

PARLIAMENT OF AUSTRALIA

THE PARLIAMENTARY LIBRARY

FOREIGN PROCEEDINGS (PROHIBITION OF CERTAIN EVIDENCE) AMENDMENT

BILL 1976

Date Introduced: 7 December 1976

House : House of Representatives

Presented by : Attorney-General, Hon. R.J. Ellicott, Q.C., M.P.

Short Digest of Bill

Purpose

The purpose of the Bill is to amend the Foreign Proceedings (Prohibition of Certain Evidence) Act 1976 to limit the operation of the Act and to provide for parliamentary scrutiny of orders made by the Attorney-General.

Summary

Clause 3 amends section 3 of the Act to exclude the Privy Council, when hearing appeals from Australian courts, from the foreign tribunals in respect of which the Attorney-General may make orders.

Clause 4 amends section 4 of the Act -

- (a) by amending paragraph 4 (1) (a) to limit the exercise of the Attorney-General's powers, where the ground for exercising those powers is that a foreign tribunal is exercising jurisdiction contrary to international law or comity, to the making of orders relating to proceedings in that tribunal;
- (b) by repealing sub-section 4 (2) which provides that the validity of the exercise of the Attorney-General's powers is not challengeable in any court;
- (c) by inserting a new sub-section 4 (2) which provides a link between section 5 which gives the Attorney-General power to make prohibition orders and section 4 which specifies the grounds on which those powers may be exercised.

Clause 5 amends section 6 of the Act to ensure that publication in the Gazette constitutes service rather than being deemed to be service as in the existing provision.

Clause 6 inserts a new section 6A which provides that section 48 of the Acts Interpretation Act applies to orders made by the Attorney-General. The effect is that orders must be tabled within fifteen sitting days after they are made, will become void if they are not so tabled and may be disallowed in the same manner as regulations.

Clause 8 provides that an Australian court or tribunal cannot require a person to act in contravention of an order made by the Attorney-General.

8 December 1976

Law and Government Group
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