

## EVIDENCE (CROWN PRIVILEGE) AMENDMENT BILL 1988

NEW SOUTH WALES



### EXPLANATORY NOTE

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

The object of this Bill is to repeal Part VI (Crown Privilege) of the Evidence Act 1898.

The repeal of that Part will remove from the Attorney General the power to certify conclusively that a communication relating to the administration of government at a senior level is subject to Crown privilege for the purpose of particular legal proceedings. Courts will have a discretion at common law to decide whether or not information should be subject to Crown privilege in a particular case.

Part VI was inserted by the Evidence (Amendment) Act 1979 following the decision of the High Court of Australia in *Sankey v. Whitlam and Ors.* (1979) 142 C.L.R. 1. The Part has never been used.

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**Clause 1** specifies the short title of the proposed Act.

**Clause 2** amends the Evidence Act 1898 by repealing Part VI and a reference to the Part in section 1 (Short title and arrangement).

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