



EVIDENCE

No. 14 of 1976

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AN ACT to amend the Evidence Act 1910.

[27 May 1976]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—(1) This Act may be cited as the *Evidence Act 1976*.

Short title and
citation.

(2) The *Evidence Act 1910*, as subsequently amended, is in this Act referred to as the Principal Act.

Interpretation.

2 Section 3 of the Principal Act is amended—

(a) by inserting in subsection (1), after the definition of “bank” or “banker”, the following definition:—

“ ‘ commissioner for declarations ’ means a person—

(a) who is appointed as a commissioner for declarations under section 131A; or

(b) who is a commissioner for declarations by virtue of section 131B;” and

(b) by omitting from the definition of “judge” in that subsection the word “police”.

Magistrate or justice of the peace.

3 Section 58 of the Principal Act is amended by omitting from subsection (1) the words “words ‘Magistrate’” and substituting the words “word ‘Magistrate’”.

4 After section 131 of the Principal Act the following heading and sections are inserted:—

“ *Division II—Commissioners for declarations: Declarations*

Appointment of commissioners for declarations.

“ 131A—(1) The Attorney-General may appoint persons to be commissioners for declarations.

“ (2) The Attorney-General shall cause to be published in the *Gazette* a notification of every appointment under this section and of the revocation of every such appointment.

“ (3) No person who has attained the age of 70 years shall be appointed a commissioner for declarations, and a commissioner for declarations appointed under this section ceases to hold office as such on attaining that age.

Ex officio commissioners for declarations.

“ 131B—(1) A person who has not attained the age of 70 years and holds a prescribed office or position is a commissioner for declarations by virtue of his holding that office or position and without requiring appointment under section 131A.

“ (2) For the purposes of subsection (1), ‘prescribed office or position’ means the office or position of—

(a) town clerk or council clerk;

(b) electoral registrar within the meaning of the *Electoral Act* 1907;

(c) postmaster;

(d) officer of police appointed under section 10 of the *Police Regulation Act* 1898, sergeant of police, or officer-in-charge of a police-station;

- (e) bursar of a State school of a kind prescribed for the purposes of section 5 (3) of the *Education Act 1932*;
- (f) member of either House of Parliament;
- (g) secretary of a trade union registered under the *Trades Unions Act 1889* or of an organization registered under the *Conciliation and Arbitration Act 1904-1975* of the Commonwealth; or
- (h) such classes of officers appointed under the *Public Service Act 1973* as may be prescribed,

or any other office or position or class of office or position as may be prescribed.

“ (3) The reference to the Commonwealth Act specified in subsection (2) (g) includes a reference to that Act as amended from time to time and to any Commonwealth Act passed in substitution for that Act.

“ 131C Where a commissioner for declarations signs his name in that capacity, he shall add after the signature the words ‘ Commissioner for Declarations ’, and if he is qualified as a commissioner by virtue of section 131B he shall further add in brackets a short form of words to indicate the prescribed office or position which so qualifies him. Qualification to be shown.

“ 131D A declaration made or a document signed is not invalidated by reason only of the fact that the person before whom it was made or signed is no longer a commissioner for declarations as a result of reaching the age of 70 years or ceasing to hold a prescribed office or position.”. Effect of commissioner ceasing to hold office.

5 Section 132 of the Principal Act is amended—

- (a) by inserting after the word “ oath ” the words “ or for a commissioner for declarations ”; and
- (b) by adding at the end the following subsection:—

“ (2) Where under any Act a declaration or document is authorized or required to be made or signed before a justice it is sufficient if that declaration or document is made or signed before a commissioner for declarations.”.

6 After section 132 of the Principal Act the following section is inserted:—

“ 132AA The Governor may make regulations for the purposes of this Division.”. Regulations.

Formal amend-
ments of Part V
of Principal Act

7 Part V of the Principal Act is amended—

- (a) by omitting the heading to that Part and substituting the following heading:—

“ PART V

“ OATHS, AFFIRMATIONS, DECLARATIONS, AND
DEPOSITIONS, AND COMMISSIONERS FOR
DECLARATIONS ”;

- (b) by inserting before section 123 the following heading:—

“ *Division I—Oaths and affirmations* ”;

- (c) by inserting before section 132A the following heading:—

“ *Division III—Provisions relating to affidavits of service
and instruments, and acts out of the jurisdiction* ”;

and

- (d) by inserting before section 133 the following heading:—

“ *Division IV—Depositions* ”.

Amendments of
the fourth
Schedule.

8 The fourth Schedule to the Principal Act is amended—

- (a) by omitting from Part II the words “ Police, Stipendiary, Resident, or Special Magistrate ” and substituting the words “ Magistrate, including police, stipendiary, resident, and special magistrate ”; and

- (b) by inserting in that Part, after the last item under the heading “ Magisterial—”, the following heading and item:—

“ Attesting—

“ Commissioner for declarations.”.