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TABLE OF AMENDMENTS

The Evidence (Confidential Information) Act 1976 No 2 was certified and commenced on 1 March 1976 (GN No 52/1976; Gaz 12/1976).

Amending Legislation	Certified	Date of Commencement
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021

An Act to prevent the compulsory disclosure of certain confidential information.

Enacted by the Parliament of Nauru as follows:

1 Short title and commencement

This Act may be cited as the *Evidence (Confidential Information) Act 1976* and came into effect on 1 March 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 a person is commanded, ordered or otherwise required:

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

(b) to produce to any court or Judge, or to any other tribunal or person, in the Republic any writing or other document, or any other thing whatsoever, required for the purpose of any suit or matter pending before a court or other tribunal outside the Republic,

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, in Section 3.

(2) Where any doubt arises in a question asked, or in relation to a writing, document or other thing to be produced, such a question, writing, document or other thing referred to in Section 3, shall be referred for decision to the Minister, and the decision of the Minister shall be binding, 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 *Corporations Act 1972* or any other written law or by any officer or employee thereof in connection with the business of the Authority or of either of those corporations; and

(c) questions relating to acts done, or information received, by that person or any other person in the course of his or her duties, or of his or her 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 *Corporations Act 1972*, or as an employee of any such person or as an officer or auditor of a corporation incorporated and registered under the *Corporations Act 1972*.

(2) In the circumstances referred to in Section 2, the writings, documents and other things which a person shall not be compelled or required to produce are writings, documents and other things containing information in respect of which, by virtue of Section 2(1), 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 subsection (1), might be derived or deduced.

(3) In this Section, reference to a corporation incorporated and registered under the *Corporations 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 the Republic

(1) In proceedings in any court of the Republic, or before any Judge, magistrate or other person or before any tribunal in the Republic, a person shall not be required to answer any such question as is referred to in Section 3(1), unless:

(a) the information which will be disclosed by the answer relates only to the affairs of a corporation incorporated and registered under the *Corporations 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 *Corporations 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 shareholder 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 or a person on its or his or her behalf, or a public officer in the course of his or her duties as such, is a party to the proceedings.

(2) In this Section:

(a) ***'foreign state'*** means a state other than the Republic, 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 *Corporations 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 a person to give any evidence, or to produce any writing, document or other thing, which, but for the provisions of this Act, he or she would be entitled to refuse to give or produce.