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## LAWS AND REGULATIONS

PROMULGATED TO GIVE EFFECT TO THE PROVISIONS OF  
THE INTERNATIONAL TREATIES ON NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

*In accordance with the relevant articles of the international treaties on narcotic drugs and psychotropic substances,  
the Secretary-General has the honour to communicate the following legislative text.*

### NEW ZEALAND

Communicated by the Government of New Zealand

#### NOTE BY THE SECRETARIAT

- (a) Some editing of texts may be done by the Secretariat in the interest of clarity. In this connection, words in square brackets [ ] have been added or changed by the Secretariat.
- (b) Only passages directly relevant to the control of narcotic drugs or psychotropic substances have been reproduced in this document. Non-relevant parts of laws and regulations have been deleted by the Secretariat; such deletions are indicated by [...].

MUTUAL ASSISTANCE IN CRIMINAL MATTERS ACT 1992  
[AS AMENDED BY THE MUTUAL ASSISTANCE IN CRIMINAL MATTERS  
AMENDMENT ACT 1994]

\*Note by the Secretariat: This document is a direct reproduction of the text communicated to the Secretariat by the Government of New Zealand.

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1992, No. 86

**An Act to facilitate the provision and obtaining of  
international assistance in criminal matters**

*[25 September 1992]*

BE IT ENACTED by the Parliament of New Zealand as follows:

**1. Short Title and commencement**—(1) This Act may be cited as the Mutual Assistance in Criminal Matters Act 1992.

(2) This Act shall come into force on the 1st day of April 1993.

**PART I**

**PRELIMINARY PROVISIONS**

**2. Interpretation**—(1) In this Act, unless the context otherwise requires,—

“Central Authority”, in relation to any foreign country, means the person or authority for the time being designated by that country for the purposes of transmitting or receiving requests made under or pursuant to this Act:

“Criminal investigation” means,—

(a) In Part II of this Act, an investigation certified by the Attorney-General to have commenced in New Zealand in respect of an offence committed, or

suspected on reasonable grounds to have been committed or to be likely to be committed, against the law of New Zealand:

(b) In Part III of this Act, in relation to a foreign country, an investigation certified by the Central Authority for that country to have commenced in the foreign country in respect of an offence committed, or suspected on reasonable grounds to have been committed or to be likely to be committed, against the law of that country:

“Criminal matter” means criminal investigations and criminal proceedings:

“Criminal proceedings” means,—

(a) In Part II of this Act, proceedings certified by the Attorney-General to have been instituted in respect of an offence committed, or suspected on reasonable grounds to have been committed, against the law of New Zealand; and includes the trial of a person for the offence and any proceedings to determine whether or not a person should be tried for the offence:

(b) In Part III of this Act, proceedings certified by the Central Authority of the requesting country to have been instituted in respect of an offence committed, or suspected on reasonable grounds to have been committed, against the law of the country; and includes the trial of a person for the offence and any proceedings to determine whether or not a person should be tried for the offence:

“Document” has the same meaning as in section 2 (1) of the Official Information Act 1982:

“Financial institution” has the same meaning as in section 2 (1) of the Proceeds of Crime Act:

“Foreign country” means any country other than New Zealand:

“Foreign drug-dealing offence” means a foreign serious offence that consists of or includes conduct which, if it occurred in New Zealand, would be a drug-dealing offence within the meaning of the Proceeds of Crime Act:

“Foreign forfeiture order” means an order, made under the law of a foreign country by any court or other judicial authority, for the forfeiture of property that is tainted property in respect of an offence against the law of that country:

“Foreign law immunity certificate” means a certificate given, or a declaration made, by a foreign country or under the law of a foreign country, certifying or declaring that, under the law of the foreign country, persons generally or a specified person could or could not, either generally or in specified proceedings and either generally or in specified circumstances, be required—

(a) To answer a specified question; or

(b) To provide a specified document:

“Foreign pecuniary penalty order” means an order, made under the law of a foreign country by any court or other judicial authority, imposing a pecuniary penalty in respect of benefits derived by a person from the commission of an offence against the law of that country; but does not include an order for the payment of a sum of money by way of compensation, restitution, or damages to an injured person:

“Foreign prisoner” means a person who is being held in legal custody in a foreign country—

(a) Pending trial for, or sentence for; or

(b) Pursuant to a sentence of imprisonment for,—  
an offence against the law of that foreign country:

“Foreign restraining order” means an order—

(a) That is made under the law of a foreign country by any court or other judicial authority in respect of—

(i) Property that is or may be tainted property in respect of an offence against the law of that country; or

(ii) Benefits that have been derived, or may have been derived, by a person from the commission of such an offence; and

(b) That restrains a particular person, or all persons, from dealing with property:

“Foreign serious offence” means an offence under the law of a foreign country punishable by imprisonment for a term of 5 years or more:

“Forfeiture order” means an order made under section 15 (1) of the Proceeds of Crime Act:

“Judge” means a Judge of the High Court:

“Judicial records” means judgments, orders, and decisions of courts, and other records held by judicial authorities:

“Minister” means the Minister of Justice:

“Monitoring order” means an order made under section 77 (1) of the Proceeds of Crime Act:

“Official records” means documents held by Government departments or agencies or prosecution authorities:

“Pecuniary penalty order” means an order made under section 25 (1) of the Proceeds of Crime Act:

“Penal institution” has the same meaning as in section 2 of the Penal Institutions Act 1954:

“Prescribed foreign country” means any country (other than New Zealand) that is declared by regulations made under this Act to be a foreign country to which Part III of this Act applies:

“Prisoner” means a person who is for the time being in the legal custody of the Superintendent of any penal institution:

“Proceeds of Crime Act” means the Proceeds of Crime Act 1991:

“Process” means any summons, warrant, order, or other document issued out of any court, or by any Judge, Master, District Court Judge, Justice, or Registrar:

“Production order” means an order made under section 69 (1) of the Proceeds of Crime Act:

“Property” has the same meaning as in section 2 (1) of the Proceeds of Crime Act:

“Property-tracking document” has the same meaning as in section 67 of the Proceeds of Crime Act:

“Requesting country”, in relation to a request for assistance made under Part III of this Act, means the foreign country that made the request:

“Restraining order” means an order made under section 42 of the Proceeds of Crime Act:

“Serious offence” means an offence against the law of New Zealand punishable by imprisonment for a term of 5 years or more:

“Tainted property” has the same meaning as in section 2 (1) of the Proceeds of Crime Act.

(2) A reference in this Act to criminal proceedings or a criminal investigation includes proceedings or investigations into matters—

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

- (d) Relating to the imposition or recovery of a pecuniary penalty in respect of an offence; or
- (e) Relating to 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 imposed in respect of an offence,—

whether arising under New Zealand law or the law of a foreign country.

(3) A reference in this Act to a benefit derived by a person includes a reference to—

- (a) A benefit derived, directly or indirectly, by the person; and
- (b) A benefit derived, directly or indirectly, by another person at the request or direction of the first-mentioned person.

(4) Where—

- (a) Any foreign country consists of a federation of states, or has more than one system of law, or has any 1 or more autonomous territorial organisations; and
- (b) More than one Central Authority is appointed for that foreign country,—

a reference in this Act to the Central Authority of that foreign country, in relation to a request made pursuant to this Act, means the Central Authority for that foreign country that, in the circumstances of the particular case, is the appropriate Central Authority to transmit or, as the case may be, receive the request.

(5) A reference in this Act to the law of a foreign country includes a reference to the law of a part of, or the law in force in part of, the country.

**3. Act to bind the Crown**—This Act binds the Crown.

**4. Object of Act**—The object of this Act is to facilitate the provision and obtaining, by New Zealand, of international assistance in criminal matters, including—

- (a) The identification and location of persons:
- (b) The obtaining of evidence, documents, or other articles:
- (c) The production of documents and other articles:
- (d) The making of arrangements for persons to give evidence or assist investigations:
- (e) The service of documents:
- (f) The execution of requests for search and seizure:
- (g) The forfeiture or confiscation of tainted property:

- (h) The recovery of pecuniary penalties in respect of offences:
- (i) The restraining of dealings in property, or the freezing of assets, that may be forfeited or confiscated, or that may be needed to satisfy pecuniary penalties imposed, in respect of offences:
- (j) The location of property that may be forfeited, or that may be needed to satisfy pecuniary penalties imposed, in respect of offences.

Cf. Mutual Assistance in Criminal Matters Act 1987 (Aust.), s. 5

**5. Act not to limit other provision of assistance—**  
Nothing in this Act—

- (a) Derogates from existing forms of co-operation (whether formal or informal) in respect of criminal matters between New Zealand and any other country; or
- (b) Prevents the development of other forms of such co-operation.

Cf. Mutual Assistance in Criminal Matters Act 1987 (Aust.), s. 6

**6. Act not authority for extradition of any person—**  
Nothing in this Act authorises—

- (a) The extradition or rendition of any person; or
- (b) The arrest or detention, with a view to extradition or rendition, of any person.

**PART II**

**REQUESTS BY NEW ZEALAND**

*Preliminary Provisions*

**7. Application of this Part—**A request for assistance pursuant to this Part of this Act may be made to any foreign country.

**8. Requests to be made by Attorney-General—**Requests by New Zealand for assistance under this Part of this Act shall be made by the Attorney-General.

*Assistance in Locating or Identifying Persons*

**9. Assistance in locating or identifying persons—**Where the Attorney-General is satisfied that there are reasonable grounds for believing that there is, in any foreign country, a person who—

- (a) Is or might be concerned in or affected by; or



(b) Could give or provide evidence or assistance relevant to—any criminal matter in New Zealand, the Attorney-General may request that foreign country to assist in locating or, if the person's identity is unknown, in identifying and locating that person.

*Assistance in Obtaining Evidence*

**10. Assistance in obtaining evidence**—Where the Attorney-General is satisfied that there are reasonable grounds for believing that evidence or information relevant to any criminal matter in New Zealand may be obtained if—

- (a) Evidence is taken in a foreign country; or
- (b) Documents or other articles in a foreign country are produced,—

the Attorney-General may request that foreign country to assist in obtaining that evidence or information.

Cf. Mutual Assistance in Criminal Matters Act 1987 (Aust.), s. 12

**11. Assistance in obtaining evidence for use in New Zealand court**—(1) Where the Attorney-General is satisfied that there are reasonable grounds for believing that evidence or information relevant to any criminal proceedings in New Zealand may be obtained if a court or other judicial authority in a foreign country is requested—

- (a) To take, or cause to be taken, the evidence of any specified person; or
- (b) To order the production of any specified document by any person,—

the Attorney-General may request that foreign country to assist in arranging for that evidence to be taken or that document to be produced.

(2) Any deposition (by whatever name called) that is received from a foreign country pursuant to a request made under subsection (1) of this section and that purports to have been signed by the deponent and the person taking the evidence or to have been certified as a correct record by the person taking the evidence may, subject to the rules of law relating to the admission of evidence, be put in as evidence at the hearing of the criminal proceedings to which the request relates.

(3) Any document (other than a deposition) received from a foreign country pursuant to a request made under subsection (1) of this section may, subject to the rules of law relating to the admission of evidence, be put in as evidence at the hearing of the criminal proceedings to which the request relates as if

produced by the person who produced the document pursuant to the order of the Court or other judicial authority of that foreign country.

(4) All courts shall take judicial notice of any seal or signature impressed, affixed, appended, or subscribed on or to any deposition (by whatever name called) tendered in evidence under this section.

*Assistance in Arranging Attendance of Person in New Zealand*

**12. Assistance in arranging attendance of person—**

(1) Where the Attorney-General is satisfied that there are reasonable grounds for believing that a person in a foreign country could give or provide evidence or assistance relevant to any criminal matter in New Zealand, the Attorney-General may request that foreign country to assist in arranging the attendance of the person in New Zealand to give or provide that evidence or, as the case may be, that assistance.

(2) Where the Attorney-General is satisfied that a person in respect of whom a request is made to a foreign country under subsection (1) of this section consents to travel to New Zealand to give or provide evidence or assistance pursuant to that request, the Attorney-General may make arrangements with that foreign country for the purposes of—

- (a) The removal of the person to New Zealand;
- (b) In the case of a foreign prisoner, the custody of that person while in New Zealand;
- (c) The return of the person to the foreign country;
- (d) Other relevant matters.

Cf. Mutual Assistance in Criminal Matters Act 1987 (Aust.), s. 16

**13. Certificate that attendance required—**(1) For the purposes of enabling the grant of a temporary permit under the Immigration Act 1987 to any person in respect of whom a request is made under section 12 of this Act, the Attorney-General may issue a certificate, in writing, that the attendance of that person in New Zealand is necessary for the purposes of giving or providing evidence or assistance pursuant to that request.

(2) The Attorney-General may, at any time, by notice in writing, cancel any certificate issued under subsection (1) of this section in respect of any person who is in New Zealand pursuant to a request made under section 12 of this Act, if the Attorney-General is satisfied that the attendance of that person

in New Zealand is no longer necessary for the purpose to which the request relates.

**14. Penalty not to be imposed for refusal to consent—**

Where, pursuant to section 12 of this Act, the Attorney-General requests the assistance of a foreign country in arranging the attendance, in New Zealand, of any person, the person to whom the request relates shall not be subject to any penalty or liability or otherwise prejudiced in law by reason only of that person's refusal or failure to consent to attend as requested.

**15. Custody of foreign prisoners—(1) Where—**

(a) A person who is to be brought to New Zealand from a foreign country pursuant to a request made under section 12 (1) of this Act is a foreign prisoner; and

(b) That foreign country requests that the person be kept in custody while he or she is in New Zealand,—  
that person shall, while that person is in New Zealand or is travelling to or from New Zealand pursuant to the request, be kept in such custody as the Minister directs in writing.

(2) A direction given pursuant to subsection (1) of this section in respect of any foreign prisoner shall be sufficient authority for the detention of that person in accordance with the terms of the direction.

(3) Where, pursuant to subsection (1) of this section, a foreign prisoner who is in New Zealand pursuant to a request made under section 12 (1) of this Act is directed to be detained in a penal institution, the Penal Institutions Act 1954, so far as applicable and with all necessary modifications, shall apply with respect to that foreign prisoner as if he or she were a person who has been sentenced to imprisonment for an offence against the law of New Zealand and is liable to be detained in a penal institution under such a sentence.

(4) Where the Attorney-General is satisfied, in respect of a foreign prisoner who is in New Zealand pursuant to a request made under section 12 (1) of this Act, that the attendance of that person in New Zealand is no longer necessary for the purpose to which the request relates, the Attorney-General may order, in writing, that the person be removed from New Zealand, and such an order shall be sufficient authority for that person's removal from New Zealand by such means as the Attorney-General directs.

Cf. Mutual Assistance in Criminal Matters Act 1987  
(Aust.), ss. 18, 22

**16. Release of foreign prisoner upon request by foreign country—Where—**

- (a) A foreign prisoner is being held in custody in accordance with a direction of the Minister under section 15 of this Act; and
  - (b) The foreign country from which the person has been brought requests the release of the person from custody,—
- the Minister shall direct that the person be released from custody.

Cf. Mutual Assistance in Criminal Matters Act 1987 (Aust.), s. 23

**17. Immunities and privileges—**(1) Subject to subsection (3) of this section, where a person (including a person who is a foreign prisoner) is in New Zealand pursuant to a request made under section 12 of this Act, the person shall not—

- (a) Be detained, prosecuted, or punished in New Zealand for any offence that is alleged to have been committed, or that was committed, before the person's departure from the foreign country pursuant to the request; or
  - (b) Be subjected to any civil proceedings in New Zealand in respect of any act or omission that is alleged to have occurred, or that occurred, before the person's departure from the foreign country pursuant to the request, being civil proceedings to which the person could not be subjected if the person were not in New Zealand; or
  - (c) Be required to give or provide evidence or assistance in relation to any criminal matter in New Zealand other than the criminal matter to which the request relates; or
  - (d) Be required, in the proceedings or investigation to which the request relates, to answer any question that the person would not be required to answer if those proceedings or that investigation were taking place in the foreign country; or
  - (e) Be required, in the proceedings or investigation to which the request relates, to produce any document or article that the person would not be required to produce if those proceedings or that investigation were taking place in the foreign country.
- (2) For the purposes of subsection (1) of this section, a duly authenticated foreign law immunity certificate is admissible in

proceedings as prima facie evidence of the matters stated in the certificate.

(3) Subsection (1) of this section shall not apply in relation to a person where—

(a) The person has left New Zealand and then returns otherwise than pursuant to the same or another request; or

(b) The person has had the opportunity to leave New Zealand and has remained in New Zealand otherwise than for—

(i) The purpose to which the request relates; or

(ii) The purpose of giving evidence in any criminal proceedings in New Zealand certified by the Attorney-General, in writing, to be proceedings in which it is desirable that the person give evidence; or

(iii) The purpose of giving assistance in relation to an investigation in New Zealand certified by the Attorney-General, in writing, to be an investigation in relation to which it is desirable that the person give assistance.

(4) A certificate given by the Attorney-General for the purposes of subparagraph (ii) or subparagraph (iii) of subsection (3) (b) of this section has effect from the day specified in the certificate (which may be a day before the day on which the certificate is given).

Cf. Mutual Assistance in Criminal Matters Act 1987 (Aust.), s. 19

#### **18. Limitation on use of evidence—Where—**

(a) A person is in New Zealand pursuant to a request made under section 12 of this Act; and

(b) That person gives evidence in any criminal proceedings, being—

(i) The criminal proceedings to which the request relates or any criminal proceedings consequent on the investigation to which the request relates; or

(ii) Criminal proceedings certified by the Attorney-General pursuant to section 17 (3) (b) (ii) of this Act in relation to that person,—

that evidence shall not be admitted or otherwise used in any prosecution of the person for any offence against the law of New Zealand, except on the trial of the person for perjury

within the meaning of the Crimes Act 1961 in respect of the giving of that evidence.

Cf. Mutual Assistance in Criminal Matters Act 1987 (Aust.), s. 21

*Assistance in Serving Documents*

**19. Assistance in serving documents**—The Attorney-General may request a foreign country to assist in effecting service of any process where the Attorney-General is satisfied that, for the purposes of, or in connection with, any criminal matter, it is necessary or desirable to serve that process on a person or an authority in the foreign country.

*Assistance in Obtaining Articles or Things*

**20. Assistance in obtaining article or thing**—(1) Subject to subsection (2) of this section, where the Attorney-General is satisfied that there are reasonable grounds for believing that an article or thing is in a foreign country and would, if produced, be relevant to any criminal matter in New Zealand, the Attorney-General may request the foreign country to assist in obtaining, by search and seizure if necessary, the article or thing.

(2) No request may be made under this section for assistance in obtaining an article or thing by search and seizure unless the Attorney-General is satisfied that there are reasonable grounds for believing that the article or thing would, if produced, be relevant to any criminal matter in respect of an offence against the law of New Zealand punishable by imprisonment for a term of 2 years or more.

*Requests for Enforcement of Orders Made Under Proceeds of Crime Act*

**21. Request for enforcement of orders made under Proceeds of Crime Act**—The Attorney-General may request a foreign country to make arrangements for the enforcement of a forfeiture order, a pecuniary penalty order, or a restraining order, where there are reasonable grounds for believing that some or all of the property in respect of which the order is made is located in that foreign country.

Cf. Mutual Assistance in Criminal Matters Act 1987 (Aust.), s. 32

*Requests for Issue of Warrants or Orders in Foreign Country*

**22. Request for issue of warrants or orders in foreign country**—Where any criminal matter arises in New Zealand in respect of a serious offence, the Attorney-General may request a foreign country to assist in obtaining the issue in that foreign country, in respect of the offence, of a warrant, order, or other instrument similar in nature to any of the following warrants or orders under the Proceeds of Crime Act:

- (a) A restraining order:
- (b) A search warrant for tainted property:
- (c) A production order:
- (d) A monitoring order.

Cf. Mutual Assistance in Criminal Matters Act 1987 (Aust.), s. 33

*Miscellaneous Provisions*

**23. Restriction on use of evidence**—Any evidence, information, document, or article that is obtained, provided, or produced pursuant to a request made under this Part of this Act shall be used by a New Zealand authority only for the purposes of, or in connection with, the criminal matter to which the request relates, unless—

- (a) The foreign country to which the request was made; and
- (b) In the case of any evidence, information, document, or article obtained from, or provided or produced by, a person while he or she is in New Zealand pursuant to a request made under section 12 of this Act, that person—

consents to the use of the evidence, information, document, or article for any other purpose.

PART III

REQUESTS TO NEW ZEALAND

*Preliminary Provisions*

**24. Application of this Part**—Subject to any regulations made under this Act, a request for assistance pursuant to this Part of this Act may be made by any prescribed foreign country.

**25. Requests to be made to Attorney-General**—(1) Every request by a foreign country for assistance in a criminal matter pursuant to this Part of this Act shall be made—

- (a) To the Attorney-General; or

(b) To a person authorised by the Attorney-General, in writing, to receive requests by foreign countries under this Part of this Act.

(2) Where a request by a foreign country is made to a person authorised under subsection (1) (b) of this section, the request shall be taken, for the purposes of this Act, to have been made to the Attorney-General.

Cf. Mutual Assistance in Criminal Matters Act 1987 (Aust.), s. 11 (1), (3)

**26. Form of request**—Every request by a foreign country for assistance under this Part of this Act shall—

(a) Specify the purpose of the request and the nature of the assistance being sought; and

(b) Identify the person, agency, or authority that initiated the request; and

(c) Be accompanied by—

(i) A certificate from the Central Authority of the foreign country that the request is made in respect of a criminal investigation or criminal proceedings within the meaning of this Act; and

(ii) A description of the nature of the criminal investigation or criminal proceedings and a statement setting out a summary of the relevant facts and law; and

(iii) Details of the procedure that the foreign country wishes to be followed by New Zealand in giving effect to the request, including details of the manner and form in which any information, document, or thing is to be supplied to the foreign country pursuant to the request; and

(iv) A statement setting out the wishes of the foreign country concerning the confidentiality of the request and the reasons for those wishes; and

(v) Details of the period within which the foreign country wishes the request to be complied with; and

(vi) If the request involves a person travelling from New Zealand to the foreign country, details of allowances to which the person will be entitled, and of the arrangements for accommodation for the person, while the person is in the foreign country pursuant to the request; and

(vii) Any other information required to be included with the request under a treaty or other arrangement between New Zealand and the foreign country; and



(viii) Any other information that may assist in giving effect to the request.

Cf. Mutual Assistance in Criminal Matters Act 1987 (Aust.), s. 11 (2)

**27. Refusal of assistance—**(1) A request by a foreign country for assistance under this Part of this Act shall be refused if, in the opinion of the Attorney-General,—

- (a) The request relates to the prosecution or punishment of a person for an offence that is, or is by reason of the circumstances in which it is alleged to have been committed or was committed, an offence of a political character; or
- (b) There are substantial grounds for believing that the request has been made with a view to prosecuting or punishing a person for an offence of a political character; 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 colour, race, ethnic origin, sex, religion, nationality, or political opinions; or
- (d) The request relates to the prosecution of a person for an offence in a case where the person—
  - (i) Has been acquitted, convicted, or pardoned by a competent tribunal or authority; or
  - (ii) Has undergone the punishment provided by law,—  
whether in the foreign country, in New Zealand, or elsewhere, in respect of that offence or of another offence constituted by the same act or omission as that offence; or
- (e) The request relates to the prosecution or punishment of a person in respect of an act or omission that, if it had occurred in New Zealand, would have constituted an offence under the military law of New Zealand but not also under the ordinary criminal law of New Zealand; or
- (f) The granting of the request would prejudice the sovereignty, security, or national interests of New Zealand; or
- (g) In the case of a request made pursuant to section 37 or section 38 of this Act for the attendance of any person in that foreign country, the person to whom

the request relates is not prepared to give his or her consent to the transfer; or

(h) The request is for assistance of a kind that cannot be given under this Act, or would require steps to be taken for its implementation that could not be lawfully taken; or

(i) The requesting country is not a prescribed foreign country.

(2) Subject to subsections (3) and (4) of this section, a request by a foreign country for assistance under this Part of this Act may be refused if, in the opinion of the Attorney-General,—

(a) The request relates to the prosecution or punishment of a person in respect of conduct that, if it had occurred in New Zealand, would not have constituted an offence against New Zealand law; or

(b) The request relates to the prosecution or punishment of a person in respect of conduct that occurred, or is alleged to have occurred, outside the foreign country and similar conduct occurring outside New Zealand in similar circumstances would not have constituted an offence against New Zealand law; or

(c) The request relates to the prosecution or punishment of a person in respect of conduct where, if it had occurred in New Zealand at the same time and had constituted an offence against New Zealand law, the person responsible could no longer be prosecuted by reason of lapse of time or for any other reason; or

(d) In the case of a request made pursuant to section 38 of this Act in respect of a person who is a prisoner in New Zealand, the granting of the request—

(i) Would not be in the public interest; or

(ii) Would not be in the interests of the person to whom the request relates; or

(e) The provision of the assistance requested could prejudice a criminal investigation or criminal proceedings in New Zealand; or

(f) The provision of the assistance would prejudice, or would be likely to prejudice, the safety of any person (whether that person is in New Zealand or not); or

(g) The provision of the assistance would impose an excessive burden on the resources of New Zealand; or

(h) The request does not comply with the requirements of section 26 of this Act.

(3) No request shall be refused solely on the grounds contained in subsection (2) (g) of this section unless—

- (a) The Attorney-General has first consulted with the Central Authority of the requesting country about the terms and conditions on which the request may be complied with; and
  - (b) The Attorney-General has been unable to reach agreement with the Authority in that regard.
- (4) No request shall be refused solely on the grounds contained in subsection (2)(h) of this section unless the Attorney-General has first requested further information from the requesting country and that country has failed or refused to provide that information.
- (5) Subject to subsection (1) of this section, the Attorney-General may grant a request even though the request does not comply with the requirements of section 26 of this Act.

Cf. Mutual Assistance in Criminal Matters Act 1987 (Aust.), s. 8

**28. Notification of refusal**—If a request by a foreign country for assistance under this Part of this Act is refused in whole or in part, notice of the refusal shall be given by the Attorney-General to the Central Authority of the requesting country together with the reasons for the refusal.

**29. Assistance may be provided subject to conditions**—Assistance under this Part of this Act may be provided to a requesting country subject to such conditions as the Attorney-General determines in any particular case or class of cases.

Cf. Mutual Assistance in Criminal Matters Act 1987 (Aust.), s. 9

*Assistance in Locating or Identifying Persons*

**30. Assistance in locating or identifying persons**—(1) A prescribed foreign country may request the Attorney-General to assist in locating, or identifying and locating, a person who is believed to be in New Zealand.

(2) Where, on receipt of a request made under subsection (1) of this section by a foreign country, the Attorney-General is satisfied—

- (a) That the request relates to a criminal matter in the foreign country; and
- (b) That there are reasonable grounds for believing that the person to whom the request relates—

(i) Is or might be concerned in, or could give or provide evidence or assistance relevant to, the criminal matter; and

(ii) Is in New Zealand,—

the Attorney-General may authorise, in writing, assistance in accordance with this section.

(3) Where, in relation to a request made under subsection (1) of this section, the Attorney-General authorises assistance in accordance with this section, the Attorney-General shall forward the request to the appropriate agency in New Zealand, and that agency shall use its best endeavours to locate or, as the case may be, identify and locate the person to whom the request relates, and shall advise the Attorney-General of the outcome of those endeavours.

(4) On receipt of such advice, the Attorney-General shall inform the requesting country of the result of the inquiries made pursuant to the request.

*Assistance in Obtaining Evidence in New Zealand*

**31. Assistance in obtaining evidence in New Zealand—**

(1) A prescribed foreign country may request the Attorney-General to assist in arranging—

- (a) The taking of evidence in New Zealand; or
- (b) The production of documents or other articles in New Zealand.

(2) Where, on receipt of a request made under subsection (1) of this section by a foreign country, the Attorney-General is satisfied—

- (a) That the request relates to criminal proceedings in the foreign country; and
- (b) That there are reasonable grounds for believing that the evidence can be taken or, as the case may be, the documents or other articles can be produced in New Zealand,—

the Attorney-General may authorise, in writing, assistance in accordance with this section.

(3) Where, under subsection (2) of this section, the Attorney-General authorises the taking of evidence, a Judge may, subject to sections 32 and 33 of this Act and to any regulations made under this Act, take the evidence on oath of each witness appearing before the Judge, and shall—

- (a) Cause the evidence to be put in writing and certify, in the prescribed form, that the evidence was taken by the Judge; and
- (b) Cause the writing to be sent to the Attorney-General.

(4) Where, under subsection (2) of this section, the Attorney-General authorises the production of documents or other articles, a Judge may, subject to sections 32 and 33 of this Act and to any regulations made under this Act, require the production of the documents or other articles, and, unless the Judge otherwise orders, shall cause the documents, or copies of the documents certified by the Judge to be true copies, or the other articles, to be sent to the Attorney-General.

Cf. Mutual Assistance in Criminal Matters Act 1987 (Aust.), s. 13 (1), (2)

**32. Further provisions relating to obtaining evidence—**(1) Subject to section 33 of this Act, the laws of New Zealand with respect to the compelling of persons to attend before a Judge, and to give evidence, answer questions, and produce documents or other articles, upon the hearing of a charge against a person for an offence against the law of New Zealand shall apply, so far as they are capable of application and with all necessary modifications, with respect to the compelling of persons to attend before a Judge, and to give evidence, answer questions, and produce documents or other articles, for the purposes of section 31 of this Act.

(2) Where, pursuant to section 31 of this Act, a foreign country requests the production of documents that are judicial records or official records, and that are not publicly available in New Zealand, those records may be produced or examined only to the extent that they could be produced or examined if the criminal proceedings to which the request relates were pending in a New Zealand court.

Cf. Mutual Assistance in Criminal Matters Act 1987 (Aust.), s. 13 (6)

**33. Protection of witnesses—**(1) For the purposes of section 31 of this Act, the person to whom the criminal proceedings in the foreign country relates is competent but not compellable to give evidence.

(2) No person who is required, pursuant to section 31 of this Act, to give evidence, or to produce documents or other articles, for the purposes of any proceedings in a foreign country shall be required to give any evidence, or to produce any document or article, that the person could not be compelled to give or produce in the proceedings in the foreign country.

(3) A duly authenticated foreign law immunity certificate is admissible, for the purposes of subsection (2) of this section, as prima facie evidence of the matters stated in the certificate.

(4) Every person who is required, pursuant to section 31 of this Act, to give evidence, or produce documents or other articles, for the purposes of any proceedings in a foreign country shall have the same privileges in relation to the answering of questions and the production of documents and things as if the proceedings were pending in a New Zealand court.

Cf. Mutual Assistance in Criminal Matters Act 1987 (Aust.), s. 13 (7)–(9)

**34. Certain persons entitled to appear and be legally represented at proceedings—**(1) The following persons may appear, and may be represented by counsel, at any hearing held under subsection (3) or subsection (4) of section 31 of this Act:

- (a) The person to whom the proceedings in the foreign country relate:
- (b) Any other person giving evidence or producing documents or other articles at the hearing:
- (c) The relevant authority of the foreign country.

(2) The certificate by the Judge under section 31 (3) (a) of this Act shall state whether or not any of the persons listed in subsection (1) of this section were present at the hearing and, if so, whether or not they were legally represented.

Cf. Mutual Assistance in Criminal Matters Act 1987 (Aust.), s. 13 (4), (5)

**35. Powers of Judge may be exercised by Registrar—**

(1) Any Judge may authorise a Registrar of the High Court to exercise the powers of a Judge under section 31 of this Act in respect of any particular case.

(2) Any authorisation given under subsection (1) of this section may be revoked at any time by any Judge.

(3) Where any matter in respect of which he or she has jurisdiction under any authorisation given under subsection (1) of this section appears to the Registrar to be one of special difficulty, he or she may refer the matter to a Judge, who may dispose of the matter or may refer it back to the Registrar with such directions as the Judge thinks fit.

(4) Nothing in this section shall prevent the exercise, by any Judge, of any jurisdiction or powers conferred on any Registrar under this section.

Cf. 1908, No. 56, s. 48B, 1962, No. 34, s. 4

**36. Evidence Act 1908 not affected**—Nothing in sections 31 to 35 of this Act limits or affects the provisions of sections 48 to 48J of the Evidence Act 1908 or Part IV of the Evidence Amendment Act (No. 2) 1980.

*Assistance in Obtaining Attendance of Persons in Foreign Country*

**37. Assistance in arranging attendance of person to give evidence in foreign country**—(1) A prescribed foreign country may request the Attorney-General to assist in arranging the attendance, in that country, of a person in New Zealand (not being a person to whom section 38 of this Act applies) for the purposes of giving or providing evidence or assistance in relation to a criminal matter in the foreign country.

(2) Where, on receipt of a request made under subsection (1) of this section by a foreign country, the Attorney-General is satisfied—

- (a) That the request relates to a criminal matter in the foreign country; and
- (b) That there are reasonable grounds for believing that the person concerned could give or provide evidence or assistance relevant to that criminal matter; and
- (c) That the person concerned has freely consented to attend as requested; and
- (d) That the foreign country has given adequate undertakings in respect of the matters specified in paragraphs (a), (b), (c), and (e) of section 39 of this Act,—

the Attorney-General may authorise, in writing, assistance in accordance with this section, and may assist in the making of arrangements to facilitate that attendance.

Cf. Mutual Assistance in Criminal Matters Act 1987 (Aust.), ss. 26, 27

**38. Assistance in arranging attendance of prisoner**—(1) A prescribed foreign country may request the Attorney-General to assist in arranging the attendance, in that country, of a person in New Zealand who is—

- (a) A prisoner; or
- (b) Subject to any conditions of his or her release under Part VI of the Criminal Justice Act 1985; or

- (c) Liable to recall under Part VI of the Criminal Justice Act 1985; or
- (d) At large pursuant to section 21 of the Penal Institutions Act 1954; or
- (e) Subject to a community-based sentence (within the meaning of section 2 of the Criminal Justice Act 1985)—

for the purposes of giving evidence in relation to any criminal proceedings in the foreign country.

(2) Where, on receipt of a request made under subsection (1) of this section by a foreign country, the Attorney-General is satisfied—

- (a) That the request relates to the attendance of the person concerned at a hearing in connection with any criminal proceedings in the foreign country; and
- (b) That there are reasonable grounds for believing that the person is capable of giving evidence relevant to the proceedings; and
- (c) That the person has freely consented to give evidence in the foreign country; and
- (d) That the foreign country has given adequate undertakings in respect of the matters specified in section 39 of this Act,—

the Attorney-General may authorise, in writing, assistance in accordance with this section.

(3) Where assistance is authorised in accordance with subsection (2) of this section, the Attorney-General may,—

- (a) In the case of a person who is a prisoner, direct that the prisoner be released from the penal institution in which that person is detained for the purpose of travelling to the foreign country to give evidence at the hearing, and may make arrangements for the prisoner to travel to the foreign country in the custody of a member of the Police or a prison officer;
- (b) In the case of any other person, approve and arrange the travel of the person to the foreign country to give evidence at the hearing, and may obtain such approvals, authorities, and permissions as are required for the purpose, including the variation, discharge, or suspension of the conditions of the person's release, or the variation, cancellation, or suspension of the person's sentence, or of the conditions of the person's sentence.



(4) A direction given, pursuant to subsection (3) (a) of this section, by the Attorney-General in respect of a prisoner shall be sufficient authority for the release of the prisoner from the penal institution in which he or she is detained for the purposes of the direction.

(5) Every person released under a direction given pursuant to subsection (3) (a) of this section shall, while that person is in New Zealand during the period of that release, be deemed, for the purposes of section 120 of the Crimes Act 1961 (which relates to escaping from lawful custody) and for that purpose only, to continue to be in the legal custody of the Superintendent of the penal institution from which he or she is so released.

Cf. Mutual Assistance in Criminal Matters Act 1987 (Aust.), s. 26

**39. Undertakings required from foreign country—**  
Where, pursuant to section 37 or section 38 of this Act, a foreign country requests the assistance of the Attorney-General in arranging the attendance, in that country, of a person to whom either of those sections applies, the Attorney-General shall, before authorising assistance in accordance with either of those sections in that case, obtain undertakings from the foreign country in relation to the following matters:

(a) That the person to whom the request relates shall not—

(i) Be detained, prosecuted, or punished for any offence against the law of the foreign country that is alleged to have been committed, or that was committed, before the person's departure from New Zealand; or

(ii) Be subjected to any civil proceedings in respect of any act or omission of the person that is alleged to have occurred, or that occurred, before the person's departure from New Zealand, being civil proceedings to which that person could not be subjected if the person were not in the foreign country; or

(iii) Be required to give or provide evidence or assistance in respect of any criminal matter in the foreign country other than the matter to which the request relates—

unless the person has left the foreign country, or has had the opportunity of leaving the foreign country and has remained in that country otherwise than for the purpose of giving or providing evidence or

assistance in respect of the matter to which the request relates:

- (b) That any evidence given by the person in the criminal proceedings to which the request relates shall 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 the offence of perjury in relation to the giving of that evidence:
- (c) That the person will be returned to New Zealand in accordance with arrangements agreed by the Attorney-General as soon as practicable after giving the evidence:
- (d) In a case where the request relates to a person who is a prisoner in New Zealand and the Attorney-General requests the foreign country to make arrangements for the keeping of the person in custody while the person is in the foreign country,—
  - (i) That appropriate arrangements will be made for that purpose; and
  - (ii) That the person will not be released from custody in the foreign country without the prior approval of the Attorney-General; and
  - (iii) If the person is released in the foreign country, at the request of the Attorney-General, before the completion of the proceedings to which the request relates, that the person's accommodation and expenses will be met by the foreign country:
- (e) Such other matters (if any) as the Attorney-General thinks appropriate.

Cf. Mutual Assistance in Criminal Matters Act 1987 (Aust.), s. 26 (3)

**40. Penalty not to be imposed for refusal to consent—**

Where, pursuant to section 37 or section 38 of this Act, a foreign country requests the assistance of the Attorney-General in arranging the attendance, in that country, of any person, the person to whom the request relates shall not be subject to any penalty or liability or otherwise prejudiced in law by reason only of that person's refusal or failure to consent to attend as requested.

**41. Effect of removal to foreign country on prisoner's term of imprisonment—**Where a prisoner who is serving a term of imprisonment for an offence against the law of New Zealand is released from a New Zealand penal institution

pursuant to a request by a foreign country under section 38 of this Act, the prisoner shall, while in custody in connection with the request (including custody outside New Zealand), be deemed to be continuing to serve that term of imprisonment.

Cf. Mutual Assistance in Criminal Matters Act 1987 (Aust.), s. 28

**42. Custody of persons in transit—**(1) A person who is in custody in one foreign country and has consented to give evidence in criminal proceedings, or to give assistance in relation to a criminal investigation, in another foreign country may be transported through New Zealand, in custody, to that other foreign country.

(2) Where one of the countries is a prescribed foreign country, the person being transported through New Zealand in custody may, if an aircraft or ship by which the person is being transported lands or calls at a place in New Zealand, be kept in such custody while in transit in New Zealand as the Minister directs in writing until his or her transportation is continued.

(3) Where—

(a) A person is being held in custody pursuant to a direction under subsection (2) of this section; and

(b) The person's transportation is not, in the opinion of the Attorney-General, continued within a reasonable time,—

the Attorney-General may direct, in writing, that the person be transported in custody to the country from which the person was first transported, and such a direction shall be sufficient authority for that person's removal from New Zealand by such means as the Attorney-General directs.

(4) Section 15 (3) of this Act shall, so far as applicable and with all necessary modifications, apply with respect to any person detained in custody in accordance with this section.

(5) For the purposes of enabling the grant of a temporary permit under the Immigration Act 1987 to any person whom it is proposed to transport through New Zealand pursuant to this section, the Attorney-General may issue a certificate, in writing, that the person is to be transported through New Zealand pursuant to this section.

(6) The Attorney-General may, at any time, by notice in writing, cancel any certificate issued under subsection (5) of this section in respect of any person who is in New Zealand for the purposes of being transported through New Zealand pursuant to this section if the Attorney-General is satisfied that that

person's presence in New Zealand is no longer necessary for that purpose.

Cf. Mutual Assistance in Criminal Matters Act 1987 (Aust.), s. 29

#### *Search Warrants*

**43. Assistance in obtaining article or thing by search and seizure—**(1) A prescribed foreign country may request the Attorney-General to assist in obtaining an article or thing by search and seizure.

(2) Where, on receipt of a request made under subsection (1) of this section by a foreign country, the Attorney-General is satisfied—

- (a) That the request relates to a criminal matter in that foreign country in respect of an offence punishable by imprisonment for a term of 2 years or more; and
- (b) That there are reasonable grounds for believing that an article or thing relevant to the proceedings is located in New Zealand,—

the Attorney-General may authorise a member of the Police, in writing, to apply to a District Court Judge for a search warrant in accordance with section 44 of this Act.

Cf. Mutual Assistance in Criminal Matters Act 1987 (Aust.), s. 15 (1)

**44. Search warrants—**(1) Any District Court Judge who, on an application in writing made an oath, is satisfied that there are reasonable grounds for believing that there is in or on any place or thing—

- (a) Any thing upon or in respect of which any offence under the law of a foreign country punishable by imprisonment for a term of 2 years or more has been, or is suspected of having been, committed; or
- (b) Any thing which there are reasonable grounds for believing will be evidence as to the commission of any such offence; or
- (c) Any thing which there are reasonable grounds for believing is intended to be used for the purpose of committing any such offence—

may issue a search warrant in respect of that thing.

(2) An application for a warrant under subsection (1) of this section may be made only by a member of the Police authorised under section 43 (2) of this Act.

**45. Form and content of search warrant—**(1) Every warrant issued under section 44 of this Act shall be in the prescribed form.

(2) Every warrant issued under section 44 of this Act shall be directed to any member of the Police by name, or to any class of members of the Police specified in the warrant, or generally to every member of the Police.

(3) Every warrant issued under section 44 of this Act shall be subject to such special conditions (if any) as the District Court Judge may specify in the warrant.

(4) Every warrant issued under section 44 of this Act shall contain the following particulars:

- (a) The place or thing that may be searched pursuant to the warrant:
- (b) The offence or offences in respect of which the warrant is issued:
- (c) A description of the articles or things that are authorised to be seized:
- (d) The period during which the warrant may be executed, being a period not exceeding 14 days from the date of issue:
- (e) Any conditions specified by the Judge pursuant to subsection (3) of this section.

**46. Powers conferred by warrant—**(1) Subject to any special conditions specified in the warrant pursuant to section 45 (3) of this Act, every warrant issued under section 44 of this Act shall authorise the member of the Police executing the warrant—

- (a) To enter and search the place or thing specified in the warrant at any time by day or night during the currency of the warrant; and
- (b) To use such assistants as may be reasonable in the circumstances for the purpose of the entry and search; and
- (c) To use such force as is reasonable in the circumstances for the purposes of effecting entry, and for breaking open anything in or on the place searched; and
- (d) To search for and seize any thing referred to in section 44 (1) of this Act.

(2) Every person called upon to assist any member of the Police executing a warrant issued under section 44 of this Act shall have the powers described in paragraphs (c) and (d) of subsection (1) of this section.

**47. Person executing warrant to produce evidence of authority**—Every member of the Police executing any warrant issued under section 44 of this Act—

- (a) Shall have that warrant with him or her; and
- (b) Shall produce it on initial entry and, if requested, at any subsequent time; and
- (c) Shall, if requested at the time of the execution of the warrant or at any subsequent time, provide a copy of the warrant within 7 days after the request is made.

**48. Notice of execution of warrant**—Every member of the Police who executes a warrant issued under section 44 of this Act shall, not later than 7 days after the seizure of any thing pursuant to that warrant, give to the owner or occupier of the place or thing searched, and to every other person whom the member of the Police has reason to believe may have an interest in the thing seized, a written notice specifying—

- (a) The date and time of the execution of the warrant; and
- (b) The identity of the person who executed the warrant; and
- (c) The thing seized under the warrant.

**49. Custody and disposal of things seized**—(1) Where any member of the Police seizes any thing pursuant to a warrant issued under section 44 of this Act, that member of the Police shall deliver the thing into the custody of the Commissioner of Police.

(2) Where a thing is delivered into the custody of the Commissioner of Police under subsection (1) of this section, the Commissioner of Police shall arrange for the thing to be kept for a period not exceeding 1 month from the day on which the thing was seized pending a direction in writing from the Attorney-General as to the manner in which the thing is to be dealt with (which may include a direction that the thing be sent to an appropriate authority of a foreign country).

(3) Where, before the expiry of the period referred to in subsection (2) of this section, the Attorney-General gives a direction in respect of the thing, the thing shall be dealt with in accordance with the direction.

(4) If no direction is given by the Attorney-General before the expiry of the period referred to in subsection (2) of this section, the Commissioner of Police shall arrange for the thing to be returned to the person from whose possession it was seized as soon as practicable after that period has expired.

**50. Attorney-General to provide certificate as to search and seizure**—Where, pursuant to a request made under section 43 of this Act by a foreign country, a search warrant is issued under section 44 of this Act, the Attorney-General shall, at the request of the Central Authority of that foreign country, provide such certification as that Central Authority may require concerning the result of any search conducted pursuant to the warrant, the place and circumstances of the seizure of any thing pursuant to the warrant, and the custody of any thing so seized.

*Assistance in Arranging Service of Process*

**51. Assistance in arranging service**—(1) A prescribed foreign country may request the Attorney-General to assist in effecting the service of process on a person in New Zealand.

(2) Where, on receipt of a request made under subsection (1) of this section by a foreign country, the Attorney-General is satisfied—

- (a) That the request relates to a criminal matter in the foreign country; and
- (b) That there are reasonable grounds for believing that the person to be served is in New Zealand; and
- (c) Where the request relates to the service of a summons to appear as a witness in the foreign country, that the foreign country has given an adequate undertaking in respect of the matters specified in section 52 of this Act,—

the Attorney-General may authorise assistance in accordance with this section.

(3) Where service is authorised under subsection (2) of this section, the Attorney-General shall direct the appropriate authority to arrange service, and in such a case the authority shall—

- (a) Use its best endeavours to have the process served—
  - (i) In accordance with procedures proposed in the request; or
  - (ii) If those procedures would be unlawful or inappropriate in New Zealand, or if no procedures are so proposed, in accordance with the law of New Zealand; and
- (b) If the document—
  - (i) Is served, transmit to the Attorney-General for transmission to the foreign country making the request a certificate as to service; or

(ii) Is not served, transmit to the Attorney-General for transmission to the foreign country a statement of the reasons which prevented the service.

Cf. Mutual Assistance in Criminal Matters Act 1987 (Aust.), s. 38

**52. Undertaking required from foreign country—**

Where, pursuant to section 51 of this Act, a foreign country requests the assistance of the Attorney-General in effecting the service, on any person, of a summons to appear as a witness in that foreign country, the Attorney-General shall, before authorising assistance in accordance with that section, obtain an undertaking from the foreign country that the person to whom the request relates will not be subject to any penalty or liability or otherwise prejudiced in law by reason only of that person's refusal or failure to comply with the summons, notwithstanding any contrary statement in the summons.

**53. Penalty not to be imposed for failure to comply with summons—**Where, pursuant to section 51 of this Act, a foreign country requests the assistance of the Attorney-General in effecting the service, on any person, of a summons to appear as a witness in that foreign country, the person to whom the request relates shall not be subject to any penalty or liability or otherwise prejudiced in law by reason only of that person's refusal or failure to comply with the summons, notwithstanding any contrary statement in the summons.

*Requests for Enforcement of Foreign Confiscation Orders and Foreign Restraining Orders*

**54. Request for enforcement of foreign confiscation order—**(1) A prescribed foreign country may request the Attorney-General to assist with the enforcement of—

- (a) A foreign forfeiture order, made in respect of a foreign serious offence, against property that is reasonably believed to be located in New Zealand; or
- (b) A foreign pecuniary penalty order, made in respect of a foreign serious offence, where some or all of the property available to satisfy the order is reasonably believed to be located in New Zealand.

(2) Where, on receipt of a request made under subsection (1) of this section by a foreign country in respect of a foreign forfeiture order or a foreign pecuniary penalty order, the Attorney-General is satisfied—



- (a) That a person has been convicted of the offence in respect of which the foreign order was made; and
  - (b) That the conviction and the order are not subject to further appeal in the foreign country,—
- the Attorney-General may authorise the Solicitor-General, in writing, to apply to the High Court for the registration of the order.

Cf. Mutual Assistance in Criminal Matters Act 1987 (Aust.), s. 34 (1)

**55. Request for enforcement of foreign restraining order—**(1) A prescribed foreign country may request the Attorney-General to assist with the enforcement of a foreign restraining order in respect of property that is believed to be located in New Zealand.

(2) Where, on receipt of a request made under subsection (1) of this section, the Attorney-General is satisfied—

- (a) That the request relates to a criminal investigation, or criminal proceedings, in respect of a foreign serious offence; and
- (b) That there are reasonable grounds for believing that some or all of the property to which the order relates is located in New Zealand,—

the Attorney-General may authorise the Solicitor-General, in writing, to apply to the High Court for the registration of the order.

Cf. Mutual Assistance in Criminal Matters Act 1987 (Aust.), s. 34 (2)

**56. Method of registration of foreign orders—**(1) Where the Solicitor-General applies to the High Court for the registration of a foreign order in accordance with an authorisation given under section 54 or section 55 of this Act, the Court shall, subject to subsections (3) to (5) of this section, if it is satisfied that the order is in force, order that the order be registered.

(2) On registering a foreign forfeiture order in accordance with this section, the Court shall comply with section 23B of the Proceeds of Crime Act.

(3) An order, or an amendment of an order, shall be registered in the Court by the registration, in accordance with the prescribed procedure, of—

- (a) A copy of the appropriate order or amendment sealed by the Court or other authority making that order or amendment; or

(b) A copy of that order or amendment duly authenticated in accordance with section 63 of this Act.

(4) Where an order is registered in the High Court in accordance with this section, a copy of any amendments made to the order (whether before or after registration) may be registered in the same way as the order, but the amendments do not, for the purposes of this Act and of the Proceeds of Crime Act, have effect until they are so registered.

(5) A facsimile copy of a sealed or authenticated copy of an order or an amendment of an order shall be regarded for the purposes of this Act as the same as the sealed or authenticated copy, but registration effected by means of the facsimile copy shall cease to have effect on the expiry of the period of 21 days commencing on the date of registration unless, before the expiry of that period, the sealed or authenticated copy is registered.

Cf. Mutual Assistance in Criminal Matters Act 1987 (Aust.), s. 34 (4), (8)–(10)

**57. Effect of registration of foreign orders—**(1) Subject to sections 23B to 23D of the Proceeds of Crime Act, a foreign forfeiture order registered in accordance with section 56 of this Act has effect, and may be enforced, as if it were a forfeiture order made by the High Court under that Act and entered on the date of registration.

(2) A foreign pecuniary penalty order registered in accordance with section 56 of this Act has effect, and may be enforced, as if it were a pecuniary penalty order made by the High Court under the Proceeds of Crime Act and entered on the date of registration.

(3) Subject to section 66B of the Proceeds of Crime Act, a foreign restraining order registered in accordance with section 56 of this Act has effect, and may be enforced, as if it were a restraining order made by the High Court under that Act and entered on the date of registration.

Cf. Mutual Assistance in Criminal Matters Act 1987 (Aust.), s. 34 (5)–(7)

**58. Cancellation of registration of foreign orders—**

(1) Where—

- (a) A foreign forfeiture order; or
- (b) A foreign pecuniary penalty order; or
- (c) A foreign restraining order—

has been registered in accordance with section 56 of this Act, the Attorney-General may direct the Solicitor-General to apply

to the High Court for cancellation of the registration of the order.

(2) Without limiting the generality of subsection (1) of this section, the Attorney-General may give a direction under that subsection in relation to an order if the Attorney-General is satisfied—

- (a) That the order has, since its registration in New Zealand, ceased to have effect in the foreign country in which the order was made; or
- (b) That cancellation of the order is appropriate having regard to the arrangements entered into between New Zealand and the foreign country in relation to the enforcement of orders of that kind; or
- (c) That the order was registered in contravention of section 56 of this Act.

(3) Where, in accordance with a direction given under subsection (1) of this section, the Solicitor-General applies to the High Court for cancellation of the registration of an order, the Court shall cancel the registration accordingly.

(4) Where, pursuant to the Proceeds of Crime Act, a foreign forfeiture order or a foreign pecuniary penalty order or a foreign restraining order registered in accordance with section 56 of this Act is discharged (in whole or in part) or is revoked, that discharge or revocation may be a ground for an application for cancellation of the order under this section.

Cf. Mutual Assistance in Criminal Matters Act 1987 (Aust.), s. 34 (11)–(13)

*Requests by Foreign Countries for Orders or Warrants in New Zealand*

**59. Request for search warrant in respect of tainted property—**(1) A prescribed foreign country may request the Attorney-General to obtain the issue of a search warrant in respect of tainted property believed to be located in New Zealand.

(2) Where, on receipt of a request made under subsection (1) of this section, the Attorney-General is satisfied—

- (a) That the request relates to a criminal investigation, or criminal proceedings, in respect of a foreign serious offence; and
- (b) That there are reasonable grounds for believing that tainted property in respect of the offence is in New Zealand,—

the Attorney-General may authorise a commissioned officer of the Police to make an application under section 38A of the Proceeds of Crime Act for the search warrant requested.

Cf. Mutual Assistance in Criminal Matters Act 1987 (Aust.), s. 35

**60. Request for restraining order**—(1) A prescribed foreign country may request the Attorney-General to obtain the issue of a restraining order in respect of property that is believed to be located in New Zealand.

(2) Where, on receipt of a request made under subsection (1) of this section by a foreign country, the Attorney-General is satisfied—

(a) That criminal proceedings have been commenced in the foreign country in respect of a foreign serious offence; and

(b) That there are reasonable grounds for believing that property that may be made, or is, the subject of a foreign restraining order is located in New Zealand,—  
the Attorney-General may authorise the Solicitor-General to make an application under section 66A of the Proceeds of Crime Act for the order requested.

Cf. Mutual Assistance in Criminal Matters Act 1987 (Aust.), s. 36

**61. Request for production order**—(1) A prescribed foreign country may request the Attorney-General to obtain the issue of a production order in respect of one or more property-tracking documents.

(2) Where, on receipt of a request made under subsection (1) of this section by a foreign country, the Attorney-General is satisfied—

(a) That the request relates to a criminal matter in the foreign country in respect of a foreign drug-dealing offence; and

(b) That there are reasonable grounds for believing that 1 or more property-tracking documents in relation to the offence are located in New Zealand,—  
the Attorney-General may authorise a commissioned officer of the Police to make an application under section 76A of the Proceeds of Crime Act for the order requested.

Cf. Mutual Assistance in Criminal Matters Act 1987 (Aust.), s. 37 (1)

**62. Request for monitoring order—**(1) A prescribed foreign country may request the Attorney-General to obtain the issue of a monitoring order.

(2) Where, on receipt of a request made under subsection (1) of this section by a foreign country, the Attorney-General is satisfied—

- (a) That the request relates to a criminal matter in the foreign country in respect of a foreign drug-dealing offence; and
- (b) That there are reasonable grounds for believing that information about transactions conducted through an account held by a particular person with a financial institution in New Zealand is relevant to the matter,—

the Attorney-General may authorise a commissioned officer of the Police to make an application under section 81A of the Proceeds of Crime Act for the order requested.

Cf. Mutual Assistance in Criminal Matters Act 1987 (Aust.), s. 37 (3)

#### PART IV

##### MISCELLANEOUS PROVISIONS

**63. Authentication of documents—**(1) Subject to section 23 of this Act and to the rules of law relating to the admission of evidence, any document that is obtained, provided, or produced pursuant to a request made under this Act and that is duly authenticated is admissible in evidence in any criminal proceedings.

(2) A document is duly authenticated for the purposes of subsection (1) of this section if—

- (a) It purports to be signed or certified by a Judge, Magistrate, or official in or of a foreign country; and
- (b) Either—
  - (i) It is verified by the oath of a witness, or of an official of the Government of a foreign country; or
  - (ii) 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 official of the Government, of a foreign country.

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

Cf. Mutual Assistance in Criminal Matters Act 1987 (Aust.), s. 43

**64. Certificates given by Attorney-General—**(1) Where the Attorney-General receives a request made pursuant to this Act, the Attorney-General may give a certificate, in the prescribed form, certifying all or any of the following facts:

- (a) That a request for assistance under this Act has been made by a foreign country:
- (b) That the request meets the requirements of this Act:
- (c) That the acceptance of the request has been duly made under and in accordance with this Act.

(2) In any proceedings under this Act, or any proceedings under or pursuant to the Proceeds of Crime Act that arise directly or indirectly from a request made under this Act, a certificate purporting to have been given under subsection (1) of this section shall, in the absence of proof to the contrary, be sufficient evidence of the matters certified by the certificate.

**65. Regulations—**(1) The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

- (a) Prescribing the foreign countries in respect of which Part III of this Act applies:
- (b) Prescribing the forms of applications, notices, certificates, and other documents for the purposes of this Act, and requiring the use of such forms:
- (c) Prescribing the procedure to be followed in dealing with requests made under this Act, and providing for notification of the results of action taken pursuant to any such request:
- (d) Prescribing the procedures for obtaining evidence, or producing documents or articles, pursuant to a request made under section 31 of this Act:
- (e) Providing for the payment of fees, travelling allowances, and expenses to any person in New Zealand who gives or provides evidence or assistance pursuant to a request made under this Act:
- (f) Prescribing conditions for the protection of any property sent to or by a foreign country pursuant to a request made under this Act; and making provision for the return of property in New Zealand pursuant to a request:
- (g) Providing for such other matters as are contemplated by or are necessary for giving full effect to this Act and for its due administration.

(2) Regulations made pursuant to subsection (1)(a) of this section may state that the application of Part III of this Act to a prescribed foreign country may—

- (a) Be subject to such conditions, exceptions, or qualifications as are specified in the regulations:
- (b) Be subject to such limitations, conditions, exceptions, or qualifications as are necessary to give effect to a treaty between New Zealand and that country and relating (in whole or in part) to the provision of assistance in criminal matters, being a treaty a copy of which is set out in the regulations.

Cf. Mutual Assistance in Criminal Matters Act 1987 (Aust.), s. 44