extract.

- (3) It is sufficient production of a copy or extract for the purposes of subsection (2) if the officer sends it by prepaid post, or causes it to be delivered, to the proper officer of the Court in which it is to be produced or to the person before whom it is to be produced.
- (4) The Court before which a copy or extract is produced pursuant to subsection (2) may, if it thinks fit, direct the officer to produce the original book or document.

## **7 Proof of proceedings in Parliament**

- (1) All documents purporting to be copies of the Votes and Proceedings or Journals or Minutes of either House of the Parliament, or of papers presented to either House of the Parliament, if purporting to be printed by the Government Printer, shall on their mere production be admitted as evidence thereof in all Courts.
- (1A) A document purporting to be a copy of the official record of, or of any part of, proceedings of a joint sitting of the Parliament or of a paper presented to a joint sitting of the Parliament, if purporting to be printed by the Government Printer, shall on its mere production be admitted as evidence thereof in all Courts.
- (2) A document that purports:
  - (a) to be a copy of a motion, resolution or proposed law moved in, agreed to by or introduced in a House of the Parliament, or a particular committee of a House of the Parliament, on a date specified in the document; and
  - (b) to be printed by the Government Printer;is admissible in all Courts as evidence that a motion, resolution or proposed law in the terms set out in the document was moved in, agreed to by or introduced in that House, or that committee of that House, as the case may be, and that it was moved, agreed to or introduced on the date specified in the document.

## Part IIIA—Admissibility of Business Records

### 7A Interpretation

(1) In this Part, unless the contrary intention appears:

**business** includes:

- (a) any business, profession, occupation, calling, trade or undertaking whether or not engaged in or carried on for profit and whether engaged in or carried on in Australia or elsewhere, including any business, profession, occupation, calling, trade or undertaking engaged in or carried on by the Crown in right of the Commonwealth or of a State; and
- (b) the administration of the government of the Commonwealth, of a State, of a Territory or of another country, whether carried on in Australia or elsewhere;

**criminal proceeding** means a proceeding for an offence;

**derived** means derived, by the use of a computer or otherwise, by calculation, comparison, selection, sorting or consolidation or by accounting, statistical or logical procedures;

**document** includes:

- (a) a book, plan, paper, parchment, film or other material on which there is writing or printing, or on which there are marks, symbols or perforations having a meaning for persons qualified to interpret them;
- (b) a disc, tape, paper, film or other device from which sounds or images are capable of being reproduced; and
- (c) any other record of information;

**proceeding** means a proceeding before the High Court or any court (not being a court of a Territory other than the Australian Capital Territory) created by or under an Act;

**qualified person**, in relation to a statement made in the course of, or for the purposes of, a business, means a person who:

- (a) at the time when the statement was made, was:
  - (i) an owner of the business or a person carrying on the business;
  - (ii) a servant or agent employed or engaged in the business;
  - (iii) a person retained for the purposes of the business; or
  - (iv) a person associated with the business in the course of another business; and
- (b) at that time:
  - (i) in the case of a statement that is not admissible in evidence unless made by an expert on the subject matter of the statement—was such an expert; or
  - (ii) in any other case—had, or may reasonably be supposed to have had, personal knowledge of the facts stated;

**statement** includes any representation of fact, whether made in words or otherwise.

- (2) For the purposes of this Part, a statement in a document shall be taken to be made by a person if:
  - (a) it is written, made, dictated or otherwise produced by him; or
  - (b) it is recognised by him as his statement by signing, initialling or otherwise.
- (3) For the purposes of this Part, a person shall be taken to be concerned in the making of a statement if:
  - (a) he made that statement; or
  - (b) he made a statement containing information:
    - (i) which the first-mentioned statement reproduces; or
    - (ii) from which the first-mentioned statement is derived, wholly or in part.

### **7B Admissibility of statements generally**

- (1) Subject to this Part, where, in any proceeding, evidence of a fact is admissible, a statement of the fact in a document is admissible as evidence of the fact if:

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- (a) the document containing the statement forms part of a record of a business, whether or not the business is in existence at the time when the question of admissibility arises;
  - (b) the statement was made in the course of, or for the purposes of, the business; and
  - (c) the statement was made by a qualified person or reproduces, or was derived from, either or both of the following descriptions of information:
    - (i) information in one or more statements, each made by a qualified person in the course of, or for the purposes of, the business;
    - (ii) information from one or more devices designed for, and used for the purposes of the business in or for, recording, measuring, counting or identifying information, not being information based on information supplied by any person.
- (2) This section makes a statement admissible notwithstanding:
- (a) the rules against hearsay;
  - (b) the rules against secondary evidence of the contents of a document;
  - (c) that any person concerned in the making of the statement is a witness in the proceeding, whether or not he gives testimony consistent or inconsistent with the statement; or
  - (d) that the statement is in such a form that it would not be admissible if given as oral testimony;
- but does not make admissible a statement that is otherwise inadmissible.
- (3) In this section, *fact* includes opinion.

**7C General restrictions on admissibility under section 7B**

- (1) A statement is not admissible under section 7B in a proceeding if it was made or obtained for the purpose of, or in contemplation of, any judicial or administrative proceeding.
  - (2) Where a person proposes to tender, or tenders, a statement in evidence under section 7B, the court may:
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- (a) require that any other document related to the statement be produced; and
  - (b) if a document is not produced in accordance with the requirement—reject the statement or, if it has been received, exclude it.
- (3) In this section, *judicial or administrative proceeding* means:
- (a) a proceeding before any court, whether a court of Australia or of another country; or
  - (b) a proceeding before any other person or body (not being a court) authorized by law, whether a law of Australia or of another country, or by consent of parties, to hear or receive evidence.

### **7D Restrictions on admissibility under section 7B in criminal proceedings**

- (1) This section applies in relation to a statement tendered in a criminal proceeding for admission under section 7B where the statement:
- (a) is a statement made by a person; or
  - (b) reproduces, or is derived from, information supplied by a person.
- (2) If a party to the proceeding, being a party opposed to the party tendering the statement, requires the tendering party to call a person concerned in the making of the statement as a witness in the proceeding, the statement is not admissible under section 7B unless:
- (a) the tendering party calls the person as a witness in the proceeding; or
  - (b) it appears to the court:
    - (i) that the person is dead or is unfit, by reason of any physical or mental incapacity, to attend as a witness;
    - (ii) that the person is outside Australia and it is not reasonably practicable to secure his attendance;
    - (iii) that all reasonable steps have been taken to identify the person and he cannot be identified;

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- (iv) that the identity of the person is known and all reasonable steps have been taken to find him but he cannot be found;
  - (v) that, having regard to the time that has elapsed since the person supplied the information and to all the other circumstances, the person cannot reasonably be expected to have any recollection of the matters dealt with in the statement; or
  - (vi) that, having regard to all the circumstances of the case, undue delay or expense would be caused by calling the person as a witness.
- (3) A statement made in connexion with, or in connexion with any investigation relating or leading to, a criminal proceeding is not admissible under section 7B.
- (4) In this section, *criminal proceeding* includes a proceeding under section 77 of the *Trade Practices Act 1974*.

**7E Dispute as to happening of event**

- (1) Where, in any proceeding:
- (a) the happening of an event of any description is in question; and
  - (b) in the course of a business, a system has been followed to make and keep a record of the happening of all events of that description;
- oral or other evidence to establish that there is no record of the happening of the event in question is admissible to prove that the event did not happen.
- (2) Where evidence is, or is proposed to be, tendered under this section, the court may:
- (a) require that the whole or a part of the record concerned be produced; and
  - (b) if the whole or a part of the record required to be produced is not produced—reject the evidence or, if it has been received, exclude it.

**7F Weight of evidence**

- (1) In estimating the weight (if any) to be attached to a statement tendered for admission or admitted under section 7B, regard shall be had to all the circumstances from which an inference can reasonably be drawn as to the accuracy or otherwise of the statement, including:
  - (a) in the case of a statement made by a person or a statement wholly or in part reproducing or derived from a statement made by a person:
    - (i) the recency or otherwise at the time when the person made his statement of any relevant matter dealt with in his statement; and
    - (ii) the presence and nature, or the absence, of any incentive for him to conceal or misrepresent any relevant matter in his statement;
  - (b) in the case of a statement wholly or in part reproducing or derived from information from one or more devices—the reliability of the device or devices; and
  - (c) in the case of a statement reproducing or derived from any information—the reliability of the means of reproduction or of derivation.
- (2) In estimating the weight (if any) to be attached to evidence admissible under section 7E, regard shall be had to all the circumstances from which an inference can reasonably be drawn as to the accuracy or otherwise of the evidence, including whether any person concerned with the system had any incentive to omit recording the happening of the event concerned and, if so, the nature of that incentive.

**7G Credibility of the maker of a statement**

- (1) Where:
    - (a) a person makes a statement;
    - (b) that statement, or a statement wholly or in part reproducing or derived from information in that statement, is tendered for admission, or is admitted, under section 7B in a proceeding; and
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- (c) that person is not called as a witness in the proceeding; evidence is admissible in the proceeding as provided by this section.
- (2) Evidence is admissible where, if the person had been called as a witness, the evidence would have been admissible for the purpose of destroying or supporting his credibility.
- (3) Evidence is admissible to show that a statement made by the person is inconsistent with another statement made at any time by him.
- (4) Notwithstanding subsections (2) and (3), evidence is not admissible of any matter of which, if the person had been called as a witness and denied the matter in cross-examination, evidence would not be admissible if it had been adduced by the cross-examining party.

**7H Inferences concerning admissibility**

A court may, for the purpose of deciding questions of admissibility under this Part, draw inferences from the form or content of the document in which the statement is contained as well as from other matters from which inferences may lawfully be drawn.

**7J Ancillary evidence**

- (1) Evidence relevant to the matters mentioned in section 7B, 7D or 7E may, if given by an authorised person or if given by a person who had, at the relevant time or afterwards, a responsible position in relation to the making or keeping of the records concerned, be given on information and belief.
- (2) Evidence given under subsection (1) may include evidence of the contents of a document notwithstanding that the document is not produced and that its non-production is not accounted for.
- (3) Evidence relevant to a matter mentioned in section 7B, 7D or 7E shall not be given under subsection (1) by an authorised person unless it appears to the court that:



- (a) it is not reasonably practicable for a person who had, at the relevant time or afterwards, a responsible position in relation to the making or keeping of the records concerned to give that evidence; or
  - (b) having regard to all the circumstances of the case, undue expense would be caused by calling a person referred to in paragraph (a) as a witness.
- (4) In this section, **authorised person** means:
- (a) in a case where the evidence is given at a place outside Australia—an Australian Diplomatic Officer or an Australian Consular Officer, as defined by the *Consular Fees Act 1955*, exercising functions in that place; or
  - (b) in any case—a member of the Australian Federal Police of or above the rank of sergeant, a staff member of the Australian Federal Police whose salary is at least equal to that of a sergeant in the Australian Federal Police, or a person authorised by the Attorney-General for the purposes of this section.

**7K Production of document etc.**

- (1) For the purposes of section 7B:
- (a) a statement in a document may, as prescribed or by leave of the court, be proved by the production of a copy of the document, or of the material part of the document;
  - (b) a statement in a document that is designed to be used to reproduce the statement in the form of a visible display or of sound may be proved by reproducing the statement in that form in the presence of the court; and
  - (c) a statement in a record of information made by the use of a computer may be proved by the production of a document produced by the use of a computer containing the statement in a form that can be understood by sight.
- (2) For the purposes of section 7E, the absence of a record of the happening of an event in a record of information made by the use of a computer may be proved by the production of a document

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produced by the use of a computer containing a statement based on the absence of such a record.

- (3) Where a person proposes to prove, or proves, a statement in a document otherwise than by producing the document, the court may require that the document be produced or be made available to the court or to other parties for examination or testing and, if the document is not so produced or made available, may reject the statement or, if it is in evidence, exclude it.
- (4) Where a person proposes to prove, or proves, a statement by reproducing the statement in the form of a visible display or of sound, the court may direct a record of the statement to be produced and, if the record is not produced, may reject the statement or, if it is in evidence, exclude it.
- (5) For the purposes of this section, *computer* means any device for storing or processing information.

**7L Authentication**

For the purposes of this Part, a document, a copy of a document or a copy of part of a document may be authenticated in such manner as is prescribed or the court approves.

**7M Rejection for unfairness etc.**

- (1) Where a party to a proceeding tenders any evidence under this Part, and it appears to the court that:
  - (a) the weight of the evidence is too slight to justify its admission;
  - (b) the utility of the evidence is outweighed by a probability that its admission will unduly prolong the proceeding;
  - (c) the evidence may be unfair to any other party; or
  - (d) in a case where there is a jury—the evidence may mislead the jury;the court may reject the evidence or, if it has been received, exclude it.

- (2) This section does not affect the admissibility of any evidence otherwise than by virtue of this Part.

**7N Withholding statement from jury**

Where:

- (a) in a proceeding there is a jury;
- (b) a statement in a document is admitted in evidence under this Part; and
- (c) it appears to the court that, if the jury were to have the document with it during its deliberations, the jury might give the statement undue weight;

the court may direct that the document be withheld from the jury during its deliberations.

**7P Corroboration**

For the purposes of any Act or rule of law or practice requiring evidence to be corroborated or regulating the manner in which uncorroborated evidence is to be treated, a statement admissible under section 7B shall not be treated as corroboration of evidence given by a qualified person who was concerned in the making of the statement.

**7Q Rejection of evidence in criminal proceedings**

This Part does not affect the power of a court in a criminal proceeding to reject evidence which has been obtained illegally or would, if admitted, operate unfairly against the defendant.

**7R Time of order**

A court may make orders concerning the admissibility of any statement or evidence under this Part at any stage of a proceeding.

**7S Regulations and rules of court**

- (1) The Governor-General may make regulations, not inconsistent with this Part, prescribing all matters required or permitted by this Part

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to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to this Part.

- (2) The power of an authority to make rules regulating the practice and procedure of any court to proceedings in which this Part applies extends, for the purpose of regulating any proceedings in or before that court, to making any rules, not inconsistent with this Part or with any regulations made under this section, prescribing all matters required or permitted by this Part to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to this Part.
  - (3) Without limiting the generality of subsections (1) and (2), the matters that may be prescribed by regulations or rules under those subsections include the making of provision for or in relation to:
    - (a) the giving, by a party who proposes to tender a statement under section 7B or evidence under section 7E, to the court or to other parties of notice of his intention to do so and of particulars of the statement or evidence (including copies of any statement or document);
    - (b) the giving, by a party who has received notice from another party of his intention to tender a statement under section 7B or evidence under section 7E, to the court or to other parties of notice of his intention to dispute the statement or evidence and of particulars of the grounds on which he intends to dispute the statement or evidence;
    - (c) the production, by a party who proposes to tender a statement under section 7B or evidence under section 7E or to adduce evidence in answer to any such statement or evidence, to the court or to other parties for inspection of any document related to any such statement or evidence he proposes to tender;
    - (d) the making by a court of orders requiring a person who is not a party to a proceeding in the court to produce to the court, or to parties to the proceeding, for inspection any document that a party desires to inspect for the purposes of the application of this Part to the proceeding; and
    - (e) the proof of any of the matters mentioned in sections 7B, 7D and 7E by affidavit or statutory declaration.
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- (4) If a regulation or rule is made under this section for or in relation to the proof of any of the matters mentioned in sections 7B, 7D and 7E by affidavit or statutory declaration, the regulation or rule shall, if it is not otherwise so provided, provide for the attendance at the proceeding of the deponent or maker of any such affidavit or statutory declaration for cross-examination by any party who desires to cross-examine him.
- (5) This section does not affect any power to make regulations or rules under any other Act.

## Part IV—Proof of Certain Matters

### 8 Proof of Gazette

- (1) The mere production of a paper purporting to be the Commonwealth of Australia Gazette shall in all Courts be evidence that the paper is the Commonwealth of Australia Gazette and was published on the day on which it bears date.
- (2) The mere production of a paper purporting to be the Australian Government Gazette shall in all Courts be evidence that the paper is the Australian Government Gazette and was published on the day on which it bears date.

### 9 Proof of printing by Government Printer

The mere production of a paper purporting to be printed by the Government Printer or by the authority of the Government of the Commonwealth shall in all Courts be evidence that the paper was printed by the Government Printer or by such authority.

### 10 Proof of act done by Governor-General or Minister

Where by any law at any time in force the Governor-General or a Minister is authorized or empowered to do any act, production of the Gazette purporting to contain a copy or notification of any such act shall in all Courts be evidence of the act having been duly done.

### 10A Proof of statistics

- (1) The mere production of a document purporting to be published by the Statistician and to contain statistics or abstracts thereof compiled and analysed by the Statistician pursuant to the *Census and Statistics Act 1905-1930* shall in all Courts be evidence that those statistics or abstracts were compiled and analysed by the Statistician pursuant to that Act.

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- (2) In subsection (1), "Statistician" means the Australian Statistician referred to in subsection 5 (2) of the *Australian Bureau of Statistics Act 1975* and includes any person to whom the powers of the Statistician under section 12 of the *Census and Statistics Act 1905* have been delegated.

## **Part V—Proof of Judicial Proceedings**

### **11 Proof of judicial proceedings**

Evidence of any judicial proceeding of the High Court or of any Federal Court or of any Justice or Judge thereof, including any affidavit pleading or legal document filed or deposited in any such Court, may be given in all Courts by the production of a document purporting to be a copy thereof, and:

- (a) proved to be an examined copy thereof; or
- (b) purporting to be sealed with the seal of the Court; or
- (c) purporting to be certified as a true copy by a registrar or chief officer of the Court.



## **Part VA—Evidence of Certain New Zealand Matters**

### **Division 1—Preliminary**

#### **11A Interpretation**

In this Part, unless the contrary intention appears:

*facsimile*, in relation to an instrument, document or thing, means a copy of the instrument, document or thing that has been reproduced by facsimile telegraphy;

*New Zealand Act* means an Act of the Parliament of New Zealand;

*New Zealand Minister* means a Minister of the Crown of New Zealand;

*official instrument* includes a proclamation, commission, appointment, warrant, order and regulation;

*public document* includes:

- (a) a record required by New Zealand law to be kept of a public document or proceeding; and
- (b) an entry in a public register or book; and
- (c) a certificate issued by a New Zealand officer under New Zealand law.

#### **11C Facsimiles**

Subject to any Rules of Court made under the *Federal Court of Australia Act 1976*, this Part applies to a facsimile of an instrument, document or thing in the same way that it applies to the original of the instrument, document or thing (whether or not that original is itself a copy or extract of an instrument, document or thing).

Section 11E

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**Division 2—Judicial notice of certain New Zealand matters**

**11E Official New Zealand signatures, seals and stamps**

- (1) Judicial notice must be taken of:
  - (a) the official signature of a person who holds or has held the office of Judge, Master, Registrar or Deputy Registrar of the High Court of New Zealand; and
  - (b) the official signature of a person who holds or has held an office in New Zealand to which the Governor-General, by Gazette notice, declares this section to apply; and
  - (c) the imprint of the official seal or stamp of any of those persons; and
  - (d) the fact that the person holds or has held the office concerned; and
  - (e) the imprint of a seal of the High Court of New Zealand; if the signature or imprint purports to be attached or appended to a judicial or other official document.
- (2) A declaration may be made under paragraph (1) (b) in relation to an office that has ceased to exist before the declaration is made.
- (3) A declaration under paragraph (1) (b) continues to apply to an office or a person who held the office even if the office ceases to exist after the declaration is made.

## **Division 3—Evidence of certain New Zealand instruments**

### **11F Evidence of New Zealand official instruments**

- (1) Evidence of an official instrument issued by the Governor-General of New Zealand, or by or under the authority of a New Zealand Minister, may be given by producing:
  - (a) the New Zealand Gazette purporting to contain the instrument; or
  - (b) a document purporting:
    - (i) to be a copy of the instrument; and
    - (ii) to have been printed under the authority of the New Zealand Government; or
- (2) Evidence is not required of the handwriting or official position of a person who certifies an instrument under subsection (1).

## **Division 4—Evidence of other New Zealand matters**

### **11L New Zealand Gazette**

The mere production of a document purporting to be the New Zealand Gazette is evidence:

- (a) that it is the New Zealand Gazette; and
- (b) that it was published on the day shown on it as the day on which it was published.

### **11M Evidence of printing under authority of New Zealand Government**

The mere production of a document purporting to be printed under the authority of the New Zealand Government is evidence that the document was so printed.

### **11N Acts done by New Zealand Governor-General or Minister**

If, under New Zealand law, the Governor-General of New Zealand or a New Zealand Minister is authorised or required to do an act, production of the New Zealand Gazette purporting to contain a copy or notification of the act is evidence that the act was properly done.

### **11P By-laws and regulations under New Zealand Acts**

If, under a New Zealand Act, power to make by-laws or regulations is conferred on a person or body, a document purporting:

- (a) to contain the terms of a by-law or regulation made by the person or body under the Act; and
- (b) to be printed under the authority of the New Zealand Government;

is evidence that the by-law or regulation:

- (c) was properly made in those terms; and

Section 11P

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- (d) if it appears to have been approved of or confirmed by the Governor-General of New Zealand—was so approved or confirmed.

Section 11Q

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**Division 5—Evidence relating to New Zealand judicial proceedings**

**11Q Evidence of act or process of New Zealand court**

Evidence of a judgment, decree, rule, order or other act or process of a New Zealand court, and of an affidavit, pleading or other legal document lodged with a New Zealand court, may be given by producing a copy of it:

- (a) that is proved to be an examined copy; or
- (b) that purports to be sealed with the seal of the court.

**Division 6—Miscellaneous**

**11R Part not to derogate from existing Australian laws**

This Part is in addition to, and not in derogation of, any other law in force in Australia.

**Part VI—Miscellaneous**

**12 Affidavit may be sworn before Justice of the Peace**

Affidavits for use in the High Court or any Court exercising federal jurisdiction may be sworn before any Justice of the Peace without the issue of any commission for taking affidavits.



## Endnote 1—Legislation history

**Endnotes****Endnote 1—Legislation history**

This endnote sets out details of the legislation history of the *Evidence Act 1905*.

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Evidence Act 1905	4, 1905	25 Aug 1905	25 Aug 1905	
Evidence Act 1934	43, 1934	4 Aug 1934	4 Aug 1934	—
Statute Law Revision Act 1950	80, 1950	16 Dec 1950	First Sch: 31 Dec 1950 (s 2)	s 16, 17
Evidence Act 1956	48, 1956	30 June 1956	14 Aug 1956 (s 2)	—
Evidence Act 1963	28, 1963	30 May 1963	27 June 1963	—
Evidence Act 1964	53, 1964	30 May 1964	27 June 1964	—
Evidence Act 1973	80, 1973	19 June 1973	1 July 1973 (s 2 and gaz 1973, No 79)	—
Statute Law Revision Act 1973	216, 1973	19 Dec 1973	Sch 1: 31 Dec 1973 (s 2)	s 9(1), 10
Evidence Act 1974	31, 1974	1 Aug 1974	1 Aug 1974 (s 2)	—
Evidence Amendment Act 1978	14, 1978	14 Apr 1978	14 Apr 1978 (s 2)	—
Evidence Amendment Act 1979	139, 1979	23 Nov 1979	s 1, 2, 4: 23 Nov 1979 (s 2(1)) s 3: 21 Apr 1980 (s 2(2) and gaz 1980, No S82)	—
Parliamentary Joint Sittings Amendment Act 1981	39, 1981	1 May 1981	s 3: 1 May 1981 (s 2)	—

## Endnotes

### Endnote 1—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Census and Statistics Amendment Act (No. 2) 1981	177, 1981	8 Dec 1981	s 12 (2nd occurring), 13 (2nd occurring): 1 Mar 1983 (s 2 and gaz 1983, No S36)	s 12 (2nd occurring)
Statute Law (Miscellaneous Provisions) Act (No. 2) 1983	91, 1983	22 Nov 1983	s 6, Sch 1: 20 Dec 1983 (s 2(1))	s 6(1)
Evidence Amendment Act 1985	198, 1985	16 Dec 1985	1 Sept 1986 (s 2 and gaz 1986, No S422)	—
Industrial Relations (Consequential Provisions) Act 1988	87, 1988	8 Nov 1988	Sch 2: 1 Mar 1989 (s 2(2) and gaz 1989, No S53)	—
Law and Justice Legislation Amendment Act 1989	11, 1990	17 Jan 1990	s 3234: 14 Feb 1990 (s 2(1))	—
Trade Practices (Misuse of Trans-Tasman Market Power) Act 1990	70, 1990	16 June 1990	s 24, 25: 1 July 1990 (s 2 and gaz 1990, No S172)	—
Crimes Legislation Amendment Act 1991	28, 1991	4 Mar 1991	Sch 2: 4 Mar 1991 (s 2(1))	—
Law and Justice Legislation Amendment Act 1993	13, 1994	18 Jan 1994	s 40: 11 Apr 1994 (s 2(3) and gaz No S126)	—
Foreign Evidence (Transitional Provisions and Consequential Amendments) Act 1994	43, 1994	15 Mar 1994	s 3, 4: 9 Apr 1994 (s 2(2))	s 4(2)
Evidence and Procedure (New Zealand) (Transitional Provisions and Consequential Amendments) Act 1994	112, 1994	16 Sept 1994	s 3(2) and Sch: 1 Apr 1995 (s 2(2) and gaz 1995, No GN8)	s 3(2)

## Endnote 2—Amendment history

## Endnote 2—Amendment history

<b>Provision affected</b>	<b>How affected</b>
Heading to Part I .....	rs No 53, 1964
s 1A .....	ad No 53, 1964 rep No 216, 1973
s 2 .....	am No 80, 1950; No 48, 1956; No 31, 1974; No 39, 1981
Heading to Part II .....	rs No 53, 1964
s 3 .....	am No 216, 1973
s 4 .....	am No 80, 1950; No 48, 1956; No 31, 1974; No 139, 1979; No 91, 1983; No 87, 1988; No 13, 1994
s 4A .....	ad No 53, 1964 am No 216, 1973
Heading to Part III .....	rs No 53, 1964
s 5 .....	rs No 53, 1964
s 6 .....	am No 91, 1983
s 7 .....	am No 28, 1963; No 31, 1974
<b>Part IIIA</b>	
Part IIIA .....	ad No 14, 1978
s 7A .....	ad No 14, 1978 am No 91, 1983
s 7B .....	ad No 14, 1978
s 7C .....	ad No 14, 1978
s 7D .....	ad No 14, 1978
s 7E .....	ad No 14, 1978
s 7F .....	ad No 14, 1978
s 7G .....	ad No 14, 1978
s 7H .....	ad No 14, 1978
s 7J .....	ad No 14, 1978 am No 198, 1985; No 28, 1991
s 7K .....	ad No 14, 1978
s 7L .....	ad No 14, 1978
s 7M .....	ad No 14, 1978

## Endnotes

### Endnote 2—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
s 7N .....	ad No 14, 1978
s 7P .....	ad No 14, 1978
s 7Q .....	ad No 14, 1978
s 7R .....	ad No 14, 1978
s 7S .....	ad No 14, 1978 am No 139, 1979
<b>Part IIIB</b>	
s 7T .....	ad No 198, 1985 rep No 43, 1994
s 7U .....	ad No 198, 1985 rep No 43, 1994
s 7V .....	ad No 198, 1985 rep No 43, 1994
s 7W .....	ad No 198, 1985 rep No 43, 1994
s 7WA .....	ad No 11, 1990 rep No 43, 1994
s 7WB .....	ad No 11, 1990 rep No 43, 1994
s 7X .....	ad No 198, 1985 rep No 43, 1994
s 7Y .....	ad No 198, 1985 rep No 43, 1994
s 7Z .....	ad No 198, 1985 rep No 43, 1994
Part IIIC .....	ad No 11, 1990 rep No 43, 1994
s 7ZA .....	ad No 11, 1990 rep No 43, 1994
s 7ZB .....	ad No 11, 1990 rep No 43, 1994
s 7ZC .....	ad No 11, 1990

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## Endnote 2—Amendment history

<b>Provision affected</b>	<b>How affected</b>
	rep No 43, 1994
s 7ZD .....	ad No 11, 1990
	rep No 43, 1994
s 7ZE .....	ad No 11, 1990
	rep No 43, 1994
s 7ZF .....	ad No 11, 1990
	rep No 43, 1994
s 7ZG .....	ad No 11, 1990
	rep No 43, 1994
Heading to Part IV .....	rs No 53, 1964
s 8 .....	rs No 80, 1973
s 10A .....	ad No 43, 1934
	am No 177, 1981
s 11B .....	rep No 112, 1994
s 11D .....	rep No 112, 1994
s 11F .....	am No 112, 1994
s 11G .....	rep No 112, 1994
s 11H .....	rep No 112, 1994
s 11J .....	rep No 112, 1994
s 11K .....	rep No 112, 1994
Heading to Part V .....	rs No 53, 1964
<b>Part VA</b>	
s 11A .....	ad No 70, 1990
s 11C .....	ad No 70, 1990
s 11E .....	ad No 70, 1990
s 11F .....	ad No 70, 1990
s 11L .....	ad No 70, 1990
s 11M .....	ad No 70, 1990
s 11N .....	ad No 70, 1990
s 11P .....	ad No 70, 1990
s 11Q .....	ad No 70, 1990
s 11R .....	ad No 70, 1990

## Endnotes

### Endnote 2—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
Heading to Part VI.....	rs No 53, 1964