

**Evidence (Proceedings in Other Jurisdictions)**

Cap. 121A.

**EVIDENCE (PROCEEDINGS IN OTHER  
JURISDICTIONS) RULES, 1981**

1981/90.

**Authority:** These rules were made on 7th May, 1981 by the Judicial Advisory Council under section 6 of the *Evidence (Proceedings in Other Jurisdictions) Act*.

**Commencement:** 25th May, 1981.

1. These Rules may be cited as the *Evidence (Proceedings in Other Jurisdictions) Rules, 1981*. Citation.

2. (1) Subject to rule 3, an application for an order under the *Evidence (Proceedings in Other Jurisdictions) Act*, hereinafter referred to as the Act, must be made *ex parte*, and must be supported by affidavit. Application  
for order.  
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(2) There shall be exhibited to the affidavit the request in pursuance of which the application is made, and if the request is made in a language other than English a translation thereof in English.

3. Where a request is received by the Minister responsible for Foreign Affairs and sent by him to the Registrar with an intimation that effect should be given to the request without requiring an application for that purpose to be made by the agent in Barbados of any party to the matter pending or contemplated before the foreign court or tribunal, the Registrar shall transmit the request to the Attorney-General and the Attorney-General may make an application for an order under the Act and take such other steps as may be necessary to give effect to the request. Application  
by Attorney-  
General in  
certain cases.

4. Any order made in pursuance of these rules for the examination of a witness may order the examination to be taken before any fit and proper person nominated by the person applying for the order or before such other qualified person as to the court seems fit. Person to  
take examina-  
tions.

5. Unless any order made in pursuance of these rules for the examination of any witness otherwise directs, the person before whom the examination was taken must send the deposition of that witness to the Registrar, and the Registrar shall Dealing  
with de-  
position.

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- (a) give a certificate sealed with the seal of the Supreme Court for use out of the jurisdiction identifying the documents annexed thereto, as follows
  - (i) the request,
  - (ii) the order of the court for examination, and
  - (iii) the deposition taken in pursuance of the order; and
- (b) send the certificate with the documents annexed thereto to the Minister responsible for Foreign Affairs.

Claim to  
Privilege.

6. (1) This rule applies where a claim by a witness to be exempt from giving any evidence on the ground specified in section 5(1)(b) of the Act is not supported or conceded as mentioned in subsection (2) of that section.

(2) The examiner may, if he thinks fit, require the witness to give the evidence to which the claim relates and, if the examiner does not do so the court may do so, on the *ex parte* application of the person who obtained the order under the Act.

- (3) If evidence is taken in pursuance of this rule,
  - (a) it must be contained in a document separate from the remainder of the deposition of the witness;
  - (b) the examiner shall send to the Registrar with the deposition a statement signed by the examiner setting out the claim and the ground on which it was made;
  - (c) on receipt of the statement, the Registrar shall, notwithstanding anything in rule 5, retain the document containing the part of the witness's evidence to which the claim relates and shall send the statement and a request to determine the claim to the foreign court or tribunal with the documents mentioned in rule 5;
  - (d) if the claim is rejected by the foreign court or tribunal, the Registrar shall send to that court or tribunal the document containing that part of the witness's evidence to which the claim relates, but if the claim is upheld he shall send the document to the witness, and shall in either case notify the witness and the person who obtained the order under the Act of the court or tribunal's determination.

Made by the Judicial Advisory Council this 7th day of May,  
1981.

W. R. DOUGLAS  
Chief Justice (Chairman)

D. A. WILLIAMS  
Puisne Judge

C. S. HUSBANDS  
Puisne Judge

L. I. WORRELL  
Puisne Judge

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Registrar (Secretary)

