



ANALYSIS

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1995, No. 33

An Act to amend the Evidence Act 1908

[30 June 1995

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title—This Act may be cited as the Evidence Amendment Act (No. 2) 1995, and shall be read together with and deemed part of the Evidence Act 1908 (hereinafter referred to as the principal Act).

2. New sections inserted—The principal Act is hereby amended by inserting, after section 47, the following heading and sections:

“Evidence of Banking Records

“47A. Interpretation—For the purposes of sections 47B and 47C of this Act, ‘bank’ means—

- “(a) A registered bank within the meaning of section 2 of the Reserve Bank of New Zealand Act 1989;
- “(b) The Reserve Bank of New Zealand;
- “(c) Any other person carrying on in New Zealand the business of banking.

“47B. Proof of entries in banking records of banks—
 (1) Subject to this section, a copy of any entry in the banking records of a bank is admissible as prima facie evidence of such

entry and of the matters, transactions, and accounts recorded in those records.

“(2) No such copy shall be received in evidence under this section unless it is proved—

“(a) That the record was, at the time of the making of the entry, one of the ordinary banking records of the bank; and

“(b) That the entry was made in the usual and ordinary course of banking business; and

“(c) That the record is in the custody or control of the bank; and

“(d) Where the record is of information that is not in written form and is recorded or stored by means of a computer or other electronic device or by other means, that the copy has been produced in the usual and ordinary course of producing such copies and is an accurate extract from the information so recorded or stored; and

“(e) Where the record is of information recorded or stored in written form, that the copy has been compared with the original entry or with a copy made in accordance with section 156A (4) of the Reserve Bank of New Zealand Act 1989, as the case may be, and is correct.

“(3) A certificate purporting to be signed by an officer of the bank that the requirements of subsection (2) of this section have been complied with is prima facie evidence that those requirements have been complied with.

“47c. **Officer not compellable to produce banking records**—Except pursuant to an order of a Court made for special cause, in any legal proceedings to which the bank is not a party, an officer of a bank is not compellable—

“(a) To produce any banking record of the bank the contents of which can be proved pursuant to section 47B of this Act; or

“(b) To appear as a witness to prove the matters, transactions, and accounts recorded in those records.”