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Mutual Assistance in Criminal Matters Act 2005.

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INDEPENDENT STATE OF PAPUA NEW GUINEA

No. 22 of 2005

Mutual Assistance in Criminal Matters Act 2005.

ARRANGEMENT OF SECTIONS.

PART I. – PRELIMINARY.

1. Compliance with Constitutional requirements.
2. Application.
3. Definitions.
4. Authorised officers.
5. Act not to limit other provision of assistance.

PART II. – REQUESTS FOR ASSISTANCE GENERALLY.

6. Requests by Papua New Guinea for assistance.
7. Requests by foreign countries for assistance.
8. Assistance may be provided subject to conditions.
9. Refusal of assistance generally.
10. Refusal of assistance – Minister's discretion.
11. Requests by foreign countries for provision of material lawfully obtained.

PART III. – ASSISTANCE WITH TAKING EVIDENCE AND PRODUCTION OF DOCUMENTS OR OTHER ARTICLES.

12. Request by Papua New Guinea for assistance with evidence.
13. Requests by foreign countries for assistance with evidence.
14. Taking evidence.
15. Production.
16. Conduct of proceedings.
17. Exceptions to compulsion.
18. Foreign law immunity certificates.

PART IV. – ASSISTANCE FOR SEARCH AND SEIZURE.

19. Requests by Papua New Guinea for search and seizure.
20. Requests by foreign countries for search and seizure.

Mutual Assistance in Criminal Matters

21. Search warrants.
22. Availability of assistance and use of force in executing a warrant.
23. Custody of things seized.

**PART V. – ARRANGEMENTS FOR PERSONS TO GIVE
EVIDENCE OR ASSIST INVESTIGATIONS.**

24. Requests for removal of certain persons to Papua New Guinea.
25. Custody of certain persons.
26. Immunities.
27. Status of person prosecuted for offence committed after leaving foreign country.
28. Limitation on use of evidence or assistance given by certain persons.
29. Conditions of imprisonment.
30. Release of certain persons on request by foreign country.
31. Arrest of person who has escaped from custody.

Division 1. – Requests by foreign countries.

32. Requests for certain persons to give evidence or assistance in foreign countries.
33. Travel of prisoner or person.
34. Undertakings to be given.
35. Removal to foreign country continues prisoner's term of imprisonment.

PART VI. – CUSTODY OF PERSONS IN TRANSIT.

36. Transit.
37. Requirements for transit.
38. Arrest of person in transit.

PART VII. – ASSISTANCE REGARDING PROCEEDS OF CRIME.

Division 1. – Request by Papua New Guinea.

39. Requests for enforcement of orders.
40. Requests for issue of orders in foreign countries.

Division 2. – Requests by foreign countries.

41. Requests for enforcement of orders.
42. Registration of foreign orders.
43. How a foreign order is registered.
44. Effect of registration.
45. Amendment of foreign orders.
46. Cancellation of registration.
47. Requests for search and seizure warrants for tainted property.
48. Requests for restraining orders.
49. Requests for information gathering orders.

Mutual Assistance in Criminal Matters

PART VIII. – REQUESTS BY OR FOR A DEFENDANT.

- 50. Requests by Minister for a defendant.
- 51. Certificate by Minister if foreign country refuses request made under Section 50.

PART IX. – ADMISSIBILITY OF FOREIGN EVIDENCE.

- 52. Application of Part 9.
- 53. Definitions for Part 9.
- 54. Requirements for testimony.
- 55. Form of testimony.
- 56. Foreign material may be adduced as evidence.
- 57. Direction to prevent foreign material being adduced as evidence.
- 58. Certificates relating to foreign material.
- 59. Effect of Part on right to examine witnesses.
- 60. Operation of other laws.

PART X. – MISCELLANEOUS.

- 61. Aiding person to escape etc.
- 62. Authentication of documents.
- 63. Restriction on use of information etc.
- 64. Requests for international assistance not to be disclosed.
- 65. Regulations.



INDEPENDENT STATE OF PAPUA NEW GUINEA.

No. 22 of 2005

AN ACT

entitled

Mutual Assistance in Criminal Matters Act 2005,

Being an Act –

- (a) to regulate the provision by Papua New Guinea of international assistance in criminal matters when a request is made by a foreign country; and
- (b) to regulate the provision by Papua New Guinea of international assistance in criminal matters when a request is made by a foreign country for the making of arrangements for a person who is in Papua New Guinea to travel to the foreign country to give evidence in a proceeding or to give assistance in relation to an investigation; and
- (c) to facilitate the obtaining by Papua New Guinea of international assistance in criminal matters,

and for related purposes,

MADE by the National Parliament to come into operation in accordance with a notice in the National Gazette by the Head of State, acting with, and in accordance with, the advice of the Minister.

PART 1. – PRELIMINARY.

1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.

For the purpose of Section 38 of the *Constitution*, this Act is a law that is made to give effect to the public interest in public order and public welfare to the extent that it regulates or restricts any of the following rights or freedoms:

- (a) the freedom from arbitrary search and entry conferred by Section 44 of the *Constitution*; and
- (b) the right to privacy conferred by Section 49 of the *Constitution*; and
- (c) the right to freedom of movement conferred by Section 52 of the *Constitution*; and

Mutual Assistance in Criminal Matters

- (d) the right to compensation conferred by Section 58 of the *Constitution*; and
- (e) the protection from unjust deprivation of property conferred by Section 53 of the *Constitution*,

is a law that is made for the purposes of complying with Section 38 of the *Constitution*, taking account of the National Goals and Directive Principles and Basic Social Obligations, in particular to restrict rights and freedoms of persons in certain circumstances according to Law from exercising their rights and freedoms for the purpose of giving effect to the public interest in public order and public welfare, to the extent that the law is reasonably justifiable in a democratic society having proper respect or regard for the right and dignity of mankind.

(2) For the avoidance of doubt, it is hereby declared that this *Organic Law* acknowledges that all citizens in Papua New Guinea are entitled to the fundamental rights and freedoms, irrespective of their race, tribe, places of origin, political opinion, colour, creed or sex, but subject to respect for the rights and freedoms of others and for the legitimate national or public interest, is a law made in accordance with the *Constitution* designed to place limitations on those rights and freedoms referred to in Subsection (1), being limitations primarily designed to ensure that the enjoyment of the acknowledged rights and freedoms by an individual does not prejudice the rights and freedoms of others or the legitimate national or public interest.

2. APPLICATION.

(1) This Act applies to all foreign countries.

(2) If Papua New Guinea has entered into a mutual assistance treaty with a foreign country, and regulations have been made under this Act to give effect to that treaty, then the Act applies subject to those regulations.

3. DEFINITIONS.

(1) In this Act unless contrary intention appear –

“authorised officer” means a person authorised under Section 4;

“country includes”:

- (a) a colony, territory or protectorate of a country; and
- (b) a territory, if a country is responsible for its international relations; and
- (c) a ship or aircraft owned by, or registered in, a country; and
- (d) the International Criminal Court;

“court” means a court of competent jurisdiction.

“criminal matter” includes any of the following matters (arising under Papua New Guinea law or a law of another country):

- (a) a criminal matter relating to revenue (including taxation and customs duties;
- (b) a criminal matter relating to foreign exchange control;
- (c) a matter relating to the forfeiture or confiscation of property in respect of an offence;

Mutual Assistance in Criminal Matters

(d) the imposition or recovery of a pecuniary penalty in respect of an offence;

(e) the restraining of dealings in property or the freezing of assets, that may be forfeited or confiscated, or that may be needed to satisfy a pecuniary penalty order in respect of an offence;

“foreign forfeiture order” means an order or declaration, made under the law of a foreign country, for the forfeiture of property in respect of an offence against the law of that country;

“foreign indictable offence” means an offence against the law of another country that, if the relevant act or omission had occurred in Papua New Guinea, would be an indictable offence;

“foreign law immunity certificate” means a certificate or a declaration:

(a) given or made:

(i) by a foreign country; or

(ii) under a law of a foreign country; and

(b) stating that, under the law of the foreign country, persons generally or a specified person could or could not, either generally or in specified proceedings or circumstances, be required:

(i) to answer a specified question; or

(ii) to produce a specified document or other article;

“foreign pecuniary penalty order” means an order made under the law of a foreign country for a person to pay to the foreign country an amount representing the value (or part of the value) of what the person gained from an offence against the law of that country.

“foreign prisoner” means a person who:

(a) is being held in custody pending trial or sentence for an offence against a law of a foreign country; or

(b) is under a sentence of imprisonment for an offence against a law of a foreign country,

but does not include a person who is at large after having escaped from lawful custody;

“foreign restraining order” means an order made under the law of a foreign country, about an offence against the law of that country, restraining a particular person, or all persons, from dealing with property;

“indictable offence” means an offence against the law of Papua New Guinea:

(a) that may be prosecuted on indictment; and

(b) for which the maximum penalty is death or a term of imprisonment for at least 1 year;

“Minister” means the Minister for Justice;

“police officer” means a member of the Royal Papua New Guinea Constabulary;

“premises” includes a vehicle;

“prison” means a gaol, lock-up or other place of detention;

“prisoner” means a person who:

(a) is being held in custody pending trial or sentence for an offence against a law of Papua New Guinea; or

Mutual Assistance in Criminal Matters

(b) is under a sentence of imprisonment for an offence against a law of Papua New Guinea,

but does not include a person who is at large, having escaped from lawful custody.

“*Proceeds of Crime Act*” means the *Proceeds of Crime Act 2005*.

requesting country, for a request for assistance, means the country that makes the request;

“trial, for an offence in a foreign country”, includes a proceeding to determine whether a person should be convicted of the offence;

“video link” means a system that allows persons assembled in a place to see, hear and speak to persons assembled in another place;

(2) In this Act, the following words and expressions have the same meanings as in the *Proceeds of Crime Act*:

- (a) document;
- (b) forfeiture order;
- (c) pecuniary penalty order;
- (d) proceedings;
- (e) proceeds;
- (f) property;
- (g) property-tracking document;
- (h) restraining order;
- (i) serious offence;
- (j) tainted property.

4. AUTHORISED OFFICERS.

The Commissioner of Police may authorise a police officer to perform 1 or more functions under this Act.

5. ACT NOT TO LIMIT OTHER PROVISION OF ASSISTANCE.

This Act does not limit the provision or obtaining of international assistance in criminal matters other than assistance of a kind that may be provided or obtained under this Act.

PART II. – REQUESTS BY PAPUA NEW GUINEA FOR ASSISTANCE.

6. REQUESTS BY PAPUA NEW GUINEA FOR ASSISTANCE.

A request for international assistance in a criminal matter that Papua New Guinea is authorised to make under this Act may be made only by the Minister or a person authorised in writing by the Minister to make such a request.

7. REQUESTS BY FOREIGN COUNTRIES FOR ASSISTANCE.

(1) A request under this Act by a foreign country for international assistance

Mutual Assistance in Criminal Matters

in a criminal matter must be made to the Minister or a person authorised by the Minister to receive requests by foreign countries under this Act.

(2) A request must be in writing and must include the following information:

- (a) the name of the authority concerned with the criminal matter to which the request relates;
- (b) a description of the nature of the criminal matter and a statement setting out a summary of the relevant facts and laws including the maximum penalty for each criminal offence;
- (c) a description of the purpose of the request and of the nature of the assistance being sought;
- (d) any information that may assist in giving effect to the request.

(3) Failure to comply with Subsection (2) is not a ground for refusing the request, but the Minister is not obliged to consider the request until the subsection is complied with.

(4) If a foreign country makes a request to a person authorised under subsection (1), the request is taken, for this Act, to have been made to the Minister.

(5) If a foreign country makes a request to the Court for international assistance in a criminal matter:

- (a) the Court must refer the request to the Minister; and
- (b) the request is then taken, for this Act, to have been made to the Minister.

8. ASSISTANCE MAY BE PROVIDED SUBJECT TO CONDITIONS.

Assistance under this Act may be provided to a foreign country subject to any conditions that the Minister determines.

9. REFUSAL OF ASSISTANCE GENERALLY.

(1) A request by a foreign country for assistance under this Act must be refused if, in the opinion of the Minister:

- (a) the request relates to an investigation of, or a proceeding for, a political offence; or
- (b) there are substantial grounds for believing that the request has been made with a view to prosecuting or punishing a person for a political offence; or
- (c) there are substantial grounds for believing that the request was made for the purpose of prosecuting, punishing or otherwise causing prejudice to a person on account of the person's race, sex, religion, nationality or political opinions; or
- (d) the request relates to the prosecution or punishment of a person in respect of an act or omission that if it had occurred in Papua New Guinea, would have constituted an offence under the

Mutual Assistance in Criminal Matters

- military law of Papua New Guinea but not also under the ordinary criminal law of Papua New Guinea; or
- (e) providing the assistance would prejudice the sovereignty, security or national interest of Papua New Guinea; or
- (f) the request relates to an investigation of, or proceeding for, an offence for which the person concerned:
 - (i) has been acquitted or pardoned by a competent tribunal or authority in the foreign country; or
 - (ii) has undergone the punishment provided by the law of that country of that offence or another offence constituted by the same act or omission as that offence.

- (2) In this sections:
“political offence” has the meaning given in the *Extradition Act 2005*.

10. REFUSAL OF ASSISTANCE — MINISTER’S DISCRETION.

A request by a foreign country for assistance under this Act may be refused if, in the opinion of the Minister:

- (a) the request relates to the prosecution or punishment of a person for an act or omission that would not have constituted an offence against Papua New Guinea law if it had occurred in Papua New Guinea; or
- (b) the request relates to the prosecution or punishment of a person:
 - (i) for an act or omission that occurred, or is alleged to have occurred, outside the foreign country; and
 - (ii) if a similar act or omission occurring outside Papua New Guinea in similar circumstances would not have constituted an offence against Papua New Guinea law; or
- (c) the request relates to the prosecution or punishment of a person for an act or omission if the person responsible could no longer be prosecuted because of lapse of time or any other reason if:
 - (i) it had occurred in Papua New Guinea at the same time; and
 - (ii) it had constituted an offence against Papua New Guinea law; or
- (d) the provision of the assistance could prejudice an investigation or proceeding for a criminal matter in Papua New Guinea; or
- (e) the provision of the assistance would, or would be likely to, prejudice the safety of any person (whether in or outside Papua New Guinea); or
- (f) the provision of the assistance would result in manifest unfairness or a denial of human rights; or
- (g) the provision of the assistance would impose an excessive burden on the resources of Papua New Guinea; or

Mutual Assistance in Criminal Matters

- (h) it is appropriate, in all the circumstances of the case, that the assistance requested should not be granted.

11. REQUESTS BY FOREIGN COUNTRIES FOR PROVISION OF MATERIAL LAWFULLY OBTAINED.

(1) If -

- (a) a foreign country (the *requesting country*) has commenced an investigation into, or proceedings in relation to, a serious offence against the laws of that country; and
- (b) that foreign country requests the provision of material relevant to that investigation or those proceedings; and
- (c) the Minister is satisfied that the material requested is:
 - (i) material lawfully obtained by the Royal Papua New Guinea Constabulary; and
 - (ii) material lawfully in the possession of the Royal Papua New Guinea Constabulary,

the Minister may, by writing in accordance with the approved form, authorise the provision of that material to the requesting country.

(2) An authorisation by the Minister under Subsection (1) may include a direction to an authorised officer having possession of the material about how the material is to be provided to the requesting country.

(3) In authorising the provision of material to a foreign country, the Minister may specify the uses to which the material can be put.

(4) In this section *material lawfully obtained* includes:

- (a) material obtained from individuals or entities by consent; and
- (b) material obtained by warrant or the exercise of a coercive power by a court in Papua New Guinea for the purposes of a domestic investigation or prosecution.

PART III. - ASSISTANCE WITH TAKING EVIDENCE AND PRODUCTION OF DOCUMENTS OR OTHER ARTICLES.

12. REQUESTS BY PAPUA NEW GUINEA FOR ASSISTANCE WITH EVIDENCE.

(1) For the purposes of a proceeding or investigation in a criminal matter in Papua New Guinea, the Minister may request the appropriate authority of a foreign country:

- (a) to arrange for:
 - (i) evidence to be taken in the foreign country under the law of that country; or

Mutual Assistance in Criminal Matters

- (ii) a document or other article in the foreign country to be produced under the law of that country; and
- (b) to arrange for the evidence, document or other article to be sent to Papua New Guinea.

(2) When making a request under Subsection (1), the Minister may also request that an opportunity be given for the person giving the evidence, or producing the document or other article, to be examined or cross-examined, through a video link with Papua New Guinea by:

- (a) a party to the proceeding or the party's legal representative; or
- (b) a person being investigated or the person's legal representative.

13. REQUESTS BY FOREIGN COUNTRIES FOR ASSISTANCE WITH EVIDENCE.

(1) If a foreign country requests that evidence be taken in Papua New Guinea for a proceeding or investigation in a criminal matter in the requesting country, the Minister may authorise:

- (a) the taking of the evidence; and
- (b) the transmission of the evidence to the requesting country.

(2) If a foreign country requests that a document or other article in Papua New Guinea be produced for a proceeding or investigation in a criminal matter in the requesting country, the Minister may authorise:

- (a) the production of the documents or articles; and
- (b) the transmission of the documents or articles to the requesting country.

14. TAKING EVIDENCE.

(1) If the Minister authorises the taking of evidence under Section 13, the Court may take, on oath, the evidence of each witness in the matter, and the Court that takes such evidence must:

- (a) cause the evidence to be put in writing and certify that the Court took the evidence; and
- (b) send the evidence and certificate to the Minister.

(2) The certificate must state whether, when the evidence was taken, any of the following persons were present:

- (a) the person to whom the proceeding in the requesting country relates or his or her legal representative (if any); and
- (b) any other person giving evidence or his or her legal representative (if any); and
- (c) a legal representative of the requesting country.

15. PRODUCTION.

(1) If the Minister authorises the production of a document under Subsection 13(2), the Court:

- (a) may order the document to be produced to the Court; and

Mutual Assistance in Criminal Matters

- (b) if it is produced, must send it, or a copy of it certified by the Court to be a true copy, to the Minister.

(2) If the Minister authorises the production of an article (other than a document) under Subsection 13(2), the Court:

- (a) may order it to be produced to the Court; and
- (b) if it is produced, must send it to the Minister.

16. CONDUCT OF PROCEEDINGS.

(1) The Court conducting a proceeding under Section 14 or 15 may permit any of the following to have legal representation at the proceeding:

- (a) the person to whom the proceeding in the requesting country relates; and
- (b) any other person giving evidence or producing a document or other article at the proceeding before the Court; and
- (c) the requesting country.

(2) The Court may take evidence or order production of a document or other article in the presence or absence of the person to whom the proceeding in the requesting country relates or of his or her legal representative (if any).

(3) The Court may, at the request of the requesting country, permit examination or cross-examination of any person giving evidence or producing a document or other article at the proceeding through a video link with the requesting country.

(4) The examination or cross-examination may be conducted by:

- (a) any person to whom the proceeding in the requesting country relates, or that person's legal representative; or
- (b) the legal representative of the requesting country.

17. EXCEPTIONS TO COMPULSION.

(1) The laws of Papua New Guinea about compelling a person to:

- (a) attend before a Judge; and
- (b) give evidence, answer questions and produce documents or other articles,

that apply to the hearing of a charge against a person for an offence against the law of Papua New Guinea, apply also, as far as they are capable of applying, to the compelling of a person under this Part to:

- (c) attend before a Judge; and
- (d) give evidence, answer questions and produce documents or other articles.

(2) However, for this section, the person to whom the proceeding in the requesting country relates:

- (a) is competent, but not compellable, to give evidence; and

Mutual Assistance in Criminal Matters

- (b) is not compellable to answer a question or to produce a document or article if the person would not be compellable to do so in the requesting country or other foreign country to which the request relates.

18. FOREIGN LAW IMMUNITY CERTIFICATES.

A foreign law immunity certificate is admissible in proceedings under Section 17 as evidence of the matters stated in the certificate.

PART IV. – ASSISTANCE FOR SEARCH AND SEIZURE.

19. REQUESTS BY PAPUA NEW GUINEA FOR SEARCH AND SEIZURE.

(1) This section applies if:

- (a) a proceeding or investigation for a criminal matter involving an indictable offence or a serious offence against the law of Papua New Guinea has commenced; and
- (b) the Minister believes, on reasonable grounds, that a thing relevant to the proceeding or investigation may be located in a foreign country.

(2) The Minister may request the appropriate authority of the foreign country –

- (a) to obtain a warrant or other instrument that, under the law of the foreign country, authorises:
 - (i) a search for a thing relevant to the proceeding or investigation; and
 - (ii) the seizure of the thing or any other thing that is or may be relevant to the proceeding or investigation and is found as a result of the search; and
- (b) to arrange for the thing that has been seized to be sent to Papua New Guinea.

(3) A thing may be admissible in evidence in the proceeding or used in the investigation, despite it having been obtained otherwise than in accordance with the request, if it:

- (a) is relevant to the proceeding or investigation; and
- (b) has been obtained by the appropriate authority of the foreign country by a process authorised by the law of that country other than the issue (as requested by Papua New Guinea) of a warrant or other instrument authorising the seizure of the thing.

20. REQUESTS BY FOREIGN COUNTRIES FOR SEARCH AND SEIZURE.

(1) The Minister may direct an authorised officer to apply to a magistrate for a search warrant if:

- (a) a proceeding for, or investigation of, a criminal matter

Mutual Assistance in Criminal Matters

- involving a foreign indictable offence has commenced in a foreign country; and
- (b) the Minister believes, on reasonable grounds, that a thing relevant to the investigation or proceeding is located in Papua New Guinea.

(2) The authorised officer must apply to a magistrate for the issue of a warrant to search land or premises for a thing relevant to the investigation or proceeding.

21. SEARCH WARRANTS.

(1) If an application is made under Section 20 for a warrant for a thing relevant to an investigation or proceeding in a foreign country, the magistrate may issue the warrant authorising the authorised officer, with such assistance and by such force as is necessary and reasonable:

- (a) to enter the land or premises; and
- (b) to search the land or premises for the thing; and
- (c) to seize it.

(2) The magistrate may issue the warrant only if he or she is satisfied that:

- (a) a proceeding or investigation for a criminal matter involving a foreign indictable offence has commenced in the foreign country; and
- (b) the thing for which the warrant is applied is relevant to the investigation or proceeding; and
- (c) there are reasonable grounds for issuing the warrant.

(3) A warrant issued under this section must include:

- (a) a statement of the purpose for which the warrant is issued, including a reference to the nature of the relevant offence; and
- (b) a description of the kind of thing authorised to be seized; and
- (c) a time at which the warrant ceases to have effect; and
- (d) a statement that:
 - (i) entry is authorised at any time; or
 - (ii) entry is authorised at times specified in the warrant.

(4) If, in the course of searching under a warrant issued under this section for a thing of a kind specified in the warrant, an authorised officer finds another thing, the warrant is taken to authorise the authorised officer to seize the other thing if the officer believes, on reasonable grounds, the other thing:

- (a) to be relevant to the proceeding or investigation in the foreign country or to provide evidence about the commission of a criminal offence in Papua New Guinea; and
- (b) to be likely to be concealed, lost or destroyed if it is not seized.

Mutual Assistance in Criminal Matters

22. AVAILABILITY OF ASSISTANCE AND USE OF FORCE IN EXECUTING A WARRANT.

(1) The officer who is executing a search warrant (the *executing officer*) may obtain such assistance as is necessary and reasonable in the circumstances.

(2) The executing officer and any police officer who is assisting in executing the warrant may use such force against persons and things as is necessary and reasonable in the circumstances.

(3) A person who is not a police officer and who has been authorised to assist in executing the warrant may use such force against things as is necessary and reasonable in the circumstances.

23. CUSTODY OF THINGS SEIZED.

(1) If an authorised officer seizes a thing under a warrant issued under Section 21, the officer must give the thing to the Commissioner of Police.

(2) If a thing is given to the Commissioner of Police under Subsection (1), the Commissioner of Police must:

- (a) inform the Minister as soon as practicable, that the thing has been received; and
- (b) arrange for the thing to be kept in safe custody.

(3) The Minister may give to the Commissioner of Police a direction in writing about how the thing is to be dealt with, (including a direction that the thing is to be sent to an authority of a foreign country).

(4) The Minister must direct an authorised officer to return a thing if:

- (a) the reason for its seizure no longer exists; or
- (b) it has been decided that the thing is not to be used in evidence in a foreign country or in relation to a criminal proceeding in Papua New Guinea.

PART V. – ARRANGEMENTS FOR PERSONS TO GIVE EVIDENCE OR ASSIST INVESTIGATIONS.

Division 1. - Requests by Papua New Guinea.

24. REQUESTS FOR REMOVAL OF CERTAIN PERSONS TO PAPUA NEW GUINEA.

(1) The Minister may request a foreign country to authorise the attendance at a hearing in connection with a proceeding that has commenced in Papua New Guinea, of a person who is in the foreign country if:

- (a) the proceeding relates to a criminal matter; and
- (b) the Minister is of the opinion that the person:
 - (i) is a foreign prisoner; and

Mutual Assistance in Criminal Matters

- (ii) is capable of giving evidence relevant to the proceeding; and
- (iii) has consented to being removed to Papua New Guinea to give evidence in the proceeding.

(2) The Minister may request a foreign country to authorise the removal of a person who is in the foreign country to Papua New Guinea to give assistance in an investigation that has commenced in Papua New Guinea if:

- (a) the investigation relates to a criminal matter; and
- (b) the Minister is of the opinion that the person:
 - (i) is a foreign prisoner; and
 - (ii) is capable of giving assistance in the investigation; and
 - (iii) has consented to being removed to Papua New Guinea to give assistance in the investigation.

(3) If the Minister makes a request under Subsection (1) or (2), the Minister may arrange with an appropriate authority of the foreign country for:

- (a) the removal of the person to Papua New Guinea; and
- (b) the custody of the person while in Papua New Guinea; and
- (c) the return of the person to the foreign country; and
- (d) other relevant matters.

25. CUSTODY OF CERTAIN PERSONS.

If—

- (a) a person is to be brought to Papua New Guinea from a foreign country in response to a request under Section 24; and
- (b) the foreign country requests that the person be kept in custody while he is in Papua New Guinea,

the person must be kept in such custody as the Minister directs in writing while the person is in Papua New Guinea, or travelling to or from Papua New Guinea, under the request.

26. IMMUNITIES.

(1) This section applies if a person is in Papua New Guinea:

- (a) because of a request under Section 24; or
- (b) to give evidence in a proceeding or to give assistance in an investigation, because of a request made by or on behalf of the Minister for international assistance in a criminal matter (except a request under Section 24).

(2) The person shall not:

- (a) be detained, prosecuted or punished in Papua New Guinea for any offence committed, or alleged to have been committed, before he or she left the foreign country in response to the request; or

Mutual Assistance in Criminal Matters

- (b) be subjected to any civil suit for an act or omission of the person that occurred, or is alleged to have occurred, before he or she left the foreign country in response to the request, if the person could not be subjected to that suit if the person were not in Papua New Guinea; or
- (c) be required to give evidence in any proceeding in Papua New Guinea other than a proceeding to which the request relates; or
- (d) be required, in a proceeding to which the request relates, to answer any question that the person would not be required to answer in a proceeding relating to a criminal matter in the foreign country; or
- (e) be required, in a proceeding to which the request relates, to produce any document or article that the person would not be required to produce in a proceeding in the foreign country relating to a criminal matter.

(3) A foreign law immunity certificate is admissible in proceedings as evidence of the matters stated in the certificate.

(4) Subsection (2) ceases to apply to a person:

- (a) when the person leaves Papua New Guinea; or
- (b) if the person has had the opportunity of leaving Papua New Guinea and has remained in Papua New Guinea otherwise than:
 - (i) for the purpose to which the request relates; or
 - (ii) to give evidence in a proceeding in Papua New Guinea certified, in writing by the Minister to be a proceeding in which it is desirable that the person give evidence; or
 - (iii) to give assistance in an investigation in Papua New Guinea certified in writing by the Minister to be an investigation in which it is desirable that the person give assistance.

(5) A certificate given by the Minister for Subparagraph (4)(b)(ii) or (iii) has effect from the day specified in it (which may be a day before the day on which the certificate is given).

27. STATUS OF PERSON PROSECUTED FOR OFFENCE COMMITTED AFTER LEAVING FOREIGN COUNTRY.

(1) This section applies:

- (a) to a person who has come to Papua New Guinea in response to a request under Section 24; and
- (b) during any period when he or she remains in Papua New Guinea to be tried for a criminal offence against the law of Papua New Guinea that he or she is alleged to have committed after he or she left the foreign country.

(2) The person is taken, for this Act, to be in Papua New Guinea because of the request.

Mutual Assistance in Criminal Matters

(3) Without limiting Subsection (2), the person must be kept in such custody as the Minister directs under Section 25.

28. LIMITATION ON USE OF EVIDENCE OR ASSISTANCE GIVEN BY CERTAIN PERSONS.

(1) This section applies to a person who is in Papua New Guinea to give evidence in a proceeding or assistance in an investigation –

- (a) either:
 - (i) because of a request under Section 24; or
 - (ii) because of a request (other than a request under that section) made by the Minister for international assistance in a criminal matter; and
- (b) if the person has given the evidence in the proceeding to which the request relates or in a proceeding certified by the Minister, in writing, to be a proceeding in which it is desirable that the person give evidence.

(2) The evidence must not be admitted or otherwise used in a prosecution of the person for an offence against the law of Papua New Guinea, other than for perjury in giving that evidence.

(3) Anything the person says or does when giving the assistance is not to be admitted or otherwise used in any prosecution of the person for an offence against the law of Papua New Guinea.

29. CONDITIONS OF IMPRISONMENT.

The laws of Papua New Guinea about the following matters:

- (a) the conditions of imprisonment of persons imprisoned for offences against the law of Papua New Guinea; and
- (b) the treatment of such persons during imprisonment; and
- (c) the transfer of such persons from prison to prison,

apply in relation to a person who has been committed to prison in Papua New Guinea under a direction of the Minister under Section 25.

30. RELEASE OF CERTAIN PERSONS ON REQUEST BY FOREIGN COUNTRY.

The Minister must direct that a person be released from custody if:

- (a) the person is being held in custody under a direction of the Minister under Section 25; and
- (b) the appropriate authority of the foreign country from which the person has been brought, requests the release of the person from custody.

31. ARREST OF PERSON WHO HAS ESCAPED FROM CUSTODY.

(1) A police officer may arrest a person without warrant if the officer believes, on reasonable grounds, that the person:

Mutual Assistance in Criminal Matters

- (a) has been brought to Papua New Guinea in response to a request under Section 24; and
- (b) has escaped from lawful custody while in Papua New Guinea because of the request.

(2) The police officer must take the person before a magistrate as soon as practicable.

(3) If the magistrate is satisfied that the person has escaped from lawful custody, the magistrate may issue a warrant authorising any police officer to return the person to lawful custody.

Division 2. - Requests by foreign countries.

32. REQUESTS FOR CERTAIN PERSONS TO GIVE EVIDENCE OR ASSISTANCE IN FOREIGN COUNTRIES.

This Division applies if:

- (a) a proceeding or an investigation relating to a criminal matter has commenced in a foreign country; and
- (b) the foreign country requests the removal of a prisoner who is in Papua New Guinea (whether or not in custody), to the foreign country to attend at the proceeding or to assist in the investigation; and
- (c) the Minister believes, on reasonable grounds, that the prisoner is capable of giving evidence relevant to the proceeding or assistance relevant to the investigation; and
- (d) the Minister is satisfied that:
 - (i) the prisoner has consented to giving evidence or assistance in the foreign country; and
 - (ii) the foreign country has given adequate undertakings (whether or not qualified) about the matters mentioned in Section 34.

33. TRAVEL OF PRISONER OR PERSON.

(1) If the prisoner is being held in custody, the Minister may:

- (a) direct that the prisoner be released from prison for the purpose of travelling to the foreign country to give evidence at the proceeding or assistance in the investigation; and
- (b) subject to the making or giving of any necessary directions or approvals for the release of the prisoner — arrange for the prisoner to travel to the foreign country in the custody of a police or prison officer appointed by the Minister for the purpose.

(2) If the prisoner has been released from custody on a parole or other order or licence to be at large, the Minister may:

Mutual Assistance in Criminal Matters

- (a) approve the travel of the prisoner to the foreign country for the purpose of giving evidence or assistance and obtain any necessary approvals, authorities, permissions or variations to the order or licence; and
- (b) subject to obtaining the approvals, authorities, permissions or variations, arrange for the prisoner to travel to the foreign country.

(3) The Minister may arrange for a person (other than a prisoner) who is in Papua New Guinea to travel to a foreign country if:

- (a) a proceeding or an investigation about a criminal matter has commenced in the foreign country; and
- (b) the foreign country requests that the person travel to the foreign country to give evidence at the proceeding or assistance at the investigation; and
- (c) the Minister believes, on reasonable grounds, that the person is capable of giving evidence relevant to the proceeding or assistance relevant to the investigation; and
- (d) the Minister is satisfied that:
 - (i) the person has consented to travel to the foreign country to give evidence or assistance; and
 - (ii) the foreign country has given adequate undertakings (whether or not qualified) about the matters mentioned in Section 34.

34. UNDERTAKINGS TO BE GIVEN.

(1) For Subparagraph 32(d)(ii) and Subparagraph 33(3)(d)(ii), undertakings must be given in relation to the following matters:

- (a) the person will not be:
 - (i) detained, prosecuted or punished for an offence against the law of the foreign country committed, or alleged to have been committed, before the person's departure from Papua New Guinea; or
 - (ii) subjected to any civil suit for an act or omission of the person that occurred, or is alleged to have occurred, before he or she left Papua New Guinea, if the person could not be subjected to that suit if the person were not in the foreign country); or
 - (iii) required to give evidence in a proceeding in the foreign country other than the proceeding to which the request relates; and
- (b) evidence given by the person in the proceeding to which the request relates will be inadmissible or otherwise disqualified from use in the prosecution of the person for an offence against a law of the foreign country other than for perjury in giving that evidence; and

Mutual Assistance in Criminal Matters

- (c) the person will be returned to Papua New Guinea under arrangements agreed in writing by the Minister; and
 - (d) If the person is being held in custody in Papua New Guinea and the Minister requests the foreign country to make arrangements to keep the person in custody while the person is in the foreign country:
 - (i) appropriate arrangements will be made for that purpose; and
 - (ii) the person will not be released from custody in the foreign country unless the Minister gives written notice to an appropriate authority of the foreign country that the person is entitled to be released from custody under Papua New Guinea law; and
 - (iii) if the person is released in the foreign country after notice by the Minister under Paragraph (ii), the foreign country will pay for the person's accommodation and expenses pending the completion of the investigation or proceeding to which the request relates;
- (2) Paragraph (1)(a) does not apply if:
- (a) the person has left the foreign country; or
 - (b) the person has had the opportunity of leaving the foreign country and has remained in that country for a purpose other than giving evidence in the proceeding to which the request relates.

(3) The Minister may require undertakings about any other matters that he or she considers appropriate.

35. REMOVAL TO FOREIGN COUNTRY CONTINUES PRISONER'S TERM OF IMPRISONMENT.

A prisoner who –

- (a) is serving a term of imprisonment for an offence against a law of Papua New Guinea; and
- (b) is released from a prison because of a request by a foreign country under Section 32;

is taken to be continuing to serve the term of imprisonment, while in custody because of the request (including custody outside Papua New Guinea).

PART VI. – CUSTODY OF PERSONS IN TRANSIT.

36. TRANSIT.

If a person is to be taken in custody from a foreign country through Papua New Guinea to another foreign country (the *receiving country*) to give evidence in a proceeding or assistance for an investigation in a criminal matter in the receiving country, the receiving country must comply with Section 35.

Mutual Assistance in Criminal Matters

37. REQUIREMENTS FOR TRANSIT.

- (1) The receiving country must give written notice to the Minister at least 28 days (or a lesser time allowed by the Minister) before the person undertakes the journey.
- (2) The receiving country:
 - (a) may take the person through Papua New Guinea in the custody of persons mentioned in the notice or directed by the Minister; and
 - (b) must, while the person is in Papua New Guinea, keep the person in custody under conditions directed in writing by the Minister.
- (3) If the person's journey is not, in the opinion of the Minister, continued within a reasonable time, the Minister may direct in writing that the receiving country take the person in custody to the foreign country from which the person was first taken.
- (4) If the receiving country does not comply with a direction under Subsection (2) or (3):
 - (a) the Minister may direct authorised officers to carry out the direction; and
 - (b) the cost of carrying out the direction is a debt owed by the receiving country to the State.

38. ARREST OF PERSON IN TRANSIT.

- (1) A police officer may arrest the person without warrant if the police officer believes, on reasonable grounds, that the person was being kept in custody under a direction under Paragraph 37(2)(b) and has escaped from that custody.
- (2) The police officer must take the person before a magistrate as soon as practicable.
- (3) If the magistrate is satisfied that the person has escaped from lawful custody, the magistrate may order any police officer to return the person to lawful custody.

PART VII. – ASSISTANCE REGARDING PROCEEDS OF CRIME.

Division 1. - Requests by Papua New Guinea.

39. REQUESTS FOR ENFORCEMENT OF ORDERS.

- (1) The Minister may request an appropriate authority of a foreign country to make arrangements for the enforcement of:
 - (a) a forfeiture order made in Papua New Guinea against

Mutual Assistance in Criminal Matters

property that is believed to be located in the foreign country;
or

- (b) a pecuniary penalty order made in Papua New Guinea, if some or all of the property available to satisfy the order is believed to be located in the foreign country; or
- (c) a restraining order made in Papua New Guinea against property that is believed to be located in the foreign country.

(2) The Minister may enter an arrangement with a foreign country to share with the country property forfeited under an order mentioned in Paragraph (1)(a) or money paid under an order mentioned in Paragraph (1)(b).

40. REQUESTS FOR ISSUE OF ORDERS IN FOREIGN COUNTRIES.

If a proceeding or investigation has commenced in Papua New Guinea in relation to an indictable offence or a serious offence, the Minister may request an appropriate authority of a foreign country for the issue, in relation to the offence, of an instrument similar in nature to any of the following instruments under the Proceeds of Crime Act:

- (a) a search warrant for tainted property; and
- (b) a restraining order; and
- (c) a production order for a property-tracking document; and
- (d) a search warrant for a property-tracking document.

Division 2. - Requests by foreign countries.

41. REQUESTS FOR ENFORCEMENT OF ORDERS.

(1) If—

- (a) a foreign country requests the Minister to make arrangements for the enforcement of:
 - (i) a foreign forfeiture order against property that is suspected to be located in Papua New Guinea; or
 - (ii) a foreign pecuniary penalty order if some or all of the property available to satisfy the order is believed to be located in Papua New Guinea; and
- (b) the Minister is satisfied that:
 - (i) if the order was made in relation to a person's conviction of an offence — the conviction is not subject to further appeal in the foreign country; and
 - (ii) the order is not subject to further appeal in the foreign country;

the Minister may authorise the Public Prosecutor, in writing, to apply for the registration of the order in the Court.

(2) If a foreign country requests the Minister to make arrangements for the enforcement of a foreign restraining order against property that is believed to be

Mutual Assistance in Criminal Matters

located in Papua New Guinea, the Minister authorise the Public Prosecutor to apply for the registration of the order in the Court.

42. REGISTRATION OF FOREIGN ORDERS.

If the Public Prosecutor applies to the Court for registration of a foreign order in accordance with Section 41, the Court must register the order accordingly.

43. HOW A FOREIGN ORDER IS REGISTERED.

(1) A foreign order or an amendment of a foreign order may be registered in the Court by registering a copy of:

- (a) the appropriate order or amendment sealed by the Court or other authority that made the order or amendment; or
- (b) the order or amendment authenticated under Subsection 62(2).

(2) A facsimile copy of a sealed or authenticated copy of an order or an amendment of an order is to be treated as if it were a sealed or authenticated copy.

(3) However, registration effected by facsimile copy ceases to have effect at the end of 21 days unless a sealed or authenticated copy of the order has been registered by then.

44. EFFECT OF REGISTRATION.

(1) A foreign forfeiture order registered in the Court under Section 42 has effect, and may be enforced, as if it were a forfeiture order made by the Court under the Proceeds of Crime Act at the time of registration.

(2) A foreign pecuniary penalty order registered in the Court under Section 42 has effect, and may be enforced:

- (a) as if it were a pecuniary penalty order made by the Court under the Proceeds of Crime Act at the time of registration; and
- (b) as if it required the payment to the State of the amount payable under the order.

(3) The Minister may enter an arrangement with a foreign country to share with that country the property or amount forfeited or paid under a foreign forfeiture order or a foreign pecuniary penalty order.

(4) A foreign restraining order registered in the Court under Section 42 has effect, and may be enforced, as if it were a restraining order made by the Court under the Proceeds of Crime Act at the time of registration.

Mutual Assistance in Criminal Matters

45. AMENDMENT OF FOREIGN ORDERS.

If a foreign order is registered in the Court under Section 42:

- (a) a copy of any amendments to the order (whether before or after registration) may be registered in the same way as the order; and
- (b) for this Act and the Proceeds of Crime Act, the amendments do not have effect until they are registered.

46. CANCELLATION OF REGISTRATION.

(1) The Minister may direct the Public Prosecutor to apply to the Court for cancellation of the registration of a foreign order.

(2) If the Public Prosecutor applies to the Court for cancellation of a registration, the Court must cancel the registration accordingly.

47. REQUESTS FOR SEARCH AND SEIZURE WARRANTS FOR TAINTED PROPERTY.

The Minister may authorise a police officer to apply to a magistrate under the Proceeds of Crime Act for a search warrant in relation to property if:

- (a) a proceeding or investigation has commenced in a foreign country in relation to a foreign indictable offence; and
- (b) the Minister believes, on reasonable grounds, that tainted property in relation to the offence is located in Papua New Guinea; and
- (c) the foreign country requests the Minister to obtain the issue of a search warrant for the property.

48. REQUESTS FOR RESTRAINING ORDERS.

If—

- (a) a criminal proceeding has commenced, or there are reasonable grounds to suspect that a criminal proceeding is about to commence, in a foreign country in respect of a foreign indictable offence; and
- (b) there are reasonable grounds to believe that, in relation to the offence, property that could be made, or is about to be made the subject of a foreign restraining order is located in Papua New Guinea; and
- (c) the foreign country requests the Minister to obtain the issue of a restraining order against the property,

the Minister may authorise the Public Prosecutor to apply to the Court under the *Proceeds of Crime Act* for a restraining order against that property in relation to the offence.

49. REQUESTS FOR INFORMATION GATHERING ORDERS.

(1) Subsection (2) applies if—

- (a) a proceeding or investigation has commenced in a foreign

Mutual Assistance in Criminal Matters

- (b) country in relation to a foreign indictable offence; and the Minister believes on reasonable grounds that a property-tracking document in relation to the offence is located in Papua New Guinea; and
- (c) the foreign country requests the Minister to obtain the issue of:
 - (i) an order requiring the documents to be produced or made available for inspection under the law of Papua New Guinea; or
 - (ii) a search warrant in relation to the offence.

(2) To obtain the property-tracking document, the Minister may direct an authorised officer to apply to a magistrate under the Proceeds of Crime Act for:

- (a) a production order; or
- (b) a search warrant.

PART VIII. – REQUEST BY OR FOR A DEFENDANT.

50. REQUESTS BY MINISTER FOR A DEFENDANT.

(1) Subsection (2) applies if a defendant in a proceeding (the *original proceeding*) in Papua New Guinea for a criminal matter believes that it is necessary for the original proceeding that:

- (a) evidence be taken in a foreign country; or
 - (b) a document or other article in a foreign country be produced;
- or
- (c) a thing located in a foreign country be seized; or
 - (d) arrangements be made for a person who is in a foreign country to come to Papua New Guinea to give evidence relevant to the original proceeding.

(2) The defendant may apply to the Court for a certificate stating that it would be in the interests of justice for the Minister to make an appropriate request to the foreign country under Part 3, 4 or 5 so that:

- (a) the evidence may be taken; or
- (b) the document or article may be produced; or
- (c) the thing may be seized; or
- (d) the arrangements may be made.

(3) Before making a decision on the application, the Court shall give the following persons an opportunity, to appear before the Court and be heard on the merits of the application:

- (a) all parties to the original proceeding; and
- (b) the Public Prosecutor.

(4) In deciding whether to issue a certificate, the Court must have regard to the interests of justice generally and in particular to the following matters:

Mutual Assistance in Criminal Matters

- (a) whether the foreign country is likely to grant such a request by the Minister; and
- (b) the extent to which the material (whether it is evidence, a document, an article or a thing) that the defendant seeks to obtain from the foreign country would not otherwise be available; and
- (c) whether the Court hearing the original proceeding would be likely to admit the material into evidence in the original proceeding; and
- (d) the likely probative value of the material, if it were admitted into evidence in the original proceeding, for any issue likely to be determined in the original proceeding; and
- (e) whether the defendant would be unfairly prejudiced if the material were not available to the Court.

(5) Subsection (4) does not prevent the Court from having regard to any other relevant matter.

- (6) If the Court issues a certificate:
- (a) the Court must send a copy of the certificate to the Minister; and
 - (b) the Minister must, in accordance with the certificate, request the foreign country for international assistance unless, having regard to special circumstances, the Minister considers that the request should not be made.

51. CERTIFICATE BY MINISTER IF FOREIGN COUNTRY REFUSES REQUEST MADE UNDER SECTION 50.

(1) If a foreign country refuses a request made under Subsection 50(6), the Minister must give a certificate in writing to that effect.

(2) A certificate under Subsection (1) is evidence of the facts stated in it.

PART IX. – ADMISSIBILITY OF FOREIGN EVIDENCE.

52. APPLICATION OF PART 9.

This Part applies to:

- (a) a proceeding, before a Papua New Guinea court, that is:
 - (i) a criminal proceeding for an offence against the law of Papua New Guinea; or
 - (ii) a related civil proceeding; and
- (b) testimony obtained as a result of a request made by or for the Minister to a foreign country for the testimony of a person; and
- (c) any exhibit annexed to the testimony.

Mutual Assistance in Criminal Matters

53. DEFINITIONS FOR PART 9.

In this Part:

“civil proceeding” means a proceeding other than a criminal proceeding.

“criminal proceeding” includes:

- (a) a prosecution for an offence; and
- (b) a proceeding for the committal of a person for trial for an offence; and
- (c) a proceeding for the sentencing of a person convicted of an offence.

“foreign law” means a law (whether written or unwritten) of, or in force in, a country other than Papua New Guinea;

“foreign material” means:

- (a) the testimony of a person that:
 - (i) was obtained as a result of a request of a kind mentioned in Paragraph 52(b); and
 - (ii) complies with Section 55; and
- (b) any exhibit annexed to the testimony; and
- (c) any part of the testimony or exhibit.

“Papua New Guinea Court” means:

- (a) a court of competent jurisdiction in Papua New Guinea; or
- (b) a judge or arbitrator acting under the law of Papua New Guinea; or
- (c) a person or body authorised by the law of Papua New Guinea, or by consent of parties, to hear, receive and examine evidence;

“related civil proceedings, for a criminal proceeding”, means a civil proceeding arising from the same subject matter from which the criminal proceeding arose.

54. REQUIREMENTS FOR TESTIMONY.

- (1) The testimony must be taken before the court of the foreign country:
 - (a) on oath or affirmation; or
 - (b) under such caution or admonition as would be accepted, by courts in the foreign country concerned, for giving testimony in proceedings before those courts.
- (2) The testimony may be taken in closed court.

55. FORM OF TESTIMONY.

- (1) The testimony may be recorded in writing or in the manner that is specified in the request.
- (2) The testimony need not:
 - (a) be in the form of an affidavit; or
 - (b) constitute a transcript of a proceeding in a foreign court.

Mutual Assistance in Criminal Matters

(3) The testimony must be endorsed with, or be accompanied by, a certificate to the effect that:

- (a) it is an accurate record of the evidence given; and
- (b) it was taken in the manner required by Section 54.

(4) The certificate must purport to be signed or certified by a judge, magistrate or court officer of the foreign country to which the request was made.

56. FOREIGN MATERIAL MAY BE ADDUCED AS EVIDENCE.

Foreign material may be adduced as evidence in a proceeding to which this Part applies unless:

- (a) at the hearing of the proceeding, it appears to the court's satisfaction that the person who gave the testimony concerned is present in Papua New Guinea and is able to testify at the hearing; or
- (b) the evidence would not have been admissible if it had been given by the person at the hearing; or
- (c) in the proceeding, the court directs, under Section 57, that the foreign material must not be adduced as evidence.

57. DIRECTION TO PREVENT FOREIGN MATERIAL BEING ADDUCED AS EVIDENCE.

(1) The court may direct that foreign material not be adduced as evidence if it appears to the court's satisfaction that the interests of justice would be better served if the foreign material were not adduced as evidence.

(2) Without limiting the matters that the court may take into account in deciding whether to give such a direction, it must take into account:

- (a) the extent to which the foreign material provides evidence that would not otherwise be available; and
- (b) the probative value of the foreign material for any issue that is likely to be determined in the proceedings; and
- (c) the extent to which statements contained in the foreign material could, at the time they were made, be challenged by questioning the persons who made them; and
- (d) whether exclusion of the foreign material would cause undue expense or delay; and
- (e) whether exclusion of the foreign material would prejudice:
 - (i) the prosecution or defence in criminal proceedings; or
 - (ii) a party to related civil proceedings.

58. CERTIFICATES RELATING TO FOREIGN MATERIAL.

(1) The Minister may certify that specified foreign material was obtained as a result of a request made to a foreign country by or on behalf of the Minister.

(2) It is presumed (unless evidence to the contrary is adduced sufficient to

Mutual Assistance in Criminal Matters

raise reasonable doubt) that the foreign material specified in the certificate was obtained as a result of that request.

59. EFFECT OF PART ON RIGHT TO EXAMINE WITNESSES.

(1) Nothing in this Part limits a right of the defendant in criminal proceedings to which this Part applies to examine, in person or by his or her legal representative, a witness whose testimony is admitted in evidence in those proceedings.

(2) If the defendant requests that the person who gave the testimony be present at the hearing in Papua New Guinea to be cross-examined, the court must warn the defendant that he or she may be ordered to pay any expenses incurred by the State in making the person available before the court.

(3) The court may order the defendant to pay any expenses incurred by the State in obtaining the attendance of a person as a witness if:

- (a) as a result of the request, the person appears before the court as a witness; and
- (b) it appears to the court that the cross-examination of the person was unnecessary, trivial or irrelevant to the matters in issue in the proceedings.

(4) A certificate signed by the Minister is evidence of the expenses incurred by the State for Subsection (3).

(5) An amount payable by a person to the State under an order under Subsection (3) is a civil debt due by the person to the State.

(6) An order against a person under Subsection (3) may be enforced as if it were an order made in civil proceedings instituted by the State against the person to recover a debt due by the person to the State and the debt arising from the order is taken to be a judgment debt.

60. OPERATION OF OTHER LAWS.

This Part does not limit the ways in which a matter may be proved, or evidence may be adduced, under any other law.

PART X. – MISCELLANEOUS.

61. AIDING PERSON TO ESCAPE ETC.

The laws of Papua New Guinea about aiding a prisoner to escape from custody, rescuing a prisoner from custody, permitting escape and harbouring a prisoner who has escaped from custody apply to a person:

- (a) who is in custody in Papua New Guinea because of a request to a foreign country by Papua New Guinea under this Act; or
- (b) to whom Part 6 of the Act applies.

Mutual Assistance in Criminal Matters

62. AUTHENTICATION OF DOCUMENTS.

(1) In a proceeding under this Act or the Proceeds of Crime Act arising directly or indirectly from a request made under this Act, any document that is authenticated is admissible in evidence.

(2) A document is authenticated for Subsection (1) if:

- (a) it purports to be signed or certified by a judge, magistrate or judicial officer in or of a foreign country; and
- (b) it purports to be sealed with an official or public seal of the foreign country or of a Minister of State, or of a Department or officer of the Government, of the foreign country.

(3) Nothing in this section prevents the proof of any matter, or the admission in evidence of any document, under any other law.

63. RESTRICTION ON USE OF INFORMATION ETC.

(1) A person must not, without the approval of the Minister, intentionally use requested material for a purpose other than that for which it was requested.

Penalty: For a natural person— a fine of K10,000.00 or imprisonment for a period of 2 years or both;

For a body corporate— a fine of K50,000.00.

(2) A person must not intentionally use any information, document, article or thing obtained directly or indirectly by making use of requested material in breach of Subsection (1) for a purpose other than that for which the requested material was requested.

Penalty: For a natural person — a fine of K10,000.00 or imprisonment for a period of 2 years or both;

For a body corporate — a fine of K50,000.00.

(3) Requested material is inadmissible in evidence in any proceeding other than the proceeding for which it was obtained unless the Minister approves its use for that other proceeding.

(4) The information, document, article or thing mentioned in Subsection (2) is inadmissible in evidence in any proceeding, and may not be used in any investigation, other than that for which the requested material was requested.

(5) For this section, disclosure of any material is taken to be a use of that material.

Mutual Assistance in Criminal Matters

- (6) In this section:
“requested material” means material (whether it is evidence, a document, an article or a thing) that is sent to Papua New Guinea by a foreign country:
- (a) because of a request made by the Minister under this Act; and
 - (b) in respect of a proceeding or investigation related to a criminal matter.

64. REQUESTS FOR INTERNATIONAL ASSISTANCE NOT TO BE DISCLOSED.

- (1) Subsection (2) applies to a person who, because of his or her office or employment, has knowledge of:
- (a) the contents of a request for international assistance made by a foreign country to Papua New Guinea under this Act; or
 - (b) the fact that such a request has been made; or
 - (c) the fact that such a request has been granted or refused.
- (2) The person must not intentionally disclose those contents, or that fact, unless:
- (a) it is necessary to do so in the performance of his or her duties; or
 - (b) the Minister has given his or her approval to the disclosure of those contents or that fact.

Penalty: For a natural person— a fine of K10,000.00 or imprisonment for a period of 2 years or both;

For a body corporate— a fine of K60,000.00.

65. REGULATIONS.

- (1) The Head of State, acting on advice, may make regulations not inconsistent with this Act prescribing all matters which are:
- (a) by this Act required or permitted to be prescribed; or
 - (b) necessary or convenient to be prescribed for giving effect to this Act.
- (2) Without limiting Subsection (1) the regulations may:
- (a) set out the text of mutual assistance treaties ; and
 - (b) make any modifications to this Act that are necessary to give effect to a mutual assistance treaty.

Mutual Assistance in Criminal Matters

I hereby certify that the above is a fair print of the *Mutual Assistance in Criminal Matters Act 2005* which has been made by the National Parliament.



Acting Clerk of the National Parliament

23 JAN 2006

I hereby certify that the *Mutual Assistance in Criminal Matters Act 2005* was made by the National Parliament on 20th July 2005 by an absolute majority in accordance with the *Constitution*.



Speaker of the National Parliament

23 JAN 2006