

Queensland



ANNO VICESIMO SEXTO

ELIZABETHAE SECUNDAE REGINAE

No. 47 of 1977

An Act to consolidate, amend and reform the law of
Evidence and for related purposes

[ASSENTED TO 3RD OCTOBER, 1977]

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. **Short title, commencement and application.** (1) This Act may be cited as the *Evidence Act 1977*.

(2) This Act other than this section shall come into operation on 1 January 1978.

This section shall come into operation on the date on which this Act is assented to for and on behalf of the Crown.

Abbreviations. Abbreviations used in references to other Acts in notes appearing at the beginnings of sections have the following meanings:—Qld. A.I.—*Acts Interpretation Act 1954–1971*; Qld. B.B.E.—*Bankers' Books Evidence Act of 1949*; Qld. C.C.—*The Criminal Code*; Qld. C.S.—*Children's Services Act 1965–1974*; Qld. E.D.—*Evidence and Discovery Act 1867–1972*; Qld. L.A.—*Land Act 1962–1975*; Qld. T.M.—*Telegraphic Messages Act of 1872*; Qld. E.F.A.—*Evidence Further Amendment Acts 1874 to 1962*; Qld. E. 1898—*Evidence Act 1898*; Qld. E.(R)—*Evidence (Reproductions) Act 1970–1975*; N.S.W.—*Evidence Act 1898*; N.S.W. Crimes—*Crimes Act 1900*; N.S.W. W.E.—*Witnesses Examination Act 1900*; Vic.—*Evidence Act 1958*; Vic. Crimes—*Crimes Act 1958*; S.A.—*Evidence Act 1929–1976*; W.A.—*Evidence Act 1906–1976*; Tas.—*Evidence Act 1910*; A.C.T.—*Evidence Ordinance 1971*; Cth. Evid.—*Evidence Act 1905*; Cth. S.T.L.R.R.—*State and Territorial Laws and Records Recognition Act 1901*; Eng. 1898—*Criminal Evidence Act 1898*; Eng. 1959—*County Courts Act 1959*; Eng. 1965—*Criminal Evidence Act 1965*; Eng. 1968—*Civil Evidence Act 1968*; U.K. 1975—*Evidence (Proceedings in Other Jurisdictions) Act 1975*; N.Z.—*Evidence Act 1908*.

(3) This Act binds the Crown not only in right of the State of Queensland but also, so far as the legislative power of Parliament permits, the Crown in all its other capacities.

2. Arrangement of Act. This Act is divided into Parts, Divisions of Parts and Schedules as follows:—

PART I—PRELIMINARY, ss. 1–5;

PART II—WITNESSES, ss. 6–21;

Division 1—Who may testify, ss. 6–9;

Division 2—Privileges and obligations of witnesses, ss. 10–14;

Division 3—Examination and cross-examination of witnesses, ss. 15–21;

PART III—MEANS OF OBTAINING EVIDENCE, ss. 22–40;

Division 1—Commissions, requests and orders to examine witnesses, ss. 22–24;

Division 2—Summary procedure to obtain evidence for Queensland or other jurisdictions, ss. 25–34;

Division 3—General procedure to obtain evidence for other jurisdictions, ss. 35–40;

PART IV—JUDICIAL NOTICE OF SEALS, SIGNATURES AND LEGISLATIVE ENACTMENTS, ss. 41–43;

PART V—PROOF OF DOCUMENTS AND OTHER MATTERS, ss. 44–91;

Division 1—Proof of official and judicial documents and matters, ss. 44–58;

Division 2—Proof of certain miscellaneous documents and matters, ss. 59–66;

Division 3—Proof of certain Australian and Overseas documents and matters, ss. 67–74;

Division 4—Proof of telegraphic messages, ss. 75–77;

Division 5—Admissibility of convictions in civil proceedings, ss. 78–82;

Division 6—Books of account, ss. 83–91;

PART VI—ADMISSIBILITY OF STATEMENTS, ss. 92–103;

PART VII—REPRODUCTIONS OF DOCUMENTS, ss. 104–129;

Division 1—Preliminary, s. 104;

Division 2—Reproduction of official documents, s. 105;

Division 3—Reproduction of business documents, ss. 106–115;

Division 4—General, ss. 116–129;

PART VIII—MISCELLANEOUS, ss. 130–135;

SCHEDULES.

3. Repeals and amendments. (1) The Acts specified in Part A of the First Schedule are repealed.

(2) (a) The *Evidence and Discovery Act 1867–1972* is amended as and to the extent indicated in Part B of the First Schedule.

(b) That Act as so amended may be cited as the *Evidence and Discovery Act 1867–1977*.

(3) (a) The *Common Law Practice Act 1867–1972* is amended as and to the extent indicated in Part C of the First Schedule.

(b) That Act as so amended may be cited as the *Common Law Practice Act 1867–1977*.

(4) (a) The *Justices Act 1886–1977* is amended as and to the extent indicated in Part D of the First Schedule.

(b) That Act as so amended may be cited as the *Justices Act 1886-1977*.

(5) (a) The *Children's Services Act 1965-1974* is amended as and to the extent indicated in Part E of the First Schedule.

(b) That Act as so amended may be cited as the *Children's Services Act 1965-1977*.

(6) (a) The *Acts Interpretation Act 1954-1971* is amended as and to the extent indicated in Part F of the First Schedule.

(b) That Act as so amended may be cited as the *Acts Interpretation Act 1954-1977*.

(7) *The Criminal Code* is amended as and to the extent indicated in Part G of the First Schedule.

4. Savings and transitional. (1) Without limiting the operation of the *Acts Interpretation Act 1954-1971*—

(a) criminal proceedings commenced prior to the commencement of this Act shall be continued and completed as if this Act had not commenced;

(b) any other proceeding commenced prior to the commencement of this Act shall be continued, if practicable, under the provisions of this Act, but to the extent that it is not practicable so to apply this Act, then such proceedings shall continue as if this Act had not commenced;

(c) the commencement of this Act shall not render inadmissible in evidence any certificate, entry, copy, extract or document in existence at the time of the commencement of this Act which would have been admissible in evidence if this Act had not commenced;

(d) any person who immediately prior to the commencement of this Act held office under section 77 of the *Evidence and Discovery Act 1867-1972* shall be deemed to have been appointed to his office under and for the purposes of section 134 of this Act and shall continue to hold that office in terms of his appointment without further or other appointment under this Act;

(e) any document that has been directed to be impounded or to be kept in custody under section 76 of the *Evidence and Discovery Act 1867-1972* shall be deemed to have been directed to be impounded and to be kept in custody under and for the purposes of section 133 of this Act and under the same conditions.

(2) The transitional provisions set out in Part H of the First Schedule shall have effect for the purposes of the transition to the provisions of Part VII of this Act from the provisions of the *Evidence (Reproductions) Act 1970-1975*.

5. Interpretation. [cf. Qld. E.D. s. 42A; Qld. E.(R.) s. 4; Qld. T.M. s. 11; Vic. s. 3; S.A. s. 4; A.C.T. s. 6; Eng. 1968 s. 10; N.Z. s. 2.J. (1) In this Act, unless the contrary intention appears—

“court” means the court, tribunal, judge, justice, arbitrator, body or person before whom or which a proceeding is held or taken;

“criminal proceeding” includes a proceeding wherein a person is charged with a simple offence, and an examination of witnesses in relation to an indictable offence;

“ document ” includes, in addition to a document in writing—

- (a) any part of a document in writing or of any other document as defined herein;
- (b) any book, map, plan, graph or drawing;
- (c) any photograph;
- (d) any label, marking or other writing which identifies or describes any thing of which it forms part, or to which it is attached by any means whatever;
- (e) any disc, tape, sound track or other device in which sounds or other data (not being visual images) are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced therefrom;
- (f) any film, negative, tape or other device in which one or more visual images are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced therefrom; and
- (g) any other record of information whatever;

“ film ” includes a microfilm;

“ judge ” means the member or members of a court;

“ proceeding ” means any civil, criminal or other proceeding or inquiry, reference or examination in which by law or by consent of parties evidence is or may be given, and includes an arbitration;

“ statement ” includes any representation of fact, whether made in words or otherwise and whether made by a person, computer or otherwise;

“ telegraph ” means any system of telecommunication operated by an authority of the Commonwealth that provides telecommunications services or by any other authority approved by proclamation;

“ telegraphic message ” means any message or other communication transmitted or intended for transmission or purporting to have been transmitted by telegraph;

“ telegraph office ” means any office or station established or used for the receipt or transmission of telegraphic messages by an authority of the Commonwealth that provides telecommunications services or by any authority approved by proclamation;

“ undertaking ” includes public administration and any business, profession, occupation, calling, trade or undertaking whether engaged in or carried on—

- (a) by the Crown (in right of the State of Queensland or any other right), or by a statutory body, or by any other person;
- (b) for profit or not; or
- (c) in Queensland or elsewhere.

(2) In this Act, any reference to a copy of a document includes—

- (a) in the case of a document falling within paragraph (e) but not paragraph (f) of the definition “ document ” in subsection (1), a transcript of the sounds or other data embodied therein;
- (b) in the case of a document falling within paragraph (f) but not paragraph (e) of that definition, a reproduction or still reproduction of the image or images embodied therein, whether enlarged or not;

- (c) in the case of a document falling within both those paragraphs, such a transcript together with such a reproduction or still reproduction; and
 - (d) in the case of a document not falling within the said paragraph (f) of which a visual image is embodied in a document falling within that paragraph, a reproduction or still reproduction of that image, whether enlarged or not,
- and any reference to a copy of the material part of a document shall be construed accordingly.

(3) For the purposes of this Act a document, including any instrument or part of an instrument, purports—

- (a) to be of a certain character;
- (b) to have been produced or authenticated at a certain time, in a certain manner, by a certain person or body, or by a person having a certain qualification or occupying a certain office; or
- (c) any other matter whatever,

if the document expressly or impliedly represents that matter or a court can assume that matter from the contents of the document or otherwise.

PART II—WITNESSES

Division 1—Who may testify

6. Witnesses interested or convicted of offence. [cf. Qld. E.D. s. 4; Eng. 6 & 7 Vic. c. 85 s. 1.]. No person shall be excluded from giving evidence in any proceeding on the ground—

- (a) that he has or may have an interest in the matter in question, or in the result of the proceeding; or
- (b) that he has previously been convicted of any offence.

7. Parties, their wives and husbands as witnesses. [cf. Qld. E.D. s. 5; Eng. 14 & 15 Vic. c. 99 s. 2; Eng. 16 & 17 Vic. c. 83 s. 1.]. (1) Each of the parties to a proceeding (not being a criminal proceeding) and a person on whose behalf such a proceeding is brought or defended is competent and compellable to give evidence on behalf of either or any of the parties to the proceeding.

(2) The husband or wife of a party to a proceeding (not being a criminal proceeding) and the husband or wife of a person on whose behalf such a proceeding is brought or defended is competent and compellable to give evidence on behalf of either or any of the parties to the proceeding.

8. Witnesses in a criminal proceeding. [cf. Vic. Crimes s. 400; Eng. 1898; Qld. C.C. s. 618A; Qld. E.D. s. 5; W.A. ss. 8, 9.]. (1) In a criminal proceeding, each person charged is competent to give evidence on behalf of the defence (whether that person is charged solely or jointly with any other person) but is not compellable to do so.

(2) In a criminal proceeding, the husband or wife of each person charged is competent to give evidence for the prosecution or on behalf of the defence.

(3) In a criminal proceeding, the husband or wife of each person charged is compellable to give evidence on behalf of that person.

(4) In a criminal proceeding, the husband or wife of each person charged is compellable to give evidence for the prosecution or on behalf of the defence where—

- (a) the offence charged against that person is under any provision mentioned in the Second Schedule or is an attempt to commit or an attempt to procure the commission of such an offence; and
- (b) the person against or in respect of whom the offence charged is alleged to have been committed was at the time of the commission of the offence under the age of sixteen years.

(5) In a criminal proceeding, the husband or wife of each person charged is compellable to give evidence for the prosecution or on behalf of the defence wherever at common law he or she would have been competent or compellable to give evidence for the prosecution.

(6) Where the husband or wife of a person charged is competent but not compellable to give evidence for the prosecution or on behalf of the defence, the presiding judge, stipendiary magistrate or justice shall before the witness gives evidence and, where the proceeding is being conducted before a jury, in the absence of the jury, inform the witness that he or she is not compellable to give evidence if unwilling to do so.

(7) Nothing in this section shall—

- (a) make the husband or wife of a person charged competent or compellable to give evidence for the prosecution or compellable to give evidence for the defence in a criminal proceeding in which that husband or wife is also charged; or
- (b) affect the operation of section 11.

9. Evidence of children. [cf. W.A. s. 101; Tas. s. 128; Qld. C.S. s. 146.]. (1) Where in any proceeding a child called as a witness does not in the opinion of the court understand the nature of an oath, his evidence may be received, though not given upon oath, if in the opinion of the court he is possessed of sufficient intelligence to justify the reception of the evidence and understands the duty of speaking the truth.

(2) A person charged with an offence may be convicted upon evidence admitted by virtue of this section but in a trial by jury of a person so charged the judge shall warn the jury of the danger of acting on such evidence unless they find that it is corroborated in some material particular by other evidence implicating that person.

(3) The evidence of a child admitted by virtue of this section may be corroborated by the evidence of another child admitted by virtue of this section.

(4) A child whose evidence has been received by virtue of this section is liable to be convicted of perjury in all respects as if he had given the evidence upon oath.

(5) The evidence of a child, though not given upon oath, but otherwise taken and reduced into writing as a deposition, shall be deemed to be a deposition to all intents and purposes.

(6) Nothing in this section shall limit or affect any rule of law that prevents a person from being convicted of an offence upon uncorroborated evidence.

Division 2—Privileges and obligations of witnesses

10. Privilege against self incrimination. [Qld. E.D. s. 7.]. Nothing in this Act shall render any person compellable to answer any question tending to criminate himself: Provided that in a criminal proceeding where a person charged gives evidence, his liability to answer any such question shall be governed by section 15.

11. Communications to husband or wife. [cf. S.A. s. 18 (iv); Eng. 1968 s. 16 (3).]. A husband is not compellable in a criminal proceeding in which his wife is charged to disclose any communication made to him by his wife during the marriage and a wife is not compellable in a criminal proceeding in which her husband is charged to disclose any communication made to her by her husband during the marriage.

12. Admissibility of evidence as to access by husband or wife. [Qld. E.F.A. s. 3.]. Notwithstanding anything contained in any Act or any rule of law, neither the evidence of any person nor any statement made out of court by any person shall be inadmissible in any proceeding whatever by reason of the fact that it is tendered with the object of proving, or that it proves or tends to prove, that marital intercourse did or did not take place at any time or during any period between that person and a person who is or was his or her wife or husband or that any child is or was, or is not or was not, their legitimate child.

13. Compellability of parties and witnesses as to evidence of adultery. [Qld. E.F.A. s. 3A.]. Notwithstanding anything in any Act or any rule of law, in any proceeding whatever—

- (a) a party shall not be entitled to refuse to answer any interrogatory or to give discovery of documents;
- (b) a witness, whether a party or not, shall not be entitled to refuse to answer any question, whether relevant to any issue or relating to credit merely,

on the ground solely that such answer or discovery would or might relate to, or would tend or might tend to establish, adultery by that party or that witness, or by any other person with that party or that witness, as the case may be.

14. Abolition of certain privileges. [Eng. 1968 s. 16 (1) & (2); cf. A.C.T. s. 95.]. (1) The following rules of law are hereby abrogated except in relation to criminal proceedings, that is to say—

- (a) the rule whereby, in any proceeding, a person cannot be compelled to answer any question or produce any document or thing if to do so would tend to expose him to a forfeiture; and
- (b) the rule whereby, in any proceeding, a person other than a party to the proceeding cannot be compelled to produce any deed or other document relating to his title to any land.

(2) The rule of law whereby, in any civil proceeding, a party to the proceeding cannot be compelled to produce any document relating solely to his own case and in no way tending to impeach that case or support the case of any opposing party is hereby abrogated.

Division 3—Examination and cross-examination of witnesses

15. Questioning a person charged in a criminal proceeding. [cf. Qld. C.C. s. 618A.]. (1) Where in a criminal proceeding a person charged gives evidence, he shall not be entitled to refuse to answer a question or produce a document or thing on the ground that to do so would tend to prove the commission by him of the offence with which he is there charged.

(2) Where in a criminal proceeding a person charged gives evidence, he shall not be asked, and if asked shall not be required to answer, any question tending to show that he has committed or been convicted of or been charged with any offence other than that with which he is there charged, or is of bad character, unless—

- (a) the question is directed to showing a matter of which the proof is admissible evidence to show that he is guilty of the offence with which he is there charged;
- (b) the question is directed to showing a matter of which the proof is admissible evidence to show that any other person charged in that criminal proceeding is not guilty of the offence with which that other person is there charged;
- (c) he has by himself or his counsel asked questions of any witness with a view to establishing his own good character, or has given evidence of his good character, or the nature or conduct of the defence is such as to involve imputations on the character of the prosecutor or of any witness for the prosecution or of any other person charged in that criminal proceeding:

Provided that the permission of the court to ask any such question (to be applied for in a trial by jury in the absence of the jury) must first be obtained; or

- (d) he has given evidence against any other person charged in that criminal proceeding.

16. Witness may be questioned as to previous conviction. [Vic. s. 33; cf. Qld. E.D. s. 19.]. Subject to this Act, a witness may be questioned as to whether he has been convicted of any indictable or other offence and upon being so questioned, if he either denies the fact or refuses to answer, it shall be lawful for the party so questioning to prove such conviction.

17. How far a party may discredit his own witness. [Vic. s. 34; cf. Qld. E.D. s. 16.]. A party producing a witness shall not be allowed to impeach his credit by general evidence of bad character but may contradict him by other evidence, or (in case the witness in the opinion of the court proves adverse) may by leave of the court prove that he has made at other times a statement inconsistent with his present testimony:

Provided that, before such last-mentioned proof can be given, the circumstances of the supposed statement sufficient to designate the particular occasion must be mentioned to the witness and he must be asked whether or not he has made such statement.

18. Proof of previous inconsistent statement of witness. [Qld. E.D. s. 17.]. If a witness upon cross-examination as to a former statement made by him relative to the subject-matter of the proceeding and inconsistent with his present testimony does not distinctly admit that he has made such statement, proof may be given that he did in fact make it:

Provided that, before such proof can be given, the circumstances of the supposed statement sufficient to designate the particular occasion must be mentioned to the witness and he must be asked whether or not he has made such statement.

19. Witness may be cross-examined as to written statement without being shown it. [cf. Qld. E.D. s. 18.]. (1) A witness may be cross-examined as to a previous statement made by him in writing or reduced into writing relative to the subject-matter of the proceeding without such writing being shown to him:

Provided that if it is intended to contradict him by the writing his attention must, before such contradictory proof can be given, be called to those parts of the writing which are to be used for the purpose of so contradicting him.

(2) A court may at any time during the hearing of a proceeding direct that the writing containing a statement referred to in subsection (1) be produced to the court and the court may make such use in the proceeding of the writing as the court thinks fit.

20. Cross-examination as to credit. [N.S.W. s. 56; A.C.T. s. 58.]. Where any question put to a witness in cross-examination is not relevant to the proceeding except in so far as the truth of the matter suggested by the question affects the credit of the witness by injuring his character, the court has a discretion to disallow the question if, in its opinion, the matter is so remote in time or is of such a nature that an admission of its truth would not materially affect the credibility of the witness.

21. Scandalous and insulting questions. [A.C.T. s. 59; cf. N.S.W. ss. 57, 58.]. (1) A court may disallow a question which, in the opinion of the court, is indecent or scandalous unless the question relates to a fact in issue in the proceeding or to matters necessary to be known in order to determine whether or not the facts in issue existed.

(2) A court may disallow a question which, in the opinion of the court, is intended only to insult or annoy or is needlessly offensive in form.

PART III—MEANS OF OBTAINING EVIDENCE

Division 1—Commissions, requests and orders to examine witnesses

22. Commission, request or order to examine witnesses. [cf. Qld. E.D. ss. 53, 58, 59, 60; Eng. 1959 s. 85.]. (1) The Supreme Court or a judge thereof, on application made in manner prescribed by rules of the Supreme Court, shall have the same powers to issue a commission, request or order to examine witnesses for the purpose of civil proceedings in any court other than the Supreme Court as it or he has for the purpose of civil proceedings in the Supreme Court.

(2) The rules of the Supreme Court, with such adaptations as the circumstances may require, shall apply and extend to a commission, request or order to examine witnesses issued by authority of subsection (1) and to all proceedings taken thereunder as if the commission, request or order were issued by authority of those rules.

(3) Subject to all just exceptions, the depositions taken upon the examination of a witness before an examiner by virtue of this section certified under the hand of the examiner are admissible in evidence, without proof of the signature to such certificate, unless it is proved that the witness is at the time of the hearing at which the depositions are offered in evidence within a convenient distance of the place of the hearing and able to attend.

(4) The costs of proceedings taken by virtue of this section shall be costs in the cause, unless otherwise directed either by the judge issuing the commission, request or order or by the court for the purpose of whose proceedings the examination is conducted.

23. Commission or order in criminal cases. [N.S.W. W.E. s. 6; Qld. E.D. s. 63.]. (1) In any criminal proceeding, if any witness is out of the jurisdiction of the Supreme Court or more than 400 kilometres

from the intended place of trial or is from age or infirmity unable to attend the trial or if the testimony of any witness is in danger of being lost by reason of his age or infirmity or by reason of his being about to depart out of the jurisdiction or to some place beyond the said distance of 400 kilometres, the Supreme Court or a judge thereof may, on the application or with the consent of the Attorney-General or the Crown Prosecutor as well as the person charged, but not otherwise, order—

- (a) that any such witness within the jurisdiction of the Supreme Court be examined on oath, either *viva voce* or upon interrogatories or otherwise, before a specified officer of the Court or other specified person; or
- (b) that a commission issue for the examination of such witness on oath, either *viva voce* or upon interrogatories or otherwise, at any place in or out of the jurisdiction.

(2) The Supreme Court or a judge thereof may, at the same time or subsequently, give all such directions touching the time, place, and manner of such examination, as well within the jurisdiction as without, and all other matters and circumstances connected with such examination as appear reasonable and just.

(3) Subject to all just exceptions, the depositions taken upon the examination of a witness before an examiner by virtue of this section certified under the hand of the examiner are admissible in evidence, without proof of the signature to such certificate, unless it is proved that the witness is at the time of the hearing at which the depositions are offered in evidence within a convenient distance of the place of the hearing and able to attend.

(4) Any person authorised by any order or commission under this section to take the examination of any witness shall take such examination upon the oath of such witness and may administer the necessary oaths to such witness.

24. Power of person appointed by foreign authority to take evidence and administer oaths. [Qld. E.D. s. 62A.]. (1) Subject to the following provisions of this section, where an authority desires to take or receive evidence in Queensland, that authority may appoint a person to take or receive evidence in Queensland and a person so appointed has power to take or receive evidence in Queensland for that authority and for that purpose to administer an oath.

(2) Where the authority is not a court or judge, a person so appointed has no power to take or receive evidence, or to administer an oath, in Queensland unless he has first obtained the consent of the Attorney-General.

(3) This section does not authorize the taking or receiving of evidence by a person so appointed in or for use in criminal proceedings.

(4) In this section “authority” means any court, judge, or person who, or body which, is authorized under the law of a foreign country to take or receive evidence on oath or under any other sanction authorized by law in that country.

Division 2—Summary procedure to obtain evidence for Queensland or other jurisdictions

25. Interpretation. [Vic. s. 9A.]. In this Division—

“corresponding court”—

- (a) in relation to a court or person acting judicially in a prescribed country, means the court or person acting judicially in Queensland that is declared by notice in writing under the hand of the Attorney-General published in the Gazette to be the court or person in Queensland that corresponds to that court or person in the prescribed country; and
- (b) in relation to a court or person acting judicially in Queensland, means the court or person acting judicially in a prescribed country that is declared by notice in writing under the hand of the Attorney-General published in the Gazette to be the court or person in a prescribed country that corresponds to that court or person in Queensland;

“examiner” means a judge, magistrate, clerk of a Magistrates Court or any duly qualified legal practitioner;

“prescribed country” means any State or Territory of the Commonwealth, New Zealand and any other State, Territory or country that is declared by the regulations to be a prescribed country for the purposes of this Division.

26. Power of Queensland court to request corresponding court in a prescribed country to take evidence for use in Queensland court. [Vic. s. 9B.]. (1) Where a court or person acting judicially in Queensland is authorized by or under any Act or law to authorize or order evidence to be taken otherwise than at the hearing of the legal proceedings in respect of which the evidence is required that court or person may on the application of a person who desires to lead evidence, if it or he is satisfied that it is necessary in the interests of justice, request a corresponding court to order the examination of a witness or the production of documents by a person or both such examination and production.

(2) Any deposition received from a corresponding court which purports to have been signed by the deponent and the examiner or to have been certified as a correct record by the examiner may, subject to all just exceptions, be put in as evidence at the hearing of the legal proceedings and any documents received from a corresponding court may, subject to all just exceptions, be put in at the hearing as if produced at the hearing by the person who produced the documents pursuant to the order of the corresponding court,

(3) A court or person acting judicially shall take judicial notice of the seal of a corresponding court and of the signature of any examiner appointed by a corresponding court.

27. Power to take evidence on request from corresponding court of a prescribed country. [Vic. s. 9C.]. (1) Where by or under any Act or law of a prescribed country provision is made for the evidence of any person that is required in connexion with any legal proceedings to be taken otherwise than at the hearing of those proceedings by a court or person acting judicially, a court or person acting judicially in Queensland that is a corresponding court to a court or person acting judicially in the prescribed country before which or whom legal proceedings are being held may, upon receipt of a request in writing from that court or person in the

prescribed country, make an order for the examination of a witness and the production of documents by a person or both for such examination or production before an examiner named in the order at a time and place specified in the order.

(2) The order shall require reasonable notice to be given by post to each party to the legal proceedings at his address as shown in the request of the time when and place where the examination is to take place or the documents are to be produced.

28. Summons of witnesses. [Vic. s. 9D.]. Upon service on a person of an order requiring him to attend for examination or to produce documents, together with the payment or tender of a reasonable sum for expenses, the person shall attend at the time and place appointed and shall have and be subject to the same rights and liabilities as if he were summoned before the court or person by which or whom the order was made.

29. Examination. [Vic. s. 9E.]. (1) Subject to any directions contained in the order for examination—

- (a) a person ordered to be examined before the examiner may be cross-examined and re-examined; and
- (b) the examination, cross-examination and re-examination of persons before the examiner shall be conducted in like manner as they would have been conducted before the court or person acting judicially who made the order for the examination.

(2) The examiner may put any question to a person examined before him as to the meaning of any answer made by that person or as to any matter arising in the course of the examination.

(3) An examiner shall have and may exercise such of the powers of the court or person acting judicially by whom he was appointed as are necessary for the proper exercise of his functions under this Division and may administer oaths and adjourn the examination from time to time as he thinks fit.

30. Objections. [Vic. s. 9F.]. (1) If a person being examined before an examiner objects to answering any question put to him, or if objection is taken to any such question that question, the ground for the objection and the answer to any such question to which objection is taken shall be set out in the deposition of that person or any statement annexed thereto.

(2) The validity of the ground for objecting to answer any such question or for objecting to such question shall not be determined by the examiner but by the corresponding court at whose request the examination is being conducted.

31. Depositions to be signed. [Vic. s. 9G.]. (1) Where pursuant to an order for examination—

- (a) a witness has given evidence to the examiner, his depositions shall be signed by him and by the examiner or where the witness refuses to sign or requires alterations that the examiner considers to be unjustified the depositions shall be signed by the examiner who shall certify that the depositions are a correct record and the reasons for them not being signed by the witness;

- (b) documents have been produced to the examiner by a person not giving evidence, the examiner shall attach to such documents a certificate signed by him stating the name of that person.

(2) All depositions and documents taken before or produced to the examiner pursuant to any such order shall be delivered by the examiner to the court or person by which or whom the order was made for transmission to the corresponding court.

32. Power of Queensland court to transmit requests to other places. [Vic. s. 9H.]. Where a court or person acting judicially in Queensland receives a request from a corresponding court for the examination of a witness or the production of documents by a person and it appears to the court or person acting judicially that the witness or person is not in Queensland and is not proceeding to Queensland but is in or proceeding to another country that is a prescribed country under the law of the country of the corresponding court the court—

- (a) may transmit the request to a corresponding court in that other prescribed country together with such information as it or he possesses concerning the whereabouts and intended movements of the person;
- (b) shall give notice to the corresponding court from which it received the request that the documents have been so transmitted.

33. Saving as to personal attendance. [Vic. s. 9I.]. Nothing in this Division limits or abridges the power of a court or a person acting judicially to require a witness to attend in person before the court or person.

34. Regulations. [Vic. s. 9J.]. The Governor in Council may make regulations for or with respect to—

- (a) fixing and requiring the payment of fees and expenses for or incurred in taking evidence under this Division; and
- (b) anything which is required or is necessary to be prescribed for carrying this Division into effect.

Division 3—General procedure to obtain evidence for other jurisdictions

35. Interpretation. [cf. U.K. 1975 s. 9.]. (1) In this Division—

- “civil proceedings”, in relation to a requesting court, means proceedings in any civil or commercial matter;
- “overseas country” means a country, or part of a country, outside the Commonwealth;
- “request” includes any commission, order or other process issued by or on behalf of a requesting court;
- “requesting court” has the meaning given to it in section 36.

(2) Nothing in this Division shall be construed as enabling any court to make an order that is binding on the Crown or on any person in his capacity as an officer or servant of the Crown.

36. Application to Supreme Court to obtain evidence for civil proceedings in another jurisdiction. [U.K. 1975 s. 1; cf. *Imp. 19 and 20 Vic. c. 113 s. 1; 22 Vic. c. 20 s. 1.*] Where an application by way of originating summons is made to the Supreme Court or a judge thereof for an order for evidence to be obtained in the State, and the Court or judge is satisfied—

- (a) that the application is made in pursuance of a request issued by or on behalf of a court or tribunal (“ the requesting court ”) exercising jurisdiction in a State or Territory of the Commonwealth other than Queensland or in an overseas country; and
- (b) that the evidence to which the application relates is to be obtained for the purposes of civil proceedings which either have been instituted before the requesting court or whose institution before that court is contemplated,

the Court or judge shall have the powers conferred by the following provisions of this Division.

37. Power of Supreme Court to give effect to application to obtain evidence. [U.K. 1975 s. 2; cf. *Imp. 19 and 20 Vic. c. 113 s. 1; 22 Vic. c. 20 s. 1.*] (1) The Supreme Court or a judge thereof on an application under section 36 shall have power by order to make such provision for obtaining evidence in the State as may appear to be appropriate for the purpose of giving effect to the request in pursuance of which the application is made; and any such order may require a person specified therein to take such steps as the Court or judge may consider appropriate for that purpose.

(2) Without prejudice to the generality of subsection (1), an order under this section may make provision—

- (a) for the examination of witnesses, either orally or in writing;
- (b) for the production of documents;
- (c) for the inspection, photographing, preservation, custody or detention of any property;
- (d) for the taking of samples of any property and the carrying out of any experiments on or with any property; and
- (e) for the medical examination of any person.

(3) An order under this section shall not require any particular steps to be taken unless they are steps which can be required to be taken by way of obtaining evidence for the purposes of civil proceedings in the Supreme Court (whether or not proceedings of the same description as those to which the application for the order relates); but this subsection shall not preclude the making of an order requiring a person to give testimony (either orally or in writing) otherwise than on oath where this is asked for by the requesting court.

(4) An order under this section shall not require a person—

- (a) to state what documents relevant to the proceedings to which the application for the order relates are or have been in his possession or power; or

- (b) to produce any documents other than particular documents specified in the order as being documents appearing to the court making the order to be, or to be likely to be, in his possession or power.

(5) A person who, by virtue of an order under this section, is required to attend at any place shall be entitled to the like conduct money and payment for expenses and loss of time as on attendance as a witness in civil proceedings before the Supreme Court.

(6) An order under this section may be enforced in the same manner as if it were an order made by the Supreme Court or a judge thereof in proceedings pending in the Supreme Court or before the judge.

38. Privilege of witnesses. [U.K. 1975 s. 3; cf. Imp. 19 and 20 Vic. c. 113 s. 5; 22 Vic. c. 20 s. 4.]. (1) A person shall not be compelled by virtue of an order under section 37 to give any evidence which he could not be compelled to give—

- (a) in civil proceedings in the State; or
 (b) subject to subsection (2), in civil proceedings in the State or Territory of the Commonwealth or the overseas country in which the requesting court exercises jurisdiction.

(2) Subsection (1) (b) shall not apply unless the claim of the person in question to be exempt from giving the evidence is either—

- (a) supported by a statement contained in the request (whether it is so supported unconditionally or subject to conditions that are fulfilled); or
 (b) conceded by the applicant for the order;

and where such a claim made by any person is not supported or conceded as aforesaid he may (subject to the other provisions of this section) be required to give the evidence to which the claim relates but that evidence shall not be transmitted to the requesting court if that court, on the matter being referred to it, upholds the claim.

(3) In this section references to giving evidence include references to answering any question and to producing any document and the reference in subsection (2) to the transmission of evidence given by a person shall be construed accordingly.

39. Judicial proceedings for the purposes of The Criminal Code. Proceedings wherein a person gives or is required to give any testimony (either orally or in writing) pursuant to an order under section 37 shall be a judicial proceeding for the purposes of Chapter XVI of *The Criminal Code* whether or not the testimony is given or required to be given on oath or under any other sanction authorized by law.

40. Rules of Court. All such Rules of Court as may be necessary or convenient for regulating the practice and procedure under this Division and for giving full effect to the provisions of this Division may be made pursuant to the power to make Rules of Court conferred by *The Supreme Court Act of 1921*.

PART IV—JUDICIAL NOTICE OF SEALS, SIGNATURES AND LEGISLATIVE ENACTMENTS

41. Seal of Queensland. [cf. Cth. S.T.L.R.R. s. 4; Qld. E. 1898 s. 4.]. All courts shall take judicial notice of the impression of the seal of Queensland without evidence of such seal having been impressed or any other evidence relating thereto.

42. Certain signatures, etc., to be judicially noticed. [cf. Cth. S.T.L.R.R. s. 5; Qld. E. 1898 s. 10.]. (1) All courts shall take judicial notice of—

- (a) the signature of any person who holds or has held in Queensland the office of Governor, Judge of the Supreme Court, Prothonotary, Master, Registrar or Chief Clerk of the Supreme Court, Judge or Commissioner of any Court of Bankruptcy or Insolvency, Curator of Intestate Estates, Registrar of Titles, Deputy Registrar of Titles, Registrar-General, Deputy Registrar-General, Government Statistician, Assistant or Deputy Government Statistician, Judge of any District Court or Court of Mines, Member of the Land Court, Registrar of the Land Court, Secretary of the Land Administration Commission, Registrar of Dealings of the Department of Lands, Surveyor-General, Warden of any Wardens Court, or Police or Stipendiary or Special Magistrate or Justice of the Peace, or any office corresponding to any of the aforesaid offices, or any office to which this section may be declared by Order in Council to apply;
- (b) the official seal of every such person or Court; 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.

(2) The provisions of this section shall be in addition to and not in derogation of any powers existing at common law, or given by any law in force in Queensland.

43. Acts and legislative instruments to be judicially noticed. [Qld. A.I. s. 11; Qld. E.D. s. 1.]. All courts shall take judicial notice of—

- (a) every Act; and
- (b) every proclamation, order in council, order and regulation made or purporting to be made by the Governor or Governor in Council pursuant to any Act or statute; and
- (c) the date on which every Act and every such proclamation, order and regulation or part of such Act, proclamation, order and regulation came into operation.

PART V—PROOF OF DOCUMENTS AND OTHER MATTERS

Division 1—Proof of official and judicial documents and matters

44. Proof by purported certificate, document, etc. [cf. Cth. S.T.L.R.R. s. 8; Qld. E. 1898 s. 11.]. Where by a law in force in Queensland—

- (a) a certificate;
- (b) an official or public document;
- (c) a document of a corporation; or

(d) a copy of, or extract from, a document, is admissible in evidence for any purpose, a document purporting to be the certificate, document, copy or extract shall, unless the contrary intention appears, be admissible in evidence to the same extent and for the same purpose provided that it purports to be authenticated in the manner, if any, directed by that law.

45. Proof of Gazette. [cf. Cth. S.T.L.R.R. s. 12.]. The production of a document purporting to be the Gazette shall be evidence that the document is the Gazette and was published on the day on which it bears date.

46. Proof of printing by Government Printer; Presumption of accuracy. [cf. Cth. S.T.L.R.R. s. 13; Qld. E. 1898 s. 3 (2)]. (1) The production of a document purporting to be printed by the Government Printer or by the authority of the Government of the State shall be evidence that the document was printed by the Government Printer or by such authority.

(2) A document purporting to be—

- (a) a copy of an Act or a copy of an Act incorporating all amendments to a date specified therein; and
- (b) printed by the Government Printer or by the authority of the Government of the State,

shall be taken to be a correct copy of the Act or, as the case may be, of the Act as amended to that date until the contrary is proved and the date appearing therein as the date on which the Act was assented to by and on behalf of the Crown shall for all purposes be evidence of the date of such assent.

47. Proof of votes and proceedings of Legislature. [cf. Cth. S.T.L.R.R. s. 11; Qld. E. 1898 ss. 2, 9.]. (1) All documents purporting to be copies of the Votes and Proceedings of the Legislature or of any House of the Legislature, if purporting to be printed by the Government Printer or by the authority of the Government of the State, shall on their production be admitted as evidence thereof.

(2) In this section, "Votes and Proceedings" shall be deemed to include Journals and Minutes, Bills before the Legislature and any papers purporting to be printed by the authority of and to be laid before the Legislature or any House of the Legislature.

48. Proof of Proclamations, Orders in Council, etc. [cf. Cth. S.T.L.R.R. s. 6; Qld. E. 1898 s. 6.]. Evidence of—

- (a) a proclamation, order in council, commission, order, rule, regulation or other instrument made or issued by the Governor or Governor in Council; or
- (b) an order, rule, regulation or other instrument made or issued by or under the authority of any Minister of the Crown or of any public commission or board,

may be given—

- (c) by the production of the Gazette purporting to contain it;
- (d) by the production of a document purporting to be a copy of it and purporting to be printed by the Government Printer or by the authority of the Government of the State;

- (e) by the production (in the case of a proclamation, order in council, commission, order, rule, regulation or other instrument made or issued by the Governor or Governor in Council) of a copy or extract purporting to be certified as a true copy or extract under the hand of the Clerk of the Executive Council; or
- (f) by the production (in the case of any order, rule, regulation or other instrument made or issued by or under the authority of any Minister of the Crown) of a copy or extract purporting to be certified as a true copy or extract under the hand of any Minister of the Crown.

49. Proof of standard rules, codes and specifications. Where—

- (a) any Act; or
- (b) any rule, regulation or other instrument pursuant to a power conferred by any Act,

adopts by way of reference, wholly or in part, any of the standard rules, codes or specifications of the bodies known as the Standards Association of Australia, the British Standards Institution or other body expressly or impliedly identified in the Act, evidence of any such standard rule, code or specification may be given—

- (c) by the production of a document purporting to be a copy of it and purporting to be published by or on behalf of the Standards Association of Australia, the British Standards Institution or other body concerned; or
- (d) by the production of a document purporting to be a copy of it and purporting to be printed by the Government Printer or by the authority of the Government of the State.

50. Proof of act done by Governor or Minister. [cf. Cth. S.T.L.R.R. s. 14.]. Where by any law at any time in force the Governor or the Governor in Council or a Minister of the Crown is authorized or empowered to do any act, production of the Gazette purporting to contain a copy or notification of any such act shall be evidence of such act having been duly done.

51. Proof of public documents. [cf. Cth. S.T.L.R.R. s. 10.]. Where a document is of such a public nature as to be admissible in evidence on its mere production from proper custody, a copy of or extract from the document shall be admissible in evidence if—

- (a) it is proved to be an examined copy or extract; or
- (b) it purports to be certified as a true copy or extract under the hand of a person described in the certificate as the person to whose custody the original is entrusted.

52. Proof of registers of British vessels, etc. [Qld. E.D. s. 36.]. (1) Every register of a vessel kept under any of the Acts relating to the registry of British vessels may be proved by the production of—

- (a) the original;
- (b) an examined copy of the original; or
- (c) a copy purporting to be certified as a true copy under the hand of the person having the charge of the original.

(2) A person having the charge of the original of such register is required to furnish such certified copy to any person applying at a reasonable time for the same upon payment of such fee, if any, as is prescribed by law.

(3) Every—

- (a) such register or such copy of a register; and
- (b) certificate of registry granted under any of the said Acts relating to the registry of British vessels and purporting to be signed as required by law,

shall be admissible in evidence of—

- (c) all the matters contained or recited in such register when the register or such copy of the register is produced; and
- (d) all the matters contained recited in or indorsed on such certificate of registry when the said certificate is produced.

53. Proof of judicial proceedings. [cf. Cth. S.T.L.R.R. s. 17; Cth. Evid. s. 11; Qld. E.D. ss. 31–35.]. (1) Where it is sought to prove any of the following matters—

- (a) a judgment, decree, rule, conviction, acquittal, sentence or other order, process, act or decision of any court;
- (b) an affidavit, pleading, will, codicil, indictment or other legal document filed, deposited or presented in any court; or
- (c) the pendency or existence at any time before any court of any proceeding,

evidence of such matter and, as the case may be, of any particulars relating thereto may be given by the production of—

- (d) the original of the order, process, act, decision or document;
- (e) a document proved to be an examined copy of the order, process, act, decision or document;
- (f) a document purporting to be a copy of the order, process, act, decision or document and to be sealed with the seal of the court; or
- (g) a certificate showing such matter and such particulars and purporting to be under the hand of—
 - (i) a registrar of the court;
 - (ii) a person having the custody of the records or documents of the court;
 - (iii) any other proper officer of the court; or
 - (iv) a deputy of such registrar, person or officer.

(2) For the purposes of this section, the term “court” means any court of Queensland, of the Commonwealth or of any other State or Territory of the Commonwealth.

54. Proof of identity of a person convicted. [cf. N.S.W. s. 23A.].

(1) An affidavit purporting to be made by a finger-print expert who is a member of the police force of Queensland or of the Commonwealth or of any other State or Territory of the Commonwealth and in the form set out in the Third Schedule or to the like effect shall be admissible in evidence for the purpose of proving the identity of any person alleged to have been convicted in Queensland, in the Commonwealth or in the other State or Territory of any offence.

(2) Any such affidavit shall be evidence that the person, a copy of whose finger-prints is exhibited to such affidavit—

- (a) is the person who, in any document exhibited to such affidavit and purporting to be a certificate of conviction or certified copy of such conviction, is referred to as having been convicted; and
- (b) has been convicted of the offences mentioned in such affidavit.

55. Proof of incorporation of company. [cf. Cth. S.T.L.R.R. s. 16; Qld. E. 1898 s. 13.]. (1) Evidence of the incorporation of a company incorporated or registered in Queensland may be given by the production of a certificate of the incorporation or registration of that company which purports to be signed by the Registrar or an Assistant or Deputy Registrar of Companies or the Commissioner or any Deputy or Assistant Commissioner for Corporate Affairs in Queensland, and the date of incorporation or registration mentioned in such certificate shall be evidence of the date on which the company was incorporated or registered.

(2) Any copy of or extract from any document kept and registered in the office for the registration of companies in Queensland, if purporting to be certified under the hand of the Registrar or an Assistant or Deputy Registrar of Companies or the Commissioner or any Deputy or Assistant Commissioner for Corporate Affairs, shall be admissible in evidence in all cases in which the original document is admissible and for the same purposes and to the same extent.

56. Proof of Crown land grants. [cf. Qld. E.D. s. 40; N.S.W. s. 26; Vic. s. 73.]. Upon its production in any proceeding wherein it is sought to prove any grant from the Crown of land within the State a document that purports—

- (a) to be a copy of the instrument of grant or of an entry of such instrument; and
- (b) to be certified under the hand of the Registrar of Titles or a Deputy Registrar of Titles,

shall be evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained therein.

57. Proof of instruments of lease, etc. [cf. Qld. E.D. s. 40.]. Upon its production in any proceeding wherein it is sought to prove an instrument of lease or licence referred to in this section a document that purports—

- (a) to be a copy of the instrument of lease or licence; and
- (b) to be certified—
 - (i) in the case of a lease or licence issued pursuant to or continued in force and held under the *Land Act* 1962–1975 or deemed so to be, under the hand of the Secretary, Land Administration Commission;
 - (ii) in the case of a lease or licence issued pursuant to or continued in force and held under the *Mining Act* 1968–1976 or the *Coal Mining Act* 1925–1976 or the *Miners' Homestead Leases Act* 1913–1975 or deemed so to be, under the hand of the Under Secretary, Department of Mines;

- (iii) in the case of a lease issued pursuant to or continued in force and held under the *State Housing Act 1945-1974* or *The Workers' Homes Act of 1919* as amended from time to time or deemed so to be, under the hand of the Secretary to The Queensland Housing Commission,

shall be evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained therein.

58. Proof of Letters Patent. [cf. Qld. E.D. s. 40.]. Upon its production in any proceeding wherein it is sought to prove any Letters Patent issued by the Crown in relation to the State or in relation to any matter that concerns the State a document that purports—

- (a) to be a copy of the Letters Patent; and
- (b) to be certified under the hand of the Under Secretary, Premier's Department,

shall be evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained therein.

Division 2—Proof of certain miscellaneous documents and matters

59. Comparison of disputed writing. [cf. Qld. E.D. s. 24.]. (1) Comparison of a disputed writing with any writing proved to the satisfaction of the judge to be genuine shall be permitted to be made by witnesses and such writings and the evidence of witnesses respecting the same may be submitted as evidence of the genuineness or otherwise of the writing in dispute.

(2) A court may compare a disputed writing with any writing that is genuine and act upon its own conclusions in relation thereto.

60. Proof of instrument to validity of which attestation is not necessary. [Qld. E.D. s. 25.]. It shall not be necessary to prove by the attesting witness any instrument to the validity of which attestation is not requisite, and such instrument may be proved by admission or otherwise as if there had been no attesting witness thereto.

61. Proof of instrument to validity of which attestation is necessary. [Qld. E.D. s. 25A.]. Any instrument to the validity of which attestation is requisite may, instead of being proved by an attesting witness, be proved in the manner in which it might be proved if no attesting witness were alive.

Nothing in this section shall apply to the proof of wills or other testamentary documents.

62. Presumption as to documents twenty years old. [Qld. E.D. s. 41A.]. Where any document is proved or purports to be not less than twenty years old, there shall be made any presumption which immediately before the date of the passing of *The Evidence Acts Amendment Act of 1962* would have been made in the case of a document of like character proved or purporting to be not less than thirty years old.

63. Wills, deeds, etc., may be verified by declaration. [cf. Qld. E.D. ss. 27, 28.]. (1) Any attesting witness to the execution of any will or codicil, deed, or instrument in writing, and any other competent person, may verify and prove the signing, sealing, publication, or delivery of any such will, codicil, deed or instrument in writing by declaration in writing made under the *Oaths Acts 1867 to 1960*.

(2) A party who intends to adduce in evidence as proof of the execution of a will, codicil, deed or instrument in writing a declaration made in accordance with subsection (1) shall give such notice of his intention to do so as may be required by rules of court.

(3) The method of proof prescribed by this section shall be in addition to and not in derogation of any other method of proving the due execution of a will or codicil prescribed by rules of court.

64. Evidentiary effect of probate, etc. [A.C.T. s. 14; cf. Qld. E.D. ss. 29, 30.]. (1) The probate of a will or letters of administration with a will annexed are evidence of the due execution of the will.

(2) The copy of a will annexed to a probate or to letters of administration is evidence of the contents of the will.

(3) The probate of a will is evidence of the death of the testator and, if the probate states the date of death of the testator, of the date of his death.

(4) Letters of administration of the estate of a deceased person are evidence of the death of the person and, if the letters of administration state the date of death of the person, of the date of his death.

(5) In this section—

(a) a reference to probate shall be read as a reference to probate, and to an exemplification of probate, whether granted within or outside the State; and

(b) a reference to letters of administration shall be read as a reference to letters of administration, to an exemplification of letters of administration, whether granted within or outside the State and to an order to administer the estate of a deceased person granted to the Public Curator.

65. Maps, charts, etc. [A.C.T. s. 92; cf. Qld. L.A. s. 24 (9)]. (1) Where in a proceeding there is a question as to the territorial limits or situation of an area or place, or the distance between two places, a court may admit in evidence—

(a) a published book, map, chart or document that appears to the court to be a reliable source of information in relation to the question; or

(b) a certificate purporting to be signed by the Surveyor-General or a person occupying or performing the duties of the Surveyor-General or a person occupying or performing the duties of an office which, in the opinion of the court, qualifies him to express an opinion in relation to the question.

(2) In any proceeding a map, chart or plan purporting to be issued or published by any department of the Government of the State or of the Commonwealth or by an officer thereof in discharge of his functions shall, upon its production, be sufficient evidence of the matters stated or delineated thereon until the contrary is proved.

66. Astronomical phenomena. (1) Where in a proceeding there is a question as to the time or duration of any astronomical phenomenon that has occurred or shall occur in relation to a place, a court may admit in evidence a certificate upon the question purporting to be signed by the Surveyor-General or a person performing the duties of the Surveyor-General.

(2) The certificate may include an explanation of the terms used therein, a statement of their recognized practical application, and the basis for calculating the time or duration of the astronomical phenomenon.

(3) For the purposes of this section, the term "astronomical phenomenon" includes the rising or setting of the sun or moon, the position of the sun or moon, the phase of the moon and the degree of twilight.

Division 3—Proof of certain Australian and Overseas documents and matters

67. Interpretation. [cf. A.C.T. s. 46.]. For the purposes of this Division—

"overseas country" means a country or part of a country outside the Commonwealth and includes any international organization of which the Commonwealth or an overseas country is a member;

"statute" includes any instrument of a legislative nature made, granted or issued under a statute.

68. Proof of certain Australian and overseas written laws, etc. [cf. Cth. S.T.L.R.R. ss. 6, 7, 15; A.C.T. s. 47; Qld. E.D. s. 39.]. Evidence of—

(a) a statute, proclamation or act of state of a State or Territory of the Commonwealth other than Queensland; or

(b) a statute, proclamation, treaty or act of state of an overseas country,

may be given by the production of—

(c) a copy proved to be an examined copy thereof;

(d) a copy purporting to be sealed with the seal of that State, Territory or country;

(e) a book or pamphlet purporting to be published by the authority of the government of that State, Territory or country or by the government or official printer of that State, Territory or country containing the statute, proclamation, treaty or act of state;

(f) a book or publication that appears to the court to be a reliable source of information containing the statute, proclamation, treaty or act of state; or

(g) a book or pamphlet that is proved to the satisfaction of the court to be admissible in the courts in that State, Territory or country as evidence of the statutes, proclamations, treaties or acts of state of that State, Territory or country contained in that book or pamphlet.

69. Proof of judicial proceedings of an overseas country. [cf. Qld. E.D. s. 39; N.S.W. s. 21; Vic. s. 49.]. Evidence of—

(a) a judgment, decree, rule, conviction, acquittal, sentence or other order, process, act or decision of any court in an overseas country; or

(b) an affidavit, pleading, will, codicil, indictment or other legal document filed, deposited or presented in any such court,

may be given by the production of a copy thereof—

(c) proved to be an examined copy thereof; or

(d) purporting—

(i) to be sealed with the seal of such court; or

(ii) to be signed by a judge of such court with a statement in writing attached by him to his signature that such court has no seal and without proof of his judicial character or of the truth of such statement.

70. Proof of certain documents admissible elsewhere in Australia. [cf. Cth. S.T.L.R.R. s. 9; Qld. E. 1898 s. 7.]. Any document which by a law at any time in force in a State or Territory of the Commonwealth other than Queensland is admissible in evidence for any purpose in a court of that State or Territory without proof of—

- (a) the seal or stamp or signature authenticating the same; or
- (b) the judicial or official character of the person appearing to have signed the same,

shall be admissible in evidence to the same extent and for the same purpose in all courts in Queensland without such proof.

71. Royal proclamations, orders of the Privy Council, etc. [cf. Qld. E. 1898 s. 5; Imp. 31 and 32 Vic. c. 37 s. 2.]. (1) Evidence of any Royal proclamation, order of Her Majesty's Privy Council, order, regulation, despatch, or any other instrument made or issued by Her Majesty or by Her Majesty's Privy Council, or by or under the authority of any of Her Majesty's Secretaries of State, or of any department of Her Majesty's Government in the United Kingdom, may be given—

- (a) by the production of a document purporting to be a copy of the London Gazette or of the Government Gazette purporting to contain a reprint of such proclamation, order of the Privy Council, order, regulation, despatch or other instrument; or
- (b) by the production in the case of any such proclamation of a copy purporting to be printed by the Government Printer.

(2) In this section (but without affecting the generality of the expression when used elsewhere) the expression "Her Majesty" includes any predecessors of Her Majesty.

72. Proof of certain Australian and overseas public documents. [cf. Qld. E. 1898 s. 8.]. Where a document of a State or Territory of the Commonwealth other than Queensland or of an overseas country is of such a public nature that it would if it were a Queensland document be admissible in evidence in Queensland on its mere production from proper custody, a copy of or extract from the document shall be admissible in evidence if—

- (a) it is proved to be an examined copy or extract; or
- (b) it purports to be certified as a true copy or extract under the hand of a person described in the certificate as the person to whose custody the original is entrusted.

73. Proof of incorporation of certain Australian and overseas companies. [cf. Cth. S.T.L.R.R. s. 16.]. Evidence of the incorporation of a company incorporated or registered in a State or Territory of the Commonwealth other than Queensland or in an overseas country may be given by the production of a certificate of the incorporation or registration of that company which purports to be signed or issued by the Registrar of Companies, Commissioner for Corporate Affairs or other proper officer or body in that State, Territory or country, and the date of incorporation or registration mentioned in such certificate shall be evidence of the date on which the company was incorporated or registered.

74. Proof of birth, adoption, death or marriage. [A.C.T. s. 13.]. A document purporting to be either the original or a certified copy of a certificate, entry or record of a birth, adoption, death or marriage alleged to have taken place whether in Australia or elsewhere is evidence in a proceeding of the matters contained therein.

Division 4—Proof of telegraphic messages

75. Notice of intention to adduce telegraphic message in evidence. [cf. Qld. T.M. s. 1; S.A. s. 53.]. (1) In any proceeding (not being a criminal proceeding), any party may at any time after the commencement thereof give notice to any other party that he proposes to adduce in evidence at the trial or hearing any telegraphic message that has been sent by telegraph from any place in the Commonwealth to any other place in the Commonwealth:

Provided that—

- (a) the time between the giving of such notice and the day on which such evidence shall be tendered shall not in any case be less than two days; and
 - (b) every such notice shall specify the names of the sender and receiver of the message, the subject-matter thereof, and the date as nearly as may be.
- (2) Any such notice may be served and the service thereof proved in the same manner as notices to produce may now be served and proved.

76. Proof of message. [cf. Qld. T.M. s. 2; S.A. s. 54.]. Where a notice under section 75 has been given, the production of a telegraphic message described in the notice and purporting to have been sent by any person, together with evidence that the same was duly received from a telegraph office, shall be evidence that such message was sent by the person so purporting to be the sender thereof to the person to whom the same is addressed.

77. Proof of sending a message. [cf. Qld. T.M. s. 3; Tas. s. 43.]. Where a notice under section 75 has been given, the production of a telegraphic message, or a copy thereof verified on oath, together with evidence that such message was sent to or delivered at a telegraph office and that the fees (if any) for the transmission thereof were duly paid shall be evidence that such message was duly delivered to the person named therein as the person to whom the same was to be transmitted.

Division 5—Admissibility of convictions in civil proceedings

78. Interpretation. [A.C.T. s. 81.]. For the purposes of this Division—

“conviction” does not include—

- (a) a conviction that has been set aside or quashed; or
- (b) where the person convicted of an offence has been granted a pardon in respect of that offence, such a conviction, and the term “convicted” has a corresponding meaning;

“court” means any court of Queensland, of the Commonwealth or of any other State or Territory of the Commonwealth but does not include a court-martial.

79. Convictions as evidence in civil proceedings. [A.C.T. s. 77; cf. Eng. 1968 s. 11.]. (1) In this section, “civil proceeding” does not include an action for defamation.

(2) In any civil proceeding the fact that a person has been convicted by a court of an offence is admissible in evidence for the purpose of proving, where to do so is relevant to any issue in that proceeding, that he committed that offence.

(3) In any civil proceeding in which by virtue of this section a person is proved to have been convicted by a court of an offence he shall, unless the contrary is proved, be taken to have committed the acts and to have possessed the state of mind (if any) which at law constitute that offence.

(4) This section applies—

- (a) whether or not a person was convicted upon a plea of guilty; and
- (b) whether or not the person convicted is a party to the civil proceeding.

80. Convictions as evidence in actions for defamation. [A.C.T. s. 78; cf. Eng. 1968 s. 13.]. In an action for defamation in which the question whether a person did or did not commit a criminal offence is relevant to an issue arising in the action, proof that at the time when the issue falls to be determined that person stands convicted by a court of that offence is conclusive evidence that he committed that offence.

81. Evidence identifying the particulars of a conviction. [cf. A.C.T. s. 79; Eng. 1968 ss. 11, 13.]. Without prejudice to the reception of any other evidence for the purpose of identifying the particulars of a conviction—

- (a) the contents of any document which is admissible as evidence of the conviction; and
- (b) the contents of any document which is admissible as evidence of the complaint, information, indictment or charge on which the person in question was convicted,

shall be admissible for that purpose where by virtue of section 79 or 80 evidence of the conviction may be given.

82. Operation of other laws not affected. [A.C.T. s. 80.]. Nothing in this Division derogates from the operation of any other law under which a conviction or finding of fact in a criminal proceeding is, for the purposes of any proceeding, made evidence or conclusive evidence of any fact.

Division 6—Books of account

83. Interpretation. [cf. Vic. s. 58A; Qld. B.B.E. s. 3.]. For the purposes of this Division unless the contrary intention appears—

“book of account” includes any document used in the ordinary course of any undertaking to record the financial transactions of the undertaking or to record any thing acquired or otherwise dealt with by, produced in, held for or on behalf of, or taken or lost from the undertaking and any particulars relating to any such thing;

“court” means—

- (a) in relation to any proceeding in the Supreme Court, the Supreme Court or a judge thereof;
- (b) in relation to any proceeding in a District Court, the District Court or a judge thereof;
- (c) in relation to any proceeding in a Magistrates Court or before justices, the Magistrates Court, a stipendiary magistrate or a justice; and
- (d) in relation to any other proceeding, the Supreme Court or a judge thereof.

84. Entries in book of account to be evidence. [Vic. s. 58B; cf. Qld. B.B.E. s. 4.]. Subject to the provisions of this Division, in all proceedings—

- (a) an entry in a book of account shall be evidence of the matters transactions and accounts therein recorded; and
- (b) a copy of an entry in a book of account shall be evidence of the entry and of the matters transactions and accounts therein recorded.

85. Proof that book is a book of account. [Vic. s. 58D; cf. Qld. B.B.E. s. 6.]. (1) An entry or a copy of an entry in a book of account shall not be admissible in evidence under this Division unless it is first proved that the book was at the time of the making of the entry one of the ordinary books of account of the undertaking to which it purports to relate and that the entry was made in the usual and ordinary course of that undertaking.

(2) Such proof may be given by a responsible person familiar with the books of account of the undertaking and may be given orally or by an affidavit sworn or by a declaration made before a commissioner or person authorized to take affidavits or statutory declarations.

86. Verification of copy. [Vic. s. 58E; cf. Qld. B.B.E. s. 7.]. (1) A copy of an entry in a book of account shall not be admissible in evidence under this Division unless it is further proved that the copy has been examined with the original entry and is correct.

(2) Such proof may be given by some person who has examined the copy with the original entry and may be given either orally or by an affidavit sworn or by a declaration made before a commissioner or person authorized to take affidavits or statutory declarations.

87. Matters which may be proved under this Division ordinarily to be so proved. [Vic. s. 58F; cf. Qld. B.B.E. s. 8.]. A person engaged in any undertaking or an employee of that person shall not in any proceeding to which the person is not a party be compellable to produce any book of account the contents of which can be proved under this Division or to appear as a witness to prove the matters transactions and accounts therein recorded unless by order of a court.

88. Court may order books of account or copies to be made available. [cf. Vic. ss. 58C, 58G, 58J; Qld. B.B.E. ss. 5, 9, 12.]. (1) On the application of any party to a proceeding, a court may order that such party be at liberty to inspect and take copies of or extracts from any entries in a book of account of any undertaking for any of the purposes of such proceeding.

(2) An order under this section may be made either with or without summoning the person engaged in the undertaking or any other party and shall be served on the person engaged in the undertaking three clear days before the same is to be obeyed unless the court otherwise directs.

(3) An order under this section may direct that the person engaged in the undertaking shall, on payment of such fee as is specified in the order, prepare and deliver to the party who obtained that order a duly verified copy of such entries as may be required for evidence in the proceeding.

(4) For the purposes of subsection (2), Saturday, Sunday, and any day which is a public holiday throughout the State or in that part of the State in which the order is to be obeyed shall be excluded from the computation of time.

(5) Where a person engaged in any undertaking is a party to a proceeding, the other party or parties thereto shall be at liberty to inspect and make copies of or extracts from the original entries and the accounts of which such entries form a part and the documents in respect of which such entries were made as though this Division had not been enacted.

89. Proof that a person has no account. [cf. Qld. B.B.E. s. 10; N.S.W. Crimes s. 415.]. (1) Where it is sought to prove for the purposes of a proceeding that a person did not at a given time have an account with an undertaking or with any branch thereof, evidence of the fact may be given by a responsible person familiar with the books of account of the undertaking or, as the case may be, of the branch thereof.

(2) Such evidence may be given by such person orally or by an affidavit sworn or by a declaration made before a commissioner or person authorized to take affidavits or statutory declarations.

90. Costs. [Vic. s. 58H; cf. Qld. B.B.E. s. 11.]. (1) The costs of any application to a court under or for the purposes of this Division and the costs of anything done or to be done under an order of a court made under or for the purposes of this Division shall be in the discretion of the court, who may order the same or any part thereof to be paid to any party by the person engaged in the undertaking concerned where the same have been occasioned by any default or delay on the part of that person.

(2) Any such order against a person engaged in an undertaking may be enforced as if he were a party to the proceeding.

91. Application of ss. 84, 85, 86 and 89. [Vic. s. 58I; cf. Qld. B.B.E. s. 13.]. Sections 84, 85, 86 and 89 shall apply to and in relation to books of account and persons engaged in undertakings in any State or Territory of the Commonwealth.

PART VI—ADMISSIBILITY OF STATEMENTS

92. Admissibility of documentary evidence as to facts in issue. [cf. Vic. s. 55; Qld. E.D. s. 42B.]. (1) In any proceeding (not being a criminal proceeding) where direct oral evidence of a fact would be admissible, any statement contained in a document and tending to establish that fact shall, subject to this Part, be admissible as evidence of that fact if—

- (a) the maker of the statement had personal knowledge of the matters dealt with by the statement, and is called as a witness in the proceeding; or
- (b) the document is or forms part of a record relating to any undertaking and made in the course of that undertaking 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 the person who supplied the information recorded in the statement in question is called as a witness in the proceeding.

(2) The condition in subsection (1) that the maker of the statement or the person who supplied the information, as the case may be, be called as a witness need not be satisfied where—

- (a) he is dead, or unfit by reason of his bodily or mental condition to attend as a witness;
- (b) he is out of the State and it is not reasonably practicable to secure his attendance;

- (c) he cannot with reasonable diligence be found or identified;
 - (d) it cannot reasonably be supposed (having regard to the time which has elapsed since he made the statement, or supplied the information, and to all the circumstances) that he would have any recollection of the matters dealt with by the statement he made or in the information he supplied;
 - (e) no party to the proceeding who would have the right to cross-examine him requires his being called as a witness; or
 - (f) at any stage of the proceeding it appears to the court that, having regard to all the circumstances of the case, undue delay or expense would be caused by calling him as a witness.
- (3) The court may act on hearsay evidence for the purpose of deciding any of the matters mentioned in paragraphs (a), (b), (c), (d) or (f) of subsection (2).
- (4) For the purposes of this Part a statement contained in a document is made by a person if—
- (a) it was written, made, dictated or otherwise produced by him;
 - (b) it was recorded with his knowledge;
 - (c) it was recorded in the course of and ancillary to a proceeding; or
 - (d) it was recognized by him as his statement by signing, initialling or otherwise in writing.

93. Admissibility of documentary evidence as to facts in issue in criminal proceedings. [cf. Eng. 1965 s. 1; W.A. s. 79E.]. (1) In any criminal proceeding where direct oral evidence of a fact would be admissible, any statement contained in a document and tending to establish that fact shall, subject to this Part, be admissible as evidence of that fact if—

- (a) the document is or forms part of a record relating to any trade or business and made 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—
 - (i) is dead, or unfit by reason of his bodily or mental condition to attend as a witness;
 - (ii) is out of the State and it is not reasonably practicable to secure his attendance;
 - (iii) cannot with reasonable diligence be found or identified; or
 - (iv) cannot reasonably be supposed (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) In this section “business” includes any public transport, public utility or similar undertaking carried on in Queensland or elsewhere by the Crown (in right of the State of Queensland or any other right) or a statutory body.

94. Admissibility of evidence concerning credibility of persons responsible for statement. [cf. Vic. s. 55A; Eng. 1968 s. 7.]. (1) Where in any proceeding a statement is given in evidence by virtue of section 84, 92 or 93 and a person who made the statement or supplied the information recorded in it is not called as a witness in the proceeding—

- (a) any evidence which, if that person had been so called, would be admissible for the purpose of destroying or supporting his credibility as a witness shall be admissible for that purpose in that proceeding;
- (b) any evidence tending to prove that, whether before or after he made that statement or supplied that information, he made another statement or supplied other information (whether orally or in a document or otherwise) inconsistent therewith shall be admissible for the purpose of showing that he has contradicted himself,

but nothing in paragraphs (a) or (b) shall enable evidence to be given of any matter of which, if the person in question had been called as a witness and had denied that matter in cross-examination, evidence could not have been adduced by the cross-examining party.

(2) Where in any proceeding a statement is given in evidence by virtue of section 84, 92 or 93 and a person who made the statement or supplied the information recorded in it is not called as a witness in the proceeding any evidence proving that that person has been guilty of any indictable or other offence shall, with the leave of the court, be admissible in the proceeding to the same extent as if that person had been so called and on being questioned as to whether he had been convicted of an indictable or other offence had denied the fact or refused to answer the question.

95. Admissibility of statements produced by computers. [cf. Vic. s. 55B; Eng. 1968 s. 5.]. (1) In any proceeding (not being a criminal proceeding) where direct oral evidence of a fact would be admissible, any statement contained in a document produced by a computer and tending to establish that fact shall, subject to this Part, be admissible as evidence of that fact, if it is shown that the conditions mentioned in subsection (2) are satisfied in relation to the statement and computer in question.

(2) The said conditions are—

- (a) that the document containing the statement was produced by the computer during a period over which the computer was used regularly to store or process information for the purposes of any activities regularly carried on over that period, whether for profit or not, by any person;
- (b) that over that period there was regularly supplied to the computer in the ordinary course of those activities information of the kind contained in the statement or of the kind from which the information so contained is derived;
- (c) that throughout the material part of that period the computer was operating properly or, if not, that any respect in which it was not operating properly or was out of operation during that part of that period was not such as to affect the production of the document or the accuracy of its contents; and
- (d) that the information contained in the statement reproduces or is derived from information supplied to the computer in the ordinary course of those activities.

(3) Where over a period the function of storing or processing information for the purposes of any activities regularly carried on over that period as mentioned in paragraph (a) of subsection (2) was regularly performed by computers, whether—

- (a) by a combination of computers operating over that period; or
- (b) by different computers operating in succession over that period; or
- (c) by different combinations of computers operating in succession over that period; or
- (d) in any other manner involving the successive operation over that period, in whatever order, of one or more computers and one or more combinations of computers,

all the computers used for that purpose during that period shall be treated for the purposes of this Part as constituting a single computer and references in this Part to a computer shall be construed accordingly.

(4) In any proceeding where it is desired to give a statement in evidence by virtue of this section, a certificate doing all or any of the following things, that is to say—

- (a) identifying the document containing the statement and describing the manner in which it was produced;
- (b) giving such particulars of any device involved in the production of that document as may be appropriate for the purpose of showing that the document was produced by a computer;
- (c) dealing with any of the matters to which the conditions mentioned in subsection (2) relate,

and purporting to be signed by a person occupying a responsible position in relation to the operation of the relevant device or the management of the relevant activities (whichever is appropriate) shall be evidence of the matters stated in the certificate and for the purposes of this subsection it shall be sufficient for a matter to be stated to the best of the knowledge and belief of the person stating it.

(5) Any person who in a certificate tendered in evidence by virtue of subsection (4) wilfully makes a statement material in that proceeding which he knows to be false or does not believe to be true is guilty of an offence.

Penalty: Imprisonment with hard labour for one year or a fine of \$1 000 or both such imprisonment and such fine.

(6) For the purposes of this Part—

- (a) information shall be taken to be supplied to a computer if it is supplied thereto in any appropriate form and whether it is so supplied directly or (with or without human intervention) by means of any appropriate equipment;
- (b) where, in the course of activities carried on by any person, information is supplied with a view to its being stored or processed for the purposes of those activities by a computer operated otherwise than in the course of those activities, that information, if duly supplied to that computer, shall be taken to be supplied to it in the course of those activities;
- (c) a document shall be taken to have been produced by a computer whether it was produced by it directly or (with or without human intervention) by means of any appropriate equipment.

(7) Subject to subsection (3), in this section “computer” means any device for storing and processing information, and any reference to information being derived from other information is a reference to its being derived therefrom by calculation, comparison or any other process.

96. Inferences concerning admissibility. [cf. Qld. E.D. s. 42B; Vic. ss. 55, 55C.]. (1) For the purpose of deciding whether or not a statement is admissible in evidence by virtue of this Part, the court may draw any reasonable inference from the form or contents of the document in which the statement is contained, or from any other circumstances.

(2) For the purpose of deciding whether or not a statement is admissible in evidence by virtue of section 92 or 93, the court 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.

97. Authentication. [Vic. s. 55D; cf. Qld. E.D. s. 42B.]. Where in any proceeding a statement contained in a document is proposed to be given in evidence by virtue of this Part, it may be proved by the production of that document or (whether or not that document is still in existence) by the production of a copy of that document, or the material part thereof, authenticated in such manner as the court may approve.

98. Rejection of evidence. [cf. Vic. s. 55; Qld. E.D. s. 42B.]. (1) The court may in its discretion reject any statement notwithstanding that the requirements of this Part are satisfied with respect thereto, if for any reason it appears to it to be inexpedient in the interests of justice that the statement should be admitted.

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

99. Withholding statement from jury room. [N.S.W. s. 14CQ.]. Where in a proceeding there is a jury, and a statement in a document is admitted in evidence under this Part, and it appears to the court that if the jury were to have the document with them during their deliberations they might give the statement undue weight, the court may direct that the document be withheld from the jury during their deliberations.

100. Corroboration. [Vic. s. 56; cf. Qld. E.D. s. 42C.]. For the purpose of any rule of law or practice requiring evidence to be corroborated or regulating the manner in which uncorroborated evidence is to be treated, a statement rendered admissible as evidence by this Part shall not be treated as corroboration of evidence given by the maker of the statement or the person who supplied the information from which the record containing the statement was made.

101. Witness's previous statement, if proved, to be evidence of facts stated. [cf. Eng. 1968 ss. 3, 7.]. (1) Where in any proceeding—

- (a) a previous inconsistent or contradictory statement made by a person called as a witness in that proceeding is proved by virtue of section 17, 18 or 19; or
- (b) a previous statement made by a person called as aforesaid is proved for the purpose of rebutting a suggestion that his evidence has been fabricated,

that statement shall be admissible as evidence of any fact stated therein of which direct oral evidence by him would be admissible.

(2) Subsection (1) shall apply to any statement or information proved by virtue of paragraph (b) of section 94 (1) as it applies to a previous inconsistent or contradictory statement made by a person called as a witness which is proved as mentioned in paragraph (a) of the said subsection (1).

(3) Nothing in this Part shall affect any of the rules of law relating to the circumstances in which, where a person called as a witness in any proceeding is cross-examined on a document used by him, to refresh his memory, that document may be made evidence in that proceeding, and where a document or any part of a document is received in evidence in any such proceeding by virtue of any such rule of law, any statement made in that document or part by the person using the document to refresh his memory shall by virtue of this subsection be admissible as evidence of any fact stated therein of which direct oral evidence by him would be admissible.

102. Weight to be attached to evidence. [cf. Qld. E.D. s. 42C.]. In estimating the weight, if any, to be attached to a statement rendered admissible as evidence by this Part, 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) the question whether or not the statement was made, or the information recorded in it was supplied, contemporaneously with the occurrence or existence of the facts to which the statement or information relates; and
- (b) the question whether or not the maker of the statement, or the supplier of the information recorded in it, had any incentive to conceal or misrepresent the facts.

103. Provisions of Part are alternative. The provisions of sections 92, 93, 94, 95 and 101 shall be construed as in aid of and as alternative to one another, any other provision in any other Part, and any other law practice or usage with respect to the admissibility in evidence of statements.

PART VII—REPRODUCTIONS OF DOCUMENTS

Division 1—Preliminary

104. Interpretation. [cf. Qld. E.(R.) s. 4.]. In this Part, unless the contrary intention appears—

- “affidavit” includes statutory declarations;
- “business” includes any undertaking;
- “machine-copy” in relation to a document means a copy of the document made by a machine performing a process—
 - (a) involving the production of a latent image of the document (not being a latent image on photo-sensitive material on a transparent base) and the development of that image by chemical means or otherwise; or
 - (b) that, without the use of photo-sensitive material, produces a copy of the document simultaneously with the making of the document;
- “Minister” means the Minister for Justice and Attorney-General;
- “original document” means—
 - (a) when referred to in connexion with the production of a document in answer to legal process issued by a court, the document that would, if this Part had not been enacted, be required to be produced in answer to that process; or

- (b) when referred to in connexion with the admissibility of a document in evidence in a proceeding—
 - (i) a document that would, if this Part had not been enacted, be admissible in evidence in that proceeding in lieu of another document where a party to the proceeding failed to produce that other document in response to notice to do so given to him by another such party; or
 - (ii) any other document that would, if this Part had not been enacted, be admissible in evidence in that proceeding;
- “reproduction” in relation to a document means a machine-copy of the document or a print made from a transparency of the document and “reproduce” and any derivatives thereof have a corresponding meaning;
- “transparency” in relation to a document means—
- (a) a developed negative or positive photograph of that document (in this definition referred to as an original photograph) made on a transparent base by means of light reflected from, or transmitted through, the document;
 - (b) a copy of an original photograph made by the use of photo-sensitive material (being photo-sensitive material on a transparent base) placed in surface contact with the original photograph; or
 - (c) any one of a series of copies of an original photograph, the first of the series being made by the use of photo-sensitive material (being photo-sensitive material on a transparent base) placed in surface contact with a copy referred to in paragraph (b) of this definition, and each succeeding copy in the series being made, in the same manner, from any preceding copy in the series.

Division 2—Reproduction of official documents

105. Certified reproductions of certain official documents, etc., to be admissible without further proof. [Qld. E.(R.) s. 5.]. (1) In this section “approved person” means—

- (a) any person or official who is the holder of or is acting in an office in a department, instrumentality or agency of the government of the State or under a Minister of the Crown, public officer, person, board or body corporate acting for or on behalf of or as agent of or as representing the Crown declared by the Minister, by notification published in the Gazette, to be an approved person for the purposes of this section;
- (b) where an original document to which this section relates is a document filed in a court or the official record of a proceeding, the registrar or other proper officer of the court in which the document was filed or before which the proceeding took place.

(2) In a notification published for the purposes of paragraph (a) of subsection (1), the Minister is authorized to describe an official by designating the office that he holds or in which he acts and where, in such a notification, an official is so described—

- (a) a person who holds or is acting in the designated office at the time of publication of the notification shall be an approved person;

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- (b) that official shall cease to be an approved person—
- (i) if he ceases to hold or act in the designated office; or
 - (ii) if the notification is revoked in so far as it relates to the designated office,
- whichever first occurs; and
- (c) a person who succeeds to or acts in the designated office while the notification remains unrevoked in so far as it relates to that office shall be an approved person—
- (i) while he holds or acts in that office; or
 - (ii) until the notification is sooner revoked in so far as it relates to the designated office,
- whichever first occurs.
- (3) A person shall not fail or cease to be an approved person by reason only of a misdescription or an abbreviated description of a designated office referred to in subsection (2) by virtue of which he would, but for the misdescription or abbreviated description, be an approved person, where the misdescription or abbreviation does not materially affect identification of that person.
- (4) The Minister may, by notification published in the Gazette, revoke wholly or in part a notification published for the purposes of paragraph (a) of subsection (1).
- (5) A document that purports to be a copy of an original document shall, without further proof, be admissible in evidence in a proceeding as if it were the original document of which it purports to be a copy, if it bears or is accompanied by a certificate, purporting to have been signed by an approved person, that it is a reproduction of a document that was in the custody or control of that person in his official capacity—
- (a) where the reproduction is a machine-copy, at the time the machine-copy was made; or
 - (b) where the reproduction is a print made from a transparency, at the time when the transparency was made.
- (6) Where an approved person is served with legal process to produce a document to a court it shall be a sufficient answer to such process if the person to whom the process is addressed sends by post, or causes to be delivered, to the registrar or proper officer of the court requiring the production of the document a reproduction, certified as provided by this section, of the document and, where more than one document is specified howsoever in the legal process, further certifies that, to the best of his knowledge and belief, the reproductions so sent or caused to be delivered are reproductions of the whole of the documents in question.
- (7) For the purposes of this section and without prejudice to any form of custody or control, an approved person shall be deemed to have custody or control of a document at the time the transparency of the document was made if—
- (a) he has custody or control of the transparency; and
 - (b) the transparency—
 - (i) incorporates a transparency of a certificate purporting to have been signed by an approved person to the effect that the transparency was made as a permanent record of a document in the custody or under the control of the person who signed the certificate; or

(ii) is one of a series of transparencies that incorporates, as part of the series, a transparency of such a certificate relating to the transparencies in the series.

(8) Division 3 of this Part shall not apply to or in respect of a reproduction of a document referred to in this Division.

Division 3—Reproduction of business documents

106. Admissibility of reproductions of business documents destroyed, lost or unavailable. [Qld. E.(R.) s. 6.]. (1) Subject to this Part, a document that purports to be a copy of an original document made or used in the course of a business shall, upon proof that it is a reproduction made in good faith and that the original document has been destroyed or lost, whether wholly or in part, or that it is not reasonably practicable to produce the original document or to secure its production, be admissible in evidence in any proceeding to the extent to which the contents of the original document of which it purports to be a copy would have been admissible and it shall, subject to proof of the same matters, be a sufficient answer to legal process issued by a court, requiring production of a document to the court, for the person required by that process to produce the document to produce such a reproduction of the document.

(2) Without prejudice to any other mode of proof an affidavit purporting to have been made by a person at or about the time he made a machine-copy of or photographed a document—

- (a) stating his full name, address and occupation;
- (b) identifying or describing the document and indicating whether the document is itself a reproduction;
- (c) stating the day upon which he made the machine-copy or photograph, the condition of the document at that time with respect to legibility and the extent of any damage thereto;
- (d) describing the machine or process by which he made the machine-copy or photograph;
- (e) stating that the making of the machine-copy or photograph was properly carried out by the use of apparatus or materials in good working condition with the object of making a machine-copy or, as the case may be, a transparency of the document; and
- (f) stating that the machine-copy or photograph is a machine-copy or photograph made in good faith,

shall be evidence, whether or not such person is available to be called as a witness, that the machine-copy or, as the case may be, a transparency of the document referred to in the affidavit is a machine-copy or transparency made in good faith and, in the case of a machine-copy is, or in the case of a transparency can be used to produce, a reproduction of the document.

107. Minister may approve photographing machines. [Qld. E.(R.) s. 7.]. (1) For the purposes of this Part the Minister may, by notification published in the Gazette, approve for photographing documents in the ordinary course of business any make, model or type of machine and any such machine, so approved, is in this Division referred to as an "approved machine".

(2) Any approval given by the Minister under subsection (1) may be given subject to such conditions as the Minister thinks fit, and may, by notification published in the Gazette, be revoked or varied by the Minister.

(3) Subject to this Part, but in addition to and without derogating from the provisions of subsection (1) of section 106, a print made from a transparency of an original document (being a document made or used in the course of business) shall be admissible in evidence in a proceeding to the extent to which the contents of the original document would have been admissible, whether the document is still in existence or not, upon proof that the transparency was made in good faith by using a machine that, at the time the transparency was made, was an approved machine and that the print is a print of the image on the transparency.

(4) Without prejudice to any other mode of proof an affidavit purporting to have been made by a person at or about the time he photographed a document by means of an approved machine—

- (a) stating his full name, address and occupation and his functions or duties (if any) in relation to copying documents;
- (b) identifying or describing the document and indicating whether the document is itself a reproduction;
- (c) stating the day upon which the document was photographed, the condition of the document at that time with respect to legibility and the extent of any damage to the document;
- (d) stating the person from whose custody or control the document was produced for photographing or on whose behalf or in the course of whose business the document was photographed;
- (e) identifying the make, model or type of the approved machine citing the number and date of the Gazette in which approval of such machine was notified and stating that the photographing was properly carried out in the ordinary course of business by the use of apparatus and materials in good working order and condition and in accordance with the conditions, if any, attaching to the approval of such machine as so notified; and
- (f) stating that the document was photographed in good faith,

shall be evidence, whether such person is available to be called as a witness or not, that a transparency of the document referred to in the affidavit was made in good faith by using an approved machine and bears an image of the document.

108. Affidavit of maker of print from transparency to be evidence. [Qld. E.(R.) s. 8.]. Without prejudice to any other mode of proof an affidavit purporting to have been made by a person at or about the time he made a print from a transparency of a document—

- (a) stating his full name, address and occupation;
- (b) identifying the transparency;
- (c) stating the day upon which the print was made, the condition of the transparency and the extent of any damage thereto;
- (d) describing the process by which he made the print;
- (e) stating that the printing was properly carried out by the use of apparatus and materials in good working order and condition with the object of reproducing the whole of the image on the transparency; and
- (f) stating that the print was made in good faith,

shall be evidence, whether such person is available to be called as a witness or not, that the print was made in good faith and reproduces the whole of the image on the transparency.

109. Proof where document processed by independent processor. [Qld. E.(R.) s. 9.]. Where a person having the custody or control of a document—

- (a) delivers the document, or causes it to be delivered to another person (in this section called “the processor”) whose business is or includes the reproduction or photographing of documents for other persons; and
- (b) receives from the processor—
 - (i) a machine-copy or transparency of a document; and
 - (ii) an affidavit by the processor under section 106 or 107,

an affidavit made by him at or about that time giving particulars of his custody or control of the document, its delivery to the processor and his receipt from the processor, of the document and the machine-copy or transparency shall, whether the person who had the custody or control of the document is available to be called as a witness or not, be admissible in a proceeding as evidence of the facts stated therein.

110. Reproduction not to be admitted as evidence unless transparency in existence. [Qld. E.(R.) s. 10.]. (1) Save as provided in subsection (2) a reproduction made from a transparency shall not be admitted as evidence pursuant to this Division in any proceeding unless the court is satisfied—

- (a) that the transparency is in existence at the time of the proceeding; and
- (b) that the document reproduced was—
 - (i) in existence for a period of at least twelve months after the document was made; or
 - (ii) delivered or sent by the party tendering the reproduction to the other party or one of the other parties to the proceeding.

(2) The provisions of paragraph (b) of subsection (1) do not apply with respect to a print made from a transparency made by using an approved machine where, at the time the print was made, the transparency was in the custody or control of—

- (a) a Minister of the Crown in right of the Commonwealth or of the State of Queensland or of any other State of the Commonwealth or any officer in any Government Department under the direct control of any such Minister;
- (b) any council, board, commission, trust or other body established or constituted by or under the law of the Commonwealth or of the State of Queensland or of any other State or Territory of the Commonwealth for any public purpose;
- (c) a bank as defined in section 5 of the *Banking Act* 1959 of the Commonwealth, as subsequently amended, or any statutory corporation for the time being authorized to carry on any banking business in the State of Queensland or in any other State or Territory of the Commonwealth; or
- (d) any corporation that is registered under the *Life Insurance Act* 1945 of the Commonwealth, as subsequently amended, where the document reproduced relates to the life insurance business of that corporation.

111. Transparency, etc., may be preserved in lieu of document. [Qld. E.(R.) s. 11.]. Where any Act passed before or after the commencement of this Act requires a document to which this Division applies to be preserved for any purpose for a longer period of time than three years

it shall be a sufficient compliance with such a requirement to preserve, in lieu of any such document more than three years old, a transparency thereof made by using an approved machine together with an affidavit relating to the transparency being a transparency and an affidavit to which section 115 applies.

112. Proof of destruction of documents, etc. [Qld. E.(R.) s. 12.]. A statement by any person in an affidavit made for the purposes of this Division—

- (a) that he destroyed or caused the destruction of a document;
- (b) that after due search and inquiry a document cannot be found;
- (c) that, for the reasons specified therein, it is not reasonably practicable to produce a document or secure its production;
- (d) that a transparency of a document is in the custody or control of a person, corporation or body referred to in subsection (2) of section 110;
- (e) that a document was made or was used in the course of his or his employer's business; or
- (f) that he has made transparencies of a series of documents including the affidavit by photographing them in their proper order,

shall be evidence of the fact or facts stated, whether that person is available to be called as a witness or not.

113. One affidavit sufficient in certain circumstances. [Qld. E.(R.) s. 13.]. (1) This section applies to and in respect of transparencies, made by using an approved machine, of a series of documents that—

- (a) bear or have been given serial numbers in arithmetical order;
- (b) bear or have been marked with the same distinctive identification mark; or
- (c) purport from their contents to relate to the same subject-matter, to the same person or persons or to a matter between persons,

where the documents are photographed in their proper order on a continuous length of film or, where the documents are marked in accordance with paragraph (a) or (b), on separate films.

(2) An affidavit made pursuant to this Division shall be deemed to be an affidavit in respect of all or any of the transparencies of a series of documents to which this section applies if it is photographed as part of the series and in lieu of identifying or describing each individual document photographed, it states the general nature of the documents in the series and—

- (a) the serial numbers of the first and last document in the series;
- (b) the distinctive identification mark; or
- (c) the person or persons, or the matter between persons, to which the documents refer,

as the case may require.

(3) Notwithstanding anything contained in this Division, a print that purports to be made from a transparency of an affidavit referred to in subsection (2) shall be admissible in evidence in a proceeding as if it were the affidavit from which the transparency was made, if—

- (a) it is produced or tendered with a print made from a transparency of a document in the series to which the affidavit relates; and
- (b) an affidavit under section 108 relating to both prints is also produced or tendered.

114. Certification required when affidavit, etc., not contained in length or series of film. [Qld. E.(R.) s. 14.]. Where any affidavit relating to the reproduction of a document is not an affidavit referred to in subsection (2) of section 113, a copy thereof duly certified to be a true copy—

(a) in the case of an affidavit in the custody of a body corporate, by the chairman, secretary or by a director or manager thereof;
or

(b) in any other case, by a justice of the peace,

shall, unless the court otherwise orders, be admissible in evidence in a proceeding as if it were the affidavit of which it is certified to be a true copy.

115. Discovery, inspection and production where document destroyed or lost. [Qld. E.(R.) s. 15.]. (1) In this section “ affidavit ” includes—

(a) a transparency, made as provided in section 113, of an affidavit;
and

(b) a copy, certified as provided in section 114, of an affidavit.

(2) This section applies to—

(a) a transparency of a destroyed or lost document, where a print made from the transparency would, subject to compliance with the conditions prescribed by this Part for the purpose, be admissible in evidence in a proceeding; and

(b) an affidavit that would be evidence or, where the affidavit is itself in the form of a transparency, that could be the means of providing evidence, pursuant to this Part, of compliance with those conditions in so far as they relate to the making of the transparency and the destruction or loss of the document.

(3) Where any person has the custody or control of a transparency and an affidavit to which this section applies and, but for the destruction or loss of the document from which the transparency was made would be required by any law, order of court, practice or usage—

(a) to give discovery of the document;

(b) to produce the document for inspection;

(c) to permit the making of a copy of the document or the taking of extracts therefrom; or

(d) to supply a copy of the document,

the law, order, practice or usage shall, subject to this section, be deemed to extend to the transparency and affidavit.

(4) For the purposes of this section—

(a) the obligation imposed by this section in respect of a requirement referred to in paragraph (b) of subsection (3) shall be deemed to include an obligation—

(i) to provide proper facilities for reading the image on the transparency and, where the affidavit is itself in the form of a transparency, the image on the transparency of the affidavit; or

(ii) to produce for inspection a print made from the transparency and, where the affidavit is itself in the form of a transparency, a print made from the transparency of the affidavit, together in each case, with an affidavit that would under section 108, be evidence that the print was made in good faith and reproduces the image on the transparency; and

- (b) the obligation imposed by this section in respect of a requirement referred to in paragraph (d) of subsection (3) shall be deemed not to include an obligation to supply a copy of any transparency but to include, in lieu thereof, an obligation to supply the print and affidavit or, as the case may require, the prints and affidavits, referred to in subparagraph (ii) of paragraph (a).

(5) Where any person has the custody or control of a transparency and an affidavit to which this section applies and is required by legal process issued by a court to produce to the court the document from which the transparency was made, that legal process shall be deemed to require the production by him of—

- (a) a print, made in good faith, that reproduces the image on the transparency; and
 (b) the affidavit or, where the affidavit is itself in the form of a transparency, a print, made in good faith, that reproduces the image on the transparency of the affidavit.

Division 4—General

116. Copies to be evidence. [A.C.T. s. 87; cf. Qld. E.D. s. 26; N.S.W. s. 34.]. Notwithstanding any other provision of this Part, where a document has been copied by means of a photographic or other machine which produces a facsimile copy of the document, the copy is, upon proof to the satisfaction of the court that the copy was taken or made from the original document by means of the machine, admissible in evidence to the same extent as the original document would be admissible in evidence without—

- (a) proof that the copy was compared with the original document; and
 (b) notice to produce the original document having been given.

117. Further reproduction may be ordered by court. [Qld. E.(R.) s. 16.]. (1) Subject to this section, where a print made from a transparency is, in a proceeding, tendered in evidence pursuant to the provisions of this Part and—

- (a) the court is not satisfied that the print is a legible copy of the original document; or
 (b) a party to the proceeding questions the authenticity of the print and applies for an order under this section,

the court may reject the print tendered and order that a further print be made from a transparency of the original document.

(2) A further print made in compliance with an order made under this section shall be made—

- (a) where the order is made under paragraph (a) of subsection (1), at the cost of the party who tendered the rejected print; or
 (b) where the order is made under paragraph (b) of subsection (1), in the presence of a person appointed by the court for the purpose and at the cost of the party who applied for the order.

(3) Where a print to which Division 2 of this Part relates is rejected under this section, a print made in compliance with an order under this section shall be made in the same premises as the rejected print or, where this is not practicable, in accordance with directions given by the court.

118. Colours and tones of reproductions. [Qld. E.(R.) s. 17.]. (1) For the purposes of this Part, the production of a reproduction of a document to a court in answer to a legal process, or the admission of

such a reproduction in evidence in a proceeding, shall not be precluded on the ground that it is not a copy of an original document or, where the reproduction is a print made from a transparency, on the ground that the transparency does not bear an image of an original document, if the reproduction is not such a copy, or the transparency does not bear such an image, by reason only of the fact—

- (a) that, in the process by which the reproduction or transparency was made, the colours or tones appearing in the original document were altered or reversed in the reproduction or transparency; or
- (b) that any number or mark of identification added for the purposes of section 113 appears in the reproduction or transparency.

(2) A document may be certified under Division 2 of this Part to be a reproduction of an original document notwithstanding that—

- (a) any writing or representation describing or identifying colours in the original document appears in the reproduction; or
- (b) any colours appearing in the reproduction were added after it was made and before certification.

119. Notice to produce not required. [Qld. E.(R.) s. 18.]. Where a reproduction of a document is admissible in evidence pursuant to this Part, it shall be so admissible whether or not notice to produce the document of which it is a reproduction has been given.

120. Proof of comparisons not required. [Qld. E.(R.) s. 19.]. Where a reproduction of a document is tendered as evidence pursuant to this Part, no proof shall be required that the reproduction was compared with the original document.

121. Presumptions as to ancient documents. [Qld. E.(R.) s. 20.]. Any presumption that may be made in respect of a document over twenty years old may be made with respect to any reproduction of that document admitted in evidence under this Part in all respects as if the reproduction were the document.

122. Reproductions made in other States. [Qld. E.(R.) s. 21.]. Where a reproduction is made of a document in another State or in a Territory of the Commonwealth and would be admissible in evidence in a proceeding in that State or Territory under a law of that State or Territory corresponding with this Part, or a law of that State or Territory that the Minister, by notification published in the Gazette, declares to correspond with this Part, the reproduction shall be admissible in evidence in a proceeding in Queensland in the same circumstances, to the same extent and for the like purpose as it would be admissible in evidence in a proceeding in that State or Territory under the law of that State or Territory.

123. Judicial notice. [Qld. E.(R.) s. 22.]. Where any Act or law requires a court to take judicial notice of the seal or signature of any court, person or body corporate appearing on a document and a reproduction of that document is, pursuant to this Part, admitted in evidence in a proceeding, the court shall take judicial notice of the image of the seal or signature on the reproduction to the same extent as it would be required to take judicial notice of the seal or signature on the document.

124. A court may reject reproduction. [Qld. E.(R.) s. 23.]. Notwithstanding anything contained in this Part, a court may refuse to admit in evidence a reproduction tendered pursuant to this Part if it considers it inexpedient in the interests of justice to do so as a result of any reasonable inference drawn by the court from the nature of the reproduction, the machine or process by which it or, in the case of a print from a transparency, by which the transparency was made, and any other circumstances.

125. Weight of evidence. [Qld. E.(R.) s. 24.]. In estimating the weight to be attached to a reproduction of a document admitted in evidence pursuant to this Part, regard shall be had to the fact that, if the person making an affidavit pursuant to this Part is not called as a witness, there has been no opportunity to cross-examine him, and to all the circumstances from which any inference may reasonably be drawn as to—

- (a) the necessity for making the reproduction or, in the case of a print from a transparency, the transparency or for destroying or parting with the document reproduced;
- (b) the accuracy or otherwise of the reproduction; or
- (c) any incentive to tamper with the document or to misrepresent the reproduction.

126. Provisions of Part are alternative. [Qld. E.(R.) s. 25.]. The provisions of this Part shall be construed as in aid of and as alternative to any provision of any other Part, any other law or any practice or usage with respect to the production to a court or the admissibility in evidence in a proceeding of reproductions of documents.

127. Stamp duty. [Qld. E.(R.) s. 26.]. Notwithstanding the provisions of this Part, where a document is chargeable with stamp duty under the *Stamp Act* 1894–1976 a reproduction of the document shall not be admissible in evidence under this Act unless—

- (a) the reproduction of the document shows or establishes to the satisfaction of the court or it is otherwise so established that the document was duly stamped in accordance with that Act; or
- (b) the provisions of that Act which relate to documents that are not duly stamped in accordance therewith are complied with in respect of the reproduction as if it were the document of which it is a reproduction.

128. Minister may exclude provisions of Part. [Qld. E.(R.) s. 27.].

(1) The Minister may, by notification published in the Gazette, exclude the operation of this Part or any Division of this Part in respect of any document or class of document specified in the notification.

(2) The Minister may, by a subsequent notification published in the Gazette, revoke any notification under subsection (1).

(3) The provisions of this Part referred to in a notification published under subsection (1) shall not, while the notification remains unrevoked, apply to and in respect of any document or class of document specified in the notification.

129. Act 7 Geo. 6 No. 39 as amended not affected. [Qld. E.(R.) s. 28.]. Nothing in this Act shall be construed as affecting the provisions of Part IV of the *Libraries Act* 1943–1977.

PART VIII—MISCELLANEOUS

130. Rejection of evidence in criminal proceedings. [cf. A.C.T. s. 76.]. Nothing in this Act derogates from the power of the court in a criminal proceeding to exclude evidence if the court is satisfied that it would be unfair to the person charged to admit that evidence.

131. Witnesses for defence to be sworn. [cf. Qld. E.D. s. 68; Eng. 1 Ann. St. 2 c. 9 s. 3.]. In a criminal proceeding, any person who gives evidence on behalf of the defence shall first take an oath in such manner as he would by law be obliged to do if he were a witness for the prosecution.

132. Actions for breach of promise of marriage. [cf. Qld. E.F.A. s. 2.]. The plaintiff in an action for breach of promise of marriage shall not recover a verdict unless his or her testimony is corroborated by some other material evidence in support of such promise.

133. Impounding documents. [A.C.T. s. 88; cf. Qld. E.D. s. 76.]. Where a document has been tendered or produced before a court, the court may, whether or not the document is admitted in evidence, direct that the document shall be impounded and kept in the custody of an officer of the court or of another person for such period and subject to such conditions as the court thinks fit.

134. Power to appoint a Government Printer. [cf. Qld. E.D. s. 77.]. The Governor in Council may appoint a Government Printer for the State.

135. Regulations. The Governor in Council may make regulations not inconsistent with this Act for or with respect to—

- (a) fees to be charged under this Act; and
- (b) generally, all matters required or permitted by this Act to be prescribed and all matters that are necessary or convenient for the proper administration of this Act or to achieve the objects and purposes of this Act.

SCHEDULES

FIRST SCHEDULE

PART A

REPEALED ACTS

[Section 3 (1)]

Title of Act	Year and Number
<i>The Telegraphic Messages Act of 1872</i>	1872 36 Vic. No. 13
<i>The Evidence Further Amendment Act of 1874</i> ..	1874 37 Vic. No. 9
<i>The Telegraphic Messages Act Amendment Act of 1876</i>	1876 40 Vic. No. 3
<i>The Evidence Act, 1898</i>	1898 62 Vic. No. 15
<i>The Bankers' Books Evidence Act of 1949</i> ..	1949 13 Geo. 6 No. 32
<i>The Evidence Act Amendment Act of 1959</i> ..	1959 8 Eliz. 2 No. 46
<i>The Evidence Acts Amendment Act of 1962</i> ..	1962 No. 9 of 1962
<i>The Evidence and Discovery Acts Amendment Act of 1967</i>	1967 No. 53 of 1967
<i>Evidence (Reproductions) Act 1970</i>	1970 No. 22 of 1970

PART B

Amendments of the *Evidence and Discovery Act 1867-1972*

[Section 3 (2)]

The following sections of the *Evidence and Discovery Act 1867-1972* are repealed:—

Sections 1 to 5 (inclusive), section 7, sections 9 to 30 (inclusive), sections 32 to 37 (inclusive), sections 39 to 42c (inclusive), sections 45 to 48 (inclusive), sections 50 to 60 (inclusive), sections 62 to 63 (inclusive), section 68, sections 70 to 74 (inclusive), sections 76 to 78 (inclusive).

PART C

Amendment of the *Common Law Practice Act 1967-1972*

[Section 3 (3)]

Section 41 is amended by omitting the words “the Evidence and Discovery Act” and inserting in their stead the words “The Rules of the Supreme Court”.

PART D

Amendment of the *Justices Act 1886-1977*

[Section 3 (4)]

Section 75 is repealed.

PART E

Amendment of the *Children's Services Act 1965-1974*

[Section 3 (5)]

Section 139 is amended by omitting the words “section 618A of “*The Criminal Code*”” and inserting in their stead the words “section 15 of the *Evidence Act 1977*”.

Section 146 is repealed.

PART F

Amendment of the *Acts Interpretation Act 1954-1971*

[Section 3 (6)]

Section 11 is amended by omitting the words “and shall be judicially noticed as such”.

Section 28A is amended by omitting from subsection (1) provision (b).

PART G
Amendments to *The Criminal Code*
[Section 3 (7)]

Provisions amended	Amendment
Section 35 ..	1. Section 35 is amended by omitting the paragraph commencing with the words "Upon the prosecution of" and ending with the words "compellable witness".
Sections 212, 214, 215, 216 and 222	2. Each of sections 212, 214, 215, 216 and 222 is amended by omitting therefrom the sentence "The wife of the accused person is a competent but not a compellable witness".
Sections 213, 217, 218, 219, 220 and 363	3. Each of sections 213, 217, 218, 219, 220 and 363 is amended by omitting therefrom the sentence "The husband or wife of the accused person is a competent but not a compellable witness".
Section 223 ..	4. Section 223 is amended by omitting therefrom the sentence "The husband of the accused person is a competent but not a compellable witness".
Section 353 ..	5. Section 353 is repealed.
Section 360 ..	6. Section 360 is amended by omitting the paragraph commencing with the words "The wife" and ending with the words "accused person".
Section 618A ..	7. Section 618A is repealed.

PART H
Transitional Provisions
[Section 4 (2)]

1. A person or official declared to be an approved person for the purposes of section 5 of the *Evidence (Reproductions) Act 1970-1975* and who immediately before the commencement of this Act is such an approved person shall without further or other declaration, be an approved person for the purposes of section 105 and he shall be deemed to have been declared such pursuant to that section.

2. For the purposes of section 105 (4) the notification published in relation to the declaration as an approved person of a person or official referred to in the preceding clause 1 shall be deemed to have been published for the purposes of paragraph (a) of section 105 (1).

SECOND SCHEDULE

[Section 8 (4)]

Year and Number	Title	Provisions referred to
1899 63 Vic. No. 9	<i>The Criminal Code</i>	Sections 208, 209, 210, 211, 212, 214, 215, 216, 222, 223, 302, 303, 306, 308, 311, 315, 316, 317, 318, 319, 319A, 320, 321, 322, 323, 324, 325, 326, 335, 336, 337, 339, 340, 343, 343A, 344, 347, 349, 350.
1965 No. 42 of 1965	<i>Children's Services Act 1965-1974</i>	Section 69.

THIRD SCHEDULE

[Section 54 (1)]

Queensland

In the

(insert name of court).

The Queen against
[or In the matter of a Complaint by
or, as the case may be.]

against

I of , in the
(State or Territory) make oath and say as follows:—

1. I am a finger-print expert and a member of the police force of the said State [or the Commonwealth or the said Territory].
2. I have examined the finger-print card now produced and shown to me marked "A".
3. The finger-prints on the said card are identical with those appearing on a finger-print card in the records of the said police force, being the finger-prints of one (name of person; and alias, if any).
4. According to the said records, which I believe to be accurate, the said was convicted in the said State [or the Commonwealth or the said Territory] of the following offences:—

[Set out description of offences, dates of conviction, and courts in which the person was convicted.]

