

CAYMAN ISLANDS



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Wednesday 29th August 1984.

**THE NARCOTIC DRUGS (EVIDENCE)  
(UNITED STATES OF AMERICA)  
LAW, 1984  
(LAW 17 OF 1984)**



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(12) The entries on the documents attached hereto were made by persons with knowledge of the matters recorded, or from information transmitted by persons with such knowledge.

(13) The persons making the entries on the documents or transmitting the information for purposes of recording it were acting in the course of the regularly conducted business or activity.

(14) The entries on these documents were made at or near the time of the matters recorded, pursuant to a systematic and routine procedure for the conduct of the business.

(15) The documents attached hereto were kept in the course of the regular activity of this business.

.....  
(Date) (Signature)

Delete or amend the above paragraphs as applicable.

Passed by the Legislative Assembly this 17th day of August, 1984.

**PETER LLOYD**  
President

**GAY JACKSON**  
Clerk of the Legislative Assembly

**THE NARCOTICS DRUGS (EVIDENCE)  
(UNITED STATES OF AMERICA) LAW 1984**

**ARRANGEMENT OF SECTIONS**

- Section
- 1. Short title.
  - 2. Interpretation.
  - 3. Application of this Law.
  - 4. Procedure in respect of request for documentary evidence.
  - 5. Authentication and attestation of official records.
  - 6. Authentication and attestation of documentary information other than official records.
  - 7. Foundation Testimony.
  - 8. Protection for persons disclosing confidential information.
  - 9. Restriction of application of Laws No. 16 of 1967 and No. 26 of 1979.
  - 10. Enforcement.
- First Schedule.  
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- (2) .....  
(Name of business, activity, or person from whom documents are sought.)  
engages in the regular business of .....  
(describe business or activity).
- (3) My official title is .....
- (4) My duties and responsibilities include .....  
(describe relationship to books and records ie. Custodian of books and records, or supervision over books and records, etc.)
- (5) As a result of my duties and responsibilities I have knowledge of the manner in which the books and records are kept.
- (6) The attached documents are original (or true copies of original) documents which I obtained from the custody and control of .....  
(Name of business, activity, or person from whom documents are sought).
- (7) The attached documents are .....  
(description of documents)  
.....  
e.g. "Ledger of the checking account of John Doe for the month of July, 1983."
- (8) It is a regular practice of this business to make and keep .....  
..... in the  
(description of document.)  
  
following manner .....  
(Describe manner in which documents or  
.....  
categories of documents are made and kept.)
- (9) It is the regular practice of the business to base its records upon information transmitted by a person with knowledge of the matters recorded, who was acting in the course of the regularly conducted business activity.
- (10) It is the regular practice of the business to check the correctness of documents of the kind attached hereto.
- (11) It is the regular practice of the business to rely on records of the kind attached hereto.

may, if necessary, liaise with the Assistor to help in the identification of documentary information to which a Certificate relates, and such prosecutor may also liaise with the Cayman Islands Commissioner of Police, if he considers it necessary.

5. Promptly upon receipt from the Assistor of any documentary information to which a Certificate relates, the Attorney-General of the Cayman Islands shall send the same to the Attorney General of the United States.

**THIRD SCHEDULE  
(FORM A)  
(Section 5)  
ATTESTATION OF AUTHENTICITY OF  
OFFICIAL RECORDS**

I, .....  
attest that my position with the Government of the Cayman Islands  
is .....  
(Official Title)

and that in that position I am authorised by the law of the Cayman Islands/United Kingdom to attest that the documents attached hereto and described below-

(a) are true copies of original official records which are authorised by the law of the Cayman Islands/United Kingdom to be recorded or filed in .....  
(Name of Public Office or Agency)  
which is a public office or agency;

(b) set forth matters which are required by the law of the Cayman Islands / United Kingdom to be recorded or filed and reported.  
Description of Documents:

.....  
Signature  
.....  
Date

**FORM B  
AFFIDAVIT WITH RESPECT TO DOCUMENTS OF A REGU-  
LARLY CONDUCTED ACTIVITY**

**[NOTE: AFFIDAVIT MUST BE EXECUTED BY CUSTODIAN  
OF RECORDS OR SUCH OTHER PERSON WHO CAN EX-  
PLAIN THE RECORD KEEPING PROCEDURE]**

I ..... \*(swear) \*(affirm)  
\*(on penalty of perjury) \*(on my oath) as follows:  
(1) I am employed by .....  
(Name of business, activity, or person from whom documents are sought).

Law 17 of 1984

I assent

**PETER LLOYD**

Governor

27th August, 1984

**A LAW TO FACILITATE THE OBTAINING OF  
EVIDENCE REQUIRED IN OR FOR THE PURPOSE OF IN-  
VESTIGATIONS AND PROCEEDINGS IN THE UNITED  
STATES OF AMERICA IN PURSUANCE OF OBLIGATIONS  
UNDER THE SINGLE CONVENTION ON NARCOTIC  
DRUGS, 1961, AS AMENDED BY THE PROTOCOL OF 25  
MARCH, 1972, AND FOR PURPOSES CONNECTED THERE-  
WITH AND INCIDENTAL THERETO.**

ENACTED by the Legislature of the Cayman Islands.

Short Title.

1. This Law may be cited as the Narcotic Drugs (Evidence) (United States of America) Law, 1984.

Interpretation.

2. In this Law, unless the context otherwise requires -

“the Agreement” means the Agreement, made the 26th day of July, 1984, between the Government of the United Kingdom of Great Britain and Northern Ireland including the Cayman Islands and the Government of the United States of America, concerning the Cayman Islands and matters connected with, arising from, related to, or resulting from narcotics activity such as is mentioned in the Convention;

“Assistor” means a person from whom documentary information is sought under the terms of a Certificate;

“Certificate” means a document issued by the Attorney General of the United States, as described in section 4;

“the Convention” means the Single Convention on Narcotic Drugs, 1961, as amended by the Protocol of 25 March, 1972;

“documentary information” includes, but is not limited to, any document, memorandum, report, record or data compilation in any form, and any plan, graph, drawing or photograph, and any disc, tape or other device for audio reproduction or computer use, and any film, negative, tape or other device for visual image reproduction;

“foundation testimony” means testimony given by a witness solely for the purpose of securing the acceptance as admissable evidence in proceedings in the United States of documentary information referred to in a Certificate;

“official records” means -

(a) publicly available records of the Government of the Cayman Islands, and of its departments and agencies; and

(b) -any records or information in the possession of the Government of the Cayman Islands and of its departments and agencies which are not publicly available, but which the Government of the Cayman Islands may make available, subject to any such terms and conditions as it may specify;

“United States” means the United States of America.

Application of this Law.

3. This Law shall apply in relation to proceedings in respect of all criminal offences or ancillary civil or administrative proceedings or investigations undertaken by the Government of the United States or its agencies connected with, arising from, related to or resulting from any narcotics activity referred to in Article 36 of the Convention and falling within the jurisdiction of the United States.

Procedure in respect of request for documentary information.

4. Upon the receipt by the Attorney-General of the Cayman Islands of a Certificate from the Attorney General of the United States, in the Form and manner in the First Schedule that he has reason to believe that -

First Schedule.

- (a) person or persons identified to the Attorney General of the United States are involved in a matter to which this law applies; and
- (b) documentary information relevant to the investigation or resolution of that matter is located in the Cayman Islands,

Second Schedule.

the Attorney-General of the Cayman Islands shall promptly act upon the request contained in the Certificate in accordance with the procedure set out in the Second Schedule.

General of the United States or his designee as being relevant to the resolution of the matter in hand.

3. The said documentary information will not be used or disclosed by the United States Government or its agencies for any purposes other than the resolution of matters encompassed by the said Agreement without the written consent of the Government of the Cayman Islands through the Attorney-General of the Cayman Islands.

SCHEDULE

(Signed)  
Attorney General of  
the United States of  
America

SECOND SCHEDULE

(Section 4)

PROCEDURE UPON RECEIPT OF A CERTIFICATE

1. Upon receipt of a Certificate by the Attorney-General of the Cayman Islands, he shall issue a notice to the Assistor requiring the Assistor to produce to him the documentary information requested pursuant to the Certificate, which is in the Assistor’s possession, custody or control, within fourteen days of the date of such notice, unless that period is extended for good reason, with the concurrence of the Attorney General of the United States, or is shortened by the Attorney-General of the Cayman Islands .

2. The Attorney-General of the Cayman Islands shall not notify the Assistor of the issue of a Certificate prior to the issue of the notice referred to in paragraph 1 of this Schedule, unless the Attorney General of the United States or his authorised representative agrees in writing to such notification.

3. An Assistor or other person and any attorney instructed by him in that behalf shall not notify any other person of the issue of the Certificate, or the said notice, the documentary information required, or any communications in connection with the enquiry, for a period of ninety days from the date of the Certificate , or for a further period of ninety days on request in that behalf made to the Attorney-General of the Cayman Islands, by the Attorney General of the United States, or his authorised representative, or for such further period or periods as may be mutually agreed between the said Attorneys General and communicated to the Assistor and this paragraph shall be binding on an attorney as if he were an Assistor.

4. With the written consent of the Attorney General of the Cayman Islands, the relevant United States Government prosecutor

8 (ii) in respect of Grand Jury proceedings, identify those proceedings by Grand Jury number, and in respect of an indictment, identify such indictment by caption and docket number;

(iii) certify that the Attorney General of the United States has reason to believe that a matter falling within the scope of the Agreement has arisen;

(iv) request that the Attorney-General of the Cayman Islands secure the documents identified by the Attorney General of the United States;

(v) declare that the information is relevant to the successful resolution of the matter; and

(vi) undertake that, save with the consent of the Government of the Cayman Islands, the information will not be used for any purposes other than the resolution of matters encompassed by the Agreement.

2. Only one Certificate shall be required to enable the production of the documentary information relating to the matter which is the subject of the Certificate.

3. The Certificate shall be drawn in the following manner:

**CERTIFICATE**

Grand Jury Number:/  
Indictment Caption and  
Docket Number:

Having regard to the provisions of the Agreement between the Governments of the United States of America and the United Kingdom of Great Britain and Northern Ireland including the Cayman Islands dated 26 July, 1984, I ..... the Attorney General of the United States of America, hereby certify as follows:

1. I have reason to believe that individuals and entities, identified by United States law enforcement officers, are involved in a matter falling within Article 36 of the Single Convention on Narcotic Drugs, 1961, as more fully described in the Agreement.

2. I request that you, the Attorney-General of the Cayman Islands, secure to me, the Attorney General of the United States, that documentary information believed by me to be held by the following person/s ..... which is described in the Schedule hereto and believed by me to be relevant to the resolution of the matter in hand, as well as other documentary information subsequently identified by the Attorney

Authentication and  
attestation of official  
records.

Third Schedule  
Form A.

Authentication and  
attestation of  
documentary infor-  
mation other than of-  
ficial records.

Third Schedule  
Form B.

Foundation  
Testimony.

5 5. Official records produced in response to a Certificate shall be authenticated in the Cayman Islands by the Attorney-General of the Cayman Islands or by a public officer authorised in writing by him in that behalf. The authentication in such case shall be in Form A set out in the Third Schedule and shall comply with the Convention Abolishing the Requirement for Legalisation of Foreign Public Documents dated, at The Hague, 5 October, 1961.

6. Documentary information other than official records produced by an Assistor in response to a Certificate shall be authenticated in the Cayman Islands, by a person designated in that behalf by the Attorney-General of the Cayman Islands, in the manner provided in Form B set out in the Third Schedule.

7. (1) Foundation testimony, with respect to documents to which this Law relates, shall be by way of affidavit, depositions taken in the Cayman Islands, voluntary appearance by a witness at proceedings in the United States in respect of matters to which this Law applies, or in accordance with such other procedure as may be agreed between the Government of the United States and the Governments of the United Kingdom and of the Cayman Islands.

(2) At the request of the Attorney General of the United States, or his designee, the Attorney-General of the Cayman Islands may request an Assistor or other person designated in that behalf by the Attorney-General of the Cayman Islands at a place and at a time not less than 21 days after the date of such request -

(a) to swear an affidavit in the Cayman Islands containing such recitals as are notified to him by the Attorney-General of the Cayman Islands as being necessary for such foundation testimony;

(b) to make a deposition in the Cayman Islands in conformity with the requirements of Rule 15 of the Federal Rules of Criminal Procedure of the United States.

(3) An Assistor or other person who provides foundation testimony in the Cayman Islands under the provisions of this section shall enjoy in the Cayman Islands the same rights and protection under the law of the Cayman Islands as regards immunity, self-incrimination, privilege or incapacity and the right to consult and be represented by an attorney as would be enjoyed by or afforded to a witness in any proceedings in the Grand Court of the Cayman Islands. Disputed claims under this subsection shall be made to and adjudicated upon by the Grand Court in Chambers.

(4) An Assistor who provides foundation testimony in the Cayman Islands under the provisions of this section or who provides such testimony in proceedings in the United States shall enjoy, in accordance with and to the full extent allowed under United States law, the protection of United States law as regards immunity, self-incrimination, privilege and incapacity. This provision shall be in ad-

dition to and not in derogation of the provisions of subsection (3) of this section. Any judicial determination in respect of such protection shall be made according to United States law by the judicial authorities of the United States.

(5) Any claim made under the provisions of subsections (3) and (4) of this section shall be adjudicated in the expedited manner. The Attorney General of the United States or his designee may appear as a witness and produce such evidence or testimony as the court may allow.

(6) Pending the final adjudication of any claim made under the provisions of this section the Assistor or other person shall provide all that foundation testimony required from him not being the subject of the claim being so adjudicated.

8. A person who divulges any confidential information in conformity with a Certificate or who gives any foundation testimony under the provisions of this Law shall be deemed not to commit any offence under the Confidential Relationships (Preservation) Law, or under any other law for the time being in force in the Cayman Islands, by reason only of such disclosure or the giving of such testimony, and shall be deemed not to commit any offence under section 10 of the Banks and Trusts Companies Regulation Law (Revised) by reason only of such disclosure or the giving of such testimony; and such disclosure or testimony shall be deemed not to be a breach of any confidential relationship between that person and any other person, and no civil claim or action whatsoever shall lie against the person making such disclosure or giving such testimony or against such person's principal or employer by reason only of such disclosure or testimony.

9. Section 3A of the Confidential Relationships (Preservation) Law shall be deemed not to apply to confidential information given by any person for the purposes of any proceedings to which this Law applies when such confidential information is given in compliance with a Certificate under section 4 or in accordance with the provisions of section 7(2).

10. (1) Any Assistor who, after being served by the Attorney-General of the Cayman Islands with a notice to produce any documentary information pursuant to a Certificate, fails, without reasonable excuse, to produce such information which is within his possession or custody or control, shall be guilty of an offence and liable on summary conviction to a fine not exceeding ten thousand dollars or to imprisonment for a period not exceeding two years, or to both such fine and imprisonment.

(2) Any Assistor who, contrary to the terms of paragraph 3 of the Second Schedule, informs any person other than his attorney of the fact of the issue of a Certificate or of any other communication relevant to the matter to which the Certificate relates, shall be guilty of an offence and liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a period not exceeding six months, or to both such fine and imprisonment.

(3) Where any documentary information has not been produced as requested in pursuance of a notice served under this Law, the Attorney-General of the Cayman Islands or any police officer of the rank of Inspector or above acting on his instructions may apply to any court or Justice of the Peace for the issue of a warrant to search for and seize any such documentary information, and thereupon the court or the Justice of the Peace shall issue a warrant to search for and seize the information concerned. Such warrant, mutatis mutandis, shall be in form similar to, and shall confer the same powers of entry, search and seizure as, a search warrant issued under section 24 of the Criminal Procedure Code.

Any documentary information seized under such warrant shall be brought immediately to the Attorney-General of the Cayman Islands who shall immediately convey it to the Attorney General of the United States in conformity with the requirement of the Certificate.

(4) An Assistor or other person designated in that behalf by the Attorney-General of the Cayman Islands in accordance with subsection (2) of section 7, who, when required so to do, without reasonable cause, refuses to provide foundation testimony, as mentioned in subsection (2) of section 7, shall be guilty of an offence and liable on summary conviction to a fine not exceeding five thousand dollars or to imprisonment not exceeding one year or to both such fine and imprisonment.

(5) For the purposes of subsections (1) and (3) of this section service of the notice shall be sufficient if delivered by hand or posted by registered post to the registered or other office of the Assistor. Affidavit testimony of delivery of the notice by hand or supporting the registration certificate shall be deemed sufficient proof of such service.

**FIRST SCHEDULE**  
**(Section 4)**  
**REQUEST AND CERTIFICATE**

1. The Certificate shall -
- (i) be signed by the Attorney General of the United States;

Protection for persons disclosing confidential information.

Restriction on application of Laws No. 16 of 1967 and No. 26 of 1979.

Enforcement.

Law No. 13 of 1975.