



ANNO QUARTO

**GEORGII VI REGIS.**

A.D. 1940.

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**No. 40 of 1940.**

An Act to amend the Evidence Act, 1929-1933.

[Assented to 28th November, 1940.]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

1. (1) This Act may be cited as the "Evidence Act Amendment Act, 1940". Short titles.

(2) The Evidence Act, 1929-1933, as amended by this Act, may be cited as the "Evidence Act, 1929-1940".

(3) The Evidence Act, 1929-1933, is hereinafter called "the principal Act".

2. This Act is incorporated with the principal Act and that Act and this Act shall be read as one Act. Incorporation.

3. Section 42 of the principal Act is amended—

(a) by striking out the words "a felony" in subsection (3) thereof and inserting in lieu thereof the words "any offence"; and Amendment of s. 42 of principal Act—  
Proof of conviction or acquittal.

(b) by inserting after the word "State" in the said subsection the words "or any Territory".

4. Section 43 of the principal Act is amended by inserting at the end thereof the following subsection : Amendment of s. 43 of principal Act—  
Proof of conviction and orders of courts of summary jurisdiction.

(4) In this section the expression "court of summary jurisdiction" shall mean any court, by whatever name

Evidence Act Amendment Act, 1940.

called, which in any State or Territory of the Commonwealth has jurisdiction to try offences summarily.

Enactment of s. 43a of principal Act—

5. The following section is enacted and inserted in the principal Act after section 43 thereof :—

Proof of identity of person convicted in another State.

43a. For the purpose of proving the identity of any person alleged to have been convicted in any other State, or any Territory of the Commonwealth, an affidavit substantially in the form of the Fourth Schedule shall be admissible in evidence in all courts and shall be prima facie evidence that the person whose finger-prints are exhibited thereto—

- (a) is the person who in any document exhibited to the said affidavit and purporting to be a certificate of conviction or a certified copy of conviction, is referred to as having been convicted :
(b) has been convicted of the offences mentioned in the said affidavit.

Enactment of ss. 48a and 48b of principal Act—

6. The following sections are hereby enacted and inserted in the principal Act after section 48 thereof :—

Proof that a person has no banking account.

48a. An affidavit made by a partner or officer of a bank stating that any person named in the affidavit has no account at the bank or, as the case may be, at any branch thereof named in the affidavit, shall in all legal proceedings be prima facie evidence of the fact so stated.

Application of preceding sections.

48b. Sections 46, 47, 48 and 48a of this Act shall apply to bankers' books and banks and branches of banks in any State or Territory of the Commonwealth.

Enactment of Fourth Schedule of principal Act— Affidavit of Identity.

7. The principal Act is amended by inserting at the end thereof the following schedule :—

FOURTH SCHEDULE.

South Australia

[In the Court]

The King v. ....

[or In the matter of a Complaint by.....

against .....

or as the case may be.]

I,..... of.....  
a fingerprint expert attached to the Police Department of the  
State [or Territory] of.....make oath and say as  
follows :—

1. I have examined the fingerprint card now produced and  
shown to me marked “ A ” The fingerprints on the said  
card are identical with those on a fingerprint card portion of  
the records of the said Department, being the fingerprints of  
one..... (*alias*) .....

2. According to the said records, which I believe to be  
accurate, the said.....has been convicted  
in the said State [or Territory] of the offences set out below,  
namely :—

*[Here insert description of offences, the Courts in which the  
convictions took place and the dates of the convictions.]*

3. From an examination of the said records I believe that  
the person referred to as having been convicted, in the  
document(s) now shown to me and marked respectively “ B ”  
[“ C ”, “ D ”, etc.], is identical with the person whose finger-  
prints are on the said card marked “ A ”.

SWORN at ..... }  
this.....day of ..... }  
19.... }

Before me

.....  
A person having authority to take  
affidavits in the State [or Territory]  
in which the affidavit is sworn.

In the name and on behalf of His Majesty, I hereby assent  
to this Bill.

C. M. BARCLAY-HARVEY, Governor.