



ANALYSIS

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2004, No. 8

An Act to amend the Mutual Assistance in Criminal Matters Act 2003

(1 June 2004)

BE IT ENACTED by the Parliament of the Cook Islands in Session assembled, and by the authority of the same, as follows:

1. Short Title - This Act may be cited as the Mutual Assistance in Criminal Matters Amendment Act 2004 and shall be read together with and deemed part of the Mutual Assistance in Criminal Matters Act 2003 (hereinafter called "the Principal Act").

2. Objects of Act - Section 2 of the principal Act is amended by deleting sub-paragraph (iii) of paragraph (a), and substituting the following sub-paragraph -

"(iii) the forfeiture or confiscation, whether on a civil or criminal basis, of property that is the proceeds of a serious offence against the law of the foreign country;"

3. Act does not limit other provision of assistance – Section 4 of the principal Act is amended by adding a new subsection (2) as follows -

“(2) The Cook Islands may render international assistance in criminal matters notwithstanding the absence of any treaty, agreement or other arrangement between the Cook Islands and the foreign country.”

4. Requests by the Cook Islands for search and seizure – Section 17 of the principal Act is amended by deleting from subsection (1), the words “involving a serious offence”.

5. Requests by foreign countries for search and seizure - Section 18 of the principal Act is amended by deleting from subsection (1), the words “involving a serious offence”.

6. Delegation – Section 58 is repealed and the following new section substituted –

“58. Delegation – Without limiting the provisions of section 4 of the Acts Interpretation Act 1924, the Attorney General may delegate to the Solicitor General, any of the Attorney General’s powers under this Act.”

7. Avoidance of duplicity – The principal Act is amended by inserting after section 59, the following new section -

“59A. Avoidance of duplicity – Where the Attorney-General receives from a foreign country a request pursuant to Part 3, 4 or 7 of this Act and acts upon the request, the execution of such request by the Attorney-General shall exclude the same request being executed under any other legislation.”

8. Secrecy provisions over-ridden – The principal Act is amended by inserting after section 60, the following new section -

“60A. Secrecy provisions over-ridden - (1) For the avoidance of doubt, a reporting institution must comply with the requirements of this Act despite any obligation as to secrecy or other restriction on the disclosure of information imposed by any written law or otherwise.

(2) For purposes of this section, “reporting institution” has the same meaning given by section 2 of the Financial Transactions Reporting Act 2004.”

This Act shall be administered by the Crown Law Office