



REPUBLIC OF NAURU

Evidence (Confidential Information) Act 1976

Act No. 2 of 1976

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REPUBLIC OF NAURU

**Evidence (Confidential Information)
Act 1976**

Act No. 2 of 1976

An Act to prevent the compulsory disclosure of certain confidential information

Certified on 1 March 1976

Enacted by the Parliament of Nauru as follows:

1 Short title

This Act may be cited as the *Evidence (Confidential Information) Act 1976*.

2 Certain confidential information not to be required to be disclosed for purpose of foreign proceedings

(1) Where under or by virtue of any written law any person is commanded, ordered or otherwise required:

(a) to attend before any Court or judge, or before any other tribunal or person, in Nauru for the purpose of being examined as a witness in relation to any suit or matter pending before any court or other tribunal outside Nauru; or

(b) to produce to any Court or judge, or to any other tribunal or person, in Nauru any writing or other document, or any other thing whatsoever, required for the purpose of any suit or matter pending before any court or other tribunal outside Nauru;

then, notwithstanding the provisions of that written law or any other written law, that person shall not be compelled or required

to answer any such question, or to produce any such writing, other document or other thing, as is referred to in section 3.

- (2) Where any doubt arises whether a question asked, or a writing, other document or other thing to be produced, is such a question, writing, other document or other thing as is referred to in section 3, the question shall be referred for decision to the Minister, and the decision of the Minister thereon shall be binding and shall not be subject to appeal and shall not be questioned or inquired into by any Court, tribunal or person.

3 Questions, etc., which need not be answered, etc.

- (1) In the circumstances referred to in section 2 the following are the questions which a person shall not be compelled or required to answer:
 - (a) questions the answers to which will, or may, disclose information which that person is prohibited by any written law from disclosing to either or any of the parties to the proceedings in relation to which that person is being examined;
 - (b) questions relating to acts done, or information received, by the Registrar of Corporations, the Registrar of Banks or any public officer in the course of administering the provisions of the *Corporation Act 1972* or any other written law or by the Nauru Government Commercial Authority, the Republic of Nauru Finance Corporation or the Nauru Trustee Corporation or by any officer or employee thereof in connection with the business of the Authority or of either of those corporations;
 - (c) questions relating to acts done, or information received, by that person or any other person in the course of his duties, or of his business or practice, as a registered corporation agent, a registered corporation auditor, an official liquidator, a registered director or a registered corporation secretary under the *Corporation Act 1972*, or as an employee of any such person or as an officer or auditor of a corporation incorporated and registered under the *Corporation Act 1972*.
- (2) In the circumstances referred to in section 2 the writings, other documents and other things which a person shall not be compelled or required to produce are writings, other documents and other things containing information in respect of which, by virtue of subsection (1) of that section, that person, or any other

person, could not be compelled or required to answer questions, or from which the details of such information as is referred to in the preceding subsection might be derived or deduced.

- (3) In this section reference to a corporation incorporated and registered under the *Corporation Act 1972* is to be taken as reference to a corporation which has at any time been so incorporated and registered, whether or not it has ceased to be so incorporated and registered.

4 Certain confidential information not to be required to be disclosed in proceedings in Nauru

- (1) In proceedings in any Court of the Republic, or before any judge, magistrate or other person or before any tribunal in Nauru, a person shall not be required to answer any such question as is referred to in subsection (1) of section 3 unless:
- (a) the information which will be disclosed by the answer relates only to the affairs of a corporation incorporated and registered under the *Corporation Act 1972* as a trading corporation;
 - (b) where the information which will be disclosed by the answer relates to the affairs of a corporation incorporated and registered under the *Corporation Act 1972* as a holding corporation, all the parties to the proceedings are shareholders of, or holders of debentures issued by, that corporation, or one party is such a share-holder or debenture-holder and the other is that corporation, or one of the parties to the proceedings satisfies the Court, judge, magistrate or tribunal that injustice would result if the information were not disclosed, and none of the parties is a government of a foreign state, a department or agency of such a government or the nominee or representative of any such government, department or agency; or
 - (c) the Republic, a Minister, the Registrar of Corporations, the Registrar of Banks, the Nauru Government Commercial Authority or the Republic of Nauru Finance Corporation, or any person on its or his behalf, or a public officer in the course of his duties as such, is a party to the proceedings.
- (2) In this section:
- (a) **'foreign state'** means a state other than Nauru, whether a member of the Commonwealth or not, and, in the case of

a state having a federal constitution, includes any of the units constituting the federation; and

- (b) a reference to a corporation incorporated and registered under the *Corporation Act 1972* is to be taken as reference to a corporation which has at any time been so incorporated and registered, whether or not it has ceased to be so incorporated and registered.

5 Privilege independent of this Act not affected

Nothing in this Act shall be taken as requiring any person to give any evidence, or to produce any writing, other document or other thing, which, but for the provisions of this Act, he would be entitled to refuse to give or produce.