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LAWS OF SEYCHELLES

CHAPTER 135A

MUTUAL ASSISTANCE IN CRIMINAL MATTERS ACT

[1st July, 1995]

Act 7 of 1995

ARRANGEMENT OF SECTIONS

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PART I - PRELIMINARY

Short title

1. This Act may be cited as the Mutual Assistance in Criminal Matters Act.

Interpretation

2. In this Act–

“approved form” means a form approved by the Central Authority in writing for the purposes of the relevant provision of this Act;

“Central Authority” means the Central Authority referred to in section 5;

“Commonwealth country” means–

(a) A sovereign and independent country within the Commonwealth (other than Seychelles) together with any dependent territory which that country designates;

(b) A territory within the Commonwealth which, though not sovereign and independent, is designated under paragraph (a);

“criminal investigation” means an investigation into an offence (whether the offence is believed to have been committed or not);

“criminal matter” means a matter relating to an offence and includes–

(a) A criminal matter relating to revenue (including taxation and customs duties or trades tax);

(b) A criminal matter relating to foreign exchange control;

(c) A matter relating to the forfeiture or confiscation of property in respect of an offence;

(d) A matter relating to the imposition or recovery of a pecuniary penalty in respect of an offence; and

(e) A matter 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;

“criminal proceeding”, in relation to an offence, means a trial of a person for the offence or any proceeding in respect of the offence;

“financial institution” means a financial institution in terms of the Financial Institutions

Act;

“foreign country” means a country, including a Commonwealth country, to which this Act applies under section 4;

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

“foreign pecuniary penalty order” means an order made under the law of a foreign country imposing a pecuniary penalty in respect of an offence under 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;

"Judicial officer" means a judicial officer in terms of the Criminal Procedure Code;

"Judicial records" means a judgment, order or decision of a court and other records held by a court;

"Pecuniary penalty order" means an order made under a written law that imposes a pecuniary penalty on a person in respect of an offence under a written law;

"Premises" includes –

- (a) A structure, building, aircraft or vessel;
- (b) A place, whether enclaved or built upon or not;
- (c) A part of premises;

"Property-tracing document", in relation to an offence, means –

- (a) A document relevant to
 - (i) Identifying, locating or quantifying property of a person who committed the offence; or
 - (ii) Identifying or locating any document necessary for the transfer of property of a person who committed the offence; or
- (b) A document relevant to –
 - (i) Identifying, locating or quantifying property in relation to the offence; or
 - (ii) Identifying or locating any document necessary for the transfer of illegal property in relation to the offence;

"Serious offence" means an offence the maximum penalty for which is death or

imprisonment for not less than 12 months;

"Treaty" includes a convention, protocol or arrangement

Act does not restrict other forms of cooperation nor authorise extradition

3. (1) Nothing in this Act prevents the provision or the obtaining of mutual assistance in criminal matters otherwise than as provided in this Act or otherwise than pursuant to other forms of co-operation between Seychelles and a foreign country, jurisdiction or organisation.

(2) This Act does not authorise the extradition or the arrest or detention with a view to the extradition of any person.

Application

4. (1) This Act applies, subject to such limitation, condition, exemption and qualification as may be specified by regulations, to-

(a) all Commonwealth countries; and

(b) in the case of a foreign country other than a Commonwealth country, where there is a treaty for bilateral mutual assistance in criminal matters between Seychelles and the foreign country or for the purpose of giving effect to an international treaty of which Seychelles and the foreign country are parties, any other foreign country specified by regulations.

(2) This Act applies to the provision or the obtaining of mutual assistance in criminal matters in relation to an offence committed or believed to have been committed before or after the commencement of this Act.

Central Authority

5. (1) There is established, for the purposes of this Act, a Central Authority.

(2) The Central Authority shall be the Attorney-General or such other person whom the President may, by notice in the Gazette, appoint.

(3) A request by Seychelles for mutual assistance under this Act may be made by the Central Authority.

Request by foreign country

6. (1) A request by a foreign country for mutual assistance may be made to the Central Authority or a person authorised by the Central Authority in writing to receive a request by a foreign country under this Act

(2) A request under subsection (1) shall be accompanied by-

- (a) the name of the authority concerned with the criminal matter to which the request relates;
- (b) a description of the nature of the criminal matter and a statement setting out the name and description of the person in respect of whom the request is made and a summary of the relevant facts and laws;
- (c) a description of the purpose of the request and of the nature of the assistance being sought;
- (d) details of the procedure that the foreign country wishes to be followed by Seychelles in giving effect to the request, including details of the matter and form in which any information, document or thing is to be supplied to the foreign country pursuant to the request;
- (e) a statement setting out the wishes of the foreign country concerning the confidentiality of the request and the reasons for these wishes;
- (f) details of the period within which the foreign country wishes the request to be complied with;
- (g) if the request involves a person travelling from Seychelles to the foreign country, details of allowances to which the person will be entitled and the arrangements for accommodation for the person, while the person is in the foreign country pursuant to the request; and
- (h) any other information that may assist in giving effect to the request, but failure to comply with this subsection shall not be a ground for refusing the request

(3) Subject to this Act, Seychelles shall endeavour to grant the mutual assistance requested as expeditiously as practicable.

(4) Where the Central Authority considers –

- (a) that a request for assistance does not comply with this Act;
- (b) that a request for assistance under this Act is to be refused in whole or in part;
- (c) that the request for assistance cannot be complied with, in whole or in part;
or
- (d) that there are circumstances which are likely to cause a significant delay in complying with the request,

the Central Authority shall promptly inform the foreign country accordingly, giving reasons therefor.

Request for assistance and imposing of conditions on assistance

7. (1) A request for assistance by a foreign country under this Act shall be refused if, in the opinion of the Central Authority –

- (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;
- (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;
- (c) there are substantial grounds for believing that the request was made for the purpose of prosecuting, punishing or otherwise causing prejudice to a person on account of the person's race, sex, religion, nationality, national origin or political opinion;
- (d) the granting of the request would prejudice the sovereignty, security or national interest of Seychelles;
- (e) the request relates to the prosecution of a person in a case where the person has been acquitted or pardoned by a competent tribunal or authority in the foreign country, or has undergone punishment provided by the law of that country, in respect of that offence or of another offence constituted by the same act or omission as that offence, or
- (f) the provision of the assistance would be contrary to or cannot be effected under the Constitution and other laws of Seychelles;
- (g) The limitations, conditions, exemptions or qualifications imposed under section 4 in relation to the foreign country prevent the request from being granted.

(2) A request for assistance under this Act by a foreign country may be refused if, in the opinion of the Central Authority –

- (a) the provision of the assistance could prejudice an investigation or proceeding in relation to a criminal matter in Seychelles;
- (b) the provision of the assistance would, or would be likely to, prejudice the safety of any person;
- (c) The provision of the assistance would impose an undue burden on the resources of Seychelles and no financial or other arrangement exists between the foreign country and Seychelles with regard to meeting this burden.

(3) For the purposes of this section, an offence is not an offence of a political character

if it is an offence within the scope of an international convention to which Seychelles and a foreign country which is making a request are parties and which imposes on Seychelles and the foreign country an obligation to extradite or prosecute a person accused of the commission of the offence.

(4) Mutual assistance under this Act may be provided to a foreign country subject to such conditions as the Central Authority may decide.

Limitation of use of information or evidence

8. Any information or evidence obtained in response to a request for mutual assistance under this Act from a foreign country shall not be used in connection with any matter other than the criminal matter specified in the request without the prior consent of the foreign country.

PART II - ASSISTANCE IN RELATION TO THE TAKING OF EVIDENCE AND PRODUCTION OF DOCUMENTS OR OTHER THINGS

Requests by Seychelles

9. The Central Authority may request an appropriate authority of a foreign country to arrange for -

(a) evidence to be taken in the foreign country; or

(b) documents or other articles or things in the foreign country to be produced, for the purposes of a proceeding or investigation in relation to a criminal matter involving a serious offence under a written law.

Requests by foreign country

10. (1) Where a request is made by the foreign country that –

(a) evidence be taken in Seychelles; or

(b) Document or other things in Seychelles be produced,

for the purposes of a proceeding or investigation in relation to a criminal matter in the foreign country, the Central Authority may, subject to this Act, by writing in accordance with the approved form, authorise the taking of the evidence or the production of the documents or other things, and the transmission of the evidence, document or other things to the foreign country.

(2) Where the Central Authority authorises the taking of the evidence or the production of documents or other things under subsection (1), notwithstanding any other written law but subject to this subsection

(a) in the case of the taking of evidence, a magistrate or judge may take the evidence on oath of each witness appearing before the magistrate or judge to

give evidence in relation to the matter, and the magistrate or judge who takes the evidence shall -

(i) cause the evidence to be put in writing and certify, in the manner provided in subsection (5), that the evidence was taken by the magistrate or judge; and

(ii) cause the writing so certified to be sent to the Central Authority; or

(b) in the case of the production of documents or other things, a magistrate or judge may, subject to subsection (6), require the production of the document or other thing and, where the document or other thing is produced, the magistrate or judge shall send the document or copies of the document certified by the magistrate or judge to be true copies, or the other thing, to the Central Authority.

(3) The evidence of a witness referred to in subsection (2) may be taken in the presence or absence of the person to whom the proceeding or investigation in the foreign country relates or of the person's legal representative, if any.

(4) The magistrate or judge conducting a proceeding under subsection (2) shall permit

(a) the person to whom the proceeding or investigation in the foreign country relates;

(b) any other person giving evidence or producing document or other thing at the proceeding before the magistrate or judge; and

(c) The relevant authority of the foreign country, to have legal representation at the proceeding.

(5) The certificate by the magistrate or judge under subsection (2) shall state whether, when the evidence was taken or the documents or other thing was produced, any of the following persons were present -

(a) The person to whom the proceeding or investigation in the foreign country relates or the legal representative, if any, of the person;

(b) Any other person giving evidence or producing document or other thing or the legal representative of that other person.

(6) Subject to subsection (7), the Evidence Act, Evidence (Bankers) Act and the Criminal Procedure Code shall apply, so far as they are applicable, with respect to the compelling of persons to attend before a magistrate or judge and to give evidence, answering question and producing document or other thing for the purposes of this section.

(7) For the purposes of this section, the person to whom the proceeding or investigation

in the foreign country relates is competent but not compellable to give evidence.

PART III - ASSISTANCE IN RELATION TO SEARCH AND SEIZURE

Requests by Seychelles for search and seizure

11. (1) This section applies to a proceeding or investigation relating to a criminal matter involving a serious offence under a written law where there are reasonable grounds to believe that a thing relevant to the proceeding or investigation may be located in a foreign country.

(2) Where this section applies to a proceeding or investigation, the Central Authority may request an appropriate authority of the foreign country to obtain a warrant or other instrument authorising a search for a thing relevant to the proceeding or investigation and, if such thing, or any other thing that is or may be relevant to the proceeding or investigation, as the case may be, is found pursuant to the search, authorising the seizure of the thing.

(3) A request under subsection (2) shall be accompanied by an affidavit verifying the grounds on which the request is made.

Requests by foreign country for search and seizure

12. (1) Where –

(a) a proceeding or investigation relating to a criminal matter involving a serious offence has commenced in a foreign country;

(b) there are reasonable grounds to believe that a thing relevant to the investigation or proceeding is located in Seychelles; and

(c) the foreign country requests the Central Authority to arrange for the issue of a search warrant under this section in relation to that thing, the Central Authority may authorise a police officer, in writing, to apply to a judicial officer for the search warrant requested by the foreign country.

(2) Where a police officer authorised under subsection (1) has reason to believe that the thing to which the request relates is, or will, at a specified time, be -

(a) on a person;

(b) in the clothing that is being worn by a person; or

(c) otherwise in a person's immediate control;

The police officer may —

(d) lay before a judicial officer an information on oath setting out the grounds for that belief; and

(e) apply for the issue of a warrant under this section to search the person for that thing.

(3) Where an application is made under subsection (2), the judicial officer may, subject to subsection (6), issue a warrant authorising a police officer (whether or not named in the warrant), with such assistance, and by such force, as is necessary and reasonable —

(a) To search the person for the thing; and

(b) To seize any thing found in the course of the search that the police officer believes, on reasonable grounds, to be relevant to the proceeding or investigation.

(4) Where a police officer authorised under subsection (1) has reason to believe that the firing to which the request relates is, or will, at a specified time, be, upon any land, or upon or in any premises, the police officer may:

(a) lay before a judicial officer an information on oath setting out the grounds for that belief; and

(b) Apply for the issue of a warrant under this section to search the land or premises for that thing.

(5) Where an application is made under subsection (4), the judicial officer may, subject to subsection (6), issue a warrant authorising a police officer (whether or not named in the warrant) with such assistance, and by such force, as is necessary and reasonable —

(a) to enter upon the land, or upon or into the premises;

(b) to search the land or premises for the thing; and

(c) To seize any thing found in the course of the search that the police officer believes, on reasonable grounds, to be relevant to the proceeding or investigation.

(6) A judicial officer shall not issue a warrant under this section unless —

(a) the police officer authorised under subsection (1) or some other person has given to the judicial officer, such further information (if any) as the judicial officer requires concerning the grounds on which the issue of the warrant is sought; and

(b) The judicial officer is satisfied that there are reasonable grounds for issuing the warrant.

(7) There shall be stated in a warrant issued under this section —

(a) the purpose for which the warrant is issued, including a reference to the

nature of the criminal matter in relation to which the search is authorised;

(b) whether the search is authorised at any time of the day or night or during specified hours of the day or night;

(c) a description of the kind of things authorised to be seized; and

(d) a day, not being later than one month after the issue of the warrant, on which the warrant ceases to have effect.

(8) If, in the course of searching, under a warrant issued under this section, for a thing of a kind specified in the warrant, the police officer finds another thing that the police officer believes on reasonable grounds —

(a) to be relevant to the proceeding or investigation in the foreign country or to afford evidence as to the commission of a criminal offence in Seychelles; and

(b) is likely to be concealed, lost or destroyed if it is not seized, the warrant shall be deemed to authorise the police officer to seize the other thing.

(9) Where a police officer finds, as a result of a search in accordance with a warrant issued under this section, a thing which the police officer seizes wholly or partly because the police officer believes the thing on reasonable grounds to be relevant to the proceeding or investigation in the foreign country, the police officer shall deliver the thing into the custody and control of the Commissioner of Police.

(10) Where a thing is delivered into the custody and control of the Commissioner of Police under subsection (9), the Commissioner shall arrange for the thing to be kept for a period not exceeding one month from the day on which the thing was seized pending a direction in writing from the Central Authority 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 authority of a foreign country).

(11) A police officer who executes a search warrant issued under subsection (3) or subsection (5) shall, as soon as practicable after the execution of the warrant, give to the person, or give to the owner or occupier of the land or premises or leave in a prominent position on the land or at the premises, as the case may be, a notice setting out -

(a) the name and rank of the police officer;

(b) the name of the judicial officer who issued the warrant and the day on which it was issued; and

(c) a description of any thing seized and removed in accordance with the warrant.

(12) A police officer acting in accordance with a warrant issued under subsection (3) may remove, or require a person to remove, any of the clothing that the person is wearing but only if the removal of the clothing is necessary and reasonable for an effective search of the

person under the warrant.

(13) A person shall not be searched under a warrant issued under subsection (3) except by a person of the same sex.

(14) Nothing in this section shall be taken to authorise a police officer, in executing a warrant under subsection (3), to carry out a search by way of an examination of a body cavity of a person.

(15) Where a police officer is authorised, under a warrant issued under subsection (3), to search a person, the police officer may also search —

(a) the clothing that is being worn by the person; and

(b) any property in, or apparently in, the person's immediate control.

PART IV – ARRANGEMENTS FOR PERSONS TO GIVE EVIDENCE OR ASSIST INVESTIGATION

Request for removal of certain persons to Seychelles

13. (1) Where —

(a) A proceeding relating to a criminal matter has certain commenced in Seychelles; and

(b) The Attorney-General is of the opinion that a person who is in a foreign country to which this Act applies —

(i) is capable of giving evidence relevant to the proceeding; and

(ii) has consented to being removed to Seychelles for the purpose of giving evidence in the proceeding,

the Attorney-General may request, through the Central Authority, the foreign country to authorise the attendance of the person at a hearing in connection with the proceeding.

(2) Where -

(a) an investigation relating to a criminal matter has commenced in Seychelles; and

(b) the Attorney-General is of the opinion that a person who is in a foreign country to which this Act applies -

(i) is capable of giving assistance in relation to the investigation; and

(ii) has consented to being removed to Seychelles for the purposes of

giving assistance in relation to the investigation,

the Attorney-General may request the foreign country, through the Central Authority, to authorise the removal of the person to Seychelles for the purpose of giving assistance in relation to the investigation.

(3) Where the Attorney-General makes a request under subsection (1) or (2), the Central Authority may make arrangements with an appropriate authority of the foreign country for the purposes of –

- (a) the removal of the person to Seychelles;
- (b) the return of the person to the foreign country; and
- (c) other relevant matters.

Custody of certain persons

14. Where –

- (a) a person is to be brought to Seychelles from a foreign country pursuant to a request under Section 13;
- (b) at the time of the removal of the person to Seychelles the person was in the lawful custody of the foreign country; and
- (c) the foreign country requests that the person be kept in custody while in Seychelles;

the person shall, while the person is in Seychelles or travelling to or from Seychelles pursuant to the request, be kept in such custody as the Central Authority directs in writing and shall, while in such custody, be deemed, for the purposes of any written law, to be in lawful custody.

Immunities

15. (1) Where a person is in Seychelles to give evidence in a proceeding, or to give assistance in relation to an investigation, pursuant to a request under this Act made by or on behalf of the Attorney-General for mutual assistance in a criminal matter, the person subject to subsection (2), shall not –

- (a) be detained, prosecuted or punished in Seychelles 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;
- (b) be subjected to any civil suit 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 the foreign country pursuant to the request; or

(c) be required to give evidence in any proceeding in Seychelles other than the proceeding to which the request relates (if any).

(2) Subsection (1) ceases to apply to a person if –

(a) the person has left Seychelles; or

(b) the person has had the opportunity of leaving Seychelles and has remained in Seychelles otherwise than for –

(i) the purpose to which the request relates;

(ii) the purpose of giving evidence in a proceeding in Seychelles certified by the Attorney-General, in writing, to be a proceeding in which it is desirable that the person gives evidence; or

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

(3) A certificate given by the Attorney-General for the purposes of subparagraph (2)(b)(ii) or (iii) has effect from the day specified in the certificate (which may be a day before the day on which the certificate is given).

Limitation on use of evidence given by certain persons

16. Where-

(a) a person is in Seychelles to give evidence in a proceeding, or to give assistance in relation to an investigation, pursuant to a request under this Act made by or on behalf of the Attorney-General for mutual assistance in a criminal matter; and

(b) The person has given evidence in the proceeding to which the request related or in a proceeding certified by the Attorney-General under section 15(2)(b)(ii) in relation to the person, that evidence shall not be admitted or otherwise used in any prosecution of the person for an offence under a written law, other than the offence of perjury in relation to the giving of that evidence.

Escaping

17. Any person who escapes from lawful custody while in Seychelles pursuant to a request under section 13 shall be guilty of an offence and liable on conviction to imprisonment for 3 years.

Arrest of person who has escaped from Custody

18. (1) A police officer may, without warrant, arrest a person, if the police officer has reasonable grounds to believe that the person –

- (a) has been brought to Seychelles pursuant to a request under section 13; and
- (b) has escaped from lawful custody while in Seychelles pursuant to the request.

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

Requests for giving of evidence at hearing in foreign countries

19. (1) Where –

- (a) a proceeding relating to a criminal matter has commenced in a foreign country;
- (b) the foreign country requests the attendance at a hearing in connection with the proceeding of a person who is in Seychelles (whether or not in custody);
- (c) there are reasonable grounds to believe that the person •is capable of giving evidence relevant to the proceeding; and
- (d) the Central Authority is satisfied that -
 - (i) the person has consented to giving evidence in the foreign country; and
 - (ii) the foreign country has given adequate undertakings in respect of the matters referred to in subsection (2),

the Central Authority may, subject to section 22, make arrangements for the travel of the person to the foreign country.

(2) The matters in relation to which undertakings are to be given by a foreign country for the purpose of a request that a person gives evidence in the foreign country are –

- (a) that the person 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 Seychelles;
 - (ii) be subjected to any civil suit 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 Seychelles; or

(iii) be required to give evidence in any proceeding in the foreign country other than the proceeding to which the request relates;

unless

A. the person has left the foreign country; or

B. the person has had the opportunity of leaving the foreign country and has remained in that country otherwise than for the purpose of giving evidence in the proceeding to which the request relates;

(b) that any evidence given by the person in the proceeding to which the request relates will be inadmissible or otherwise disqualified from use in the prosecution of the person for an offence against a law of the foreign country other than the offence of perjury in relation to the giving of that evidence.

(c) that the person will be returned to Seychelles in accordance with arrangements agreed by the Central Authority;

(d) in a case where the person is being held in custody in Seychelles and the Central Authority requests the foreign country to make arrangements for the keeping of the person in custody while the person is in the foreign country -

(i) the making of appropriate arrangements for that purpose;

(ii) that the person will not be released from custody in the foreign country unless the Central Authority notifies an appropriate authority of the foreign country that the person is entitled to be released from custody under the laws of Seychelles;

(iii) if the person is released in the foreign country as mentioned in subparagraph (ii), that the person's accommodation and expenses pending the completion of the proceeding to which the request relates will be paid for by the foreign country; and

(e) Such other matters (if any) as the Central Authority thinks appropriate.

Requests for assistance in relation to investigations in foreign countries

20. (1) Where –

(a) an investigation relating to a criminal matter has commenced in a foreign country;

(b) the foreign country requests the removal of a person (whether or not in

custody) to the foreign country for the purpose of giving assistance in relation to the investigation;

(c) there are reasonable grounds to believe that the person is capable of giving assistance in relation to the investigation; and

(d) the Central Authority is satisfied that

(i) the person has consented to being removed to the foreign country for the purpose of giving assistance in relation to the investigation;

(ii) the foreign country has given adequate undertakings in respect of the matters referred to in subsection (2),

the Central Authority may, subject to section 22, make arrangements for the travel of the person to the foreign country.

(2) The matters in relation to which undertakings are to be given by a foreign country for the purpose of a request that a person be removed to, or travels to, the foreign country for the purpose of giving assistance in relation to an investigation are –

(a) that the person 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 Seychelles;

(ii) be subjected to any civil suit 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 Seychelles; or

(iii) be required to give evidence in any proceeding in the foreign country; unless —

A. the person has left the foreign country; or

B. the person has had the opportunity of leaving the foreign country and has remained in that country otherwise than for the purpose of giving assistance in relation to the investigation to which the request relates;

(b) that the person will be returned to Seychelles in accordance with arrangements agreed by the Central Authority,

(c) in a case where the person is being held in custody in Seychelles and the Central Authority requests the foreign country to make arrangements for the keeping of the person in custody while the person is in the foreign country -

- (i) the making of appropriate arrangements for that purpose;
 - (ii) that the person will not be released from custody in the foreign country unless the Central Authority notifies an appropriate authority of the foreign country that the person is entitled to be released from custody under the laws of Seychelles; and
 - (iii) if the person is released in the foreign country as mentioned in subparagraph (ii), that the person's accommodation and expenses pending the completion of the investigation to which the request relates will be paid for by the foreign country; and
- (d) such other matters (if any) as the Central Authority thinks appropriate.

Requests of a person while in the custody of an authority in Seychelles

21. (1) Where the person whose removal from Seychelles is sought is a prisoner or otherwise in the custody of any governmental institution by virtue of a written law –

- (a) the Central Authority shall before, agreeing to the removal of the person, ensure that the approval or consent of all relevant governmental authorities has been obtained for the person to travel to the foreign country to give evidence;
- (b) the person shall, while being taken from and to the governmental institution to and from the relevant place in the foreign country, be deemed at all time to be in the legal custody of the person in charge of the governmental institution;
- (c) in the case of a prisoner who is serving a term of imprisonment, the person shall be deemed, while in custody in connection with a request under this section, to be continuing to serve that term of imprisonment.

(2) A person authorised under section 20 or section 21 to take a person to or from a foreign country shall have all the power, authority, protection and privilege of a police officer or where the person is a prisoner, a prison officer.

PART V - CUSTODY OF PERSONS IN TRANSIT

Person in transit through Seychelles

22. (1) Where -

- (a) a person is to be transported in custody from a foreign country through Seychelles to another foreign country for the purpose of giving evidence in a proceeding, or giving assistance in relation to an investigation, relating to a criminal matter in the other foreign country; and
- (b) at least one of those foreign countries is a foreign country to which this Act applies;

the person —

A. may be transported through Seychelles 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 Seychelles, shall be kept in such custody as the Central Authority directs in writing until the transportation of the person is continued.

(2) Where a person who 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 Central Authority, continued within a reasonable time, the Central Authority may direct that the person be transported in custody to the foreign country from which the person was first transported.

Escaping

23. A person who, being a person being kept in custody pursuant to a direction under section 22(1) B, escapes from such custody, shall be guilty of an offence and liable to imprisonment for a term of 3 years.

Arrest of person in transit

24. (1) A police officer may, without warrant, arrest a person if the police officer has reasonable grounds to believe that the person was being kept in custody pursuant to a direction under section 22(1) B and has escaped from that custody.

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

PART VI - PROCEEDS OF CRIME

DIVISION 1 - REQUESTS BY SEYCHELLES

Request by Seychelles for enforcement of orders

25. (1) The Central Authority may request an appropriate authority of a foreign country to make arrangements for the enforcement of-

(a) a forfeiture order against property that is believed to be located in that country;

(b) a pecuniary penalty order where some or all of the property available to satisfy the order is believed to be located in that country; or

(c) a prohibition or restraining order under a written law against property that is believed to be located in that country,

if the order was made in respect of a serious offence.

Request by Seychelles for issue of orders in foreign countries

26. Where a criminal proceeding or criminal investigation has commenced in Seychelles in relation to a serious offence, the Attorney-General may, through the Central Authority, request an appropriate authority of a foreign country to which this Act applies to obtain the issue, in respect of the offence of a warrant, order or other instrument similar in nature to any of the following warrants and orders under a written law relating to tracing or the confiscation or forfeiture of proceeds of a crime -

- (a) a search warrant for illegal property;
- (b) a prohibition or restraining order;
- (c) a production order in respect of a property-tracing document;
- (d) a search warrant in respect of a property-tracing document.

DIVISION 2 – REQUESTS BY FOREIGN COUNTRIES

Request by a foreign country for enforcement of orders

27. (1) Where-

- (a) a foreign country requests the Central Authority to make arrangements for the enforcement of –
 - (i) a foreign forfeiture order, made in respect of a serious offence, against property that is believed to be located in Seychelles; or
 - (ii) a foreign pecuniary penalty order, made in respect of a serious offence, where some or all of the property available to satisfy the order is believed to be located in Seychelles; and
- (b) the Central Authority is satisfied that
 - (i) a person has been convicted of the offence; and
 - (ii) the conviction and the order are not subject to further appeal in the foreign country,

the Central Authority may authorise in writing the making of an application for the registration of the order in the Supreme Court.

(2) Where a foreign country requests the Central Authority to make arrangements for the enforcement of a foreign restraining order, made in respect of a serious offence, against property that is believed to be located in Seychelles, the Central Authority may authorise the

making of the arrangements for the registration of the order in the Supreme Court.

(3) Where an application for the registration of a foreign order in accordance with an authorisation is made under subsection (1) or subsection (2), the Supreme Court shall, notwithstanding any other written law, register the order accordingly.

(4) A foreign forfeiture order registered in the Supreme Court in accordance with this section has effect and may be enforced as if it were a forfeiture order made by the Supreme Court under a written law relating to the tracing, confiscation or forfeiture of proceeds of a crime at the time of registration.

(5) A foreign pecuniary penalty order registered in the Supreme Court in accordance with this section has effect, and may be enforced, as if it were a pecuniary penalty order made by the Supreme Court under a written law relating to the tracing, confiscation or forfeiture of the proceeds of a crime at the time of registration and requiring the payment to the Republic of the amount payable under the order.

Note: There is no subsection 27(6) in the last official (1996) revised edition.

(7) A foreign restraining order registered in the Supreme Court in accordance with this section has effect, and maybe enforced, as if it were a restraining order made by the Supreme Court under any written law of Seychelles relating to the tracing, seizure, confiscation or forfeiture of the proceeds of a crime at the time of registration.

(8) Where an order is registered in the Supreme Court 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 way as the order and the amendment does not, for the purposes of this Act and a written law relating to the tracing, confiscation or the forfeiture of the proceeds of a crime, have effect until they are registered.

(9) An order or an amendment of an order shall be registered in the Supreme Court by the registration, in accordance with the rules of the Court, 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 34.

(10) 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 ceases to have effect at the end of 21 days unless the sealed or authenticated copy has been registered by then.

(11) The Central Authority may cause an application for the cancellation of —

(a) a foreign forfeiture order;

(b) a foreign pecuniary penalty order; or

(c) a foreign restraining order,

under this Act.

(12) Without limiting the generality of subsection (11), the Central authority may, give a direction under that subsection in relation to an order if the Central Authority is satisfied that

—

(a) the order has ceased to have effect in the foreign country in which the order was made; or

(b) cancellation of the order is appropriate having regard to the arrangements entered into between Seychelles and the foreign country in relation to the enforcement of orders of that kind.

(13) Where an application is made to the Supreme Court for cancellation of a registration under subsection (11), the Court shall cancel the registration accordingly.

Request by a foreign country for search and seizure warrants in respect of illegal property

28. Where -

(a) a criminal proceeding or criminal investigation has commenced in a foreign country in respect of a serious offence;

(b) there are reasonable grounds to believe that illegal property in relation to the offence is located in Seychelles; and

(c) the foreign country requests the Central Authority to obtain the issue of a search warrant under a written law relating to the tracing, seizure, confiscation or forfeiture of the proceeds of a crime in relation to the illegal property, the Central Authority may authorise a police officer to apply to a judicial officer for the search warrant requested by the foreign country.

Request by a foreign country for restraining orders

29. Where -

(a) a criminal proceeding has commenced in a foreign country in respect of a serious offence;

(b) there are reasonable grounds to believe that property that may be made or is about to be made the subject of a foreign restraining order is located in Seychelles; and

(c) the foreign country requests the Central Authority to obtain the issue of a restraining order under a written law relating to tracing, seizure, confiscation or forfeiture of the proceeds of a crime against the property, the Central Authority may cause an application to be made to the Supreme Court for the restraining order requested by the foreign country.

Request by a foreign country for information gathering orders

30. (1) Where -

(a) a criminal proceeding or criminal investigation has commenced in a foreign country in respect of a serious offence;

(b) a property-tracing document in relation to the offence is reasonably believed to be located in Seychelles; and

(c) the foreign country requests the Central Authority to obtain the issue of —

(i) a production order under a written law relating to the tracing, seizure, confiscation or forfeiture of the proceed of a crime in respect of the document; or

(ii) a search warrant under a written law referred to in subparagraph (i) in respect of the document,

the Central Authority may cause an application to be made to the Supreme Court for the order requested by the foreign country.

Note: There is no subsection 30(2) in the last official (1996) revised edition.

(3) Where-

(a) a criminal proceeding or criminal investigation has commenced in a foreign country in respect of a serious offence that is -

(i) a drug trafficking offence;

(ii) a money laundering offence in respect of proceeds of a drug trafficking offence; or

(iii) an ancillary offence in relation to an offence of a kind referred to in subparagraph (i) or (ii);

(b) information about transactions conducted through an account with a financial institution in Seychelles is reasonably believed to be relevant to the proceeding or investigation; and

(c) the foreign country requests the Central Authority to obtain the issue of an

order under the Misuse of Drugs [Cap. 133]Act, directing the financial institution to give information to the police about transactions conducted through the account,

the Central Authority may cause an application to be made to the Supreme Court for the order requested by the foreign country.

PART VII – SERVICE OF DOCUMENTS

Service of documents

31. (1) Where a foreign country requests the Central Authority to arrange for the service in Seychelles of a process relating to a criminal matter in the foreign country, the Central Authority may arrange for the service of the process.

(2) The Central Authority may request an appropriate authority of a foreign country to make arrangement for the service in the foreign country of a process relating to a criminal matter Seychelles.

(3) Without limiting the manner in which the service of a document in a foreign country may be proved in Seychelles, service of such a document may be proved by affidavit of the person who served the document.

PART VIII - MISCELLANEOUS

Delegation

32. (1) The Central Authority may, either generally or as otherwise provided by the instrument of delegation, delegate to a public officer all or any of its powers under this Act, other than its power of delegation or its powers under section 7.

(2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act, be deemed to. have been exercised by the Central Authority

(3) A delegation under this section does not prevent the exercise of a power by the, Central Authority.

Evidence

33. A certificate by the Central Authority stating that -

(a) Seychelles or a specified foreign country is a party to a specified treaty;

(b) a specified treaty entered into force for Seychelles or a specified foreign country on a specified day; or

(c) on a day specified in the certificate, a specified treaty remained in force for Seychelles or a specified foreign country;

(d) a request meets the requirement of this Act;

(e) the acceptance of a request was made under and in accordance with this Act, is, for the purpose of a proceeding under this Act, prima facie evidence of the matters stated in the certificate.

Authentication of documents

34. (1) Notwithstanding any other written law, in a proceeding under this Act or a proceeding under or pursuant to a written law relating to the tracing, seizure, confiscation or forfeiture of the proceeds of a crime arising directly or indirectly from a request made under this Act, a document that is duly authenticated is admissible in evidence.

(2) A document is duly authenticated for the purposes of subsection (1) if-

(a) it purports to be signed or certified by a Judge, Magistrate or officer in or of a foreign country; and

(b) it purports to be authenticated by the oath of a witness or an officer of the Government of the foreign country or of a Minister of State.

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

Authority to enter into treaty: article 64 of the Constitution

35. The President, or any person authorised by the President, may enter into an agreement, arrangement, convention or treaty, whether bilateral or multilateral, in respect of mutual assistance in criminal matters for the purposes of this Act.

Rules of Court

36. The Chief Justice may make rules of court for the purposes of this Act.

Regulations

37. (1) The Minister may make regulations for the purposes of giving effect or carrying out this Act and, without limiting the generality of the foregoing, may -

(a) provide as to evidence or proof of any matter for the purposes of this Act;

(b) prescribe expenses and allowances payable to any person in Seychelles pursuant to a request;

(c) prescribing conditions to be imposed for the protection of any interest in any property to be sent to a foreign country pursuant to a request;

(d) prescribing condition for the protection of any property sent to or by a

foreign country pursuant to a request, and make provision for the retention of property in Seychelles pursuant to a request.

NO SUBSIDIARY LEGISLATION
