

LAWS OF THE UNITED KINGDOM

THE DOCUMENTARY EVIDENCE ACT 1868

(31 & 32 Vict. c. 37)

ARRANGEMENT OF SECTIONS

Section

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An Act to amend the Law relating to Documentary Evidence in certain Cases

[25th June 1868]

Evidence Acts 1806 to 1895. For the Acts (including this Act) which may be cited together by this collective title, see the Introductory Note to the Witnesses Act 1806, p. 802, *ante*.

Documentary Evidence Acts 1868 to 1895. By the Documentary Evidence Act 1895 s. 2, p. 864, *post*, the following Acts may be cited together by this collective title:- the Documentary Evidence Act 1868 (this Act); the Documentary Evidence Act 1882, p. 852, *post*; and the Documentary Evidence Act 1895, p. 864, *post*.

Extension of application of this Act. This Act is extended by the Documentary Evidence Act 1882, p. 852, *post*. See also the notes to s. 2 and the Schedule, *post*.

Northern Ireland. This Act applies. See also the Government of Ireland (Adaptation of Enactments) (No. 3) Order 1922, S.R. & O. 1922 No. 183, art. 38(2). In s. 4, note that all distinctions between felony and misdemeanour were abolished by the Criminal Law Act (Northern Ireland) 1967, s. 1, and penal servitude was replaced by imprisonment by the Criminal Justice Act (Northern Ireland) 1953. s. 1(1). These Acts are not printed in this work.

1. Short title

This Act may be cited for all purposes as “The Documentary Evidence Act, 1868.”

2. Mode of proving certain documents

Primâ facie evidence of any proclamation, order, or regulation issued before or after the passing of this Act by Her Majesty, or by the Privy Council, also of any proclamation, order, or regulation issued before or after the passing of this Act by or under the authority of any such department of the Government or officer as is mentioned in the first column of the schedule hereto, may be given in all courts of justice, and in all legal proceedings whatsoever, in all or any of modes herein-after mentioned; that is to say:

(1) By the production of a copy of the Gazette purporting to contain such proclamation, order, or regulation.

(2) By the production of a copy of such proclamation, order, or regulation, purporting to be printed by the Government printer, or, where the question arises in a court in any British colony or possession, of a copy purporting to be printed under the authority of the legislature of such British colony or possession.

(3) By the production, in the case of any proclamation, order, or regulation issued by Her Majesty or by the Privy Council, of a copy or extract purporting to be certified to be true by the clerk of the Privy Council, or by any one of the lords or others of the Privy Council, and, in the case of any proclamation, order, or regulation issued by or under the authority of any of the said departments or officers, by the production of a copy or extract purporting to be certified to be true by the person or persons specified in the second column of the said schedule in connexion with such department or officer.

Any copy or extract made in pursuance of this Act may be in print or in writing, or partly in print and partly in writing.

No proof shall be required of the handwriting or official position of any person certifying, in pursuance of this Act, to the truth of any copy of or extract from any proclamation, order, or regulation.

NOTES

Prima facie evidence. Such evidence, it is thought, must be accepted as correct unless the contrary is proved; cf. *Société Générale de Paris v. Walker* (1885), 11 App. Cas. 20, at p. 42, *per* Lord Fitzgerald.

Extension of application. This section has in fact been extended to include: bye-laws under the Military Lands Act 1892 (see s. 17(3) of that Act, Vol. 29, title Royal Forces); maps of Catchment Areas (see the Land Drainage Act 1930, s. 5(5), Vol. 18, title Land Drainage); documents issued by the Registrar of Restrictive Trading Agreements (see the Restrictive Trade Practices Act 1936, s. 1(5), Vol. 37, title Trade and Industry); documents issued by the Postmaster General (see the Post Office Act 1961, s. 23(3), Vol. 25, title Post Office); maps of river authority areas (see the Water Resources Act 1963, s. 11(9), Vol. 39, title Water Supply); the map of the Thames area (see the Port of London Act 1964, s. 17(6), Vol. 31, title Shipping and Navigation); schemes under the Herring Industry Act 1935, Vol. 13, title Fisheries (see s. 13(2) of that Act); documents issued by

the Commissioners of Customs and Excise, etc. (see the Customs and Excise Act 1952, s. 289(2), Vol. 9, p. 191, in conjunction with s. 307(1) of that Act, Vol. 9, p. 203); documents issued by the National Insurance Joint Authority (see the National Insurance Act 1965, Sch. to, para. 3, Vol. 23, title National Insurance, in conjunction with s. 104(2) of that Act); documents issued by the Industrial Injuries Joint Authority (see the National Insurance (Industrial Injuries) Act 1965, Sch. 7, para. 3, Vol. 23, title National Insurance, in conjunction with s. 83(2) of that Act) ; documents issued by the Forestry Commissioners (see the Forestry Act 1967, Sch. I, para. 5(2), Vol. 14, title Forestry, in conjunction with s. 49(1) of that Act); documents issued by the Minister of Agriculture, Fisheries and Food (see the Documentary Evidence Act 1895, s. 1, p. 864, *post*, and the note "Board of Agriculture" thereto); documents issued by the Minister of Health (see the New Ministries and Secretaries Act 1916, s. 11(4), Vol. 6, p. 680, as applied by the Ministry of Health Act 1919, s. 7(5), Vol. 6, p. 695); documents issued by the Minister of Transport (see s. 11(4) of the Act of 1916, as applied by the Minister of Transport Act 1919, s. 26(5), Vol. 6, p. 702); documents issued by the Minister of Public Building and Works (see the Minister of Works Act 1942, s. 5(4), Vol. 6, p. 721, and the note "Minister of Works" to s. 1 of that Act); documents issued by the Minister of Housing and Local Government (see the Minister of Town and Country Planning Act 1943, s. 5(4), Vol. 6, p. 725, and the note "Minister of Town and Country Planning" to s. 1 of that Act); documents issued by the Minister of Power (see the Ministry of Fuel and Power Act 1945, s. 5(4), Vol. 6, p. 731, and the note "Minister of Fuel and Power" to s. 1 of that Act); documents issued by the Minister of Overseas Development and by the Minister of Technology (see the Ministers of the Crown Act 1964, Schedule, para. 8, Vol. 6, p. 801, in conjunction with s. 1 of that Act, Vol. 6, p. 799); documents issued by the Secretary of State for Defence, the Defence Council, etc. (see the Defence (Transfer of Functions) (No. 1) Order 1964, S.I. 1964 No. 488, art. 2(1) and Sch. I, Part I); instruments of the Secretary of State for Education and Science (see the Secretary of State for Education and Science Order 1964, S.I. 1964 No. 490, art. 3(1) and Schedule, Part I); instruments of the Secretary of State for Employment and Productivity (see the Secretary of State for Employment and Productivity Order 1968, S.I. 1968 No. 729, art. 3(1) and Schedule, Part I); and documents of the Secretary of State for Social Services (see the Secretary of State for Social Services Order 1968, S.I. 1968 No. 1690, art. 5(3) and Schedule, Part I). See also the Treaty of Peace Order 1919 S.R. & O 1919 No. 1517, art. 1(xiii), and the Coal Mines Act 1930, s. 1(7) (repealed); and see the Documentary Evidence Act 1882, s. 2, p. 852, *post*.

Definitions. For "British colony and possession", see s. 5, *post*; for "Gazette", see s. 5, *post*, in conjunction with the Government of Ireland (Adaptation of Enactments) (No. 3) Order 1922, S.R. & O. 1922 No. 183, art. 34(2)(c); and for "Government printer" and "Privy Council", see s. 5, *post*.

3. Act to be in force in colonies

Subject to any law that may be from time to time made by the legislature of any British colony or possession, this Act shall be in force in every such colony and possession.

NOTE

Definitions. For “British colony and possession” and “legislature”. see s. 5, *post*.

4. Punishment for forgery, or knowingly tendering forged documents in evidence

If any person commits any of the offences following; that is to say,-

(1) Prints any copy of any proclamation, order, or regulation, which falsely purports to have been printed by the Government printer, or to be printed under the authority of the legislature of any British colony or possession, or tenders in evidence any copy of any proclamation, order, or regulation, which falsely purports to have been printed as aforesaid, knowing that the same was not so printed; or

(2) (*Rep. by the Forgery Act 1913, s. 20 and Schedule, Part I; see now ss. 3 and 6 of that Act, Vol. 8, pp. 261, 264.*)

he shall be guilty of felony, and shall on conviction be liable to be sentenced to penal servitude . . .

NOTES

The words omitted were repealed by the S.L.R. Act 1893.

Felony. All distinctions between felony and misdemeanour are now abolished, and the law and practice in relation to what used to be felonies is the same as hitherto in relation to misdemeanours; see the Criminal Law Act 1967, s. 1, Vol. 8, p. 552.

Penal servitude. The punishment is now imprisonment not exceeding five years; see the Penal Servitude Act 1891, s. 1, Vol. 25, title Prisons, and the Criminal Justice Act 1948, s. 1(1), Vol. 8, p. 339.

Northern Ireland. See the Preliminary Note to this Act.

Definitions. For “British colony and possession” and “Government printer”, see s. 5, *post*.

5. Interpretation

The following words shall in this Act have the meaning hereinafter assigned to them, unless there is something in the context repugnant to such construction; (that is to say),

“British colony and possession” shall for the purposes of this Act include the Channel Islands, the Isle of Man . . . , and all other Her Majesty’s dominions.

“Legislature” shall signify any authority, other than the Imperial Parliament or Her Majesty in Council, competent to make laws for any colony or possession.

“Privy Council” shall include Her Majesty in Council and the lords and others of Her Majesty's Privy Council, or any of them, and any committee of the Privy Council that is not specially named in the schedule hereto.

“Government printer” shall mean and include the printer to Her Majesty, and any printer purporting to be the printer authorized to print the statutes, ordinances, acts of state, or other public acts of the legislature of any British colony or possession, or otherwise to be the Government printer of such colony or possession.

“Gazette” shall include the London Gazette, the Edinburgh Gazette, and the Dublin Gazette, or any of such Gazettes.

[(2) For the purposes of this Act, British India as a whole and also each Governor's Province and Chief Commissioner's Province thereof shall be regarded as separate British possessions.]

NOTES

The words omitted were repealed and sub-s. (2) was added by the Government of India (Adaptation of Acts of Parliament) Order 1937, S.R. & O. 1937 No. 230.

Her Majesty's dominions. See the note to the Evidence by Commission Act 1859, s. 1, p. 829, *ante*.

Privy Council; Government printer. The meanings of “Privy Council” and “Government printer” in this Act are extended by the Documentary Evidence Act 1882, s. 4, p. 853, *post*.

6. Provisions of Act to be cumulative

The provisions of this Act shall be deemed to be in addition to, and not in derogation of, any powers of proving documents given by any existing statute, or existing at common law.

SCHEDULE

Column 1	Column 2
<hr/> Name of Department or Officer	<hr/> Name of Certifying Officers
The ... Treasury	Any Commissioner, Secretary, or Assistant Secretary of the Treasury.
The Commissioners for executing the office of Lord High Admiral	Any of the Commissioners for executing the office of Lord High Admiral, or either of the Secretaries to the said Commissioners.
Secretaries of State.....	Any Secretary or Under-Secretary of State.
Committee of Privy Council for Trade	Any member of the Committee of Privy Council for Trade, or any Secretary or Assistant Secretary of the said Committee.

The Poor Law Board

Any Commissioner of the Poor Law Board, or any Secretary or Assistant Secretary of the said Board.

NOTES

The words omitted were repealed by the S.L.R. Act 1893.

Commissioners for executing the office of Lord High Admiral. Viz., the Admiralty, which no longer exists. See, however, now, as to the Admiralty Board, the Defence (Transfer of Functions) (No. 1) Order 1964, S.I. 1964 No. 488, art. 2(1) and Sch. I, Part 1.

Committee of Privy Council for Trade. Viz., the Board of Trade; cf. the Harbours and Passing Tolls, &c., Act 1861, s. 65, Vol. 31, title Shipping and Navigation, and the Interpretation Act 1889, s. 12(8), Vol. 32, title Statutes.

Poor Law Board. This Board no longer exists.

Extensions. This Schedule is extended in relation to various authorities, viz.:

The Charity Commissioners for England and Wales (see the Charities Act 1960, Sch. I, para. 3(2), Vol. 3, p. 647, in conjunction with s. 46 of that Act, Vol. 3, p. 643).

The Commissioners of Customs and Excise (see the Customs and Excise Act 1952, s. 289(2), Vol. 9, p. 191, in conjunction with s. 307(1) of that Act, Vol. 9, p. 203).

The Crown Estate Commissioners (see the Crown Estate Act 1961, Sch. I, para. 6, Vol. 6, p. 596, in conjunction with s. 1(1) of that Act, Vol. 6, p. 586).

The Defence Council, etc. (see the Defence (Transfer of Functions) (No. 1) Order 1964, S.I. 1964 No. 488, art. 2(1) and Sch. I, Part I).

The Forestry Commissioners (see the Forestry Act 1967, Sch. I, para. 5(2), Vol. 14, title Forestry, in conjunction with s. 49(1) of that Act).

The Herring Industry Board (see the Herring Industry Act 1935, s. 13(2), Vol. 13, title Fisheries, in conjunction with s. 1(1), (2) of that Act).

The Industrial Injuries Joint Authority (see the National Insurance (Industrial Injuries) Act 1965, Sch. 7, para. 3, Vol. 23, title National Insurance, in conjunction with s. 83(2) of that Act).

The Minister of Agriculture, Fisheries and Food (see the Documentary Evidence Act 1895, s. 1, p. 864, *post*, and the note “Board of Agriculture” thereto).

The Minister of Health (see the New Ministries and Secretaries Act 1916, s. 11(4), Vol. 6, p. 680, as applied by the Ministry of Health Act 1919, s. 7(5), Vol. 6, p. 695).

The Minister of Housing and Local Government (see the Minister of Town and Country Planning Act 1943, s. 5(4), Vol. 6, p. 725, and the note “Minister of Town and Country Planning” to s. 1 of that Act).

The Minister of Overseas Development (see the Ministers of the Crown Act 1964, Schedule, para. 8, Vol. 6, p. 801, in conjunction with s. 1 of that Act, Vol. 6, p. 799).

The Minister of Power (see the Minister of Fuel and Power Act 1945, s. 5(4), Vol. 6, p. 731, and the note “Minister of Power” to s. 1 of that Act).

The Minister of Public Building and Works (see the Minister of Works Act 1942, s. 5(4), Vol. 6, p. 721, and the note “Minister of Works” to s. 1 of that Act).

The Minister of Technology (see the Schedule, para. 8, to the Act of 1964, in conjunction with s. 1 of that Act).

The Minister of Transport (see s. 11(4) of the Act of 1916, as applied by the Minister of Transport Act 1919, s. 26(5), Vol. 6, p. 702).

The National Insurance Joint Authority (see the National Insurance Act 1965, Sec. 10, para. 3, Vol. 23, title National Insurance, in conjunction with s. 104(2) of that Act).

The Postmaster General (see the Post Office Act 1961, s. 23(3), Vol. 25, title Post Office).

The Registrar of Restrictive Trading Agreements (see the Restrictive Trade Practices Act 1956, s. 1(5), Vol. 37, title Trade and Industry).

The Secretary of State for Education and Science (see the Secretary of State for Education and Science Order 1964, S.I. 1964 No. 490, art. 3(1) and Schedule, Part I).

The Secretary of State for Employment and Productivity (see the Secretary of State for Employment and Productivity Order 1968, S.I. 1968 No. 729, art. 3(1) and Schedule, Part I).

The Secretary of State for Social Services (see the Secretary of State for Social Services Order 1968, S.I. 1968 No. 1699, art. 5(3) and Schedule, Part I).

See, further, as to authorities no longer existing, e.g., the Education Act 1944, s. 3(4) (repealed except in relation to documents issued before 1st April 1964).
