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1993

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SENATE

FOREIGN EVIDENCE (TRANSITIONAL PROVISIONS AND CONSEQUENTIAL
AMENDMENTS) BILL 1993

EXPLANATORY MEMORANDUM

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

52148 Cat. No. 93 4715 1



FOREIGN EVIDENCE (TRANSITIONAL PROVISIONS AND CONSEQUENTIAL
AMENDMENTS) BILL 1993

OUTLINE

This Bill -

provides that Parts 3, 4 and 5 of the *Foreign Evidence Act 1993* apply to proceedings brought before the commencement of each of those Parts as well as after that commencement, except where the hearing has begun before the commencement;

provides that Parts 2 and 6 of the *Foreign Evidence Act 1993* only apply to proceedings brought after the commencement of those Parts;

repeals Parts IIIB and IIIC of the *Evidence Act 1905* ('Evidence Act') as a consequence of the *Foreign Evidence Act 1993*;

continues the application of the repealed provisions of the Evidence Act Parts IIIB and IIIC to a proceeding brought before the commencement of the *Foreign Evidence Act 1993*; and

provides that if in future a Proclamation is made under subsection 3(2) of the *Foreign Evidence Act 1993*, to terminate the application of Part 2 of that Act to certain proceedings in ACT courts, Part 2 will continue to apply to proceedings begun before the Proclamation is made.

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. Clauses 1, 2 and 5 commence on Royal Assent. Clauses 3, 4 and 6 commence on the day on which Parts 2 and 6 of the *Foreign Evidence Act 1993* commence.

Clause 3: Repeal

5. This clause repeals Parts IIIB and IIIC of the *Evidence Act 1905*.

Clause 4: Proceedings already begun

6. This clause provides that Parts 2 and 6 of the *Foreign Evidence Act 1993* do not apply to proceedings begun before the commencement of those Parts. The provisions of the *Evidence Act 1905* which are repealed by clause 3 continue to apply to such proceedings.

Clause 5: Hearings already begun

7. This clause provides that each of Parts 3, 4 and 5 of the *Foreign Evidence Act 1993* do not apply to proceedings the hearing of which began before the commencement of the relevant Part.

Clause 6: Proceedings in courts of the Australian Capital Territory

8. This clause provides that subsection 3(2) of the *Foreign Evidence Act 1993* does not apply to proceedings brought before the day fixed by a Proclamation under that subsection. The effect is that if a Proclamation is made under subsection 3(2) of the *Foreign Evidence Act 1993* to terminate the application of Part 2 of the Act to certain proceedings in ACT courts, Part 2 will continue to apply to proceedings begun before the Proclamation is made.