
ORDER 65
(R.S.C. 1978)

OBTAINING EVIDENCE FOR FOREIGN
COURTS, ETC.

Jurisdiction of Registrar to make order (O.65, r.1).

1.—(1) Subject to paragraph (2), the power of the Supreme Court or a judge thereof under any Act to make, in relation to a matter pending before a court or tribunal in a place outside the jurisdiction, orders for the examination of witnesses and for attendance and for production of documents and to give directions may be exercised by the Registrar.

(2) The Registrar may not make such an order if the matter in question is a criminal matter.

Application for order (O.65, r.2).

2.—(1) Subject to paragraph (3) and rule 3, an application for an order under rule 1 must be made ex

parte by a person duly authorised to make the application on behalf of the court or tribunal in question and must be supported by affidavit.

(2) There must be exhibited to the affidavit in support the letter of request, certificate or other document evidencing the desire of the court or tribunal to obtain for the purpose of a matter pending before it the evidence of the witness to whom the application relates or the production of any documents and, if that document is not in the English language, a translation thereof in that language.

(3) After an application for such an order as is mentioned in paragraph (1) has been made in relation to a matter pending before a court or tribunal, an application for a further order or directions in relation to the same matter must be made by summons.

Application by Attorney-General in certain cases
(O:65, r.3).

3. Where a letter or request, certificate or other document requesting that the evidence of a witness within the jurisdiction in relation to a matter pending before a court or tribunal in a foreign country be obtained—

(a) is received by a Minister of the Government and sent by him to the Registrar with an intimation that effect should be given to the request without requiring an application for that purpose to be made by the agent in The Bahamas of any party to the matter pending before the court or tribunal, or

(b) is received by the Registrar in pursuance of a Civil Procedure Convention providing for the taking of the evidence of any person in The Bahamas for the assistance of a court or tribunal in the foreign country, and no person is named in the document as the person who will make the necessary application on behalf of such a party,

the Registrar shall send the document to the Attorney-General and the Attorney-General may make an application for an order and take such other steps as may be necessary, to give effect to the request.

Person to take and manner of taking examination
(O.65, r.4).

4.—(1) Any order made in pursuance of this Order for the examination of a witness may order the examination to be taken before any fit and proper person nominated by the person applying for the order or before such other qualified person as to the Court seems fit.

(2) Subject to any special directions contained in any order made in pursuance of this Order for the examination of any witness, the examination shall be taken in manner provided by Order 39, rules 5 to 10 and 11(1) to (3), and an order may be made under Order 39, rule 14, for payment of the fees and expenses due to the examiner, and those rules shall apply accordingly with any necessary modifications.

(3) If the examination is directed to be taken before one of the examiners of the Court, Order 39, rules 17, 18 and 19, shall apply in relation to the examination.

Dealing with deposition (O.65, r.5).

5. Unless any order made in pursuance of this Order for the examination of any witness otherwise directs, the examiner before whom the examination was taken must send the deposition of that witness to the Registrar, and the Registrar shall—

(a) give a certificate sealed with the seal of the Supreme Court identifying the documents annexed thereto, that is to say, the letter of request, certificate, or other document from the court or tribunal out of the jurisdiction requesting the examination, the order of the Court for examination and the deposition taken in pursuance of the order; and

(b) send the certificate with the documents annexed thereto to the appropriate Government Minister, or, where the letter of request, certificate or other document was sent to the Registrar by some other person in accordance with a Civil Procedure Convention to that other person, for transmission to that court or tribunal.
