

FOREIGN TRIBUNALS EVIDENCE ACT, 1856⁽¹⁾ ⁽²⁾ ⁽³⁾ (UNITED KINGDOM).

An Act to provide for taking Evidence in Her Majesty's Dominions in relation to Civil and Commercial Matters pending before Foreign Tribunals.

Whereas it is expedient that Facilities be afforded for taking Evidence in Her Majesty's Dominions in relation to Civil and Commercial Matters pending before Foreign Tribunals: Be it enacted by the Queen's most Excellent Majesty by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

1. Where, upon an Application for this Purpose, it is made to appear to any Court or Judge having Authority under this Act that any Court or Tribunal of competent Jurisdiction in a Foreign Country, before which any Civil or Commercial Matter is pending, is desirous of obtaining the Testimony in relation to such Matter of any Witness or Witnesses within the Jurisdiction of such first-mentioned Court, or of the Court to which such Judge belongs, or of such Judge, it shall be lawful for such Court or Judge to order the Examination upon Oath, upon Interrogatories or otherwise, before any Person or Persons named in such Order, of such Witness or Witnesses accordingly; and it shall be lawful for the said Court or Judge, by the same Order, or for such Court or Judge or any other Judge having Authority under this Act, by any subsequent Order, to command the Attendance of any Person to be named in such Order, for the Purpose of being examined, or the

Order for Examination of Witnesses in this Country in relation to any Civil or Commercial Matter pending before a Foreign Tribunal.

(1) The *Foreign Tribunals Evidence Act, 1856*, of the United Kingdom comprises the original *Foreign Tribunals Evidence Act, 1856*, as amended by the other Act of the United Kingdom referred to in the following Table:—

ACTS OF THE UNITED KINGDOM.

Citation of Act.	Date on which received Royal assent.	Date on which came into force in Possession of British New Guinea.
<i>Foreign Tribunals Evidence Act, 1856</i> (19 and 20 Vic. c. 113)	29.7.1856	23.7.1889 (being the date on which the Central Court of the Possession of British New Guinea was established)
<i>Statute Law Revision and Civil Procedure Act 1881</i> (44 and 45 Vic. c. 59)	27.8.1881	

(2) This short title was given by the *Short Titles Act, 1896* (United Kingdom).

(3) The *Foreign Tribunals Evidence Act, 1856* (United Kingdom) applies to the Possession of British New Guinea and to the Territory of Papua by virtue of Sections 1 and 6 of that Act.

COURTS—

Production of any Writings or other Documents to be mentioned in such Order, and to give all such Directions as to the Time, Place, and Manner of such Examination, and all other Matters connected therewith, as may appear reasonable and just; and any such Order may be enforced in like Manner as an Order made by such Court or Judge in a Cause depending in such Court or before such Judge.

Certificate of Ambassador, &c. sufficient Evidence in support of Application.

2. A Certificate under the Hand of the Ambassador, Minister, or other Diplomatic Agent of any Foreign Power, received as such by Her Majesty, or in case there be no such Diplomatic Agent, then of the Consul General or Consul of any such Foreign Power at *London*, received and admitted as such by Her Majesty, that any Matter in relation to which an Application is made under this Act is a Civil or Commercial Matter pending before a Court or Tribunal in the Country of which he is the Diplomatic Agent or Consul having Jurisdiction in the Matter so pending, and that such Court or Tribunal is desirous of obtaining the Testimony of the Witness or Witnesses to whom the Application relates, shall be Evidence of the Matters so certified; but where no such Certificate is produced other Evidence to that effect shall be admissible.

Examination of Witnesses to be upon Oath. Persons giving false Evidence guilty of Perjury.

3. It shall be lawful for every Person authorized to take the Examination of Witnesses by any Order made in pursuance of this Act to take all such Examinations upon the Oath of the Witnesses, or Affirmation in Cases where Affirmation is allowed by Law instead of Oath, to be administered by the Person so authorized; and if upon such Oath or Affirmation any Person making the same wilfully and corruptly give any false Evidence, every Person so offending shall be deemed and taken to be guilty of Perjury.

Payment of Expenses.

4. Provided always, That every Person whose Attendance shall be so required shall be entitled to the like Conduct Money and Payment for Expenses and Loss of Time as upon Attendance at a Trial.

Persons to have Right of Refusal to answer Questions and to produce Documents.

5. Provided also, That every Person examined under any Order made under this Act shall have the like Right to refuse to answer Questions tending to criminate himself, and other Questions, which a Witness in any Cause pending in the Court by which or by a Judge whereof or before the Judge by whom the Order for Examination was made would be entitled to; and that no Person shall be compelled to produce under any such Order as aforesaid any Writing or other Document that he would not be compellable to produce at a Trial of such a Cause.

6. Her Majesty's Superior Courts of Common Law at *Westminster* and in *Dublin* respectively, the Court of Session in *Scotland*, and any Supreme Court in any of Her Majesty's Colonies or Possessions abroad, and any Judge of any such Court, and every Judge in any such Colony or Possession who by any Order⁽⁴⁾ of Her Majesty in Council may be appointed for this Purpose, shall respectively be Courts and Judges having Authority under this Act.

Certain Courts and Judges to have Authority under this Act. Lord Chancellor, &c. to frame Rules, &c.

Proviso repealed by 44 and 45 Vic. c. 59, s. 3 and Schedule.

(4) No Judge in British New Guinea or Papua has been appointed by Order in Council.