



THE STATUTES OF THE REPUBLIC OF SINGAPORE

EVIDENCE (CIVIL PROCEEDINGS IN OTHER JURISDICTIONS) ACT

(CHAPTER 98)

(Original Enactment: Act 18 of 1979)

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Evidence (Civil Proceedings in Other Jurisdictions) Act

ARRANGEMENT OF SECTIONS

Section

1. Short title
 2. Interpretation
 3. Application to High Court for assistance in obtaining evidence to be used abroad
 4. Power of High Court to give effect to application for evidence
 5. Privilege of witnesses
 6. Rules of Court
-

An Act to make new provision for enabling the High Court to assist in obtaining evidence required for the purposes of civil proceedings in other jurisdictions and for matters connected therewith.

[19th October 1979]

Short title

1. This Act may be cited as the Evidence (Civil Proceedings in Other Jurisdictions) Act.

Interpretation

2. In this Act, unless the context otherwise requires —

“civil proceedings”, in relation to the requesting court, means proceedings in any civil or commercial matter but does not include proceedings arising out of any fiscal, monetary or revenue law or measure;

“property” includes any land, chattel or other corporeal property of any description;

“request” includes any commission, order or other process issued by or on behalf of the requesting court;

“requesting court” has the meaning given to it in section 3.

Application to High Court for assistance in obtaining evidence to be used abroad

3. Where an application is made to the High Court for an order for evidence to be obtained in Singapore and the High Court is satisfied that —

- (a) the application is made in pursuance of a request issued by or on behalf of a court or tribunal (referred to in this Act as the requesting court) exercising jurisdiction in a country or territory outside Singapore; and
- (b) the evidence to which the application relates is to be obtained for the purposes of civil proceedings which either have been instituted before the requesting court or whose institution before that court is contemplated,

the High Court shall have the powers conferred on it by this Act.

Power of High Court to give effect to application for evidence

4.—(1) Subject to this section, the High Court shall have power, on any such application referred to in section 3, by order to make such provision for obtaining evidence in Singapore as may appear to the High Court to be appropriate for the purpose of giving effect to the request in pursuance of which the application is made; and any such order may require a person specified in the order to take such steps as the High Court may consider appropriate for that purpose.

(2) Without prejudice to the generality of subsection (1) but subject to this section, an order under this section may, in particular, make provision —

- (a) for the examination of witnesses, either orally or in writing;
- (b) for the production of documents;
- (c) for the inspection, photographing, preservation, custody or detention of any property;
- (d) for the taking of samples of any property and the carrying out of any experiments on or with any property;

- (e) for the medical examination of any person; and
- (f) without prejudice to paragraph (e), for the taking and testing of samples of blood from any person.

(3) An order under this section shall not require any particular steps to be taken unless they are steps which can be required to be taken by way of obtaining evidence for the purposes of civil proceedings in the High Court (whether or not they are proceedings of the same description as those to which the application for the order relates); but this subsection shall not preclude the making of an order requiring a person to give testimony (either orally or in writing) otherwise than on oath where this is asked for by the requesting court.

(4) An order under this section shall not require a person —

- (a) to state what documents relevant to the proceedings to which the application for the order relates are or have been in his possession, custody or power; or
- (b) to produce any documents other than particular documents specified in the order as being documents appearing to the High Court to be, or to be likely to be, in his possession, custody or power.

(5) A person who, by virtue of an order under this section, is required to attend at any place shall be entitled to the like payment for expenses and loss of time as on attendance as a witness in civil proceedings before the High Court.

Privilege of witnesses

5.—(1) A person shall not be compelled by virtue of an order under section 4 to give any evidence which he could not be compelled to give —

- (a) in civil proceedings in the High Court in Singapore; or
- (b) subject to subsection (2), in civil proceedings in the country or territory in which the requesting court exercises jurisdiction.

(2) Subsection (1)(b) shall not apply unless the claim of the person in question to be exempt from giving the evidence is either —

(a) supported by a statement contained in the request (whether it is so supported unconditionally or subject to conditions that are fulfilled); or

(b) conceded by the applicant for the order,

and where such a claim made by any person is not so supported or conceded as provided in paragraph (a) or (b), he may (subject to the other provisions of this section) be required to give the evidence to which the claim relates but that evidence shall not be transmitted to the requesting court if that court, on the matter being referred to it, upholds the claim.

(3) Without prejudice to subsection (1), a person shall not be compelled by virtue of an order under section 4 to give any evidence if his doing so would be prejudicial to the security of Singapore, and a certificate signed by or on behalf of the Minister to the effect that it would be so prejudicial for that person to do so shall be conclusive evidence of that fact.

(4) In this section, references to giving evidence include references to answering any question and to producing any document and the reference in subsection (2) to the transmission of evidence given by a person shall be construed accordingly.

Rules of Court

6. The power of the Rules Committee to make Rules of Court under section 80 of the Supreme Court of Judicature Act (Cap. 322) shall include power to make Rules of Court —

- (a) as to the manner in which any application referred to in section 3 is to be made;
- (b) subject to the provisions of this Act, as to the circumstances in which an order can be made under section 4; and
- (c) as to the manner in which any reference referred to in section 5(2) is to be made.

LEGISLATIVE HISTORY
EVIDENCE (CIVIL PROCEEDINGS IN OTHER
JURISDICTIONS) ACT
(CHAPTER 98)

This Legislative History is provided for the convenience of users of the Evidence (Civil Proceedings in Other Jurisdictions) Act. It is not part of the Act.

1. Act 18 of 1979 — Evidence (Civil Proceedings in Other Jurisdictions) Act 1979

Date of First Reading : 15 May 1979
(Bill No. 19/79 published on
18 May 1979)

Date of Second and Third Readings : 7 September 1979

Date of commencement : 19 October 1979

2. 1985 Revised Edition — Evidence (Civil Proceedings in Other Jurisdictions) Act (Chapter 98)

Date of operation : 30 March 1987