

[Act 1995 No 26]



Evidence on Commission Bill 1995

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.
This Bill is cognate with the *Evidence Bill 1995*.

Overview of Bill

The object of this Bill is to substantially re-enact Parts 7–9 of the *Evidence Act 1898*, which is to be repealed as a consequence of the enactment of the proposed *Evidence Act 1995*.

Outline of provisions

Part 1 Preliminary

Part 1 (clauses 1–3) contains a number of machinery provisions. Clause 1 specifies the name of the proposed Act (also called the short title of the Act). Clauses 2 and 3 provide for the commencement of the Act on a day or days to be appointed by proclamation and provide for certain expressions used in the Act that are defined in the proposed *Evidence Act 1995* to have the meanings set out in that Act.

Part 2 Examination of witnesses abroad

Part 2 (clauses 4–16) provides machinery for the examination of witnesses abroad for the purposes of proceedings in New South Wales.

Part 2, along with Parts 3 and 4, substantially re-enact the provisions contained in Parts 7–9 of the *Evidence Act 1898*. One important difference, however, is that currently only the Supreme Court is given the power to make appropriate orders concerning evidence on commission while under the proposed Parts other courts (the Land and Environment Court, the Industrial Court, the Compensation Court and the Dust Diseases Tribunal) will also be able to make such orders. Provision is also made for orders to include directions for use in a subsequent criminal proceeding or a related civil proceeding of evidence obtained under Parts 2 and 3.

Part 3 Examination of witnesses outside the state but within Australia

Part 3 (clauses 17–30) provides machinery for the examination of witnesses outside New South Wales, but within Australia, for the purposes of proceedings in New South Wales.

Part 4 Taking of evidence for foreign and Australian courts

Part 4 (clauses 31–36) provides machinery for the examination of witnesses in New South Wales for the purposes of proceedings outside New South Wales and for the making of rules of court.

Part 5 Miscellaneous

Part 5 (clause 37) provides for the making of regulations.