

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 335.

Evidence (Foreign Tribunals).

GENERAL ANNOTATION.

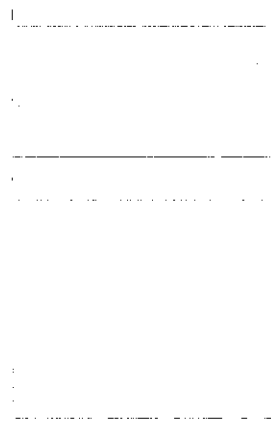
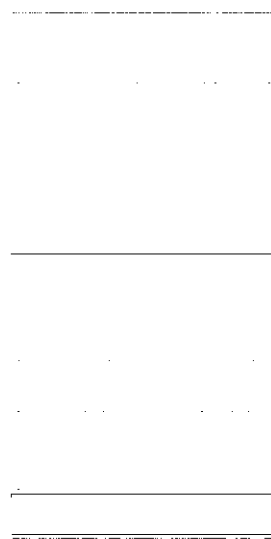
ADMINISTRATION.

The administration of this Chapter was vested in the Prime Minister at the date of its preparation for inclusion.

The present administration may be ascertained by reference to the most recent Determination of Titles and Responsibilities of Ministers made under Section 148(1) of the Constitution.

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ARRANGEMENT OF SECTIONS.

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 “diplomatic agent”.
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Being an Act to provide for the taking of evidence in the National Court in relation to civil and commercial proceedings pending before foreign tribunals.

1. Interpretation.

In this Act, unless the contrary intention appears—

“the Court” means the National Court;

“diplomatic agent” includes the Ambassador, Minister, diplomatic agent or consul of a foreign power.

2. Order for examination of witness.

(1) Where, on application made for the purpose, the Court is satisfied that a court or tribunal of competent jurisdiction in a foreign country, before which a civil or commercial matter is pending, is desirous of obtaining the testimony in relation to that matter of any witness within the jurisdiction of the Court, the Court may order the examination on oath, interrogatories or otherwise of that witness before a person named in the order.

(2) The order referred to in Subsection (1) shall—

(a) command the attendance of the witness named in the order, for the purpose of being examined; or

(b) require the production of any document specified in the order,

and shall give directions as to—

(c) the time, place and manner of the examination or production; and

(d) any matters connected with the examination or production,

as appear to be reasonable and just.

(3) An order of the Court under this section is enforceable in the same manner as any other order of the Court.

3. Certificate of Ambassador, etc., sufficient evidence in support of application.

(1) Subject to Subsection (2), a certificate under the hand of the diplomatic agent of a foreign country, received as such by the State, that —

(a) a matter in relation to which an application is made under Section 2 is a civil or commercial matter pending in a court or tribunal in the country of which he is the diplomatic agent; and

(b) that court or tribunal has jurisdiction in the matter pending; and

(c) that court or tribunal is desirous of obtaining the testimony of the witness to whom the application relates,

is evidence of the matters certified.

(2) Where a certificate under Subsection (1) is not produced, other evidence to the same effect is admissible, as the Court thinks fit.

4. Examination to be taken on oath.

(1) The person named in an order under Section 2 as the person before whom the examination is made, is authorized to take the examination on the oath or affirmation of the witness, to be administered by the person so authorized.

(2) Any witness who wilfully or wrongfully gives false evidence in an examination under this Act is guilty of the crime of perjury.

5. Expenses of witnesses.

A person who is required to attend as a witness by order under Section 2 is entitled to the same fees, allowances and expenses as a witness in a matter before the Court.

6. Privilege, etc., of witness.

A witness examined under an order made under Section 2 has the same privileges and is subject to the same penalties in relation to—

- (a) the giving of, or refusal to give information; and
- (b) the answering of, or refusal to answer questions; and
- (c) the production of, or refusal to produce documents,

as a witness in a matter before the Court.

7. Rules of court.

(1) The Judges of the National Court may make rules of court with respect to the practice and procedure in and in relation to the taking of evidence under this Act.

(2) Without limiting the generality of Subsection (1) the rules may make provision for and in respect of—

- (a) the form of application for an order to examine a witness or produce documents; and
- (b) the form of an order; and
- (c) the service and execution of process; and
- (d) the form of certificate of service; and
- (e) fees and costs.

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APPENDIX.

SOURCE OF THE EVIDENCE (FOREIGN TRIBUNALS) ACT.

Part A.—Previous Legislation.

Evidence (Foreign Tribunals) Act 1978 (No. 22 of 1978).

Part B.—Cross References.

Section, etc., in Revised Edition.	Previous Reference. ¹
1	1
2	2
3	3
4	4
5	5
6	6
7	7

¹Unless otherwise indicated, references are to the Act set out in Part A.

