

## **EVIDENCE (AMENDMENT) BILL, 1979**

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### **EXPLANATORY NOTE**

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

The object of this Bill is to amend the Evidence Act, 1898, to provide that—

- (a) the certificate of the Attorney General claiming privilege in respect of the disclosure of certain confidential government communications in legal proceedings is conclusive (proposed section 61 of the Evidence Act, 1898); and
  - (b) the Attorney General is to be given an opportunity to claim privilege in respect of any such disclosures (proposed section 62 of the Evidence Act, 1898).
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## **EVIDENCE (AMENDMENT) BILL, 1979**

No. , 1979.

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### **A BILL FOR**

An Act to amend the Evidence Act, 1898, in relation to Crown  
privilege.

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*Evidence (Amendment).*

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 :—

5 1. This Act may be cited as the "Evidence (Amendment) Short title.  
Act, 1979".

2. The Evidence Act, 1898, is amended—

Amend-  
ment of  
Act No. 11,  
1898.

(a) by inserting in section 1 after the matter relating to Part V the following matter :—

Sec. 1.  
(Short title  
and  
division.)

10 PART VI.—*Crown Privilege*—ss. 60–63.

(b) by inserting after Part V the following Part :—

Pt. VI.

PART VI.

*Crown Privilege.*

60. (1) In this Part—

Interpre-  
tation:  
Pt. VI.

15 "disclose" includes disclose by—

- (a) the production or discovery of documents;
- (b) the giving of evidence;
- (c) the answering of interrogatories; or
- 20 (d) the furnishing of particulars;

"government communication" means a written or oral communication relating to the business of government at senior level, including, but



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*Evidence (Amendment).*

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without limiting the generality of the foregoing, a written or oral communication relating to—

- 5                   (a) proceedings of Cabinet, of a committee of Cabinet or of the Executive Council;
- (b) the formulation of government policy; or
- (c) government administration at senior level.

- 10               (2) A reference in this Part to a communication includes a reference to a statement or record that is not communicated to any person.

61. (1) When the Attorney General certifies in writing that in his opinion—

- 15               (a) any communication described in the certificate, or any communication relating to a matter so described, is a government communication and is confidential; and
- 20               (b) the disclosure of the communication in any legal proceedings described in the certificate is not in the public interest,

the communication shall not be disclosed in or in relation to those legal proceedings or be admissible in evidence in those legal proceedings.

- 25               (2) A certificate under subsection (1) shall, without any court having examined, or heard a record of, the communication so certified or having inquired into the power of the Attorney General to give the certificate, be accepted in the legal proceedings described in the
- 30               certificate as conclusive that the communication is a government communication and is confidential and that

*Evidence (Amendment).*

the disclosure of the communication in those legal proceedings is not in the public interest.

(3) A certificate under subsection (1) may be revoked by the Attorney General.

5           62. (1) A communication shall not be disclosed in Attorney General  
or in relation to any legal proceedings or be admissible to be  
in evidence in any legal proceedings if— given  
opportunity to give  
certificate.

10           (a) it appears to the person presiding in the court  
before which the legal proceedings are held or  
taken that the communication is a government  
communication; and

          (b) the Attorney General has not had an  
opportunity to give a certificate under section  
61 in relation to the communication.

15           (2) Subsection (1) does not apply to a  
government communication the publication of which  
has previously been duly authorised.

20           (3) Subsection (1) does not prevent a com-  
munication from being disclosed in or in relation to any  
legal proceedings so far only as the disclosure is made  
to the person presiding in the court before which those  
legal proceedings are held or taken and is necessary to  
enable the person to decide whether or not the  
communication is a government communication and, if  
25           the person decides that it is such a communication,  
whether or not it is a government communication  
referred to in subsection (2).



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*Evidence (Amendment).*

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(4) The practice and procedure of any court for or with respect to the giving to the Attorney General of notice relating to the disclosure of any government communication in or in relation to any legal proceedings shall be—

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(a) where there is a power to make rules of court for or with respect to the practice and procedure of that court and any such rules are in force—in accordance with those rules of court; and

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(b) where there is no such power—in accordance with any regulations made for the purposes of this paragraph.

(5) The Governor may make regulations for the purposes of subsection (4) (b).

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63. Nothing in this Part limits the operation of any law requiring a court to prohibit the disclosure of any written or oral communication on the grounds that it is in the public interest to do so. <sup>This Part not to limit other laws.</sup>

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BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1979

Appendix (continued)

4. The Committee is concerned that the Government of the Republic of the Philippines has not taken any steps to ensure that the rights of the people are protected and that the government is accountable to the people.

5. The Committee is also concerned that the Government of the Republic of the Philippines has not taken any steps to ensure that the rights of the people are protected and that the government is accountable to the people.

6. The Committee is also concerned that the Government of the Republic of the Philippines has not taken any steps to ensure that the rights of the people are protected and that the government is accountable to the people.

7. The Committee is also concerned that the Government of the Republic of the Philippines has not taken any steps to ensure that the rights of the people are protected and that the government is accountable to the people.

8. The Committee is also concerned that the Government of the Republic of the Philippines has not taken any steps to ensure that the rights of the people are protected and that the government is accountable to the people.



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**A BILL FOR**

**An Act to amend the Evidence Act, 1898, in relation to Crown  
privilege.**

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**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 :—

5    **1.** This Act may be cited as the "Evidence (Amendment) Short title. Act, 1979".

2. The Evidence Act, 1898, is amended—

Amend-  
ment of  
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(a) by inserting in section 1 after the matter relating to Part V the following matter :—

Sec. 1.  
(Short title  
and  
division.)

10    PART VI.—*Crown Privilege*—ss. 60–63.

(b) by inserting after Part V the following Part :—

Pt. VI.

**PART VI.**  
*Crown Privilege.*

60. (1) In this Part—

Interpre-  
tation:  
Pt. VI.

15    "disclose" includes disclose by—

- (a) the production or discovery of documents;
- (b) the giving of evidence;
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- 20    (d) the furnishing of particulars;

"government communication" means a written or oral communication relating to the business of government at senior level, including, but



*Evidence (Amendment).*

without limiting the generality of the foregoing, a written or oral communication relating to—

- 5 (a) proceedings of Cabinet, of a committee of Cabinet or of the Executive Council;
- (b) the formulation of government policy; or
- (c) government administration at senior level.

10 (2) A reference in this Part to a communication includes a reference to a statement or record that is not communicated to any person.

61. (1) When the Attorney General certifies in writing that in his opinion—

- 15 (a) any communication described in the certificate, or any communication relating to a matter so described, is a government communication and is confidential; and
- (b) the disclosure of the communication in any legal proceedings described in the certificate is not in the public interest,

the communication shall not be disclosed in or in relation to those legal proceedings or be admissible in evidence in those legal proceedings.

25 (2) A certificate under subsection (1) shall, without any court having examined, or heard a record of, the communication so certified or having inquired into the power of the Attorney General to give the certificate, be accepted in the legal proceedings described in the certificate as conclusive that the communication is a government communication and is confidential and that

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Certificate of Attorney General conclusive in certain cases.

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*Evidence (Amendment).*

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the disclosure of the communication in those legal proceedings is not in the public interest.

(3) A certificate under subsection (1) may be revoked by the Attorney General.

5           62. (1) A communication shall not be disclosed in Attorney  
or in relation to any legal proceedings or be admissible General  
in evidence in any legal proceedings if— to be  
given  
opportunity to give  
certificate.

10           (a) it appears to the person presiding in the court  
before which the legal proceedings are held or  
taken that the communication is a government  
communication; and

          (b) the Attorney General has not had an  
opportunity to give a certificate under section  
61 in relation to the communication.

15           (2) Subsection (1) does not apply to a  
government communication the publication of which  
has previously been duly authorised.

20           (3) Subsection (1) does not prevent a com-  
munication from being disclosed in or in relation to any  
legal proceedings so far only as the disclosure is made  
to the person presiding in the court before which those  
legal proceedings are held or taken and is necessary to  
enable the person to decide whether or not the  
communication is a government communication and, if  
25           the person decides that it is such a communication,  
whether or not it is a government communication  
referred to in subsection (2).



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*Evidence (Amendment).*

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5 (4) The practice and procedure of any court for or with respect to the giving to the Attorney General of notice relating to the disclosure of any government communication in or in relation to any legal proceedings shall be—

10 (a) where there is a power to make rules of court for or with respect to the practice and procedure of that court and any such rules are in force—in accordance with those rules of court; and

(b) where there is no such power—in accordance with any regulations made for the purposes of this paragraph.

15 (5) The Governor may make regulations for the purposes of subsection (4) (b).

63. Nothing in this Part limits the operation of any law requiring a court to prohibit the disclosure of any written or oral communication on the grounds that it is in the public interest to do so. This Part not to limit other laws.

Conduct (Continued)

(4) The practice and procedure of any court for or with respect to the giving to the Attorney General of notice relating to the disclosure of any government communication in or in relation to any legal proceedings shall be—

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(a) where there is a power to make rules of court for or with respect to the practice and procedure of that court and any such rules are in force in accordance with those rules of court; and

10

(b) where there is no such power, any practice and procedure made for the purposes of this paragraph.

(5) The Governor may make regulations for the purposes of subsection (4).

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63. Nothing in this Part limits the operation of any law relating to a court to prohibit the disclosure of any written or oral communication on the grounds that it is in the public interest to do so.







**EVIDENCE (AMENDMENT) ACT, 1979, No. 40**

**New South Wales**



ANNO VICESIMO OCTAVO

**ELIZABETHÆ II REGINÆ**

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**Act No. 40, 1979.**

An Act to amend the Evidence Act, 1898, in relation to Crown  
privilege. [Assented to, 4th May, 1979.]

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*Evidence (Amendment).*


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**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 :—

Short title.      **1.** This Act may be cited as the "Evidence (Amendment) Act, 1979".

Amend-  
ment of  
Act No. 11,  
1898.      **2.** The Evidence Act, 1898, is amended—

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**PART VI.—*Crown Privilege*—ss. 60–63.**

Pt. VI.      (b) by inserting after Part V the following Part :—

**PART VI.**

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Interpre-  
tation:  
Pt. VI.      **60. (1) In this Part—**

"disclose" includes disclose by—

- (a) the production or discovery of documents;
- (b) the giving of evidence;
- (c) the answering of interrogatories; or
- (d) the furnishing of particulars;

"government communication" means a written or oral communication relating to the business of government at senior level, including, but

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*Evidence (Amendment).*

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without limiting the generality of the foregoing, a written or oral communication relating to—

- (a) proceedings of Cabinet, of a committee of Cabinet or of the Executive Council;
- (b) the formulation of government policy; or
- (c) government administration at senior level.

(2) A reference in this Part to a communication includes a reference to a statement or record that is not communicated to any person.

61. (1) When the Attorney General certifies in writing that in his opinion—

- (a) any communication described in the certificate, or any communication relating to a matter so described, is a government communication and is confidential; and
- (b) the disclosure of the communication in any legal proceedings described in the certificate is not in the public interest,

the communication shall not be disclosed in or in relation to those legal proceedings or be admissible in evidence in those legal proceedings.

(2) A certificate under subsection (1) shall, without any court having examined, or heard a record of, the communication so certified or having inquired into the power of the Attorney General to give the certificate, be accepted in the legal proceedings described in the certificate as conclusive that the communication is a government communication and is confidential and that



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*Evidence (Amendment).*

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the disclosure of the communication in those legal proceedings is not in the public interest.

(3) A certificate under subsection (1) may be revoked by the Attorney General.

Attorney  
General  
to be  
given  
opportu-  
nity to give  
certificate.

62. (1) A communication shall not be disclosed in or in relation to any legal proceedings or be admissible in evidence in any legal proceedings if—

- (a) it appears to the person presiding in the court before which the legal proceedings are held or taken that the communication is a government communication; and
- (b) the Attorney General has not had an opportunity to give a certificate under section 61 in relation to the communication.

(2) Subsection (1) does not apply to a government communication the publication of which has previously been duly authorised.

(3) Subsection (1) does not prevent a communication from being disclosed in or in relation to any legal proceedings so far only as the disclosure is made to the person presiding in the court before which those legal proceedings are held or taken and is necessary to enable the person to decide whether or not the communication is a government communication and, if the person decides that it is such a communication, whether or not it is a government communication referred to in subsection (2).



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*Evidence (Amendment).*

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(4) The practice and procedure of any court for or with respect to the giving to the Attorney General of notice relating to the disclosure of any government communication in or in relation to any legal proceedings shall be—

- (a) where there is a power to make rules of court for or with respect to the practice and procedure of that court and any such rules are in force—in accordance with those rules of court; and
- (b) where there is no such power—in accordance with any regulations made for the purposes of this paragraph.

(5) The Governor may make regulations for the purposes of subsection (4) (b).

63. Nothing in this Part limits the operation of any law requiring a court to prohibit the disclosure of any written or oral communication on the grounds that it is in the public interest to do so. <sup>This Part not to limit other laws.</sup>

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

A. R. CUTLER,  
*Governor.*

*Government House,  
Sydney, 4th May, 1979.*

Continuation of Report

(1) The present investigation is being conducted in order to determine the effect of the various factors mentioned in the preceding report on the rate of growth of the plant.

It was found that the rate of growth was significantly affected by the amount of light and the amount of water supplied to the plants.

The results of the experiment are as follows:

1. The rate of growth was significantly higher in the plants which received more light than in those which received less light.

2. The rate of growth was significantly higher in the plants which received more water than in those which received less water.

3. The rate of growth was significantly higher in the plants which received both more light and more water than in those which received less of either factor.

4. The rate of growth was significantly higher in the plants which received both more light and more water than in those which received less of either factor.

5. The rate of growth was significantly higher in the plants which received both more light and more water than in those which received less of either factor.

6. The rate of growth was significantly higher in the plants which received both more light and more water than in those which received less of either factor.

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