

ARRANGEMENT OF CLAUSES

PART I

PRELIMINARY

1. Short title
2. Interpretation
3. Central Authority of Grenada
4. Designation of countries
5. Act not to affect existing forms of co-operation

PART II

REQUESTS BY GRENADA TO DESIGNATED COUNTRIES
FOR ASSISTANCE

6. Assistance in obtaining evidence
7. Assistance in locating or identifying persons
8. Assistance in obtaining, searching for or seizing articles or things
9. Assistance in arranging attendance of person as witness
10. Assistance in transferring prisoner
11. Assistance in serving documents
12. Restriction on use of evidence
13. Immunities and privileges
14. Assistance in tracing property derived from crime etc.
15. Assistance in seizing and confiscating proceeds of instrumentalities of crime

PART III

REQUESTS BY DESIGNATED COUNTRIES TO GRENADA FOR ASSISTANCE

16. Contents of a request
17. Co-operation in relation to requests for assistance
18. Refusal of assistance
19. Measures of compulsion in relation to requests
20. Confidentiality
21. Assistance to country in obtaining evidence
22. Assistance to country in locating or identifying person
23. Assistance to country in obtaining article or thing
24. Assistance to country in arranging attendance of a person
25. Assistance to country in transferring prisoner
26. Assistance to country in serving documents
27. Assistance to country in tracing property derived from crime, etc.
28. Assistance to country in relation to certain orders

PART IV

MISCELLANEOUS PROVISIONS

29. Expenses of compliance
30. Attorney General's certificate
31. Proof of certain matters
32. Transit through Grenada
33. Escaping

34. Arrest of person who has escaped from custody
35. Regulations
36. Repeal



GRENADA

ACT NO. 14 OF 2001**I assent,**

DANIEL CHARLES WILLIAMS

*15th June, 2001.**Governor-General.*

An Act to make provision for mutual legal assistance in criminal matters between Grenada and designated countries.

[15th June, 2001].

ENACTED by the Parliament of Grenada –

PART I

PRELIMINARY

Short title.

1. This Act may be cited as the**MUTUAL LEGAL ASSISTANCE IN CRIMINAL
MATTERS ACT, 2001.**

Interpretation.

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

“article” includes a document;

“Central Authority” mean –

- (a) in relation to Grenada — the Attorney General, or a person authorized in writing by the Attorney General under section 3; and
- (b) in relation to any designated country — the person or authority designated by the country in a bilateral agreement with Grenada, or under a multilateral scheme or agreement to which Grenada is a party, or by instrument under the hand of the relevant Minister or other officer, as the person with authority to transmit or receive requests under this Act;

“Commonwealth country” means a sovereign and independent country within the Commonwealth;

“confiscation order” means an order made in forfeiture proceedings;

“criminal matter”, in relation to a country, means –

- (a) an investigation into a matter certified by the Central Authority of the country to be a matter in respect of which there is reasonable cause to believe that an offence under the laws of that country has been committed and in respect of which criminal or forfeiture proceedings could be instituted in that country; or

- (b) proceedings certified by the Central Authority of the country to be criminal or forfeiture proceedings instituted in respect of an offence committed, or suspected on reasonable grounds to have been committed, against the laws of that country;

“designated country” means –

- (a) any Commonwealth country; and
- (b) any non-Commonwealth country designated by the Minister by order under section 4,

and includes any dependent territory of such a country;

“document” means any record of information, and includes –

- (a) anything on which there is writing;
- (b) anything on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them;
- (c) anything from which sounds, images or writings can be reproduced with or without the aid of anything else;
- (d) a map, plan, drawing or photograph; or
- (e) a part of a document as so defined;

“forfeiture proceedings” means proceedings, whether civil or criminal, for an order –

- (a) restraining dealings with any property in respect of which there is reasonable cause to believe that it has been –
 - (i) derived or obtained, whether directly or indirectly, from; or
 - (ii) used in, or in connection with,

the commission of an offence;

- (b) confiscating any property derived or obtained as provided in paragraph (a)(i) or used as provided in paragraph (a)(ii); or
- (c) imposing a pecuniary penalty calculated by reference to the value of any property derived or obtained as provided in paragraph (a)(i) or used as provided in paragraph (a)(ii);

“judicial records” means judgments, orders or decision of courts, and other records held by judicial authorities;

“Minister” means the Minister responsible for legal affairs;

“official records” means documents held by Government departments or agencies or prosecution authorities;

“property” includes money and all other property, real or personal, movable or immovable, including things in action and other intangible or incorporeal property, whether situated in Grenada or elsewhere, and includes any interest in any such property;

“relevant proceedings” means proceedings under or pursuant to this or any other Act arising directly or indirectly from a request for assistance under this Act by a designated country.

(2) For the purpose of this Act, a ship or aircraft registered in Grenada or in a designated country is deemed to be part of the territory of Grenada or, as the case may be, that designated country.

(3) A reference in this Act to property derived or obtained from the commission of an offence includes a reference to property used in, or in connection with, the commission of the offence.

Central
authority of
Grenada.

3.—(1) Subject to subsection (2), the Attorney General is the Central Authority of Grenada.

(2) The Attorney General may in writing authorize another public officer to act as the Central Authority of Grenada generally or in respect of any particular request.

Designation
of countries.

4.—(1) Every Commonwealth country is deemed to be designated for the purposes of this Act by virtue of the Harare Scheme Relating to Mutual Assistance in Criminal Matters in the Commonwealth.

(2) The Minister may, by order published in the *Gazette*, designate any non-Commonwealth country for the purposes of this Act, being a country with which Grenada has entered into a bilateral agreement for mutual legal assistance in criminal matters or which is a party to a multilateral scheme or agreement which provides for such assistance and to which Grenada is also a party.

(3) The Minister may in an order designating a non-Commonwealth country direct that the application of this Act in relation to the country is subject to the conditions, exceptions or qualifications specified the order, and in that event this Act applies accordingly.

(4) The Minister may by order direct that the application of this Act in relation to a particular Commonwealth country is subject to the conditions, exceptions or qualifications specified in the order and in that event this Act applies accordingly.

Act not to affect existing forms of co-operation.

5.—(1) Nothing in this Act derogates from existing forms of co-operation (whether formal or informal) or prevents the development of other forms of co-operation in respect of criminal matters, between Grenada and any designated country or any other country with which Grenada has similar reciprocal arrangements for mutual assistance in criminal matters, or between Grenada or any law enforcement agency or prosecution authority in Grenada and the International Criminal Police Organisation (INTERPOL) or any such agency or authority outside Grenada.

(2) Nothing in this Act is to be construed as authorising the extradition, or the arrest and detention with the view to extradition, of any person.

PART II

REQUESTS BY GRENADA TO DESIGNATED
COUNTRIES FOR ASSISTANCE

Assistance in
obtaining
evidence.

6.—(1) If there are reasonable grounds to believe that evidence or information relevant to any criminal matter in Grenada may be obtained if, in a designated country action as described in subsection (2) is taken, the Central Authority of Grenada may transmit to the designated country a request for assistance in taking that action.

(2) The action referred to in subsection (1) is any or all of the following –

- (a) taking evidence from a person;
- (b) providing information;
- (c) subjecting to examination or test any –
 - (i) person;
 - (ii) sample, specimen or other item from, or provided by a person;
 - (iii) remains which are, or which may be, human;
- (d) producing, copying or examining any judicial or official records;
- (e) producing, copying or examining any record or article;

- (f) taking, examining or testing samples of any matter or thing;
- (g) viewing or photographing any building, place or thing.

Assistance in locating or identifying persons.

7.—(1) If there are reasonable grounds to believe that a person who is or might be concerned in or affected by a criminal matter in Grenada, or who could provide evidence or assistance relevant to any such criminal matter is in a designated country, the Central Authority of Grenada may transmit to the designated country a request for assistance in locating that person or, if his or her identity is unknown, in identifying and locating him or her.

(2) A request under subsection (1) must contain such information as is available to the Central Authority of Grenada as to the whereabouts of the person concerned and any other information the Central Authority possesses which may facilitate the identification of that person.

Assistance in obtaining, searching for or seizing articles or things.

8.—(1) If there are reasonable grounds to believe that an article or thing is in any designated country which would, if produced, be relevant to any criminal matter in Grenada, the Central Authority of Grenada may transmit to the designated country a request for assistance in obtaining, by search and seizure if necessary, the article or thing.

(2) A request under subsection (1) must specify the article or thing to be searched for and seized and must contain, so far as reasonably practicable, all information available to the Central Authority of Grenada which may need to be adduced in an application under the law of that designated country for any necessary warrant or authorization to affect the search and seizure.

Assistance in
arranging
attendance of
person as
witness.

9.—(1) If there are reasonable grounds to believe that a person in a designated country could give or provide evidence or assistance relevant to any criminal matter, in Grenada, the Central Authority of Grenada may transmit to the designated country a request for assistance in arranging the attendance of the person in Grenada to give or provide that evidence or, as the case may be, assistance.

(2) A request under subsection (1) must specify, as appropriate and so far as the circumstances of the case permit –

- (a) the names and addresses or the official designations of the witness to be examined;
- (b) the questions to be put to the witness or the subject matter about which he or she is to be examined;
- (c) whether it is desired that the witness should be examined orally or in writing;
- (d) whether it is desired that an oath should be administered to the witness, or if the laws of the designated country concerned permit, that the witness should be required to make a solemn affirmation;
- (e) any provisions of the law of Grenada as to privilege or exemption from giving evidence which appear especially relevant to the request; and

-
- (f) any special requirements of the laws of Grenada as to the manner of taking evidence relevant to its admissibility in Grenada.

(3) The request may ask that, so far as the laws of the designated country permit, the accused person or his or her legal representative may attend the examination of the witness and ask questions of the witness.

Assistance in
transferring
prisoner.

10.—(1) If there are reasonable grounds to believe that a person who is a prisoner in a designated country could give or provide evidence or assistance relevant to a criminal matter in Grenada, the Central Authority of Grenada may transmit to the designated country a request to transfer the prisoner to Grenada to give or provide such evidence or, as the case may be, such assistance.

(2) A request under subsection (1) must specify –

- (a) the subject matter upon which it is desired to examine the prisoner as a witness; and
- (b) the reasons for which the personal appearance of the prisoner as a witness is required.

(3) If, pursuant to a request under subsection (1), a prisoner is transferred to Grenada from a designated country subject to conditions with respect to the prisoner's release or return, or with respect to any other matter, the Central Authority of Grenada must, unless and to the extent that the designated country waives the observance of those conditions, take the necessary steps to observe those conditions.

(4) If any condition such as is referred to in subsection (3) requires that a prisoner should be kept in custody while in Grenada, the prisoner must, while in Grenada or travelling to or from Grenada pursuant to the request, be kept in such custody as the Minister directs in writing.

(5) A prisoner whose transfer to Grenada is the subject of a request and who does not consent to the transfer is not by reason thereof liable to any penalty or measure of compulsion in Grenada.

(6) Nothing in this section confers any right on a prisoner.

(7) In this section, “prisoner”, in relation to a designated country, means a person who is being held in custody pending trial or sentence for, or who is under a sentence for, an offence against the laws of that designated country, or is subject to any limitation on his or her personal liberty pursuant to those laws.

Assistance in
serving
documents.

11.—(1) If, for the purpose of, or in connection with, any criminal matter in Grenada it is necessary to serve any document on a person or an authority in a designated country, the Central Authority of Grenada may transmit to the designated country a request for assistance in effecting the service.

(2) A request under subsection (1) must be accompanied by the documents to be served and, if those documents relate to attendance in Grenada, such notice as the Central Authority of Grenada is reasonably able to provide of outstanding warrants or other judicial orders in criminal matters against the person to be served.

(3) A person served with a summons to appear as a witness in Grenada in compliance with a request and who fails to comply with the summons is not, by reason thereof, liable to any penalty or measure of compulsion in Grenada notwithstanding any contrary statement in the summons.

Restriction on
use of evidence.

12. Any –

- (a) evidence or information obtained or as the case may be, given or provided by any person pursuant to a request under section 6 or 9; or
- (b) article, record or thing obtained pursuant to a request under section 6 or 8,

must be used by or on behalf of Grenada only for the purposes of the criminal proceedings to which the request relates or, as the case may be, any criminal proceedings resulting from the investigation to which the request relates, unless the designated country to which the request is made consents to the evidence or information being used for the purposes of any other criminal proceedings.

Immunities
and privileges.

13.—(1) Subject to subsection (2), a person who is in Grenada pursuant to a request under section 10 –

- (a) is not liable to be detained, prosecuted or punished in Grenada in respect of criminal acts committed, or convictions suffered, before the person's departure pursuant to the request from the designated country to which the request was made;

- (b) may refuse to answer any question or to produce any article or record which he or she could not be compelled to answer or produce in criminal proceedings in Grenada or in the designated country; and
- (c) must not be compelled to give or provide evidence, information or assistance for the purposes of, or in connection with, any criminal matter other than that to which the request relates.

(2) Paragraphs (a) and (b) of subsection (1) do not apply in relation to a person –

- (a) who leaves Grenada and then returns otherwise than pursuant to the same or another request;
- (b) who has been notified by the Central Authority of Grenada that his or her presence is no longer required for the purposes of the request and who then remains in Grenada for more than 15 days after the first date on which he or she had a reasonable opportunity to leave Grenada.

(3) For the purposes of subsection (1)(a), an offence is to be treated as having been committed only on the date when the conduct constituting the offence was completed, notwithstanding that the offence concerned is a continuing offence.

Assistance in tracing property derived from crime etc.

14.—(1) If there are reasonable grounds to believe that property derived or obtained, directly or indirectly, from, or to have been used in or in connection with the commission of an offence under the law of Grenada is in a designated country, the Central Authority may transmit to the designated country a request for assistance in identifying, locating or assessing the value of the property.

(2) A request under subsection (1) must contain such information as is available to the Central Authority of Grenada as to the nature and location of the property and as to any person believed to be in possession or control of the property.

Assistance in seizing and confiscating proceeds of instrumentalities of crime.

15.—(1) If in Grenada a person has been or is likely to be charged with, or has been convicted of, an offence and an order relating to the proceeds or instrumentalities of crime, which are believed on reasonable grounds to be within a designated country, has been or is likely to be made in relation to that person, the Central Authority of Grenada may transmit to the designated country a request for assistance in securing –

- (a) the making in the designated country of an order relating to the proceeds or instrumentalities of crime; or
- (b) the recognition or enforcement in that country of such an order made in Grenada.

(2) For the purpose of this section, “an order relating to the proceeds or instrumentalities of crime” means–

-
- (a) an order restraining dealings with any property in respect of which there is reasonable cause to believe that it has been derived or obtained, directly or indirectly, from, or used in, or in connection with, the commission of the offence;
 - (b) an order confiscating property derived or obtained, directly or indirectly, from, or used in, or in connection with, the commission of the offence; and
 - (c) an order imposing a pecuniary penalty calculated by reference to the value of the property so derived, obtained or used.

(3) A request under subsection (1) must be accompanied by a copy of any order made in Grenada and must contain, so far as reasonably practicable, all information available to the Central Authority of Grenada which may be needed in connection with the procedure to be followed in the designated country.

PART III

REQUESTS BY DESIGNATED COUNTRIES TO GRENADA FOR ASSISTANCE

Contents of
a request.

16.—(1) Subject to subsection (2), the provisions of the Schedule apply in relation to a request to Grenada for assistance under this Act by a designated country.

(2) Subsection (1) does not apply in relation to an informal request for assistance under this Act which is transmitted orally, but if such a request is accepted –

- (a) it may be implemented only to the extent that the Central Authority of Grenada considers reasonable; and
- (b) it is deemed to have been withdrawn if a request in accordance with subsection (1) for the assistance is not transmitted within a period the Central Authority considers reasonable and notifies to the requesting country.

Co-operation
in relation to
requests for
assistance.

17.—(1) Subject to this Act, a request for assistance under this Act by a designated country must be granted and executed as expeditiously as possible.

(2) The Central Authority of Grenada must inform the designated country making the request of any reason —

- (a) for not granting or executing the request expeditiously; or
- (b) for delaying the granting or execution of the request.

Refusal of
assistance.

18.—(1) The Central Authority of Grenada may refuse to grant or to execute in whole or in part a request for assistance under this Act if the criminal matter appears to the Central Authority of Grenada to concern —

- (a) conduct which would not constitute an offence under the laws of Grenada;
- (b) an offence or proceedings of a political character;

-
- (c) conduct which in the country making the request is an offence only under military laws or a law relating to military obligations;
 - (d) conduct which, if it had occurred in Grenada, would have constituted an offence under the military laws of Grenada but which is not also an offence under the ordinary criminal laws of Grenada; or
 - (e) conduct in relation to which the person accused or suspected of having committed the offence has been acquitted or convicted by a court in Grenada.

(2) For the purposes of this subsection, an offence is not of a political character if it is an offence within the scope of an international convention to which both Grenada and the country making the request are parties, and which imposes on the parties to it an obligation either to extradite or prosecute a person accused of the commission of the offence, or otherwise afford to one another mutual assistance in criminal matters.

(3) The Central Authority of Grenada may refuse to grant or execute a request for assistance under this Act –

- (a) to the extent that it appears to the Central Authority of Grenada that granting or executing the request would be contrary to the Constitution, or would prejudice the security, international relations or other essential public interests of Grenada; or

- (b) if there are substantial grounds for the Central Authority of Grenada to believe that granting or executing the request would facilitate the prosecution or punishment of any person on account of his or her race, religion, nationality or political opinions or would cause prejudice for any of those reasons to any person affected by the request.

(4) The Central Authority of Grenada may refuse to grant or execute in whole or in part a request for assistance to the extent that the steps required to be taken in order to comply with the request cannot, under the laws of Grenada, be taken in respect of criminal matters in Grenada.

(5) If a request for assistance under this Act made by a designated country, other than an informal request, is refused, the fact of, and the grounds for, refusal must be communicated by the Central Authority of Grenada to the Central Authority of that designated country.

Measures of compulsion in relation to requests.

19.—(1) The Central Authority of Grenada must ensure that in executing a request under this Act, only such measures of compulsion as are available under the laws of Grenada in respect of criminal matters in Grenada are used.

(2) If, under the laws of Grenada, measures of compulsion cannot be applied to any person to take the steps necessary to execute a request under this Act, but the person concerned is willing to act voluntarily in compliance or partial compliance with the request, the Central Authority of Grenada must take steps to make available the necessary facilities.

Confidentiality.

20. The Central Authority and other competent authorities of a designated country making a request for assistance under this Act must use their best efforts to keep confidential a request and its contents and the information and materials supplied in compliance with a request, except for disclosure in criminal proceedings and as otherwise authorized by the laws of Grenada.

Assistance to
country in
obtaining
evidence.

21.—(1) This section applies where a request is transmitted seeking assistance from Grenada in obtaining, by any of the means specified in section 6, evidence or information relevant to any criminal matter in a designated country, and the request is not refused.

(2) Subject to this section, the regulations may prescribe practices and procedures for obtaining evidence or information pursuant to a request for assistance under this section by a designated country.

(3) Without limiting section 19 (1) a person from whom evidence is taken in Grenada pursuant to a request by a designated country for assistance under this section –

(a) may refuse to answer any question if –

- (i) the refusal is based on the laws of Grenada;
- (ii) to answer the question would constitute a breach of a privilege recognized by the laws of the designated country;

(iii) to answer the question would constitute the commission by a person of an offence against the laws of the designated country; and

(b) must not be compelled to give or provide evidence or information for the purposes of, or in connection with, any criminal matter other than that to which the request relates.

(4) In granting or executing a request for assistance under this section, records not publicly available may be produced, copied or examined only to the extent that they could be produced to, or examined by, law enforcement agencies or prosecuting or judicial authorities in Grenada.

Assistance to country in locating or identifying person.

22.—(1) This section applies where a request is transmitted seeking assistance from Grenada in locating, identifying and locating, a person believed to be in Grenada 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 the designated country, and the request is not refused.

(2) If this section applies, the Central Authority of Grenada must use his or her best efforts to have the person located, or as the case may be, identified and located, and must inform the Central Authority of the designated country concerned of the results of those efforts.

Assistance to
country in
obtaining
article or
thing.

23.—(1) This section applies where a request is transmitted seeking assistance from Grenada in obtaining, by search and seizure if necessary, an article or thing in Grenada for the purposes of, or in connection with, any criminal matter in a designated country, and the request is not refused.

(2) If this section applies, the Central Authority of Grenada must, unless the article or thing concerned is otherwise lawfully obtainable, apply, or authorize any police officer in writing to apply, to a magistrate having jurisdiction in the area where the article or thing is believed to be located for a search warrant in respect of the article or thing.

(3) The laws of Grenada relating to the procedure for –

- (a) the making and disposal of an application for a search warrant; and
- (b) the execution of a search warrant,

apply, so far as they are capable of applying, to an application under subsection (2) and to the execution of any warrant issued pursuant to any such application.

(4) The Central Authority of Grenada must provide any certification required by the Central Authority of a designated country making a request to which this section applies concerning the result of any search, the place and circumstances of any seizure, and the subsequent custody of any property seized.

(5) If this section applies, the Minister may, in writing, authorize any article or thing obtained pursuant to a request to be removed or sent to the designated country that made the request.

Assistance to country in arranging attendance of a person.

24.—(1) This section applies where a request is transmitted seeking assistance from Grenada in arranging the attendance in a designated country of a person in Grenada to give or provide evidence or assistance relevant to any criminal matter in that country, and the request is not refused.

(2) If this section applies, the Central Authority of Grenada must –

- (a) inquire whether or not the person concerned is willing to attend as requested;
- (b) inform the Central Authority of the designated country making the request as to the outcome of the inquiry; and
- (c) if the person is willing to attend as requested, make appropriate arrangements to facilitate that attendance.

Assistance to country in transferring prisoner.

25.—(1) This section applies where a request is transmitted seeking assistance from Grenada to transfer a prisoner to a designated country to give or provide evidence or assistance relevant to any criminal matter in that country, and the request is not refused.

(2) If this section applies and the prisoner does not object to the transfer, the Minister must cause the prisoner to be transferred to the designated country for the purpose of giving or providing the evidence or assistance.

(3) The Central Authority of Grenada may communicate to the Central Authority of the designated country making the request any conditions subject to which the prisoner is to be transferred, including conditions with respect to the custody, release or return of the prisoner.

(4) Any period during which a prisoner is in custody in a designated country pursuant to a request under this section is deemed, for all purposes, to be time served in custody in Grenada.

(5) In this section, “prisoner” has the meaning given to it by section 10(7).

(6) A prisoner whose transfer to a designated country is the subject of a request under this section and who does not consent to such transfer is not, by reason thereof, liable to any penalty or measure of compulsion.

Assistance to
country in
serving
documents.

26.—(1) This section applies where a request is transmitted seeking assistance from Grenada in effecting the service of a document on a person or an authority in Grenada for the purpose of, or in connection with, any criminal matter in a designated country, and the request is not refused.

(2) If this section applies, the Central Authority of Grenada must –

(a) use his or her best efforts to have the document served –

(i) by any particular method stated in the request, unless such method is incompatible with the laws of Grenada;
or

- (ii) by any method prescribed by the laws of Grenada for the service of documents in criminal proceedings;
- (b) if the document is served - transmit to the Central Authority of the designated country making the request a certificate as to the service of the document; or
- (c) if the document is not served - transmit to the Central Authority of the designated country a statement as to the reasons which prevented the service.

Assistance to country in tracing property derived from crime, etc.

27.—(1) This section applies where –

- (a) a request is transmitted seeking assistance from Grenada in identifying, locating or locating and assessing the value of any property in Grenada believed on reasonable grounds to have been derived or obtained, directly or indirectly, from, or to have been used in, or in connection with, the commission of an offence in a designated country;
- (b) the request contains such information as is available to the Central Authority of that designated country as to the nature and location of the property and as to any person believed to be in possession or control of the property; and
- (c) the request is not refused.

(2) If this section applies, the Central Authority of Grenada –

- (a) must use his or her best efforts to give the assistance requested, and in so doing must invoke any powers and procedures available in Grenada for the purpose; and
- (b) must inform the Central Authority of the designated country making the request of the outcome of those efforts.

Assistance to
country in
relation to
certain orders.

28.—(1) This section applies where a request is transmitted seeking assistance from Grenada in securing –

- (a) the making in Grenada of an order relating to the proceeds or instrumentalities of crime; or
- (b) the recognition or enforcement in Grenada of such an order made in a designated country,

and the request is not refused.

(2) In this section, “an order relating to the proceeds or instrumentalities of crime” has the same meaning as in subsection (2) of section 15 and other provisions of that section apply, with necessary modifications, to a request pursuant to this section.

(3) If this section applies, the Central Authority of Grenada must apply to the High Court in accordance with applicable rules of court for the order referred to in subsection (1)(a) or for the registration of the order referred to in subsection (1)(b).

(4) On an application under subsection (2) the High Court must register the order referred to in subsection (1)(b) if it is satisfied that –

- (i) at the time of registration the order is in force;
- (ii) the person against whom the order is made appeared in the proceedings or, if he or she did not do so, that he or she received notice of the proceedings in sufficient time to enable him or her to defend himself or herself, or that he or she absconded before such notice could be given to him or her; and
- (iii) the order is not subject to appeal.

(5) The laws of Grenada apply to determine the circumstances and manner in which an order may be made, recognized or enforced in response to a request made under this section.

(6) If an order is registered in accordance with this section, a copy of any amendment made to the order (whether before or after registration) may be registered in the same manner as the order and such amendment does not, for the purposes of this Act, have effect until it is so registered.

(7) An order or an amendment to an order must be registered by the registration, in accordance with applicable rules of court, of –

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

(b) a copy of the order or amendment duly authenticated in accordance with section 31(2).

(8) The High Court must, after giving appropriate notice to the Central Authority of Grenada, cancel the registration of an order made in accordance with this section if it appears to the court that the order has ceased to have effect in the designated country that made the request.

(9) The regulations may make provision for and with respect to the enforcement in Grenada of an order registered in accordance with this section and may, for that purpose, direct that any Act applies in relation to any such order, subject to prescribed limitations, exceptions or restrictions, and the Act applies accordingly.

(10) In this section, “appeal” includes any proceedings by way of discharging or setting aside a judgment or an application for a new trial or stay of execution.

PART IV

MISCELLANEOUS PROVISIONS

Expenses of
compliance.

29.—(1) Subject to this Act, compliance by Grenada with a request for assistance under this Act does not give rise to a claim against the designated country making the request for expenses incurred by the Central Authority or the competent authorities of Grenada in granting or executing the request.

(2) A designated country making a request is responsible for the travel and incidental expenses of witnesses travelling to that country, including those of accompanying officials, for fees of experts and for the costs of any translation required by that country.

(3) If, in the opinion of the Central Authority of Grenada, the expenses required in order to comply with a request are of an extraordinary nature, the Central Authority of Grenada must consult with the Central Authority of the designated country as to the terms and conditions under which compliance with the request may continue and, in the absence of agreement, Grenada may cease to comply further with the request.

Attorney
General's
certificate.

30.—(1) As appropriate, the Attorney General of Grenada may issue a certificate in such form as he or she thinks fit certifying all or any of the following matters, namely that –

- (a) a request for assistance under this Act has been made by a designated country;
- (b) the request conforms to the requirements of this Act; and
- (c) the granting or execution of the request was duly done in accordance with this Act.

(2) In any relevant proceedings, a certificate purporting to have been issued under subsection (1) is admissible as conclusive proof of the matters specified in the certificate.

Proof of
certain matters.

31.—(1) In any relevant proceedings, a document that is duly authenticated is admissible in evidence.

(2) A document is duly authenticated for the purposes of subsection (1) if it purports to be –

- (a) signed or certified by a judicial officer of a designated country making a request for assistance under this Act;
- (b) authenticated by the oath of a witness or by a public officer of a designated country making a request; or
- (c) sealed with an official or public seal of a Minister or of a department or public office of the Government of such country.

(3) In any relevant proceedings, a certificate purporting to have been issued by the Central Authority of Grenada or a designated country certifying –

- (a) the matters referred to in paragraph (a) or (b) of the definition of “criminal matter” in section 2; or
- (b) any other matter for the purposes of a request for assistance under this Act,

is admissible as proof of the matters duly certified by the certificate.

(4) Nothing in this section prevents the proof of any matter, or the admission of any document in accordance with the regulations or any other law.

Transit through
Grenada.

32.—(1) If a person is to be transported in custody from a designated country through Grenada to another designated country pursuant to a request for assistance of a kind provided for in this Act –

- (a) the person may be transported through Grenada in the custody of another person; and
- (b) if an aircraft or ship by which the person is being transported lands or calls at a place in Grenada, the person must be kept in such custody as the Minister directs in writing until the person’s transportation is continued.

(2) If a person is being held in custody pursuant to a direction under subsection (1)(b) and the person’s transportation is not, in the opinion of the Minister, continued within a reasonable time, the Minister may direct that the person should be transported in custody back to the designated country from which the person was first transported.

Escaping.

33. A person who escapes from lawful custody while in Grenada pursuant to a request under section 10, or who is being kept in custody pursuant to a direction under section 32(1)(b), commits an offence and is liable on conviction to a fine of \$100,000 and to imprisonment for 5 years.

Arrest of
person who
has escaped
from custody.

34.—(1) Any police officer may, without warrant, arrest a person whom the police officer has reasonable grounds to believe –

- (a) has been brought to Grenada pursuant to a request under section 32(1)(b); and
- (b) has escaped from lawful custody while in Grenada pursuant to the request, or while being so kept in custody.

(2) A person who has been arrested pursuant to subsection (1) must be dealt with in accordance with this Act.

Regulations.

35.—(1) The Minister may make regulations prescribing any matter necessary or convenient to be prescribed for giving effect to the provisions of this Act and for its due administration.

(2) Without limiting subsection (1), regulations may –

- (a) make provisions as to evidence or proof of any matter for the purposes of this Act;
- (b) prescribe the type of expenses and allowances payable to any person in Grenada pursuant to a request for assistance under this Act;
- (c) prescribe conditions to be imposed for the protection of any interest in any property to be sent to a designated country pursuant to a request for assistance under this Act;

- (d) prescribe procedures and practices for taking or obtaining evidence or information in Grenada under section 6 by a commissioner from, or nominated by a designated country.

(3) The regulations may, with such conditions, limitations, exceptions and qualifications, if any, as are prescribed, extend the application of any Act so as to enable any request for assistance under this Act by a designated country to be granted or executed, and such Act applies accordingly.

Repeal.

36.—(1) The Mutual Assistance in Criminal Matters (Commonwealth Countries) Act 1998 (Act No. 5 of 1998) is repealed and is referred to in this section as “the repealed Act”.

(2) Any request transmitted or action commenced under the repealed Act is deemed to have been made or taken and may be acted on or continued as if made or taken under this Act.

SCHEDULE

(Section 16(1))

1. A request to Grenada for assistance under this Act by a designated country must –
 - (a) be made by the Central Authority of the requesting country;
 - (b) be directed to the Central Authority of Grenada;
 - (c) identify the person, agency or authority presenting the request;
 - (d) identify the authority conducting the investigation, prosecution or proceedings in the requesting country;

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- (e) describe the basis upon which the request is made (i.e. treaty, scheme or agreement);
 - (f) describe the nature of the criminal matter, and whether or not criminal proceedings have been instituted;
 - (g) describe the relevant facts of the case including, to the extent possible, the alleged offender(s) and the evidence or information so far obtained;
 - (h) give a legal description of the offence and the applicable penalty, with copies of the relevant law of the requesting country;
 - (i) specify the nature of the assistance required, with precise details of the evidence sought;
 - (j) state the connection between the investigation, prosecution or proceedings and the assistance sought, i.e. a description of how the information or evidence sought is relevant to the case;
 - (k) describe the procedures to be followed by Grenada's authorities when gathering or transmitting the evidence or assistance requested so that it will serve the purpose for which it was requested. For example, for the taking of testimony, describe the manner in which the testimony should be taken and recorded (e.g. summary, verbatim, videotaped, under oath) and whether the requesting country's authorities wish to participate and why. For documentary evidence, any special certification or authentication procedures to be followed should be specified;
 - (l) in the case of a request for search and seizure, or for the production of documents, state the basis to believe that the information sought will be found and will afford evidence with respect to the case and describe the documents or items to be searched for and seized or produced. The location or custodian of the records or other evidence should be specified where possible. The description of the documentation sought should include the types of records, as well as the relevant time periods for the records;
 - (m) in the case of a request for a statement or testimony, state the identification and location of the person from whom the evidence is to be obtained, list the topics to be covered and specify the questions to be asked;
 - (n) indicate any time-limit within which compliance with the request is desired, giving reasons;

- (o) set out any other information available to the Central Authority of the requesting country to facilitate execution of the request;
 - (p) otherwise comply with any relevant bilateral agreement or multilateral agreement or scheme relating to mutual legal assistance.
2. (1) If the assistance requested is for the purposes of an investigation, the request must –
- (a) be accompanied by the certificate referred to in paragraph (a) of the definition of “criminal matter” in section 2(1); and
 - (b) include an indication as to when the investigation commenced and the nature of the investigation.
- (b) If the assistance requested is for the purposes of criminal proceedings already instituted, the request must –
- (a) be accompanied by the certificate referred to in paragraph (b) of the definition of “criminal matter” in section 2 (1);
 - (b) give details of the proceedings and the offence concerned, including a summary of the known facts;
 - (c) give the identity, if known, of the accused person or the person to whom the proceedings relate;
 - (d) state when the proceedings were instituted, the stage reached in the proceedings and any date fixed for further stages in proceedings; and
 - (e) state the court exercising jurisdiction in the proceedings.
- (c) If the assistance requested is in connection with or for the purpose of section 28, the request must, as appropriate, be accompanied by a copy of the relevant order and must contain, so far as reasonably practicable, all information available to the Central Authority making the request in connection with the procedure to be followed in Grenada.
- (d) If the assistance requested is for criminal proceedings which have not yet been instituted, the request must state the offence which the Central Authority of the requesting country has reasonable cause to believe to have been committed, with a summary of known facts.

3. A request must normally be in writing and, if made orally due to urgency, must be confirmed in writing forthwith.

Passed by the House of Representatives the 6th day of April, 2001.

ABEL NEWTON
Clerk to the House of Representatives.

Passed by the Senate the 29th day of May, 2001

ABEL NEWTON
Clerk to the Senate.

GRENADA
