



ANALYSIS

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Examined and certified:

Clerk of the Legislative Assembly

In the name and on behalf of Her Majesty Queen Elizabeth
the Second I hereby assent to this Act this day
of 1968.



Chief Judge of the High
Court of the Cook Islands
Acting for the High
Commissioner

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Price

4.50

1968, No. 4

An Act to provide certain rules of evidence
in Court proceedings

(4 October 1968)

BE IT ENACTED by the Legislative Assembly of the Cook Islands in Session assembled, and by the authority of the same, as follows:

1. Short Title - This Act may be cited as the Evidence Act 1968.

2. Interpretation - In this Act, if not inconsistent with the context -

"Act" includes Ordinance:

"Court" includes the High Court, the Land Court, and any Court of summary jurisdiction:

"Judge" means a Judge of the High Court and includes a Commissioner of the High Court, and also includes any Justice or Justices of the Peace sitting in Court:

"Minister" means a person appointed as a marriage officer under section 511 of the Cook Islands Act 1915:

"Person acting judicially" means any person having in the Cook Islands by law or by consent of parties authority to hear, receive, and examine evidence:

"Proceeding" includes any action, trial, inquiry, cause, or matter, whether civil or criminal, depending or to be inquired of or determined in any Court.

PART I - GENERAL RULES OF EVIDENCE

Discretionary Power

3. Discretionary power of admitting evidence - Subject to the provisions of this Act, a Court may in any proceeding admit and receive such evidence as it thinks fit, and accept and act on such evidence as it thinks sufficient, whether such evidence is or is not admissible or sufficient at common law.

4. Discretionary power of rejecting evidence - Notwithstanding anything to the contrary contained in this Act, a Court may in any proceeding refuse to receive any evidence, whether admissible or not at common law, which it considers irrelevant or needless, or unsatisfactory as being hearsay or other secondary evidence.

Competency of Witnesses

5. Witness interested, or convicted of offence - No person shall be excluded from giving evidence in any proceeding on the ground that he has or may have an interest in the matter in question, or has previously been convicted of any offence.

6. Evidence of accused and wife or husband in criminal cases - (1) Except as provided by or under this or any other Act, neither the person charged with any offence nor the wife or husband, as the case may be, of the person so charged shall be a competent or compellable witness for the prosecution or defence in any proceeding in connection with the offence.

(2) Where any person is charged with an offence, whether solely or jointly with any other person, the person so charged shall be a competent witness for the defence, and the wife or husband, as the case may be, of the person so charged shall be a competent and compellable witness for the defence, at every stage of the proceedings:

Provided that -

- (a) A person so charged shall not be called as a witness in pursuance of this subsection except upon his own application:
- (b) The wife or husband of a person so charged shall not be called as a witness in pursuance of this subsection except upon the application of the person so charged:
- (c) A person charged and called as a witness in pursuance of this subsection may be asked any question in cross-examination notwithstanding that it would tend to criminate him as to the offence charged:
- (d) A person charged and called as a witness in pursuance of this subsection is liable to be cross-examined like any other witness on any matter, though not arising out of his examination in chief; but as far as the cross-examination relates to any previous conviction of the person so charged, or to his credit, the Court may limit the cross-examination as it thinks proper, although the proposed cross-examination may be permissible in the case of any other witness:
- (e) Every person called as a witness in pursuance of this subsection shall, unless otherwise ordered by the Court, give his evidence from the witness box or other place from which the other witnesses give their evidence.

(3) The wife or husband of a person charged with an offence shall be a competent but not compellable witness for the prosecution, and without the consent of the person charged, at every stage of the proceedings, where the offence charged is -

- (a) An offence against the wife or husband or affecting the person or liberty of the wife or husband, whether the marriage took place before or after the time of the alleged offence; or

- (b) Bigamy; or
- (c) An offence against section 215 of the Crimes Act 1968.

(4) The wife of a person charged with an offence shall be a competent but not compellable witness for the prosecution, and without the consent of the person charged, at every stage of the proceedings, where the person against whom or in respect of whom the offence is alleged to have been committed is a woman or a child under the age of twenty-one years at the time of the alleged offence who -

- (a) Is a daughter or grand-daughter or son or grandson of the person charged or of his wife, whether the relationship is traced through lawful wedlock or not; or

- (b) Was at the time of the alleged offence under the care or protection of the person charged or of his wife, -

and the offence is an offence, or an attempt to commit an offence, under any of the provisions of section 141 to 148 or sections 153 to 155 of the Crimes Act 1968.

(5) Where any person is charged with an offence jointly with any other person, he shall be a competent and compellable witness for the prosecution against the other person, and without the consent of the other person, or for the defence of the other person, at every stage of the proceedings, if -

- (a) The proceedings against him have been stayed or, in the case of an offence punishable on summary conviction, the information against him has been withdrawn or dismissed; or
- (b) He has been acquitted of the offence; or
- (c) He has pleaded guilty to the offence; or
- (d) He is being tried separately from the other person:

Provided that any person who is the wife or husband of the other person so charged shall not be a compellable witness for the prosecution against the other person in any case, and shall not be a competent witness for the prosecution against the other person except as provided in subsections (3) and (4) of this section:

Provided also that no person who is the wife or husband of the other person so charged shall be called as a witness for the defence in pursuance of this subsection except upon the application of that other person.

(6) Where two or more persons are jointly charged with any offence, the evidence of any person called as a witness for the prosecution or the defence in pursuance of this section may be received as evidence either for or against any of the persons so charged.

(7) The provisions of this section shall not affect the operation of any other provision of this Act or of any other enactment, but shall apply notwithstanding any rule of law to the contrary.

Privileges of Witnesses

7. Communications during marriage - A husband shall not be compellable in any proceeding to disclose any communication made to him by his wife during the marriage, and a wife shall not be compellable in any proceeding to disclose any communication made to her by her husband during the marriage.

8. Evidence of non-access - (1) In any proceedings, whether civil or criminal, either of two spouses may give evidence proving or tending to prove that the spouses did not have sexual relations with each other at any particular time, notwithstanding that the evidence would tend to show that any child born to the wife during marriage was illegitimate. (2) Nothing in this section shall affect the operation of section 7 of this Act.

9. Communications to clergymen and medical men - (1) A minister shall not divulge in any proceeding any confession made to him in his professional character, except with the consent of the person who made such confession.

(2) A physician or surgeon shall not, without the consent of his patient, divulge in any civil proceeding (unless the sanity of the patient is the matter in dispute) any communication made to him in his professional character by such patient, and necessary to enable him to prescribe or act for such patient.

(3) Nothing in this section shall protect any communication made for any criminal purpose, or prejudice the right to give in evidence any statement or representation at any time made to or by a physician or surgeon in or about the effecting by any person of an insurance on the life of himself or any other person.

Impeaching Credit of Witnesses

10. How far witness may be discredited by the party producing him - A party producing a witness shall not be allowed to impeach his credit by general evidence of bad character, but may contradict him by other evidence.

11. Proof of contradictory statements of witness - Every witness under cross-examination, and every witness on his examination in chief (if the Judge, being of opinion that the witness is hostile, permits the question), may in any proceeding, civil or criminal, be asked whether he has made any formal statement relative to the subject-matter of the proceeding, and inconsistent with his present testimony, the circumstances of the supposed statement being referred to sufficiently to designate the particular occasion, and, if he does not distinctly admit that he made such statement, proof may be given that he did in fact make it.

12. Cross-examinations as to previous statements in writing - (1) A witness may be cross-examined as to previous statements made by him in writing or reduced into writing relative to the subject-matter of the information or proceeding without such writing being shown to him; but if it is intended to contradict such witness by writing his attention must, before such contradictory proof can be given, be called to those parts of the writing that are to be used for the purpose of so contradicting him.

(2) The Judge may at any time during the trial require the writing to be produced for his inspection, and may thereupon make such use of it for the purposes of the trial as he thinks fit.

13. Proof of previous conviction of witness - A witness may be questioned as to whether he has been convicted of any offence, and, upon being so questioned, if he either denies or does not admit the fact, or refuses to answer, the cross-examining party may prove such conviction.

14. Proof of convictions by fingerprints - (1) A conviction may be proved against any person in any civil or criminal proceedings by the production of such evidence as is mentioned in this section.

(2) A certificate purporting to be signed by a fingerprint expert who is -

- (a) A member of the Police; or
- (b) A member of the Police in New Zealand; or
- (c) A member of any police force in the United Kingdom; or
- (d) A member of the police force of any State or Territory of the Commonwealth of Australia, -

to which is exhibited or on which are shown copies of the fingerprints of any person and certifying that those copies are copies of the fingerprints of a person who was convicted in that country of any offence of which particulars are given, shall be admissible in evidence for the purpose of proving the identity of any person alleged to have been convicted in that country of such offence.

(3) A certificate, purporting to be signed by a fingerprint expert who is a member of the Police, and certifying that the copies of the fingerprints which are exhibited to or shown on a certificate made under subsection (2) of this section and the fingerprints of the person in respect of whom a conviction is sought to be proved (a copy of which fingerprints is exhibited to or shown on the certificate made under this subsection) are the fingerprints of the same person, shall be evidence that the person in respect of whom the conviction is sought to be proved was the person convicted of the offence of which particulars were given in the certificate made under subsection (2) of this section.

(4) The High Commissioner may from time to time by Order in Executive Council declare that certificates purporting to be made by specified persons or classes of persons in any country outside the Cook Islands, New Zealand, the United Kingdom, or Australia and to the same effect, in respect of convictions for offences committed in that country, as certificates under subsection (2) of this section shall be evidence as if they had been made under the said subsection.

(5) In this section the term "country" includes any State, territory, province, or part of a country.

(6) The mode of proving a conviction authorised by this section shall be in addition to any other method of proving the conviction.

15. Proof of convictions - (1) Where in any proceedings it may be necessary to prove the conviction of any person of an offence a certificate containing the substance of the conviction for the offence, purporting to be signed by the Registrar or other officer having the custody of the records of the Court where the offender was convicted, shall, upon proof of the identity of the person, be sufficient evidence of the conviction without proof of the signature or official character of the person appearing to have signed the certificate.

(2) A fee of twenty-five cents shall be payable for any such certificate.

(3) The mode of proving a previous conviction authorised by this section shall be in addition to and not in exclusion of any other authorised mode of proving the conviction.

Protection of Witnesses

16. Cross-examination as to credit - (1) If any question put to a witness upon cross-examination relates to a matter not relevant to the proceeding, except in so far as it affects the credit of the witness by injuring his character, it shall be the duty of the Court to decide whether or not the witness shall be compelled to answer it, and the Court may, if it thinks fit, warn the witness that he is not obliged to answer it.

(2) In exercising this discretion the Court shall have regard to the following considerations:-

(a) Such questions are proper if they are of such a nature that the truth of the imputation conveyed by them would seriously affect the opinion of the Court as to the credibility of the witness on the matter to which he testifies.

(b) Such questions are improper if the imputation they convey relates to matters so remote in time or of such a character that the truth of the imputation would not affect, or would affect in a slight degree only, the opinion of the Court as to the credibility of the witness on the matter to which he testifies.

(c) Such questions are improper if there is a great disproportion between the importance of the imputation made against the witness's character and the importance of his evidence.

(3) Nothing herein shall be deemed to make any witness compellable to give evidence upon any matter he is now by law privileged from disclosing.

17. Indecent or scandalous questions - The Court shall forbid any question it regards as -

(a) Indecent or scandalous, although such question may have some bearing on the case before the Court, unless the question relates to facts in issue, or to matters necessary to be known in order to determine whether or not the facts in issue existed; or

- (b) Intended to insult or annoy, or needlessly offensive in form, notwithstanding that such question may be proper in itself.

18. Prohibited questions not to be published - (1) It shall not be lawful for any person to print or publish any question or inquiry which the Court -

- (a) Has forbidden or disallowed; or
- (b) Has warned the witness he is not obliged to answer, and has ordered shall not be published.

(2) Every person who prints or publishes any question in breach of this section commits a contempt of Court.

Miscellaneous

19. Confession after promise, threat, or other inducement - A confession tendered in evidence in any criminal proceeding shall not be rejected on the ground that a promise or threat or any other inducement (not being the exercise of violence or force or other form of compulsion) has been held out to or exercised upon the person confessing, if the Judge or other presiding officer is satisfied that the means by which the confession was obtained were not in fact likely to cause an untrue admission of guilt to be made.

20. Criminating questions - Nothing in this Act shall take away or affect the privilege of any witness to refuse to answer any question which may tend to criminate him.

PART II - DOCUMENTARY EVIDENCE

21. Interpretation and savings - (1) In this Part of this Act -

"Document" includes books, maps, plans, drawings, and photographs:

"Statement" includes any representation of fact, whether made in words or otherwise:

"Proceedings" includes arbitrations and references, and "Court" shall be construed accordingly.

(2) Nothing in this Part of this Act shall -

- (a) Prejudice the admissibility of any evidence which would, apart from the provisions of this Part, be admissible; or
- (b) Enable documentary evidence to be given as to any declaration relating to a matter of pedigree, if that declaration would not have been admissible as evidence if this Part had not been passed.

22. Admissibility of documentary evidence as to facts in issue - (1) In any civil or criminal proceedings where direct oral evidence of a fact would be admissible, any statement made by a person in a document and tending to establish that fact shall, on production of the original document, be admissible as evidence of that fact if the following conditions are satisfied, that is to say -

- (a) If the maker of the statement either -
 - (i) Had personal knowledge of the matters dealt with by the statement; or
 - (ii) Where the document in question is or forms part of a record purporting to be a continuous record, made the statement (in so far as the matters dealt with thereby are not within his personal knowledge) in the performance of a duty to record information; and
- (b) If the maker of the statement is called as a witness in the proceedings:

Provided that the condition that the maker of the statement shall be called as a witness need not be satisfied if he is dead, or unfit by reason of his bodily or mental condition to attend as a witness, or if he is beyond the seas and it is not reasonably practicable to secure his attendance, or if all reasonable efforts to find him have been made without success, or if no party to the proceedings with a right to cross-examine the maker of the statement requires him to be called as a witness.

(2) In any civil or criminal proceedings the Court may at any stage of the proceedings order that such a statement as is mentioned in subsection (1) of this section shall be admissible as evidence, or may, without any such order having been made, admit such a statement in evidence -

- (a) Notwithstanding that the maker of the statement is available but is not called a witness:
- (b) Notwithstanding that the original document is not produced, if in lieu thereof there is produced a copy of the original document or of the material part thereof certified to be a true copy in such manner as may be specified in the order or as the Court may approve, as the case may be.

(3) For the purposes of this section a statement in a document shall not be deemed to have been made by a person unless the document or the material part thereof was written, made, or produced by him with his own hand, or was signed or initialled by him or otherwise recognised by him in writing as one for the accuracy of which he is responsible.

(4) For the purpose of deciding whether or not a statement is admissible as evidence by virtue of the foregoing provisions, the Court may draw any reasonable inference from the form or contents of the document in which the statement is contained, or from any other circumstances, and may, in deciding whether or not a person is fit to attend as a witness, act on a certificate purporting to be the certificate of a medical officer, and where the proceedings are with a jury, the Court may in its discretion reject the statement, notwithstanding that the requirements of this section are satisfied with respect thereto, if for any reason it appears to it to be inexpedient in the interests of justice that the statement should be admitted.

23. Weight to be attached to evidence - (1) In estimating the weight, if any, to be attached to a statement rendered admissible as evidence by this Part of this Act, regard shall be had to all the circumstances from which any inference can reasonably be drawn as to the accuracy or otherwise of the statement, and in particular to the question whether or not the statement was made contemporaneously with the occurrence or existence of the facts stated, and to the question whether or not the maker of the statement had any incentive to conceal or misrepresent facts.

(2) For the purpose of any rule of law or practice requiring evidence to be corroborated or regulating the manner in which uncorroborated evidence is to be treated, a statement rendered admissible as evidence by this Part of this Act shall not be treated as corroboration of evidence given by the maker of the statement.

PART III - PROOF OF OFFICIAL DOCUMENTS, ETC.

24. Judicial notice of the Public Seal of New Zealand - Judicial notice shall be taken by all Courts, Judges, Justices, Commissioners, and other persons acting judicially, of the impression of the Public Seal of New Zealand, without evidence of such seal having been impressed or any other evidence relating thereto.

25. Judicial notice of official seals, etc. - Where by an Act of the Legislative Assembly or of the Parliament of New Zealand any seal or stamp is authorised to be used by any Court, officer, body corporate, or any other person, judicial notice shall be taken of the impression of such seal or stamp without evidence of the same having been impressed or any other evidence relating thereto.

26. All Acts deemed to be public Acts - Every Act of the Legislative Assembly and of the Parliament of New Zealand shall, unless it is expressly declared to be a private Act, be deemed to be a public Act, and judicial notice shall be taken thereof by all Courts and persons acting judicially.

27. Copy of public Act printed by Government Printer to be evidence - Every copy of any public Act of the Legislative Assembly printed under the authority of the Government of the Cook Islands by the Cook Islands Government Printer, and every copy of any public Act of the Parliament of New Zealand printed under the authority of the Government of New Zealand by the New Zealand Government Printer, shall be evidence of such Act and of its contents; and every copy of any such Act purporting to be printed as aforesaid shall be deemed to be so printed unless the contrary is proved.

28. Copies of private Acts, etc., printed by Government Printer receivable in evidence - (1) All copies of private and local and personal Acts of the Legislative Assembly, not being public Acts, purporting to be printed under the authority of the Government of the Cook Islands by the Cook Islands Government Printer, and all copies of the Journals of the Legislative Assembly, and of Proclamations by the High Commissioner purporting to be printed by such Printer, shall be admitted as evidence thereof respectively by all Courts and persons acting judicially, without proof being given that such copies were so printed.

(2) All copies of private and local and personal Acts of the Parliament of New Zealand, not being public Acts, purporting to be printed under the authority of the Government of New Zealand by the New Zealand Government Printer and all copies of the Journals of the General Assembly of New Zealand, and of Proclamations by the Governor-General of New Zealand, purporting to be printed by such Printer, shall be admitted as evidence thereof respectively by all Courts and persons acting judicially, without proof being given that such copies were so printed.

29. Proclamations, Orders in Executive Council, etc. -

(1) Prima facie evidence of any Proclamation, Order in Executive Council, order, regulation, or other instrument heretofore or hereafter made or issued by the High Commissioner or by the High Commissioner in Executive Council, and of any order, regulation or other instrument heretofore or hereafter made or issued by or under the authority of any responsible Minister of the Crown in the Cook Islands, being a member of the Executive Council, may be given in all Courts and in all legal proceedings in any of the following modes, that is to say:-

- (a) By the production of a copy of the Cook Islands Gazette purporting to contain such Proclamation, Order in Executive Council, order, regulation, or other instrument:
- (b) By the production of a copy of such Proclamation, Order in Executive Council, order, regulation or other instrument purporting to be printed by the Cook Islands Government Printer:
- (c) By the production, in the case of any Proclamation, Order in Executive Council, order, regulation, or other instrument made or issued by the High Commissioner or by the High Commissioner in Executive Council of a written copy or extract purporting to be certified by the Clerk of the Executive Council, and, in the case of any order, regulation, or other instrument made or issued by or under the authority of any responsible Minister as aforesaid, of a copy or extract purporting to be certified by such Minister or by any other responsible Minister of the Crown in the Cook Islands.

(2) Prima facie evidence of any Proclamation, Order in Executive Council, order, regulation, or other instrument heretofore or hereafter made or issued by the Governor-General of New Zealand or by the Governor-General of New Zealand in Council, and of any order, regulation, or other instrument heretofore or hereafter made or issued by or under the authority of any responsible Minister of the Crown in New Zealand may be given in all legal proceedings in any of the following modes, that is to say:-

- (a) By the production of a copy of the New Zealand Gazette purporting to contain such Proclamation, Order in Council, order, regulation, or other instrument:
- (b) By the production of a copy of such Proclamation, Order in Council, order, regulation, or other instrument purporting to be printed by the New Zealand Government Printer:
- (c) By the production, in the case of any Proclamation, Order in Council, order, regulation, or other instrument made or issued by the Governor-General of New Zealand or by the Governor-General of New Zealand in Council, of a written copy or extract purporting to be certified by the Clerk of the Executive Council of New Zealand, and, in the case of any order, regulation, or other instrument made or issued by or under the authority of any responsible Minister as aforesaid, of a copy or extract purporting to be certified by such Minister or by any other responsible Minister of the Crown in New Zealand.

30. Proof of signature, etc., not required - No proof shall be required of the handwriting or official position of any person certifying in pursuance of section 29 of this Act to the truth of any copy of or extract from any Proclamation, Order in Executive Council, Order in Council, order, regulation, or other instrument.

31. Evidence of official documents - Prima facie evidence of the making or issue of any official document purporting to be made or issued by any person purporting to be authorised or empowered in that behalf by or under any Act of the Legislative Assembly or of the Parliament of New Zealand may be given in all Courts and in all legal proceedings in any of the following modes, that is to say:-

- (a) By the production of the original document, or of one of two or more originals, purporting to be signed by the person who made or issued it:
- (b) By the production of a copy of the Cook Islands Gazette or New Zealand Gazette purporting to contain a copy of the document:
- (c) By the production of a copy of the document purporting to be printed by the Government Printer of the Cook Islands or New Zealand:

- (d) By the production of a written copy or extract purporting to be certified by the person who made or issued the document or by any other person purporting to possess the powers under which the document was made or issued.

32. Gazette notice to be evidence of act of State - Where by any Act of the Legislative Assembly or of the Parliament of New Zealand, the High Commissioner, or the High Commissioner in Executive Council, or the Governor-General of New Zealand, or the Governor-General of New Zealand in Council, or a responsible Minister of the Crown in the Cook Islands, being a member of the Executive Council of the Cook Islands, or a responsible Minister of the Crown in New Zealand, being a member of the Executive Council of New Zealand, or any other person is authorised or empowered to do, exercise, or perform any act, power, function, or duty, any Cook Islands Gazette or New Zealand Gazette purporting to contain a notice of the doing, exercise, or performance of any such act, power, function, or duty shall be prima facie evidence that the same was lawfully done, exercised, or performed.

33. Proof of certain public registers in New Zealand - (1) Any certified copy of, or certified extract from, or certificate relating to, any entry in the registers of New Zealand relating to births, deaths, marriages or adoptions shall, in any Court or before any person acting judicially, be received as prima facie evidence of the birth, death, marriage or adoption to which the copy, extract, or certificate relates.

(2) Subject to any requirements of rules of Court, any document purporting to be such a copy, or extract, or certificate as aforesaid and purporting to be certified by the seal or signature of the Registrar-General, Deputy Registrar-General, or any Registrar or Deputy-Registrar of Births and Deaths, or any Registrar of Marriages shall be received in evidence without proof of the seal or signature of the person certifying the document, and without proof of the official or other character of that person.

34. Judicial notice of certain signatures - All Courts and persons acting judicially shall take judicial notice of the signature of any of the following persons when attached or appended to any official or judicial document, namely:

- (a) The High Commissioner:
- (b) Any responsible Minister of the Crown in the Cook Islands, being a member of the Executive Council:
- (c) Any Judge or Commissioner of the High Court or Land Court:
- (d) The Advocate-General:
- (e) The Governor-General of New Zealand:
- (f) The Minister of the Government of New Zealand who is responsible for matters relating to the Cook Islands.

35. Documents may be impounded - Where any document has been received in evidence, the Court or person admitting the same may, on the request of any party against whom the same is so received, direct that such document be impounded and kept in the custody of some officer of the Court, or other proper person, until further order.

PART IV - EVIDENCE TO BE USED IN PROCEEDINGS
IN NEW ZEALAND

36. Examination of witness at request of New Zealand Court - (1) Where any civil or criminal proceedings are pending before any New Zealand Court of competent jurisdiction, and that Court is desirous of obtaining the testimony in relation to those proceedings of any witness in the Cook Islands, the High Court or a Judge thereof may order the examination of the witness upon oath, upon interrogatories, or otherwise, before any person named in the order.

(2) Such an order may be made upon the application, in accordance with the rules of the High Court of the agents in the Cook Islands of the parties to the proceeding before the New Zealand Court or, subject to those rules, upon the application of the Advocate-General.

(3) The Court or Judge may by the same or any subsequent order, or any other Judge may by any subsequent order, require the attendance of any person named in the order for the purpose of being examined, or the production of any document mentioned in the order, and may give such directions as to the time, place, and manner of the examination, and all other matters connected herewith, as it or he thinks just.

(4) Any order made under this section may be enforced in the same manner as if it were an order made by the Court or Judge in proceedings pending in the Court or before the Judge.

37. Evidence in support of application - (1) Evidence that any civil or criminal proceedings are pending in a New Zealand Court and that the Court is desirous of obtaining in relation thereto the testimony of the witness to whom the application relates may be given by any document issued by that Court, or by the certificate of the High Commissioner given in accordance with subsection (3) of this section, or by such other means as the High Court or a Judge thereof may accept.

(2) Any document purporting to be sealed with the seal of any New Zealand Court or signed by a Judge or other judicial officer or by a Registrar or other officer of the Court shall for the purposes of this section and section 36 of this Act be received in evidence without proof of the seal of the Court or of the signature of the Judge or other person, or of the judicial or official character of the Judge or other person.

(3) A certificate purporting to be signed by the High Commissioner to the effect that any matter in relation to which an application is made under section 36 of this Act is a civil or criminal proceeding pending in a Court having jurisdiction in the proceeding in New Zealand and that the Court is desirous of obtaining the testimony of the witness to whom the application relates, shall be sufficient evidence of the matters so certified.

38. Protection of witnesses - (1) Every person examined pursuant to an order made under section 36 of this Act shall have the same right to refuse to answer any question, whether on the ground that his answer might tend to incriminate him, or on the ground of privilege, or on any other ground whatsoever, as if the proceedings were pending in the High Court.

(2) No person examined pursuant to any such order shall be compelled to produce any document that he could not be compelled to produce if the proceedings were pending in the High Court.

39. Witnesses' expenses - Every witness required to attend for examination pursuant to an order made under section 36 of this Act shall be entitled to a sum for his allowance and travelling expenses and loss of time in accordance with the scale prescribed for the time being.

40. Repeals - Sections 315 to 325 (both inclusive) of the Cook Islands Act 1915 are hereby repealed.
