

CYPRUS

FOREIGN TRIBUNAL EVIDENCE

CHAPTER 12 OF THE LAWS

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1959

CHAPTER 12.

FOREIGN TRIBUNAL (EVIDENCE).

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TO PROVIDE FOR TAKING EVIDENCE IN CYPRUS IN RELATION TO CIVIL, COMMERCIAL AND CRIMINAL MATTERS PENDING BEFORE TRIBUNALS OTHER THAN THOSE OF CYPRUS.

[3rd June, 1908.] 1949 Cap. 18.

1. This Law may be cited as the Foreign Tribunal Evidence Law. Short title.

2. In this Law—

“the Court” means the Supreme Court of Cyprus and includes any Judge of such Court ;

“foreign” includes any country other than Cyprus.

Interpretation.

3. (1) Where upon an application for this purpose it is made to appear to the Court by Commission Rogatoire or Letter of Request or other evidence as hereinafter provided that any Court or Tribunal of competent jurisdiction in a foreign country before which any civil, commercial, or criminal matter not being of a political character is pending,

Power to make order for examination of witnesses in proceedings pending before foreign tribunal.

is desirous of obtaining the testimony in relation to such matter of any witness or witnesses within the jurisdiction of the Court, the Court may, on the ex-parte application of any person shown to be duly authorized to make the application on behalf of such Foreign Court or Tribunal and on production of the Commission Rogatoire or Letter of Request or such other evidence as the Court may require, 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 may make such order or orders as may be necessary to obtain such testimony.

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(2) An order for examination under this section may be made notwithstanding that the testimony of the person to be examined is required for the purpose of proceedings pending or intended to be instituted against him or to which he is a party :

Provided that where such testimony is required for the purpose of criminal proceedings against such person the person before whom the examination is taken shall warn him that he may refuse to answer any question which may tend to criminate him.

Power to command attendance of witnesses and production of documents.

4. By any order made under the provisions of section 3 of this Law, the Court may by such order or by any subsequent order command the attendance of any person to be named in such order for the purpose of being examined or the production of any writings or other documents to be mentioned in such order, and 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 in a cause depending in such Court.

Form of order.
First Schedule.

5. An order made under this Law shall be in the form provided in the First Schedule to this Law with such variations as circumstances may require.

Persons before whom examination may be taken.

6. The examination may be ordered to be taken before any fit and proper person nominated by the person applying or before any advocate of the Supreme Court of Cyprus or such other qualified person as to the Court may seem fit.

Where the person taking the examination is not in Her Majesty's service, he may be paid a remuneration consisting

of a fee of two pounds to which may be added a fee to be calculated by the Chief Registrar of the Court at the rate of three pounds for each day of five hours. 2 of 38/34

7. It shall be lawful for every person authorized to take the examination of witnesses by any order made in pursuance of this Law 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 gives any false evidence every person so offending shall be deemed and taken to be guilty of perjury : Examination of witnesses to be taken on oath.

Provided always that—

- (a) 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 ;
- (b) every person examined under any order made under this Law 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 the order for examination was made and would be entitled to, and 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.

8. Unless otherwise provided in the order for examination, the examiner before whom the examination is taken shall on its completion forward the same to the Chief Registrar of the Court, and on receipt thereof, the Chief Registrar shall append thereto a certificate in the form provided in the Second Schedule to this Law with such variations as circumstances may require, duly sealed with the seal of the Court for use out of the jurisdiction, and shall forward the depositions so certified and the Commission Rogatoire or Letter of Request, if any, to the Administrative Secretary for transmission through the Secretary of State to the Foreign Court or Tribunal requiring the same. Examiner to forward papers to Chief Registrar for transmission to necessary authority. Second Schedule.

9. An order made under this Law may if the Court shall think fit direct the said examination to be taken in such manner as may be requested by the Commission Rogatoire or Letter of Request from the foreign Court or therein Procedure on examination.

signified to be in accordance with the practice or requirements of such Court or Tribunal or which may for the same reason be requested by the applicant for such order. But in the absence of any such special directions being given in the order for examination the same shall be taken in such manner as may be prescribed by the Court.

Attorney-General to take action in certain cases.

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10. Where a Commission Rogatoire or Letter of Request as mentioned in section 3 of this Law is transmitted to the Court by the Secretary of State with an intimation that it is desirable that effect should be given to the same without requiring an application to be made to the Court by the agents in Cyprus of any of the parties to the action or matter of proceedings pending or intended to be instituted in the foreign country, the Chief Registrar of the Court shall transmit the same to the Attorney-General who may thereupon with the consent of the Governor make such application and take such steps as may be necessary to give effect to such Commission Rogatoire or Letter of Request in accordance with sections 3 to 9 of this Law.

Court to give effect to Conventions.

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11. Notwithstanding anything in this Law hereinbefore contained, where Her Majesty shall on behalf of the Colony of Cyprus have entered into a Convention with any foreign State concerning the taking in Cyprus of evidence relating to matters pending before tribunals other than those of Cyprus and a notice of such convention together with a copy thereof shall have appeared in the Gazette, the Court shall from time to time take such steps and issue such orders or Rules of Court as shall be necessary to give effect to such Convention.

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FIRST SCHEDULE.

(Section 5.)

ORDER UNDER THE FOREIGN TRIBUNAL EVIDENCE LAW.

(a) Name of Judge.

In the Supreme Court of Cyprus (a) Judge of the Supreme Court of Cyprus.

In the matter of the Foreign Tribunal Evidence Law.

(b) Description of Foreign Tribunal.

And in the matter of a (Civil, Commercial or Criminal) proceeding now pending before (b) intitled as follows:—

Between

Plaintiff,

and

Defendant.

Upon reading the affidavit (if any) of filed the day of 19 , that proceedings are pending in the

in (c) and that such Court is desirous of obtaining the testimony of (d) (e) Name of foreign country.
 of (d) (e) Names of witnesses.
 It is ordered that the said witness do attend before (e) (e) name and address of examiner.
 who is hereby appointed examiner herein, at (f) (f) Place appointed for examination.
 on the day of 19, at o'clock, or such other day and time as the said examiner may appoint, and do there submit to be examined upon oath, or affirmation, touching the testimony so required as aforesaid, and do then and there produce (g) (g) Description of documents, if any, required to be produced.

And it is further ordered that the said examiner do take down in writing the evidence of the said witness, or witnesses, according to the rules and practice of the Supreme Court of Cyprus pertaining to the examination and cross-examination of witnesses (or as may be otherwise directed); and do cause each and every such witness to sign his or her depositions in his, the said examiner's presence; and do sign the depositions taken in pursuance of this order, and when so completed, do transmit the same, together with this order, to the Chief Registrar of the Supreme Court of Cyprus, Nicosia, for transmission through the Administrative Secretary and the Secretary of State to the said foreign Court or Tribunal requiring the same.

Dated this day of 19 .

SECOND SCHEDULE.

(Section 8.)

CERTIFICATE UNDER THE FOREIGN TRIBUNAL EVIDENCE LAW.

I, Chief Registrar of the Supreme Court of Cyprus, hereby certify that the documents annexed hereto are (1) the original order of the Supreme Court of Cyprus dated the day of 19, made in the matter of pending in the at in the of directing the examination of certain witnesses to be taken before, and (2) the examination and depositions taken by the said pursuant to the said order, and duly signed and completed by him on the day of 19 .

Dated this day of 19 .

