

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

ALLAN PICKERING,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 24 February, 1966.*

New South Wales



ANNO QUINTO DECIMO

ELIZABETHÆ II REGINÆ

Act No. , 1966.

An Act to make certain trade and business records admissible as evidence in criminal proceedings; to amend the Evidence Act, 1898, as amended by subsequent Acts; and for purposes connected therewith.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Evidence (Amendment) Act, 1966".

Short
title and
citation.

(2)

Evidence (Amendment).

(2) The Evidence Act, 1898, as amended by subsequent Acts and by this Act, may be cited as the Evidence Act, 1898-1966.

2. The Evidence Act, 1898, as amended by subsequent Acts, is amended— Amendment of Act No. 11, 1898.

(a) (i) by inserting in the matter relating to Part IIA in section one after the word "Issue" the words "in Civil Proceedings"; Sec. 1. (Short title and division.)

10 (ii) by inserting next after the same matter the following new matter :—

PART IIB.—Admissibility of Documentary Evidence as to Facts in Issue in Criminal Proceedings—ss. 14CA–14CC.

15 (b) by inserting in subsection two of section three after the figures "1954," the words "or the Evidence (Amendment) Act, 1966,"; Sec. 3. (Interpretation.)

(c) by inserting at the end of the heading to Part IIA the words "in Civil Proceedings"; Part IIA. (Heading.)

20 (d) by inserting next after Part IIA the following new Part :— New Part IIB.

PART IIB.

Admissibility of Documentary Evidence as to Facts in Issue in Criminal Proceedings.

14CA. In this Part of this Act—

25 "Business" includes any public transport, public utility or similar undertaking carried on by the Crown or a statutory body representing the Crown within the meaning of the Local Government Act, 1919, as amended by subsequent Acts, or a municipal, shire or county council within the meaning of that Act, as so amended.

Interpretation.

"Court"

Evidence (Amendment).

“Court” means the court, judge, justice or person before whom proceedings are taken or held.

“Document” includes any device by means of which information is recorded or stored.

5 “Statement” includes any representation of fact, whether made in words or otherwise.

10 14CB. (1) In any criminal proceedings, the hearing of which commences after the commencement of the Evidence (Amendment) Act, 1966, where direct oral evidence of a fact would be admissible, any statement contained in a document and tending to establish that fact shall, on production of the document, be admissible as evidence of that fact if—

Admissibility of certain documentary evidence in criminal proceedings.

15 (a) the document is, or forms part of, a record relating to any trade or business and compiled, in the course of that trade or business, from information supplied (whether directly or indirectly) by persons who had, or may reasonably be supposed to have had, personal knowledge of the matters dealt with in the information they supplied; and

20 (b) the person who supplied the information recorded in the statement in question is dead, or beyond the seas, or unfit by reason of his bodily or mental condition to attend as a witness, or cannot with reasonable diligence be identified or found, or cannot reasonably be expected (having regard to the time which has elapsed since he supplied the information and to all the circumstances) to have any recollection of the matters dealt with in the information he supplied.

25 (2) For the purpose of deciding whether or not a statement is admissible as evidence by virtue of this section, the court may draw any reasonable

Evidence (Amendment).

5 reasonable inference from the form or content of
the document in which the statement is contained,
or from any other circumstances, and may, in decid-
ing whether or not a person is fit to attend as a
witness, act on a certificate purporting to be a
certificate of a legally qualified medical practitioner.

10 14cc. In estimating the weight, if any, to be
attached to a statement admissible as evidence by
this Part of this Act, regard shall be had to all the
circumstances from which any inference can
reasonably be drawn as to the accuracy or other-
wise of the statement, and in particular to the
question whether or not the person who supplied
the information recorded in the statement did so
15 contemporaneously with the occurrence or existence
of the facts stated, and to the question whether
or not that person, or any person concerned with
making or keeping the record containing the state-
ment, had any incentive to conceal or misrepresent
20 the facts.

Weight to
be attached
to evidence.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, SYDNEY, NEW SOUTH WALES—1966

[Sc]

EVIDENCE (AMENDMENT) BILL, 1966.

EXPLANATORY NOTE.

THE objects of this Bill are—

- (a) to render admissible in evidence in criminal proceedings certain statements contained in documents constituting a record relating to a trade or business and compiled in the course of that trade or business;
- (b) to make other provisions ancillary to the foregoing.



PROOF

No. , 1966.

A BILL

To make certain trade and business records admissible as evidence in criminal proceedings; to amend the Evidence Act, 1898, as amended by subsequent Acts; and for purposes connected therewith.

[MR. McCAW;—22 February, 1966.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Evidence (Amendment) Act, 1966".

Short
title and
citation.

(2)

Evidence (Amendment).

(2) The Evidence Act, 1898, as amended by subsequent Acts and by this Act, may be cited as the Evidence Act, 1898-1966.

2. The Evidence Act, 1898, as amended by subsequent Acts, is amended— Amendment of Act No. 11, 1898.

(a) (i) by inserting in the matter relating to Part IIA in section one after the word "Issue" the words "in Civil Proceedings"; Sec. 1. (Short title and division.)

10 (ii) by inserting next after the same matter the following new matter : —

PART IIB.—Admissibility of Documentary Evidence as to Facts in Issue in Criminal Proceedings—ss. 14CA–14CC.

15 (b) by inserting in subsection two of section three after the figures "1954," the words "or the Evidence (Amendment) Act, 1966,"; Sec. 3. (Interpretation.)

(c) by inserting at the end of the heading to Part IIA the words "in Civil Proceedings"; Part IIA. (Heading.)

20 (d) by inserting next after Part IIA the following new Part : — New Part IIB.

PART IIB.

Admissibility of Documentary Evidence as to Facts in Issue in Criminal Proceedings.

14CA. In this Part of this Act—

25 "Business" includes any public transport, public utility or similar undertaking carried on by the Crown or a statutory body representing the Crown within the meaning of the Local Government Act, 1919, as amended by subsequent Acts, or a municipal, shire or county council within the meaning of that Act, as so amended.

Interpretation.

"Court"

Evidence (Amendment).

“Court” means the court, judge, justice or person before whom proceedings are taken or held.

“Document” includes any device by means of which information is recorded or stored.

5 “Statement” includes any representation of fact, whether made in words or otherwise.

10 14CB. (1) In any criminal proceedings, the hearing of which commences after the commencement of the Evidence (Amendment) Act, 1966, where direct oral evidence of a fact would be admissible, any statement contained in a document and tending to establish that fact shall, on production of the document, be admissible as evidence of that fact if—

Admissibility of certain documentary evidence in criminal proceedings.

15 (a) the document is, or forms part of, a record relating to any trade or business and compiled, in the course of that trade or business, from information supplied (whether directly or indirectly) by persons who had, or may reasonably be supposed to have had, personal knowledge of the matters dealt with in the information they supplied; and

20 (b) the person who supplied the information recorded in the statement in question is dead, or beyond the seas, or unfit by reason of his bodily or mental condition to attend as a witness, or cannot with reasonable diligence be identified or found, or cannot reasonably be expected (having regard to the time which has elapsed since he supplied the information and to all the circumstances) to have any recollection of the matters dealt with in the information he supplied.

25 (2) For the purpose of deciding whether or not a statement is admissible as evidence by virtue of this section, the court may draw any reasonable

Evidence (Amendment).

5 reasonable inference from the form or content of
the document in which the statement is contained,
or from any other circumstances, and may, in decid-
ing whether or not a person is fit to attend as a
witness, act on a certificate purporting to be a
certificate of a legally qualified medical practitioner.

10 14CC. In estimating the weight, if any, to be
attached to a statement admissible as evidence by
this Part of this Act, regard shall be had to all the
circumstances from which any inference can
reasonably be drawn as to the accuracy or other-
wise of the statement, and in particular to the
question whether or not the person who supplied
the information recorded in the statement did so
15 contemporaneously with the occurrence or existence
of the facts stated, and to the question whether
or not that person, or any person concerned with
making or keeping the record containing the state-
ment, had any incentive to conceal or misrepresent
20 the facts.

Weight to
be attached
to evidence.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, SYDNEY, NEW SOUTH WALES—1966

No. , 1966.

A BILL

To make certain trade and business records admissible as evidence in criminal proceedings; to amend the Evidence Act, 1898, as amended by subsequent Acts; and for purposes connected therewith.

[MR. McCaw;—22 February, 1966.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Evidence (Amendment) Act, 1966".

Short
title and
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(2)

Evidence (Amendment).

(2) The Evidence Act, 1898, as amended by subsequent Acts and by this Act, may be cited as the Evidence Act, 1898-1966.

2. The Evidence Act, 1898, as amended by subsequent Acts, is amended— Amendment of Act No. 11, 1898.

- (a) (i) by inserting in the matter relating to Part IIA in section one after the word "*Issue*" the words "*in Civil Proceedings*"; Sec. 1. (Short title and division.)
- (ii) by inserting next after the same matter the following new matter :—

PART IIB.—Admissibility of Documentary Evidence as to Facts in Issue in Criminal Proceedings—ss. 14CA-14CC.

- (b) by inserting in subsection two of section three after the figures "1954," the words "or the Evidence (Amendment) Act, 1966,"; Sec. 3. (Interpretation.)
- (c) by inserting at the end of the heading to Part IIA the words "*in Civil Proceedings*"; Part IIA. (Heading.)
- (d) by inserting next after Part IIA the following new Part :— New Part IIB.

PART IIB.

Admissibility of Documentary Evidence as to Facts in Issue in Criminal Proceedings.

14CA. In this Part of this Act—

"Business" includes any public transport, public utility or similar undertaking carried on by the Crown or a statutory body representing the Crown within the meaning of the Local Government Act, 1919, as amended by subsequent Acts, or a municipal, shire or county council within the meaning of that Act, as so amended.

Interpretation.

"Court"

Evidence (Amendment).

“Court” means the court, judge, justice or person before whom proceedings are taken or held.

“Document” includes any device by means of which information is recorded or stored.

5 “Statement” includes any representation of fact, whether made in words or otherwise.

10 14CB. (1) In any criminal proceedings, the hearing of which commences after the commencement of the Evidence (Amendment) Act, 1966, where direct oral evidence of a fact would be admissible, any statement contained in a document and tending to establish that fact shall, on production of the document, be admissible as evidence of that fact if—

Admissibility of certain documentary evidence in criminal proceedings.

15 (a) the document is, or forms part of, a record relating to any trade or business and compiled, in the course of that trade or business, from information supplied (whether directly or indirectly) by persons who had, or may reasonably be supposed to have had, personal knowledge of the matters dealt with in the information they supplied; and

20 (b) the person who supplied the information recorded in the statement in question is dead, or beyond the seas, or unfit by reason of his bodily or mental condition to attend as a witness, or cannot with reasonable diligence be identified or found, or cannot reasonably be expected (having regard to

25 the time which has elapsed since he supplied the information and to all the circumstances) to have any recollection of the matters dealt with in the information he supplied.

30 (2) For the purpose of deciding whether or not a statement is admissible as evidence by virtue of this section, the court may draw any reasonable

35 reasonable

Evidence (Amendment).

5 reasonable inference from the form or content of the document in which the statement is contained, or from any other circumstances, and may, in deciding whether or not a person is fit to attend as a witness, act on a certificate purporting to be a certificate of a legally qualified medical practitioner.

10 14cc. In estimating the weight, if any, to be attached to a statement admissible as evidence by this Part of this Act, regard shall be had to all the circumstances from which any inference can reasonably be drawn as to the accuracy or otherwise of the statement, and in particular to the question whether or not the person who supplied the information recorded in the statement did so contemporaneously with the occurrence or existence of the facts stated, and to the question whether or not that person, or any person concerned with making or keeping the record containing the statement, had any incentive to conceal or misrepresent the facts.

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Weight to be attached to evidence.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, SYDNEY, NEW SOUTH WALES—1966

[5c]

New South Wales



ANNO QUINTO DECIMO

ELIZABETHÆ II REGINÆ

Act No. 1, 1966.

An Act to make certain trade and business records admissible as evidence in criminal proceedings; to amend the Evidence Act, 1898, as amended by subsequent Acts; and for purposes connected therewith. [Assented to, 9th March, 1966.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Evidence (Amendment) Act, 1966".

Short title and citation.

(2)

Evidence (Amendment).

(2) The Evidence Act, 1898, as amended by subsequent Acts and by this Act, may be cited as the Evidence Act, 1898-1966.

Amendment
of Act No.
11, 1898.

2. The Evidence Act, 1898, as amended by subsequent Acts, is amended—

Sec. 1.
(Short title
and divi-
sion.)

- (a) (i) by inserting in the matter relating to Part IIA in section one after the word "*Issue*" the words "*in Civil Proceedings*";
- (ii) by inserting next after the same matter the following new matter :—

PART IIB.—*Admissibility of Documentary Evidence as to Facts in Issue in Criminal Proceedings—ss. 14CA-14CC.*

Sec. 3.
(Interpreta-
tion.)

- (b) by inserting in subsection two of section three after the figures "1954," the words "or the Evidence (Amendment) Act, 1966,";

Part IIA.
(Heading.)

- (c) by inserting at the end of the heading to Part IIA the words "*in Civil Proceedings*";

New Part
IIB.

- (d) by inserting next after Part IIA the following new Part :—

PART IIB.

Admissibility of Documentary Evidence as to Facts in Issue in Criminal Proceedings.

Interpreta-
tion.

14CA. In this Part of this Act—

"Business" includes any public transport, public utility or similar undertaking carried on by the Crown or a statutory body representing the Crown within the meaning of the Local Government Act, 1919, as amended by subsequent Acts, or a municipal, shire or county council within the meaning of that Act, as so amended.

"Court"

Evidence (Amendment).

“Court” means the court, judge, justice or person before whom proceedings are taken or held.

“Document” includes any device by means of which information is recorded or stored.

“Statement” includes any representation of fact, whether made in words or otherwise.

14CB. (1) In any criminal proceedings, the hearing of which commences after the commencement of the Evidence (Amendment) Act, 1966, where direct oral evidence of a fact would be admissible, any statement contained in a document and tending to establish that fact shall, on production of the document, be admissible as evidence of that fact if—

Admissibility of certain documentary evidence in criminal proceedings.

- (a) the document is, or forms part of, a record relating to any trade or business and compiled, in the course of that trade or business, from information supplied (whether directly or indirectly) by persons who had, or may reasonably be supposed to have had, personal knowledge of the matters dealt with in the information they supplied; and
- (b) the person who supplied the information recorded in the statement in question is dead, or beyond the seas, or unfit by reason of his bodily or mental condition to attend as a witness, or cannot with reasonable diligence be identified or found, or cannot reasonably be expected (having regard to the time which has elapsed since he supplied the information and to all the circumstances) to have any recollection of the matters dealt with in the information he supplied.

(2) For the purpose of deciding whether or not a statement is admissible as evidence by virtue of this section, the court may draw any reasonable

Evidence (Amendment).

reasonable inference from the form or content of the document in which the statement is contained, or from any other circumstances, and may, in deciding whether or not a person is fit to attend as a witness, act on a certificate purporting to be a certificate of a legally qualified medical practitioner.

Weight to
be attached
to evidence.

14cc. In estimating the weight, if any, to be attached to a statement admissible as evidence by this Part of this Act, regard shall be had to all the circumstances from which any inference can reasonably be drawn as to the accuracy or otherwise of the statement, and in particular to the question whether or not the person who supplied the information recorded in the statement did so contemporaneously with the occurrence or existence of the facts stated, and to the question whether or not that person, or any person concerned with making or keeping the record containing the statement, had any incentive to conceal or misrepresent the facts.

I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

ALLAN PICKERING,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 2 March, 1966.*

New South Wales



ANNO QUINTO DECIMO

ELIZABETHÆ II REGINÆ

Act No. 1, 1966.

An Act to make certain trade and business records admissible as evidence in criminal proceedings; to amend the Evidence Act, 1898, as amended by subsequent Acts; and for purposes connected therewith. [Assented to, 9th March, 1966.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. (1) This Act may be cited as the "Evidence (Amendment) Act, 1966".

Short
title and
citation.

(2)

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

G. R. CRAWFORD,
Chairman of Committees of the Legislative Assembly.

Evidence (Amendment).

(2) The Evidence Act, 1898, as amended by subsequent Acts and by this Act, may be cited as the Evidence Act, 1898-1966.

Amendment of Act No. 11, 1898. **2.** The Evidence Act, 1898, as amended by subsequent Acts, is amended—

- Sec. 1. (Short title and division.) (a) (i) by inserting in the matter relating to Part IIA in section one after the word "Issue" the words "in Civil Proceedings";
- (ii) by inserting next after the same matter the following new matter :—

PART IIB.—Admissibility of Documentary Evidence as to Facts in Issue in Criminal Proceedings—ss. 14CA-14CC.

- Sec. 3. (Interpretation.) (b) by inserting in subsection two of section three after the figures "1954," the words "or the Evidence (Amendment) Act, 1966,";
- Part IIA. (Heading.) (c) by inserting at the end of the heading to Part IIA the words "in Civil Proceedings";
- New Part IIB. (d) by inserting next after Part IIA the following new Part :—

PART IIB.

Admissibility of Documentary Evidence as to Facts in Issue in Criminal Proceedings.

Interpretation. 14CA. In this Part of this Act—

"Business" includes any public transport, public utility or similar undertaking carried on by the Crown or a statutory body representing the Crown within the meaning of the Local Government Act, 1919, as amended by subsequent Acts, or a municipal, shire or county council within the meaning of that Act, as so amended.

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“Court” means the court, judge, justice or person before whom proceedings are taken or held.

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- (a) the document is, or forms part of, a record relating to any trade or business and compiled, in the course of that trade or business, from information supplied (whether directly or indirectly) by persons who had, or may reasonably be supposed to have had, personal knowledge of the matters dealt with in the information they supplied; and
- (b) the person who supplied the information recorded in the statement in question is dead, or beyond the seas, or unfit by reason of his bodily or mental condition to attend as a witness, or cannot with reasonable diligence be identified or found, or cannot reasonably be expected (having regard to the time which has elapsed since he supplied the information and to all the circumstances) to have any recollection of the matters dealt with in the information he supplied.

(2) For the purpose of deciding whether or not a statement is admissible as evidence by virtue of this section, the court may draw any reasonable

Evidence (Amendment).

reasonable inference from the form or content of the document in which the statement is contained, or from any other circumstances, and may, in deciding whether or not a person is fit to attend as a witness, act on a certificate purporting to be a certificate of a legally qualified medical practitioner.

Weight to be attached to evidence.

14cc. In estimating the weight, if any, to be attached to a statement admissible as evidence by this Part of this Act, regard shall be had to all the circumstances from which any inference can reasonably be drawn as to the accuracy or otherwise of the statement, and in particular to the question whether or not the person who supplied the information recorded in the statement did so contemporaneously with the occurrence or existence of the facts stated, and to the question whether or not that person, or any person concerned with making or keeping the record containing the statement, had any incentive to conceal or misrepresent the facts.

In the name and on behalf of Her Majesty I assent to this Act.

A. R. CUTLER,
Governor.

Government House,
Sydney, 9th March, 1966.