

Queensland



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ELIZABETHAE SECUNDAE REGINAE.

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No. 22.

An Act to Amend "The Evidence and Discovery Acts, 1867 to 1959," and various other Acts, each in certain particulars.

[ASSENTED TO 14TH NOVEMBER, 1960.]

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

PART I.—PRELIMINARY.

1. This Act may be cited as "*The Evidence and Discovery Acts and Other Acts Amendment Act of 1960.*" Short title.

2. This Act is divided into Parts as follows:— Parts of Act.

PART I.—PRELIMINARY;

PART II.—AMENDMENTS OF "THE EVIDENCE AND DISCOVERY ACTS, 1867 TO 1959";

PART III.—AMENDMENTS OF OTHER ACTS.

PART II.—AMENDMENTS OF “THE EVIDENCE AND DISCOVERY ACTS, 1867 TO 1959.”

Principal
Act.

3. (1.) “*The Evidence and Discovery Acts, 1867 to 1959,*” are in this Part II. of this Act referred to as the Principal Act.

Collective
title.

(2.) The Principal Act and this Part II. of this Act may be collectively cited as “*The Evidence and Discovery Acts, 1867 to 1960.*”

Amendment
of 31 Vic.
No. 13.

4. “*The Evidence and Discovery Act of 1867,*” as heretofore amended, is hereby further amended by inserting after section thirty-seven thereof the following section :—

Powers as to
oaths and
notarial
Acts abroad.

“ [37A.] (1.) In this section the expression “ consular officer ” means a person appointed to hold or act in any of the following offices (being an office of the United Kingdom of Great Britain and Northern Ireland or of some other country which is a member of the Commonwealth of Nations) in a country or place outside the United Kingdom of Great Britain and Northern Ireland or, as the case may be, such other country, that is to say—

- (a) Ambassador ;
- (b) High Commissioner ;
- (c) Minister ;
- (d) Head of Mission ;
- (e) Commissioner ;
- (f) Charge d’Affaires ;
- (g) Counsellor or Secretary at an Embassy, High Commissioner’s Office, Legation or other post ;
- (h) Consul-General ;
- (i) Consul ;
- (j) Vice-Consul ;
- (k) Pro-Consul ;
- (l) Trade Commissioner ; or
- (m) Consular Agent.

(2.) Where any oath, affidavit, or notarial act is required for the purpose of any court or matter in Queensland, any such oath or affidavit, and any such notarial act which, if done in the United Kingdom of

Great Britain and Northern Ireland, a notary public could do may, in any country or place outside the Commonwealth of Australia, be made, sworn, or done before a consular officer exercising his functions in that country or place.

Every such oath, affidavit, or notarial act made, sworn, or done before any such consular officer shall be as effectual as if duly made, sworn, or done before a lawful authority in Queensland.

(3.) Any document required, authorised, or permitted by any Act or law of Queensland to be attested or verified by, or sealed, or signed, or acknowledged or declared before a justice of the peace of this State may, in any country or place outside the Commonwealth of Australia, be attested, or verified by, or sealed, or signed, or acknowledged or declared by or before a consular officer exercising his functions in that country or place.

Every document attested or verified by, or sealed, or signed, or acknowledged or declared before any such consular officer shall be as effectual as if duly attested, or verified by, or sealed, or sworn, or acknowledged or declared before a justice of the peace in Queensland.

(4.) Where any enactment in force at the passing of "*The Evidence and Discovery Acts Amendment Act of 1960*," or thereafter in force requires, authorises, or permits any notarial act to be done by, or any oath or affidavit to be made or taken or any document to be sealed or signed or acknowledged or declared before, any person appointed to hold or act in any diplomatic or consular office of the United Kingdom of Great Britain and Northern Ireland, whether that person is in that enactment referred to as a British ambassador, envoy, minister, charge d'affaires, secretary of embassy or legation, consul-general, consul, vice-consul, pro-consul, or consular agent, or by any other title, then the same may be done by or, as the case may be, made, or taken, or sealed, or signed, or acknowledged or declared in any country or place outside the Commonwealth of Australia before any consular officer exercising his functions in that country or place.

For the purposes of this subsection the term "enactment" includes a provision of any Order in Council, regulation, rule, by-law, or other instrument made pursuant to any Act of this State as well as any enactment of the Legislature of this State."

Amendment
of s. 38.

5. Section thirty-eight of "*The Evidence and Discovery Act of 1867*," is amended by inserting, after the words, figures, and quotation marks " "*The Australian Consular Officers' Notarial Powers and Evidence Act of 1946*," " the words "or of any other person who is a consular officer within the meaning of section 37A of this Act,".

PART III.—AMENDMENTS OF OTHER ACTS.

Collective
titles of
Acts
amended
by this
Part III.

6. The Acts referred to in this Part III. of this Act, as amended thereby, may collectively be cited as—

(a) "*The Common Law Process Acts, 1867 to 1960* " ;

(b) "*The Equity Acts, 1867 to 1960* " ; and

(c) "*The Real Property Acts, 1861 to 1960*," respectively.

Amendments
of s. 24
of 31 Vic.
No. 4.

7. Section twenty-four of "*The Common Law Process Acts, 1867 to 1946*," is amended—

(a) By inserting before the words "be sworn" the words " , in any country or place outside the Commonwealth of Australia," ;

(b) By repealing the words "at any foreign port or place" and inserting, in lieu of those repealed words, the words " , or before any other person who is a consular officer within the meaning of section 37A of "*The Evidence and Discovery Acts, 1867 to 1960*," exercising his functions in that country or place " ; and

(c) By repealing the words "or as the case may be by such Australian Consular Officer" and inserting, in lieu of those repealed words, the words " , or by such Australian Consular Officer or, as the case may be, by such other person who is a consular officer within the meaning of section 37A of "*The Evidence and Discovery Acts, 1867 to 1960*," " .

8. Section fifty-three of "*The Equity Acts, 1867 to 1946*," is amended—

Amendments
of s. 53 of
31 Vic.
No. 18.

(a) By inserting after the words, numerals, and quotation marks "*The Australian Consular Officers' Notarial Powers and Evidence Act of 1946* ", the words, numerals, and quotation marks "or before any other person who is a consular officer within the meaning of section 37A of "*The Evidence and Discovery Acts, 1867 to 1960*," "; and

(b) By repealing the words "or as the case may be by such Australian Consular Officer" and inserting, in lieu of those repealed words, the words, numerals, and quotation marks "or of such Australian Consular Officer or, as the case may be, of such other person who is a consular officer within the meaning of section 37A of "*The Evidence and Discovery Acts, 1867 to 1960* " ".

9. Section one hundred and fifteen of "*The Real Property Acts, 1861 to 1956*," is amended by adding to paragraph (e) the words "or any other person who is a consular officer within the meaning of section 37A of "*The Evidence and Discovery Acts, 1867 to 1960*," exercising his functions in a foreign place".

Amendment
of s. 115
of 25 Vic.
No. 14.