

# ACT NO. X OF 1932.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 8th April, 1932.)

## An Act further to amend the Code of Civil Procedure, 1908, for a certain purpose.

**W**HEREAS it is expedient further to amend the Code of Civil Procedure, 1908, for the purpose hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Code of Civil Procedure (Amendment) Act, 1932. Short title.

2. In section 78 of the Code of Civil Procedure, 1908 (hereinafter referred to as the said Code),— Amendment of section 78, Act V of 1908.

(a) before the words "The provisions" the words "Subject to such conditions and limitations as may be prescribed," shall be inserted;

(b) after the words "issued by" the words "or at the instance of" shall be inserted; and

(c) in clause (c), the words "for the time being in alliance with His Majesty" shall be omitted.

3. In Order XXVI of the First Schedule to the said Code, the following heading and rules shall be added, namely:— Insertion of new rules in Order XXVI of the First Schedule, Act V of 1908.

*"Commissions issued at the instance of Foreign Tribunals.*

19. (1) If a High Court is satisfied—

(a) that a foreign court situated in a foreign country wishes to obtain the evidence of a witness in any proceeding before it,

(b) that the proceeding is of a civil nature, and

(c) that the witness is residing within the limits of the High Court's appellate jurisdiction,

it may, subject to the provisions of rule 20, issue a commission for the examination of such witness.

(2) Evidence

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(2) Evidence may be given of the matters specified in clauses (a), (b) and (c) of sub-rule (1)—

- (a) by a certificate signed by the consular officer of the foreign country of the highest rank in India and transmitted to the High Court through the Governor General in Council, or
- (b) by a letter of request issued by the foreign court and transmitted to the High Court through the Governor General in Council, or
- (c) by a letter of request issued by the foreign court and produced before the High Court by a party to the proceeding.

20. The High Court may issue a commission under rule 19—

- (a) upon application by a party to the proceeding before the foreign court, or
- (b) upon an application by a law officer of the Local Government acting under instructions from the Local Government.

21. A commission under rule 19 may be issued to any court within the local limits of whose jurisdiction the witness resides, or, where the High Court is established under the Indian High Courts Act, 1861, or the Government of India Act, 1915, and the witness resides within the local limits of its ordinary original civil jurisdiction, to any person whom the court thinks fit to execute the commission.

22. The provisions of rules 6, 15, 16, 17 and 18 of this Order in so far as they are applicable shall apply to the issue, execution and return of such commissions, and when any such commission has been duly executed it shall be returned, together with the evidence taken under it, to the High Court, which shall forward it to the Governor General in Council, along with the letter of request for transmission to the foreign court."