

1993

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

EVIDENCE AND PROCEDURE (NEW ZEALAND) (TRANSITIONAL
PROVISIONS AND CONSEQUENTIAL AMENDMENTS) BILL 1993

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Justice,
the Honourable Duncan Kerr MP)



EVIDENCE AND PROCEDURE (NEW ZEALAND) (TRANSITIONAL PROVISIONS AND CONSEQUENTIAL AMENDMENTS) BILL 1993

OUTLINE

This Bill -

provides that the *Evidence and Procedure (New Zealand) Act 1993* applies to proceedings brought before the commencement of Part 2 to 7 of that Act, as well as after that commencement, except where either -

- the hearing has begun before the commencement; or
- the proceeding falls within Part IIIA of the *Federal Court of Australia Act 1976* ('Federal Court Act');

omits or amends some provisions of the Federal Court Act and Part VA of the *Evidence Act 1905* ('Evidence Act') as a consequence of the *Evidence and Procedure (New Zealand) Act 1993*; and

continues the application of the omitted or amended provisions of the Federal Court Act Part IIIA or the Evidence Act Part VA in relation to a proceeding within the Federal Court Act Part IIIA brought before the commencement of the *Evidence and Procedure (New Zealand) Act 1993*.

FINANCIAL IMPACT

2. The Bill is expected to have little impact on Commonwealth expenditure or revenue.

NOTES ON CLAUSES

Clause 1: Short Title

3. This clause provides for the short title of the Act.

Clause 2: Commencement

4. Sections 1 and 2 commence on Royal Assent. Sections 3 and 4 and the Schedule commence on the day on which Parts 2 to 7 of the *Evidence and Procedure (New Zealand) Act 1993* commence.

Clause 3: Proceedings already begun

5. This clause sets out the scope of application of the *Evidence and Procedure (New Zealand) Act 1993*. That Act is to apply to proceedings current at the commencement of that Act (as well as to subsequent proceedings) except where either -

- the hearing of the proceeding began before that commencement; or
- the proceeding falls within Part IIIA of the Federal Court Act.

6. Part IIIA of the Federal Court Act provides broadly similar procedures for trans-Tasman subpoenas and video link or telephone evidence, confined to a very limited range of proceedings, to those set out in the *Evidence and Procedure (New Zealand) Act 1993*. Part VA of the Evidence Act applies to the same proceedings.

7. This clause also provides that -

- the Evidence Act continues to apply, unaffected by this Act, to proceedings within Part VA of the Evidence Act; and
- the Federal Court Act continues to apply, unaffected by this Act, to proceedings within Part IIIA of the Federal Court Act,

that are brought before the commencement of Parts 2 to 7 of the *Evidence and Procedure (New Zealand) Act 1993*.

Clause 4: Amendments of other Acts

8. This clause amends the Evidence Act and Federal Court Act as set out in the Schedule. The repeal of s.11B of the Evidence Act removes the limitation on the application of Part VA of the Evidence Act.