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as at 27 July 2023



Mutual Assistance in Criminal Matters Act 1992

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Commencement see section 1(2)

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Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

This Act is administered by the Ministry of Justice.

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

1 Short Title and commencement

- (1) This Act may be cited as the Mutual Assistance in Criminal Matters Act 1992.
- (2) This Act shall come into force on 1 April 1993.

Part 1
Preliminary provisions

2 Interpretation

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

assets forfeiture order has the same meaning as in section 5(1) of the Criminal Proceeds (Recovery) Act 2009

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

Commissioner means the Commissioner of Police

convention country means any foreign country that is a party to a convention referred to in column 1 of the table in the Schedule

criminal investigation means,—

- (a) in Part 2, an investigation certified by the Attorney-General to have commenced in New Zealand in respect of an offence committed, or suspected on reasonable grounds to have been committed or to be likely to be committed, against the law of New Zealand;
- (b) in Part 3, in relation to a foreign country, an investigation certified by the Central Authority for that country to have commenced in the foreign country in respect of an offence committed, or suspected on reasonable grounds to have been committed or to be likely to be committed, against the law of that country

criminal matter means criminal investigations and criminal proceedings

criminal proceedings means,—

- (a) in Part 2, proceedings certified by the Attorney-General to have been instituted in respect of an offence committed, or suspected on reasonable grounds to have been committed, against the law of New Zealand; and includes the trial of a person for the offence and any proceedings to determine whether or not a person should be tried for the offence;
- (b) in Part 3, proceedings certified by the Central Authority of the requesting country to have been instituted in respect of an offence committed, or suspected on reasonable grounds to have been committed, against the law of the country; and includes the trial of a person for the offence and any proceedings to determine whether or not a person should be tried for the offence

document has the same meaning as in section 5(1) of the Criminal Proceeds (Recovery) Act 2009

examination order means an order issued under section 107 of the Criminal Proceeds (Recovery) Act 2009

financial institution has the same meaning as in section 3 of the Financial Transactions Reporting Act 1996

foreign country means any country other than New Zealand

foreign forfeiture order means—

- (a) an order made under the law of a foreign country by a court or other judicial authority for the forfeiture of property that is—
 - (i) tainted property (as defined in relation to Part 3); or
 - (ii) property of a person who has unlawfully benefited from significant foreign criminal activity; or
 - (iii) an instrument of crime (as defined in relation to Part 3); or
- (b) a foreign pecuniary penalty order

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

- (a) to answer a specified question; or
- (b) to provide a specified document

foreign order means a foreign forfeiture order or a foreign restraining order

foreign pecuniary penalty order means an order, made under the law of a foreign country by any court or other judicial authority, imposing a pecuniary penalty in respect of benefits derived by a person from significant foreign criminal activity (whether proved to a civil or criminal standard); but does not include an order for the payment of a sum of money by way of compensation, restitution, or damages to an injured person

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

- (a) pending trial for, or sentence for; or
- (b) pursuant to a sentence of imprisonment for,—
an offence against the law of that foreign country

foreign qualifying forfeiture offence means—

- (a) an offence in a foreign country that is punishable in that country by a maximum term of imprisonment of 5 years or more (including an attempt to commit, conspiring to commit, or being an accessory to an offence if the maximum term of imprisonment for that attempt, conspiracy, or activity is 5 years or more); and
- (b) an offence under the law of a foreign country that is a party to the United Nations Convention against Transnational Organised Crime, done at New York on 15 November 2000, if—
 - (i) it is punishable by imprisonment for a term of 4 years or more; and

- (ii) there are reasonable grounds to suspect that it is transnational in nature (as defined in articles 3(2) and 18(1) of that convention) and involves an organised criminal group (as defined in article 2(a) of that convention)

foreign restraining order means an order made under the law of a foreign country by a court or other judicial authority that—

- (a) restrains a particular person, or all persons, from dealing with the property specified in the order; and
- (b) relates to—
 - (i) tainted property (as defined in relation to Part 3); or
 - (ii) property of a person who has, or who may have, unlawfully benefited from significant foreign criminal activity; or
 - (iii) an instrument of crime (as defined in relation to Part 3); or
 - (iv) property that will satisfy some or all of a foreign pecuniary penalty order

forfeiture order has the same meaning as in section 5(1) of the Criminal Proceeds (Recovery) Act 2009

instrument forfeiture order has the same meaning as in section 5(1) of the Criminal Proceeds (Recovery) Act 2009

instrument of crime,—

- (a) in relation to Part 2, has the same meaning as in section 5(1) of the Criminal Proceeds (Recovery) Act 2009; and
- (b) in relation to Part 3, means any property used, wholly or in part, to commit or facilitate the commission of a foreign qualifying forfeiture offence

Judge means a Judge of the High Court

judicial records means judgments, orders, and decisions of courts, and other records held by judicial authorities

Minister means the Minister of Justice

official records means documents held by government departments or agencies or prosecution authorities

prescribed foreign country means any country (other than New Zealand) that is declared by regulations made under this Act to be a foreign country to which Part 3 applies

prison has the same meaning as in section 3(1) of the Corrections Act 2004

prisoner means a person who is for the time being in the legal custody of any person under the Corrections Act 2004

process means any summons, warrant, order, or other document issued out of any court, or by any Judge, Master, District Court Judge, Justice, Community Magistrate, or Registrar

production order means an order made under section 105 of the Criminal Proceeds (Recovery) Act 2009

profit forfeiture order has the same meaning as in section 5(1) of the Criminal Proceeds (Recovery) Act 2009

property has the same meaning as in section 5(1) of the Criminal Proceeds (Recovery) Act 2009

qualifying instrument forfeiture offence has the same meaning as in section 5(1) of the Criminal Proceeds (Recovery) Act 2009

requesting country, in relation to a request for assistance made under Part 3, means the foreign country that made the request

restraining order has the same meaning as in section 5(1) of the Criminal Proceeds (Recovery) Act 2009

significant criminal activity has the same meaning as in section 5(1) of the Criminal Proceeds (Recovery) Act 2009

significant foreign criminal activity—

- (a) means an activity engaged in by a person in a foreign country that if proceeded against as a criminal offence in that country—
 - (i) would amount to offending—
 - (A) that consists of, or includes, 1 or more offences punishable by a maximum term of imprisonment of 5 years or more; or
 - (B) from which property, proceeds, or benefits of a value of \$30,000 or more have, directly or indirectly, been acquired or derived; and
 - (ii) whether or not—
 - (A) the person has been charged with or convicted of the offending; or
 - (B) the person has been acquitted of the offending; or
 - (C) the person's conviction for the offending has been quashed or set aside; and
- (b) includes an offence under the law of a foreign country that is a party to the United Nations Convention against Transnational Organised Crime, done at New York on 15 November 2000, if—
 - (i) it is punishable by imprisonment for a term of 4 years or more; and
 - (ii) there are reasonable grounds to suspect that it is transnational in nature (as defined in articles 3(2) and 18(1) of that convention) and involves an organised criminal group (as defined in article 2(a) of that convention)

tainted property,—

- (a) in relation to Part 2, has the same meaning as in section 5(1) of the Criminal Proceeds (Recovery) Act 2009; and
- (b) in relation to Part 3,—
 - (i) means any property that has, wholly or in part, been—
 - (A) acquired as a result of significant foreign criminal activity; or
 - (B) directly or indirectly derived from significant foreign criminal activity; and
 - (ii) includes any property that has been—
 - (A) acquired as a result of more than 1 activity if at least 1 of those activities is a significant foreign criminal activity; or
 - (B) directly or indirectly derived from more than 1 activity if at least 1 of those activities is a significant foreign criminal activity

unlawfully benefited from significant foreign criminal activity means a person has knowingly, directly or indirectly, derived a benefit from significant foreign criminal activity (whether or not the person deriving the benefit undertook or was involved in the significant foreign criminal activity).

- (2) A reference in this Act to criminal proceedings or a criminal investigation includes proceedings or investigations into the following matters:
 - (a) revenue (including taxation and customs and excise duties);
 - (b) foreign exchange control;
 - (c) the forfeiture of property as a result of the commission of an offence;
 - (d) the restraint of dealings with property or the freezing of assets that may be forfeited as a result of the commission of an offence;
 - (e) imposing or recovering pecuniary penalties under, and restraining dealing with property needed to satisfy, a foreign pecuniary penalty order imposed as a result of the commission of an offence.
- (3) A reference in this Act to a benefit derived by a person includes a reference to—
 - (a) a benefit derived, directly or indirectly, by the person; and
 - (b) a benefit derived, directly or indirectly, by another person at the request or direction of the first-mentioned person.
- (4) Where—
 - (a) any foreign country consists of a federation of States, or has more than 1 system of law, or has any 1 or more autonomous territorial organisations; and

- (b) more than 1 Central Authority is appointed for that foreign country,—
a reference in this Act to the Central Authority of that foreign country, in relation to a request made pursuant to this Act, means the Central Authority for that foreign country that, in the circumstances of the particular case, is the appropriate Central Authority to transmit or, as the case may be, receive the request.
- (5) A reference in this Act to the law of a foreign country includes a reference to the law of a part of, or the law in force in part of, the country.
- (6) In this Act, a reference to an offence of a political character does not include—
- (a) an offence—
- (i) that is constituted by conduct of a kind referred to in a multilateral treaty to which New Zealand is a party; and
- (ii) for which parties have an obligation to provide to one another assistance in criminal matters; or
- (b) any offence in relation to which New Zealand has agreed in writing with another country that the offence will not be treated as a political offence for the purposes of the provision of assistance in criminal matters between New Zealand and that country.

Section 2(1) **assets forfeiture order**: inserted, on 1 December 2009, by section 5(1) of the Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9).

Section 2(1) **Commissioner**: inserted, on 1 December 2009, by section 5(2) of the Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9).

Section 2(1) **convention country**: inserted, on 1 March 1999, by section 2 of the Mutual Assistance in Criminal Matters Amendment Act 1998 (1998 No 15).

Section 2(1) **convention country**: amended, on 18 June 2002, by section 3(1) of the Mutual Assistance in Criminal Matters Amendment Act 2002 (2002 No 23).

Section 2(1) **document**: substituted, on 1 December 2009, by section 5(2) of the Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9).

Section 2(1) **examination order**: inserted, on 1 December 2009, by section 5(2) of the Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9).

Section 2(1) **financial institution**: substituted, on 1 December 2009, by section 5(2) of the Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9).

Section 2(1) **foreign drug-dealing offence**: repealed, on 1 December 2009, by section 5(3) of the Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9).

Section 2(1) **foreign forfeiture order**: substituted, on 1 December 2009, by section 5(4) of the Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9).

Section 2(1) **foreign order**: inserted, on 1 December 2009, by section 5(5) of the Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9).

Section 2(1) **foreign pecuniary penalty order**: substituted, on 1 December 2009, by section 5(5) of the Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9).

Section 2(1) **foreign qualifying forfeiture offence**: inserted, on 1 December 2009, by section 5(7) of the Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9).

Section 2(1) **foreign restraining order**: substituted, on 1 December 2009, by section 5(6) of the Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9).

Section 2(1) **foreign serious offence**: repealed, on 1 December 2009, by section 5(7) of the Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9).

Section 2(1) **forfeiture order**: substituted, on 1 December 2009, by section 5(9) of the Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9).

Section 2(1) **instrument forfeiture order**: inserted, on 1 December 2009, by section 5(9) of the Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9).

Section 2(1) **instrument of crime**: inserted, on 1 December 2009, by section 5(9) of the Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9).

Section 2(1) **monitoring order**: repealed, on 1 December 2009, by section 5(10) of the Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9).

Section 2(1) **pecuniary penalty order**: repealed, on 1 December 2009, by section 5(11) of the Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9).

Section 2(1) **penal institution**: repealed, on 1 June 2005, by section 206 of the Corrections Act 2004 (2004 No 50).

Section 2(1) **prison**: inserted, on 1 June 2005, by section 206 of the Corrections Act 2004 (2004 No 50).

Section 2(1) **prisoner**: amended, on 1 June 2005, by section 206 of the Corrections Act 2004 (2004 No 50).

Section 2(1) **Proceeds of Crime Act**: repealed, on 1 December 2009, by section 5(12) of the Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9).

Section 2(1) **process**: amended, on 30 June 1998, by section 7 of the District Courts Amendment Act 1998 (1998 No 76).

Section 2(1) **production order**: substituted, on 1 December 2009, by section 5(13) of the Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9).

Section 2(1) **profit forfeiture order**: inserted, on 1 December 2009, by section 5(13) of the Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9).

Section 2(1) **property**: substituted, on 1 December 2009, by section 5(14) of the Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9).

Section 2(1) **property-tracking document**: repealed, on 1 December 2009, by section 5(14) of the Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9).

Section 2(1) **qualifying instrument forfeiture offence**: inserted, on 1 December 2009, by section 5(14) of the Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9).

Section 2(1) **restraining order**: substituted, on 1 December 2009, by section 5(15) of the Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9).

Section 2(1) **serious offence**: repealed, on 1 December 2009, by section 5(15) of the Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9).

Section 2(1) **significant criminal activity**: inserted, on 1 December 2009, by section 5(15) of the Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9).

Section 2(1) **significant foreign criminal activity**: inserted, on 1 December 2009, by section 5(15) of the Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9).

Section 2(1) **tainted property**: substituted, on 1 December 2009, by section 5(15) of the Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9).

Section 2(1) **unlawfully benefited from significant foreign criminal activity**: added, on 1 December 2009, by section 5(15) of the Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9).

Section 2(2): substituted, on 1 December 2009, by section 5(16) of the Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9).

Section 2(6): added, on 18 June 2002, by section 3(3) of the Mutual Assistance in Criminal Matters Amendment Act 2002 (2002 No 23).

2A Certain investigations relating to civil proceedings deemed to be criminal investigations

- (1) An investigation certified by the Attorney-General to have commenced in New Zealand relating to the restraint or forfeiture of property that is, or is suspected on reasonable grounds to be or to be likely to be, any of the things in subsection (2) must be treated as a criminal investigation for the purposes of Part 2 despite the related proceedings being civil in nature.
- (2) The things referred to in subsection (1) are—
 - (a) tainted property (as defined in relation to Part 2); or
 - (b) property of a person who has unlawfully benefited from significant criminal activity.
- (2A) An investigation certified by the Attorney-General to have commenced in New Zealand relating to the restraint or forfeiture of property must be treated as a criminal investigation for the purposes of Part 2 if the property—
 - (a) is, or is proposed to be, the subject of an application for—
 - (i) a restraining order under section 24A of the Criminal Proceeds (Recovery) Act 2009 (the **CPR Act**); or
 - (ii) a type 2 assets forfeiture order (within the meaning of the CPR Act); or
 - (b) is the subject of a restraining order under section 24A of the CPR Act.
- (2B) Subsection (2A) applies despite the related proceedings being civil in nature.
- (3) An investigation in a foreign country certified by the Central Authority for that country to have commenced in that country relating to the restraint or forfeiture of property that is, or is suspected on reasonable grounds to be or to be likely to be, any of the things referred to in subsection (4) must be treated as a criminal investigation for the purposes of Part 3 despite the related proceedings being civil in nature.
- (4) The things referred to in subsection (3) are—
 - (a) tainted property (as defined in relation to Part 3); or
 - (b) property of a person who has unlawfully benefited from significant criminal activity; or
 - (c) an instrument of crime (as defined in relation to Part 3); or
 - (d) property that will satisfy all or part of a pecuniary penalty order.
- (5) Investigations treated as criminal investigations under this section are criminal matters for the purposes of Parts 2 and 3.

Section 2A: inserted, on 1 December 2009, by section 6 of the Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9).

Section 2A(2A): inserted, on 27 July 2023, by section 50 of the Criminal Proceeds (Recovery) Amendment Act 2023 (2023 No 6).

Section 2A(2B): inserted, on 27 July 2023, by section 50 of the Criminal Proceeds (Recovery) Amendment Act 2023 (2023 No 6).

2B Certain civil proceedings deemed to be criminal proceedings

- (1) A proceeding certified by the Attorney-General to have been instituted in respect of the forfeiture or restraint of property that is, or is suspected on reasonable grounds to be or to be likely to be, any of the things referred to in subsection (2) must be treated as a criminal proceeding for the purposes of Part 2 despite being civil in nature.
- (2) The things referred to in subsection (1) are—
 - (a) tainted property (as defined in relation to Part 2); or
 - (b) property of a person who has unlawfully benefited from significant criminal activity.
- (2A) A proceeding certified by the Attorney-General to have been instituted in respect of the forfeiture or restraint of property by way of an application for any of the following orders must be treated as a criminal proceeding for the purposes of Part 2 despite being civil in nature:
 - (a) a restraining order under section 24A of the Criminal Proceeds (Recovery) Act 2009;
 - (b) a type 2 assets forfeiture order (within the meaning of that Act).
- (3) A proceeding certified by the Central Authority of the requesting country to have been instituted in respect of the forfeiture or restraint of property that is, or is suspected on reasonable grounds to be or to be likely to be, any of the things referred to in subsection (4) must be treated as a criminal proceeding despite being civil in nature.
- (4) The things referred to in subsection (3) are—
 - (a) tainted property (as defined in relation to Part 3); or
 - (b) property of a person who has unlawfully benefited from significant foreign criminal activity; or
 - (c) an instrument of crime (as defined in relation to Part 3); or
 - (d) property that will satisfy all or part of a foreign pecuniary penalty order.
- (5) Proceedings treated as criminal proceedings under this section are criminal matters for the purposes of Parts 2 and 3.

Section 2B: inserted, on 1 December 2009, by section 6 of the Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9).

Section 2B(2A): inserted, on 27 July 2023, by section 51 of the Criminal Proceeds (Recovery) Amendment Act 2023 (2023 No 6).

3 Act to bind the Crown

This Act binds the Crown.

4 Object of Act

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

- (a) the identification and location of persons:
- (b) the obtaining of evidence, documents, or other articles:
- (c) the production of documents and other articles:
- (d) the making of arrangements for persons to give evidence or assist investigations:
- (e) the service of documents:
- (f) the execution of requests for search and seizure:
- (g) the forfeiture of—
 - (i) tainted property; and
 - (ii) property of persons who have unlawfully benefited from significant criminal activity or significant foreign criminal activity; and
 - (iii) instruments of crime; and
 - (iv) property that will satisfy all or part of a foreign pecuniary penalty order:
- (h) the location of property that may be forfeited:
- (i) the recovery of property to satisfy foreign pecuniary penalty orders:
- (j) the restraining of dealings with property, or the freezing of assets, that may be forfeited.

Compare: Mutual Assistance in Criminal Matters Act 1987 s 5 (Aust)

Section 4(g): substituted, on 1 December 2009, by section 7 of the Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9).

Section 4(h): substituted, on 1 December 2009, by section 7 of the Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9).

Section 4(i): substituted, on 1 December 2009, by section 7 of the Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9).

Section 4(j): substituted, on 1 December 2009, by section 7 of the Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9).

5 Act not to limit other provision of assistance

Nothing in this Act—

- (a) derogates from existing forms of co-operation (whether formal or informal) in respect of criminal matters between New Zealand and any other country; or

(b) prevents the development of other forms of such co-operation.

Compare: Mutual Assistance in Criminal Matters Act 1987 s 6 (Aust)

6 Act not authority for extradition of any person

Nothing in this Act authorises—

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

Part 2 Requests by New Zealand

Preliminary provisions

7 Application of this Part

A request for assistance pursuant to this Part may be made to any foreign country.

8 Requests to be made by Attorney-General

Requests by New Zealand for assistance under this Part shall be made by the Attorney-General.

Assistance in locating or identifying persons

9 Assistance in locating or identifying persons

Where the Attorney-General is satisfied that there are reasonable grounds for believing that there is, in any foreign country, a person who—

- (a) is or might be concerned in or affected by; or
- (b) could give or provide evidence or assistance relevant to—

any criminal matter in New Zealand, the Attorney-General may request that foreign country to assist in locating or, if the person's identity is unknown, in identifying and locating that person.

Assistance in obtaining evidence

10 Assistance in obtaining evidence

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

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

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

Compare: Mutual Assistance in Criminal Matters Act 1987 s 12 (Aust)

11 Assistance in obtaining evidence for use in New Zealand court

- (1) Where the Attorney-General is satisfied that there are reasonable grounds for believing that evidence or information relevant to any criminal proceedings in New Zealand may be obtained if a court or other judicial authority in a foreign country is requested—
 - (a) to take, or cause to be taken, the evidence of any specified person; or
 - (b) to order the production of any specified document by any person,—the Attorney-General may request that foreign country to assist in arranging for that evidence to be taken or that document to be produced.
- (2) Any deposition (by whatever name called) that is received from a foreign country pursuant to a request made under subsection (1) and that purports to have been signed by the deponent and the person taking the evidence or to have been certified as a correct record by the person taking the evidence may, subject to the rules of law relating to the admission of evidence, be put in as evidence at the hearing of the criminal proceedings to which the request relates.
- (3) Any document (other than a deposition) received from a foreign country pursuant to a request made under subsection (1) may, subject to the rules of law relating to the admission of evidence, be put in as evidence at the hearing of the criminal proceedings to which the request relates as if produced by the person who produced the document pursuant to the order of the court or other judicial authority of that foreign country.
- (4) All courts shall take judicial notice of any seal or signature impressed, affixed, appended, or subscribed on or to any deposition (by whatever name called) tendered in evidence under this section.

Assistance in arranging attendance of person in New Zealand

12 Assistance in arranging attendance of person

- (1) Where the Attorney-General is satisfied that there are reasonable grounds for believing that a person in a foreign country could give or provide evidence or assistance relevant to any criminal matter in New Zealand, the Attorney-General may request that foreign country to assist in arranging the attendance of the person in New Zealand to give or provide that evidence or, as the case may be, that assistance.
- (2) Where the Attorney-General is satisfied that a person in respect of whom a request is made to a foreign country under subsection (1) consents to travel to New Zealand to give or provide evidence or assistance pursuant to that request, the Attorney-General may make arrangements with that foreign country for the purposes of—

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

Compare: Mutual Assistance in Criminal Matters Act 1987 s 16 (Aust)

13 Certificate that attendance required

- (1) For the purposes of enabling the grant of a temporary visa under the Immigration Act 2009 to any person in respect of whom a request is made under section 12 of this Act, the Attorney-General may issue a certificate, in writing, that the attendance of that person in New Zealand is necessary for the purposes of giving or providing evidence or assistance pursuant to that request.
- (2) The Attorney-General may, at any time, by notice in writing, cancel any certificate issued under subsection (1) in respect of any person who is in New Zealand pursuant to a request made under section 12, if the Attorney-General is satisfied that the attendance of that person in New Zealand is no longer necessary for the purpose to which the request relates.

Section 13(1): amended, at 2 am on 29 November 2010, by section 406(1) of the Immigration Act 2009 (2009 No 51).

14 Penalty not to be imposed for refusal to consent

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

15 Custody of foreign prisoners

- (1) Where—
 - (a) a person who is to be brought to New Zealand from a foreign country pursuant to a request made under section 12(1) is a foreign prisoner; and
 - (b) that foreign country requests that the person be kept in custody while he or she is in New Zealand,—

that person shall, while that person is in New Zealand or is travelling to or from New Zealand pursuant to the request, be kept in such custody as the Minister directs in writing.

- (2) A direction given pursuant to subsection (1) in respect of any foreign prisoner shall be sufficient authority for the detention of that person in accordance with the terms of the direction.
- (3) Where, pursuant to subsection (1), a foreign prisoner who is in New Zealand pursuant to a request made under section 12(1) is directed to be detained in a

prison, the Corrections Act 2004, so far as applicable and with all necessary modifications, shall apply with respect to that foreign prisoner as if he or she were a person who has been sentenced to imprisonment for an offence against the law of New Zealand and is liable to be detained in a prison under such a sentence.

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

Compare: Mutual Assistance in Criminal Matters Act 1987 ss 18, 22 (Aust)

Section 15(3): amended, on 1 June 2005, by section 206 of the Corrections Act 2004 (2004 No 50).

16 Release of foreign prisoner upon request by foreign country

Where—

- (a) a foreign prisoner is being held in custody in accordance with a direction of the Minister under section 15; and
- (b) the foreign country from which the person has been brought requests the release of the person from custody,—

the Minister shall direct that the person be released from custody.

Compare: Mutual Assistance in Criminal Matters Act 1987 s 23 (Aust)

17 Immunities and privileges

- (1) Subject to subsection (3), where a person (including a person who is a foreign prisoner) is in New Zealand pursuant to a request made under section 12, the person shall not—
- (a) be detained, prosecuted, or punished in New Zealand for any offence that is alleged to have been committed, or that was committed, before the person's departure from the foreign country pursuant to the request; or
- (b) be subjected to any civil proceedings in New Zealand in respect of any act or omission that is alleged to have occurred, or that occurred, before the person's departure from the foreign country pursuant to the request, being civil proceedings to which the person could not be subjected if the person were not in New Zealand; or
- (c) be required to give or provide evidence or assistance in relation to any criminal matter in New Zealand other than the criminal matter to which the request relates; or
- (d) be required, in the proceedings or investigation to which the request relates, to answer any question that the person would not be required to

- answer if those proceedings or that investigation were taking place in the foreign country; or
- (e) be required, in the proceedings or investigation to which the request relates, to produce any document or article that the person would not be required to produce if those proceedings or that investigation were taking place in the foreign country.
- (2) For the purposes of subsection (1), a duly authenticated foreign law immunity certificate is admissible in proceedings as prima facie evidence of the matters stated in the certificate.
 - (3) Subsection (1) shall not apply in relation to a person where—
 - (a) the person has left New Zealand and then returns otherwise than pursuant to the same or another request; or
 - (b) the person has had the opportunity to leave New Zealand and has remained in New Zealand otherwise than for—
 - (i) the purpose to which the request relates; or
 - (ii) the purpose of giving evidence in any criminal proceedings in New Zealand certified by the Attorney-General, in writing, to be proceedings in which it is desirable that the person give evidence; or
 - (iii) the purpose of giving assistance in relation to an investigation in New Zealand certified by the Attorney-General, in writing, to be an investigation in relation to which it is desirable that the person give assistance.
 - (4) A certificate given by the Attorney-General for the purposes of subparagraph (ii) or subparagraph (iii) of subsection (3)(b) has effect from the day specified in the certificate (which may be a day before the day on which the certificate is given).

Compare: Mutual Assistance in Criminal Matters Act 1987 s 19 (Aust)

18 Limitation on use of evidence

Where—

- (a) a person is in New Zealand pursuant to a request made under section 12; and
- (b) that person gives evidence in any criminal proceedings, being—
 - (i) the criminal proceedings to which the request relates or any criminal proceedings consequent on the investigation to which the request relates; or
 - (ii) criminal proceedings certified by the Attorney-General pursuant to section 17(3)(b)(ii) in relation to that person,—

that evidence shall not be admitted or otherwise used in any prosecution of the person for any offence against the law of New Zealand, except on the trial of the person for perjury within the meaning of the Crimes Act 1961 in respect of the giving of that evidence.

Compare: Mutual Assistance in Criminal Matters Act 1987 s 21 (Aust)

Assistance in serving documents

19 Assistance in serving documents

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

Assistance in obtaining articles or things

20 Assistance in obtaining article or thing

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

Request to enforce orders under Criminal Proceeds (Recovery) Act 2009

Heading: substituted, on 1 December 2009, by section 8 of the Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9).

21 Request to enforce orders under Criminal Proceeds (Recovery) Act 2009

- (1) The Attorney-General may, if the circumstances in subsection (2) exist, request a foreign country to make arrangements to enforce any of the following in that country:
 - (a) an assets forfeiture order:
 - (b) a profit forfeiture order:
 - (c) an instrument forfeiture order:
 - (d) a restraining order.

- (2) The circumstances are that the Attorney-General has reasonable grounds to believe that some or all of the property to which the order relates is located in the foreign country.

Section 21: substituted, on 1 December 2009, by section 8 of the Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9).

Request to issue warrant or order in foreign country

Heading: substituted, on 1 December 2009, by section 8 of the Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9).

22 Request to issue warrant or order in foreign country

- (1) The Attorney-General may, if a criminal matter has arisen in New Zealand in respect of any of the things referred to in subsection (2), request a foreign country to issue a warrant or order similar to the following warrants or orders made under the Criminal Proceeds (Recovery) Act 2009 in that country:

- (a) a restraining order:
- (b) a search warrant of the kind issued under section 101, 102, or 110 of that Act:
- (c) a production order:
- (d) an examination order.

- (2) The things referred to in subsection (1) are—

- (a) tainted property (as defined in relation to Part 2); or
- (b) property of a person who has unlawfully benefited from significant criminal activity; or
- (c) an instrument of crime (as defined in relation to Part 2).

Section 22: substituted, on 1 December 2009, by section 8 of the Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9).

Miscellaneous provisions

23 Restriction on use of evidence

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

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

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

Part 3

Requests to New Zealand

Preliminary provisions

24 Application of this Part

- (1) A request for assistance under this Part may be made by—
- (a) any prescribed foreign country;
 - (b) subject to section 24A and section 24B, any convention country;
 - (c) subject to section 25A, any foreign country—
 - (i) that is not a prescribed foreign country or a convention country; or
 - (ii) that is a prescribed foreign country but where the request is not made in that capacity; or
 - (iii) that is a convention country but where the request is not made in that capacity.
- (2) This section is subject to any regulations made under this Act.
- (3) Despite subsection (1), no request for assistance under this Part made in accordance with the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances may be dealt with before a date appointed by the Governor-General by Order in Council.
- (4) An order under subsection (3) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 24: substituted, on 1 March 1999, by section 3 of the Mutual Assistance in Criminal Matters Amendment Act 1998 (1998 No 15).

Section 24(1)(b): amended, on 8 May 1999, by section 2 of the Mutual Assistance in Criminal Matters Amendment Act 1999 (1999 No 41).

Section 24(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

24A Limitations on requests by convention countries

If a convention country requests assistance under this Part in accordance with a convention referred to in column 1 of the table in the Schedule, the request must relate to criminal matters arising from the commission or suspected commission of an offence that, if committed within the jurisdiction of New Zealand,

land, would correspond to an offence listed or described in column 2 of that table in the same row as the reference to the convention.

Section 24A: substituted, on 18 June 2002, by section 4 of the Mutual Assistance in Criminal Matters Amendment Act 2002 (2002 No 23).

24B Further limitations on requests by convention countries

- (1) The provisions of subsections (2) and (3) apply if—
 - (a) a convention country requests assistance under this Part in accordance with a convention specified in column 1 of the table in the Schedule; and
 - (b) the convention country is also a prescribed foreign country.
- (2) In any case where there is a treaty between New Zealand and the convention country that relates (in whole or in part) to the provision of assistance in criminal matters,—
 - (a) the request for assistance must, as far as practicable, be made and dealt with in the manner specified in that treaty, unless (or except to the extent that) to do so would be inconsistent with the convention; and
 - (b) if the treaty excludes any of the offences listed in column 2 of the table in the Schedule or limits the types of assistance that may be requested under this Part in relation to those offences, the exclusion or limitation does not apply.
- (3) In any case where the application of this Part to the convention country is subject to conditions, exceptions, or qualifications as specified in regulations made under section 65 and the regulations exclude any of the offences listed in column 2 of the table in the Schedule or limit the types of assistance that may be requested under this Part in relation to those offences, the exclusion or limitation does not apply.

Section 24B: inserted, on 8 May 1999, by section 4 of the Mutual Assistance in Criminal Matters Amendment Act 1999 (1999 No 41).

Section 24B(1)(a): amended, on 18 June 2002, by section 5(1) of the Mutual Assistance in Criminal Matters Amendment Act 2002 (2002 No 23).

Section 24B(2)(b): amended, on 18 June 2002, by section 5(2) of the Mutual Assistance in Criminal Matters Amendment Act 2002 (2002 No 23).

Section 24B(3): amended, on 18 June 2002, by section 5(3) of the Mutual Assistance in Criminal Matters Amendment Act 2002 (2002 No 23).

25 Requests to be made to Attorney-General

- (1) Every request by a foreign country for assistance in a criminal matter pursuant to this Part shall be made—
 - (a) to the Attorney-General; or
 - (b) to a person authorised by the Attorney-General, in writing, to receive requests by foreign countries under this Part.

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

Compare: Mutual Assistance in Criminal Matters Act 1987 s 11(1), (3) (Aust)

25A Ad hoc requests for assistance

- (1) This section applies where a foreign country requests assistance under this Part and that country—
- (a) is not a prescribed foreign country or a convention country; or
 - (b) is a prescribed foreign country but the request is not made in that capacity; or
 - (c) is a convention country but the request is not made in that capacity.
- (2) If a foreign country requests assistance under this Part, the Attorney-General must consider the following matters in order to decide whether the request should be dealt with under this Part:
- (a) any assurances given by that country that it will entertain a similar request by New Zealand for assistance in criminal matters;
 - (b) the seriousness of the offence to which the request relates;
 - (c) the object of this Act as specified in section 4;
 - (d) any other matters that the Attorney-General considers relevant.
- (3) If, after considering those matters, the Attorney-General decides that the request should be dealt with under this Part, the Attorney-General may deal with that request accordingly.
- (4) Nothing in subsection (2) limits section 27 or sections 29 to 62.

Section 25A: inserted, on 1 March 1999, by section 4 of the Mutual Assistance in Criminal Matters Amendment Act 1998 (1998 No 15).

26 Form of request

Every request by a foreign country for assistance under this Part shall—

- (a) specify the purpose of the request and the nature of the assistance being sought; and
- (b) identify the person, agency, or authority that initiated the request; and
- (ba) specify whether the foreign country is requesting assistance in its capacity as—
 - (i) a prescribed foreign country; or
 - (ii) a convention country; or
 - (iii) a foreign country (other than a prescribed foreign country or a convention country); and

- (bb) if the foreign country is a convention country and requests assistance in accordance with a convention specified in column 1 of the table in the Schedule, state the convention under which the request is made; and
- (c) be accompanied by—
 - (i) a certificate from the Central Authority of the foreign country that the request is made in respect of a criminal investigation or criminal proceedings within the meaning of this Act; and
 - (ii) a description of the nature of the criminal investigation or criminal proceedings and a statement setting out a summary of the relevant facts and law; and
 - (iii) details of the procedure that the foreign country wishes to be followed by New Zealand in giving effect to the request, including details of the manner and form in which any information, document, or thing is to be supplied to the foreign country pursuant to the request; and
 - (iv) a statement setting out the wishes of the foreign country concerning the confidentiality of the request and the reasons for those wishes; and
 - (v) details of the period within which the foreign country wishes the request to be complied with; and
 - (vi) if the request involves a person travelling from New Zealand to the foreign country, details of allowances to which the person will be entitled, and of the arrangements for accommodation for the person, while the person is in the foreign country pursuant to the request; and
 - (vii) any other information required to be included with the request under a treaty or other arrangement between New Zealand and the foreign country; and
 - (viii) any other information that may assist in giving effect to the request.

Compare: Mutual Assistance in Criminal Matters Act 1987 s 11(2) (Aust)

Section 26(ba): inserted, on 1 March 1999, by section 5 of the Mutual Assistance in Criminal Matters Amendment Act 1998 (1998 No 15).

Section 26(bb): inserted, on 1 March 1999, by section 5 of the Mutual Assistance in Criminal Matters Amendment Act 1998 (1998 No 15).

Section 26(bb): amended, on 18 June 2002, by section 6 of the Mutual Assistance in Criminal Matters Amendment Act 2002 (2002 No 23).

27 Refusal of assistance

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

- (a) the request relates to the prosecution or punishment of a person for an offence that is, or is by reason of the circumstances in which it is alleged to have been committed or was committed, an offence of a political character; or
- (ab) the request relates to the bringing of proceedings of the kind described in section 2B(3) that relate to an activity of a political character; or
- (b) there are substantial grounds for believing that the request has been made with a view to prosecuting or punishing a person for an offence of a political character; or
- (ba) there are substantial grounds for believing that the request has been made with a view to bringing proceedings of the kind described in section 2B(3) that are of a political character; or
- (c) there are substantial grounds for believing that the request was made for the purpose of prosecuting, punishing, or otherwise causing prejudice to a person on account of the person's colour, race, ethnic origin, sex, religion, nationality, or political opinions; or
- (ca) there are substantial grounds for believing that the request has been made for the purpose of bringing proceedings of the kind described in section 2B(3) on account of a person's colour, race, ethnic origin, sex, religion, nationality, or political opinions; or
- (d) the request relates to the prosecution of a person for an offence in a case where the person—
 - (i) has been acquitted, convicted, or pardoned by a competent tribunal or authority; or
 - (ii) has undergone the punishment provided by law,—
whether in the foreign country, in New Zealand, or elsewhere, in respect of that offence or of another offence constituted by the same act or omission as that offence; or
- (e) the request relates to the prosecution or punishment of a person in respect of an act or omission that, if it had occurred in New Zealand, would have constituted an offence under the military law of New Zealand but not also under the ordinary criminal law of New Zealand; or
- (f) the granting of the request would prejudice the sovereignty, security, or national interests of New Zealand; or
- (g) in the case of a request made pursuant to section 37 or section 38 for the attendance of any person in that foreign country, the person to whom the request relates is not prepared to give his or her consent to the transfer; or
- (h) the request is for assistance of a kind that cannot be given under this Act, or would require steps to be taken for its implementation that could not be lawfully taken.

- (i) *[Repealed]*
- (2) Subject to subsections (3) and (4), a request by a foreign country for assistance under this Part may be refused if, in the opinion of the Attorney-General,—
 - (a) the request relates to the prosecution or punishment of a person in respect of conduct that, if it had occurred in New Zealand, would not have constituted an offence against New Zealand law; or
 - (ab) the request relates to proceedings of the kind described in section 2B(3) in respect of conduct that, if it had occurred in New Zealand, would not have constituted significant criminal activity in New Zealand; or
 - (b) the request relates to the prosecution or punishment of a person in respect of conduct that occurred, or is alleged to have occurred, outside the foreign country and similar conduct occurring outside New Zealand in similar circumstances would not have constituted an offence against New Zealand law; or
 - (ba) the request relates to proceedings of the kind described in section 2B(3) in respect of conduct that occurred, or is alleged to have occurred, outside the foreign country and similar conduct occurring outside New Zealand in similar circumstances would not have constituted significant criminal activity; or
 - (bb) the request relates to proceedings of the kind described in section 2B(3) in respect of conduct that, if it had occurred in New Zealand at the same time, could not have been the subject of proceedings of that kind because of lapse of time or for any other reason; or
 - (c) the request relates to the prosecution or punishment of a person in respect of conduct where, if it had occurred in New Zealand at the same time and had constituted an offence against New Zealand law, the person responsible could no longer be prosecuted by reason of lapse of time or for any other reason; or
 - (ca) the request relates to the prosecution or punishment of a person for an offence in respect of which the person may be or has been sentenced to death by the appropriate authority in that requesting country, and that requesting country is unable to sufficiently assure the Attorney-General that—
 - (i) the person will not be sentenced to death; or
 - (ii) if that sentence is or has been imposed, it will not be carried out; or
 - (d) in the case of a request made pursuant to section 38 in respect of a person who is a prisoner in New Zealand, the granting of the request—
 - (i) would not be in the public interest; or
 - (ii) would not be in the interests of the person to whom the request relates; or

- (e) the provision of the assistance requested could prejudice—
 - (i) a criminal investigation or criminal proceeding in New Zealand; or
 - (ii) a proceeding of any kind under the Criminal Proceeds (Recovery) Act 2009 or sections 142A to 142Q of the Sentencing Act 2002; or
 - (f) the provision of the assistance would prejudice, or would be likely to prejudice, the safety of any person (whether that person is in New Zealand or not); or
 - (g) the provision of assistance—
 - (i) would impose an excessive burden on the resources of New Zealand; or
 - (ii) relates to a matter that is trivial in nature; or
 - (h) the request does not comply with the requirements of section 26.
- (3) No request shall be refused solely on the grounds contained in subsection (2)(g) unless—
- (a) the Attorney-General has first consulted with the Central Authority of the requesting country about the terms and conditions on which the request may be complied with; and
 - (b) the Attorney-General has been unable to reach agreement with the Authority in that regard.
- (4) No request shall be refused solely on the grounds contained in subsection (2)(h) unless the Attorney-General has first requested further information from the requesting country and that country has failed or refused to provide that information.
- (5) Subject to subsection (1), the Attorney-General may grant a request even though the request does not comply with the requirements of section 26.

Compare: Mutual Assistance in Criminal Matters Act 1987 s 8 (Aust)

Section 27(1)(ab): inserted, on 1 December 2009, by section 9(1) of the Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9).

Section 27(1)(ba): inserted, on 1 December 2009, by section 9(2) of the Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9).

Section 27(1)(ca): inserted, on 1 December 2009, by section 9(3) of the Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9).

Section 27(1)(i): repealed, on 1 March 1999, by section 9 of the Mutual Assistance in Criminal Matters Amendment Act 1998 (1998 No 15).

Section 27(2)(ab): inserted, on 1 December 2009, by section 9(4) of the Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9).

Section 27(2)(ba): inserted, on 1 December 2009, by section 9(5) of the Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9).

Section 27(2)(bb): inserted, on 1 December 2009, by section 9(5) of the Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9).

Section 27(2)(ca): inserted, on 2 September 1996, by section 2 of the Mutual Assistance in Criminal Matters Amendment Act 1996 (1996 No 135).

Section 27(2)(e): substituted, on 1 December 2009, by section 9(6) of the Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9).

Section 27(2)(g): substituted, on 1 December 2009, by section 9(7) of the Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9).

28 Notification of refusal

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

29 Assistance may be provided subject to conditions

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

Compare: Mutual Assistance in Criminal Matters Act 1987 s 9 (Aust)

Assistance in locating or identifying persons

30 Assistance in locating or identifying persons

- (1) A foreign country may request the Attorney-General to assist in locating, or identifying and locating, a person who is believed to be in New Zealand.
- (2) Where, on receipt of a request made under subsection (1) by a foreign country, the Attorney-General is satisfied—
 - (a) that the request relates to a criminal matter in the foreign country; and
 - (b) that there are reasonable grounds for believing that the person to whom the request relates—
 - (i) is or might be concerned in, or could give or provide evidence or assistance relevant to, the criminal matter; and
 - (ii) is in New Zealand,—

the Attorney-General may authorise, in writing, assistance in accordance with this section.
- (3) Where, in relation to a request made under subsection (1), the Attorney-General authorises assistance in accordance with this section, the Attorney-General shall forward the request to the appropriate agency in New Zealand, and that agency shall use its best endeavours to locate or, as the case may be, identify and locate the person to whom the request relates, and shall advise the Attorney-General of the outcome of those endeavours.
- (4) On receipt of such advice, the Attorney-General shall inform the requesting country of the result of the inquiries made pursuant to the request.

Section 30(1); amended, on 1 March 1999, by section 9 of the Mutual Assistance in Criminal Matters Amendment Act 1998 (1998 No 15).

Assistance in obtaining evidence in New Zealand

31 Assistance in obtaining evidence in New Zealand

- (1) A foreign country may request the Attorney-General to assist in arranging—
 - (a) the taking of evidence in New Zealand; or
 - (b) the production of documents or other articles in New Zealand; or
 - (c) the undertaking of a forensic comparison under the Criminal Investigations (Bodily Samples) Act 1995 and the production of a document specifying the result of that comparison.
- (2) The Attorney-General may, in writing, authorise the requested assistance if,—
 - (a) in the case of receipt of a request made under subsection (1)(a) or (b) by a foreign country, the Attorney-General is satisfied that—
 - (i) the request relates to criminal proceedings in the foreign country; and
 - (ii) there are reasonable grounds for believing that the evidence can be taken or the documents or other articles can be produced in New Zealand;
 - (b) in the case of receipt of a request made under subsection (1)(c) by a foreign country, the Attorney-General is satisfied that—
 - (i) the request relates to a criminal matter in the foreign country; and
 - (ii) the request is in respect of an offence that corresponds to an offence in New Zealand that is punishable by a term of imprisonment of more than 1 year.
- (3) If, under subsection (2), the Attorney-General authorises—
 - (a) the taking of evidence, a Judge may, subject to sections 32 and 33 and to any regulations made under this Act, take the evidence on oath of each witness appearing before the Judge and must, in this case,—
 - (i) cause the evidence to be put in writing and certify, in the prescribed form, that the evidence was taken by the Judge; and
 - (ii) cause the writing to be sent to the Attorney-General;
 - (b) the production of documents or other articles, a Judge may, subject to sections 32 and 33 and to any regulations made under this Act, require the production of the documents or other articles, and, unless the Judge otherwise orders, must cause the documents, or copies of the documents certified by the Judge to be true copies, or the other articles, to be sent to the Attorney-General.

Section 31: replaced, on 4 February 2016, by section 4 of the Mutual Assistance in Criminal Matters Amendment Act 2015 (2015 No 107).

32 Further provisions relating to obtaining evidence

- (1) Subject to section 33, the laws of New Zealand with respect to the compelling of persons to attend before a Judge, and to give evidence, answer questions, and produce documents or other articles, upon the hearing of a charge against a person for an offence against the law of New Zealand shall apply, so far as they are capable of application and with all necessary modifications, with respect to the compelling of persons to attend before a Judge, and to give evidence, answer questions, and produce documents or other articles, for the purposes of section 31.
- (2) Where, pursuant to section 31, a foreign country requests the production of documents that are judicial records or official records, and that are not publicly available in New Zealand, those records may be produced or examined only to the extent that they could be produced or examined if the criminal proceedings to which the request relates were pending in a New Zealand court.

Compare: Mutual Assistance in Criminal Matters Act 1987 s 13(6) (Aust)

33 Protection of witnesses

- (1) For the purposes of section 31, the person to whom the criminal proceedings in the foreign country relates is competent but not compellable to give evidence.
- (2) No person who is required, pursuant to section 31, to give evidence, or to produce documents or other articles, for the purposes of any proceedings in a foreign country shall be required to give any evidence, or to produce any document or article, that the person could not be compelled to give or produce in the proceedings in the foreign country.
- (3) A duly authenticated foreign law immunity certificate is admissible, for the purposes of subsection (2), as prima facie evidence of the matters stated in the certificate.
- (4) Every person who is required, pursuant to section 31, to give evidence, or produce documents or other articles, for the purposes of any proceedings in a foreign country shall have the same privileges in relation to the answering of questions and the production of documents and things as if the proceedings were pending in a New Zealand court.

Compare: Mutual Assistance in Criminal Matters Act 1987 s 13(7)–(9) (Aust)

34 Certain persons entitled to appear and be legally represented at proceedings

- (1) The following persons may appear, and may be represented by counsel, at any hearing held under subsection (3) of section 31:
 - (a) the person to whom the proceedings in the foreign country relate:
 - (b) any other person giving evidence or producing documents or other articles at the hearing:
 - (c) the relevant authority of the foreign country.

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

Compare: Mutual Assistance in Criminal Matters Act 1987 s 13(4), (5) (Aust)

35 Powers of Judge may be exercised by Registrar

- (1) Any Judge may authorise a Registrar of the High Court to exercise the powers of a Judge under section 31 in respect of any particular case.
- (2) Any authorisation given under subsection (1) may be revoked at any time by any Judge.
- (3) Where any matter in respect of which he or she has jurisdiction under any authorisation given under subsection (1) appears to the Registrar to be one of special difficulty, he or she may refer the matter to a Judge, who may dispose of the matter or may refer it back to the Registrar with such directions as the Judge thinks fit.
- (4) Nothing in this section shall prevent the exercise, by any Judge, of any jurisdiction or powers conferred on any Registrar under this section.

Compare: 1908 No 56 s 48B; 1962 No 34 s 4

36 Evidence Act 2006 not affected

Nothing in this Act limits or affects the Evidence Act 2006.

Section 36: substituted, on 1 August 2007, by section 216 of the Evidence Act 2006 (2006 No 69).

Assistance in obtaining attendance of persons in foreign country

37 Assistance in arranging attendance of person to give or provide evidence or assistance in relation to criminal matter in foreign country

- (1) A foreign country may request the Attorney-General to assist in arranging the attendance, in that country, of a person in New Zealand (not being a person to whom section 38 applies) for the purposes of giving or providing evidence or assistance in relation to a criminal matter in the foreign country.
- (2) Where, on receipt of a request made under subsection (1) by a foreign country, the Attorney-General is satisfied—
- (a) that the request relates to a criminal matter in the foreign country; and
 - (b) that there are reasonable grounds for believing that the person concerned could give or provide evidence or assistance relevant to that criminal matter; and
 - (c) that the person concerned has freely consented to attend as requested; and
 - (d) that the foreign country has given adequate undertakings in respect of the matters specified in paragraphs (a), (b), (c), and (e) of section 39,—

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

Compare: Mutual Assistance in Criminal Matters Act 1987 ss 26, 27 (Aust)

Section 37 heading: amended, on 18 June 2002, by section 7 of the Mutual Assistance in Criminal Matters Amendment Act 2002 (2002 No 23).

Section 37(1): amended, on 1 March 1999, by section 9 of the Mutual Assistance in Criminal Matters Amendment Act 1998 (1998 No 15).

38 Assistance in arranging attendance of prisoner in foreign country for specified purposes

- (1) A foreign country may request the Attorney-General to assist in arranging the attendance, in that country, for either or both of the purposes specified in subsection (1A), of a person in New Zealand who is—
- (a) a prisoner; or
 - (b) on parole, home detention, or compassionate release, or is subject to release conditions, under Part 1 of the Parole Act 2002; or
 - (ba) subject to a sentence of home detention imposed under section 80A of the Sentencing Act 2002; or
 - (c) *[Repealed]*
 - (d) at large pursuant to section 62 of the Corrections Act 2004; or
 - (e) subject to a community-based sentence (within the meaning of section 4(1) of the Sentencing Act 2002).
- (1A) The purposes referred to in subsection (1) are—
- (a) for giving evidence in relation to any criminal proceedings in the foreign country;
 - (b) for assistance in relation to a criminal matter in respect of a foreign serious offence.
- (2) The Attorney-General may authorise, in writing, assistance in accordance with this section if, on receipt of a request under subsection (1) by a foreign country, the Attorney-General is satisfied—
- (a) that the request relates to the attendance of the person concerned in connection with a criminal matter in the foreign country; and
 - (b) that there are reasonable grounds for believing that the person concerned could give or provide evidence or assistance relevant to that criminal matter; and
 - (c) that the person concerned has freely consented to attend as requested; and
 - (d) that the foreign country has given adequate undertakings in respect of the matters specified in section 39.

- (3) Where assistance is authorised in accordance with subsection (2), the Attorney-General may,—
- (a) in the case of a person who is a prisoner, direct that the prisoner be released from the prison in which that person is detained for the purpose of travelling to the foreign country to give evidence at the hearing, and may make arrangements for the prisoner to travel to the foreign country in the custody of a constable or a prison officer:
 - (b) in the case of any other person, approve and arrange the travel of the person to the foreign country to give evidence at the hearing, and may obtain such approvals, authorities, and permissions as are required for the purpose, including the variation, discharge, or suspension of the conditions of the person's release, or the variation, cancellation, or suspension of the person's sentence, or of the conditions of the person's sentence.
- (4) A direction given, pursuant to subsection (3)(a), by the Attorney-General in respect of a prisoner shall be sufficient authority for the release of the prisoner from the prison in which he or she is detained for the purposes of the direction.
- (5) Every person released under a direction given pursuant to subsection (3)(a) shall, while that person is in New Zealand during the period of that release, be deemed, for the purposes of section 120 of the Crimes Act 1961 (which relates to escaping from lawful custody) and for that purpose only, to continue to be in the legal custody of the person in whose custody he or she was when in the prison from which he or she is so released.

Compare: Mutual Assistance in Criminal Matters Act 1987 s 26 (Aust)

Section 38 heading: amended, on 18 June 2002, by section 8(1) of the Mutual Assistance in Criminal Matters Amendment Act 2002 (2002 No 23).

Section 38(1): amended, on 18 June 2002, by section 8(2) of the Mutual Assistance in Criminal Matters Amendment Act 2002 (2002 No 23).

Section 38(1): amended, on 1 March 1999, by section 9 of the Mutual Assistance in Criminal Matters Amendment Act 1998 (1998 No 15).

Section 38(1)(b): substituted, on 30 June 2002, by section 125 of the Parole Act 2002 (2002 No 10).

Section 38(1)(ba): inserted, on 1 October 2007, by section 58 of the Sentencing Amendment Act 2007 (2007 No 27).

Section 38(1)(c): repealed, on 30 June 2002, by section 125 of the Parole Act 2002 (2002 No 10).

Section 38(1)(d): amended, on 1 June 2005, by section 206 of the Corrections Act 2004 (2004 No 50).

Section 38(1)(e): substituted, on 18 June 2002, by section 8(3) of the Mutual Assistance in Criminal Matters Amendment Act 2002 (2002 No 23).

Section 38(1A): inserted, on 18 June 2002, by section 8(4) of the Mutual Assistance in Criminal Matters Amendment Act 2002 (2002 No 23).

Section 38(2): substituted on 18 June 2002, by section 8(5) of the Mutual Assistance in Criminal Matters Amendment Act 2002 (2002 No 23).

Section 38(3)(a): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 38(3)(a): amended, on 1 June 2005, by section 206 of the Corrections Act 2004 (2004 No 50).

Section 38(5): amended, on 1 June 2005, by section 206 of the Corrections Act 2004 (2004 No 50).

39 Undertakings required from foreign country

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

- (a) that the person to whom the request relates shall not—
 - (i) be detained, prosecuted, or punished for any offence against the law of the foreign country that is alleged to have been committed, or that was committed, before the person's departure from New Zealand, other than an offence in respect of which the Attorney-General consents to the person's being so detained, prosecuted, or punished; or
 - (ii) be subjected to any civil proceedings in respect of any act or omission of the person that is alleged to have occurred, or that occurred, before the person's departure from New Zealand, being civil proceedings to which that person could not be subjected if the person were not in the foreign country; or
 - (iii) be required to give or provide evidence or assistance in respect of any criminal matter in the foreign country other than the matter to which the request relates—

unless the person has left the foreign country, or has had the opportunity of leaving the foreign country and has remained in that country otherwise than for the purpose of giving or providing evidence or assistance in respect of the matter to which the request relates:

- (b) that any evidence given by the person in the criminal proceedings to which the request relates shall be inadmissible or otherwise disqualified from use in the prosecution of the person for an offence against a law of the foreign country other than the offence of perjury in relation to the giving of that evidence:
- (c) that the person will be returned to New Zealand in accordance with arrangements agreed by the Attorney-General as soon as practicable after giving the evidence:
- (d) in a case where the request relates to a person who is a prisoner in New Zealand and the Attorney-General requests the foreign country to make arrangements for the keeping of the person in custody while the person is in the foreign country,—

- (i) that appropriate arrangements will be made for that purpose; and
 - (ii) that the person will not be released from custody in the foreign country without the prior approval of the Attorney-General; and
 - (iii) if the person is released in the foreign country, at the request of the Attorney-General, before the completion of the proceedings to which the request relates, that the person's accommodation and expenses will be met by the foreign country:
- (e) such other matters (if any) as the Attorney-General thinks appropriate.

Compare: Mutual Assistance in Criminal Matters Act 1987 s 26(3) (Aust)

Section 39(a)(i): amended, on 18 June 2002, by section 9 of the Mutual Assistance in Criminal Matters Amendment Act 2002 (2002 No 23).

40 Penalty not to be imposed for refusal to consent

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

41 Effect of removal to foreign country on prisoner's term of imprisonment

Where a prisoner who is serving a term of imprisonment for an offence against the law of New Zealand is released from a New Zealand prison pursuant to a request by a foreign country under section 38, the prisoner shall, while in custody in connection with the request (including custody outside New Zealand), be deemed to be continuing to serve that term of imprisonment.

Compare: Mutual Assistance in Criminal Matters Act 1987 s 28 (Aust)

Section 41: amended, on 1 June 2005, by section 206 of the Corrections Act 2004 (2004 No 50).

41A Effect of transfer to foreign country pursuant to request under section 38 on remand prisoner's sentence

- (1) If a prisoner who is charged with or convicted of an offence against the law of New Zealand (the **New Zealand offence**) is transferred to a foreign country pursuant to a request by that country under section 38, section 41B of this Act and section 90 of the Parole Act 2002 apply to any period that the person spends in custody outside New Zealand in connection with the request before sentence is imposed for the New Zealand offence.
- (2) Nothing in this section affects section 41.

Section 41A: inserted, on 18 June 2002, by section 10 of the Mutual Assistance in Criminal Matters Amendment Act 2002 (2002 No 23).

41B Information about time remand prisoner spent in custody overseas pursuant to request under section 38

- (1) If a prisoner who is charged with or convicted of an offence against the law of New Zealand (the **New Zealand offence**) is transferred to a foreign country pursuant to a request by that country under section 38 before sentence is imposed for the New Zealand offence, the Attorney-General may request the foreign country to provide a certificate recording the total period during which the prisoner was detained outside New Zealand in connection with the request until sentence was imposed for the New Zealand offence.
- (2) A certificate obtained under subsection (1) is presumed to be accurate, unless the contrary is proved.
- (3) The Attorney-General may issue a certificate setting out the date and period referred to in subsection (1) if—
 - (a) the foreign country does not provide a certificate within a reasonable time after the Attorney-General makes a request under subsection (1); and
 - (b) the Attorney-General is satisfied from the information that the Attorney-General has that an accurate calculation can be made of the period referred to in subsection (1).
- (4) For the purposes of section 91(4A) of the Parole Act 2002, a certificate given by the Attorney-General under subsection (3) has the same effect as a certificate under subsection (1).
- (5) Subsection (6) applies if, after the Attorney-General has given a certificate under subsection (3),—
 - (a) a certificate requested under subsection (1) is obtained from the foreign country; and
 - (b) the period specified in that certificate is different from that specified in the Attorney-General's certificate.
- (6) If this subsection applies, the new certificate is a substitute certificate for the purposes of section 91(4A) of the Parole Act 2002.

Section 41B: inserted, on 18 June 2002, by section 10 of the Mutual Assistance in Criminal Matters Amendment Act 2002 (2002 No 23).

42 Custody of persons in transit

- (1) A person who is in custody in one foreign country and has consented to give evidence in criminal proceedings, or to give assistance in relation to a criminal investigation, in another foreign country may be transported through New Zealand, in custody, to that other foreign country.
- (2) The person being transported through New Zealand in custody may, if an aircraft or ship by which the person is being transported lands or calls at a place in

New Zealand, be kept in such custody while in transit in New Zealand as the Minister directs in writing until his or her transportation is continued.

- (3) Where—
- (a) a person is being held in custody pursuant to a direction under subsection (2); and
 - (b) the person's transportation is not, in the opinion of the Attorney-General, continued within a reasonable time,—
- the Attorney-General may direct, in writing, that the person be transported in custody to the country from which the person was first transported, and such a direction shall be sufficient authority for that person's removal from New Zealand by such means as the Attorney-General directs.
- (4) Section 15(3) shall, so far as applicable and with all necessary modifications, apply with respect to any person detained in custody in accordance with this section.
- (5) For the purposes of enabling the grant of a temporary visa under the Immigration Act 2009 to any person whom it is proposed to transport through New Zealand pursuant to this section, the Attorney-General may issue a certificate, in writing, that the person is to be transported through New Zealand pursuant to this section.
- (6) The Attorney-General may, at any time, by notice in writing, cancel any certificate issued under subsection (5) in respect of any person who is in New Zealand for the purposes of being transported through New Zealand pursuant to this section if the Attorney-General is satisfied that that person's presence in New Zealand is no longer necessary for that purpose.

Compare: Mutual Assistance in Criminal Matters Act 1987 s 29 (Aust)

Section 42(2): amended, on 1 March 1999, by section 9 of the Mutual Assistance in Criminal Matters Amendment Act 1998 (1998 No 15).

Section 42(5): amended, at 2 am on 29 November 2010, by section 406(1) of the Immigration Act 2009 (2009 No 51).

Search warrants

43 Assistance in obtaining article or thing by search and seizure

- (1) A foreign country may request the Attorney-General to assist in obtaining an article or thing by search and seizure.
- (2) Where, on receipt of a request made under subsection (1) by a foreign country, the Attorney-General is satisfied—
- (a) that the request relates to a criminal matter in that foreign country in respect of an offence punishable by imprisonment for a term of 2 years or more; and
 - (b) that there are reasonable grounds for believing that an article or thing relevant to the proceedings is located in New Zealand,—

the Attorney-General may authorise a constable, to apply to an issuing officer (within the meaning of section 3 of the Search and Surveillance Act 2012) for a search warrant in accordance with section 44 of this Act.

Compare: Mutual Assistance in Criminal Matters Act 1987 s 15(1) (Aust)

Section 43(1): amended, on 1 March 1999, by section 9 of the Mutual Assistance in Criminal Matters Amendment Act 1998 (1998 No 15).

Section 43(2): amended, on 1 October 2012, by section 335(2) of the Search and Surveillance Act 2012 (2012 No 24).

Section 43(2): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

44 Search warrants

- (1) An issuing officer who, on an application made in the manner provided in subpart 3 of Part 4 of the Search and Surveillance Act 2012, is satisfied that there are reasonable grounds for believing that there is in or on any place or thing—
 - (a) any thing upon or in respect of which any offence under the law of a foreign country punishable by imprisonment for a term of 2 years or more has been, or is suspected of having been, committed; or
 - (b) any thing which there are reasonable grounds for believing will be evidence as to the commission of any such offence; or
 - (c) any thing which there are reasonable grounds for believing is intended to be used for the purpose of committing any such offence—

may issue a search warrant in respect of that thing.

- (2) An application for a warrant under subsection (1) may be made only by a constable authorised under section 43(2).
- (3) The provisions of Part 4 of the Search and Surveillance Act 2012 (except subpart 6) apply.

Section 44(1): amended, on 1 October 2012, by section 335(3) of the Search and Surveillance Act 2012 (2012 No 24).

Section 44(2): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 44(3): inserted, on 1 October 2012, by section 335(4) of the Search and Surveillance Act 2012 (2012 No 24).

45 Form and content of search warrant

[Repealed]

Section 45: repealed, on 1 October 2012, by section 335(5) of the Search and Surveillance Act 2012 (2012 No 24).

46 Powers conferred by warrant

[Repealed]

Section 46: repealed, on 1 October 2012, by section 335(5) of the Search and Surveillance Act 2012 (2012 No 24).

46A Power to stop vehicles

[Repealed]

Section 46A: repealed, on 1 October 2012, by section 335(5) of the Search and Surveillance Act 2012 (2012 No 24).

47 Person executing warrant to produce evidence of authority

[Repealed]

Section 47: repealed, on 1 October 2012, by section 335(5) of the Search and Surveillance Act 2012 (2012 No 24).

48 Notice of execution of warrant

[Repealed]

Section 48: repealed, on 1 October 2012, by section 335(5) of the Search and Surveillance Act 2012 (2012 No 24).

49 Custody and disposal of things seized

- (1) Where any constable seizes any thing pursuant to a warrant issued under section 44, that constable shall deliver the thing into the custody of the Commissioner of Police.
- (2) Where a thing is delivered into the custody of the Commissioner of Police under subsection (1), the Commissioner of Police shall arrange for the thing to be kept for a period not exceeding 1 month from the day on which the thing was seized pending a direction in writing from the Attorney-General as to the manner in which the thing is to be dealt with (which may include a direction that the thing be sent to an appropriate authority of a foreign country).
- (3) Where, before the expiry of the period referred to in subsection (2), the Attorney-General gives a direction in respect of the thing, the thing shall be dealt with in accordance with the direction.
- (4) If no direction is given by the Attorney-General before the expiry of the period referred to in subsection (2), the Commissioner of Police shall arrange for the thing to be returned to the person from whose possession it was seized as soon as practicable after that period has expired.

Section 49(1): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

50 Attorney-General to provide certificate as to search and seizure

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

Assistance in arranging service of process

51 Assistance in arranging service

- (1) A foreign country may request the Attorney-General to assist in effecting the service of process on a person in New Zealand.
- (2) Where, on receipt of a request made under subsection (1) by a foreign country, the Attorney-General is satisfied—
 - (a) that the request relates to a criminal matter in the foreign country; and
 - (b) that there are reasonable grounds for believing that the person to be served is in New Zealand; and
 - (c) where the request relates to the service of a summons to appear as a witness in the foreign country, that the foreign country has given an adequate undertaking in respect of the matters specified in section 52,—the Attorney-General may authorise assistance in accordance with this section.
- (3) Where service is authorised under subsection (2), the Attorney-General shall direct the appropriate authority to arrange service, and in such a case the authority shall—
 - (a) use its best endeavours to have the process served—
 - (i) in accordance with procedures proposed in the request; or
 - (ii) if those procedures would be unlawful or inappropriate in New Zealand, or if no procedures are so proposed, in accordance with the law of New Zealand; and
 - (b) if the document—
 - (i) is served, transmit to the Attorney-General for transmission to the foreign country making the request a certificate as to service; or
 - (ii) is not served, transmit to the Attorney-General for transmission to the foreign country a statement of the reasons which prevented the service.

Compare: Mutual Assistance in Criminal Matters Act 1987 s 38 (Aust)

Section 51(1): amended, on 1 March 1999, by section 9 of the Mutual Assistance in Criminal Matters Amendment Act 1998 (1998 No 15).

52 Undertaking required from foreign country

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

53 Penalty not to be imposed for failure to comply with summons

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

Requests to enforce foreign restraining orders and foreign forfeiture orders

Heading: substituted, on 1 December 2009, by section 10 of the Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9).

54 Request to enforce foreign restraining order

- (1) A foreign country may request the Attorney-General to assist in enforcing a foreign restraining order that relates to property that is believed to be located in New Zealand.
- (2) The Attorney-General may authorise the Commissioner to apply to the High Court to register a foreign restraining order in New Zealand if satisfied—
 - (a) that the request from the foreign country relates to—
 - (i) tainted property (as defined in relation to Part 3); or
 - (ii) property of a person who has unlawfully benefited from significant foreign criminal activity; or
 - (iii) an instrument of crime (as defined in relation to Part 3); or
 - (iv) property that will satisfy some or all of a foreign pecuniary penalty order; and
 - (b) that there are reasonable grounds to believe some or all of the property that is able to be restrained under the foreign restraining order is located in New Zealand.

- (3) An authority issued under subsection (2) must be in writing.

Section 54: substituted, on 1 December 2009, by section 10 of the Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9).

55 Request to enforce foreign forfeiture order

- (1) A foreign country may request the Attorney-General to assist in enforcing a foreign forfeiture order that relates to property that is reasonably believed to be located in New Zealand.
- (2) The Attorney-General may authorise the Commissioner to apply to the High Court to register the foreign forfeiture order in New Zealand if satisfied—
 - (a) that the request from the foreign country relates to property that may be forfeited under the foreign forfeiture order and is specific property that—

- (i) is tainted property (as defined in relation to Part 3); or
 - (ii) belongs to a person who has unlawfully benefited from significant foreign criminal activity; or
 - (iii) is an instrument of crime (as defined in relation to Part 3); or
 - (iv) will satisfy some or all of a foreign pecuniary penalty order; and
- (b) that there are reasonable grounds to believe that some or all of the property to which the order relates is located in New Zealand.
- (3) An authority issued under subsection (2) must be in writing.

Section 55: substituted, on 1 December 2009, by section 10 of the Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9).

56 Method for registering foreign orders in New Zealand

- (1) If the High Court is satisfied that a foreign order that the Commissioner has applied to register under section 54 or 55 is in force in a foreign country, the High Court must make an order that it be registered in New Zealand.
- (3) A foreign order, or an amendment to a foreign order (an **amendment**), may be registered in the High Court in New Zealand by registering either of the following under the prescribed procedure:
- (a) a copy of the foreign order or amendment sealed by the court or other judicial authority who made it; or
 - (b) a copy of the foreign order or amendment authenticated in accordance with section 63.
- (4) A copy of an amendment (whether made before or after registration) may be registered in the same way as a foreign order.
- (5) A foreign order or an amendment to a foreign order does not have effect under this Act or the Criminal Proceeds (Recovery) Act 2009 until it is registered.
- (6) An exact copy of a sealed or authenticated copy of a foreign order or an amendment must for the purposes of this Act be treated as if it is the sealed or authenticated copy.
- (7) However, registration of an exact copy ceases to have effect on the expiry of the period of 21 days commencing on the date of registration unless, before the expiry of that period, the sealed or authenticated copy is registered.

Section 56: substituted, on 1 December 2009, by section 10 of the Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9).

57 Effect of registering foreign orders in New Zealand

- (1) A foreign restraining order registered in New Zealand under section 56 has effect, and may be enforced, as if it is a restraining order—
- (a) made by the High Court under the Criminal Proceeds (Recovery) Act 2009; and
 - (b) entered on the date it is registered.

- (2) Subsection (1) is subject to sections 136 to 139 of the Criminal Proceeds (Recovery) Act 2009.
- (3) A foreign forfeiture order registered in New Zealand under section 56 has effect, and may be enforced, as if it is a forfeiture order—
 - (a) made by the High Court under the Criminal Proceeds (Recovery) Act 2009; and
 - (b) entered on the date it is registered.
- (4) Subsection (3) is subject to sections 140 to 149 of the Criminal Proceeds (Recovery) Act 2009.

Section 57: substituted, on 1 December 2009, by section 10 of the Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9).

58 Cancelling registration of foreign orders in New Zealand

- (1) The Attorney-General may at any time direct the Commissioner to apply to the High Court to cancel the registration in New Zealand of—
 - (a) a foreign restraining order; or
 - (b) a foreign forfeiture order.
- (2) Without limiting subsection (1), the Attorney-General may give a direction of that kind if the Attorney-General is satisfied—
 - (a) that the order has, since being registered in New Zealand, ceased to have effect in the foreign country in which it was made; or
 - (b) that cancelling the order is appropriate having regard to arrangements entered into between New Zealand and the foreign country in relation to the enforcing of orders of that kind; or
 - (c) that the registration of the order in New Zealand contravened section 56; or
 - (d) *[Repealed]*
 - (e) that, after consultation with the foreign country where the order was made, it is desirable that the registration of the foreign order be cancelled; or
 - (f) that the foreign order has been discharged, wholly or in part.
- (3) The High Court must cancel the registration of a foreign order in New Zealand if the Commissioner applies, under a direction under subsection (1), to the High Court to cancel the registration.

Section 58: substituted, on 1 December 2009, by section 10 of the Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9).

Section 58(2)(d): repealed, on 25 February 2012, by section 4 of the Mutual Assistance in Criminal Matters Amendment Act 2012 (2012 No 14).

Requests by foreign countries for orders or warrants in New Zealand

Heading: substituted, on 1 December 2009, by section 10 of the Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9).

59 Request for search warrant in New Zealand

- (1) A foreign country may request the Attorney-General to obtain the issue of a search warrant in New Zealand in respect of a criminal investigation or criminal proceedings relating to—
 - (a) tainted property (as defined in relation to Part 3); or
 - (b) property that belongs to a person who has unlawfully benefited from significant foreign criminal activity; or
 - (c) an instrument of crime (as defined in relation to Part 3); or
 - (d) property that will satisfy some or all of a foreign pecuniary penalty order.
- (2) After a request is made, the Attorney-General may, if satisfied of the matters in subsection (3), do any of the following:
 - (a) authorise a constable to apply under section 124 of the Criminal Proceeds (Recovery) Act 2009 for a search warrant under section 101 of that Act in relation to that property;
 - (b) authorise the Commissioner to apply under section 125 of the Criminal Proceeds (Recovery) Act 2009 for a search warrant under section 102 of that Act in relation to that property;
 - (c) authorise the Official Assignee to apply under section 126 of the Criminal Proceeds (Recovery) Act 2009 for a search warrant under section 110 of that Act in relation to that property.
- (3) The matters referred to in subsection (2) are—
 - (a) that the request relates to a criminal investigation or criminal proceedings relating to—
 - (i) tainted property (as defined in relation to Part 3); or
 - (ii) property that belongs to a person who has unlawfully benefited from significant foreign criminal activity; or
 - (iii) an instrument of crime (as defined in relation to Part 3); or
 - (iv) property that will satisfy some or all of a foreign pecuniary penalty order; and
 - (b) that there are reasonable grounds for believing the property is located in New Zealand.

Section 59: substituted, on 1 December 2009, by section 10 of the Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9).

60 Interim foreign restraining order

- (1) A foreign country may request the Attorney-General to obtain the issue of an interim foreign restraining order in respect of property that is believed to be located in New Zealand.
- (2) After a request is made, the Attorney-General may authorise the Commissioner to make an application under section 128 of the Criminal Proceeds (Recovery) Act 2009 for an interim foreign restraining order if the Attorney-General is satisfied that—
 - (a) there is a criminal investigation in relation to—
 - (i) tainted property (as defined in relation to Part 3); or
 - (ii) property that belongs to a person who has unlawfully benefited from significant foreign criminal activity; or
 - (iii) an instrument of crime (as defined in relation to Part 3); or
 - (iv) property that will satisfy some or all of a foreign pecuniary penalty order; and
 - (b) there are reasonable grounds to believe all or part of the property to which the criminal investigation relates is located in New Zealand.

Section 60: substituted, on 1 December 2009, by section 10 of the Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9).

61 Request for production order in New Zealand

- (1) A foreign country may request the Attorney-General to make an application for a production order in New Zealand.
- (2) After a request is made, the Attorney-General may authorise the Commissioner to make an application to a Judge under section 104 of the Criminal Proceeds (Recovery) Act 2009 if the Attorney-General is satisfied that—
 - (a) the request relates to a criminal investigation that relates to—
 - (i) tainted property (as defined in relation to Part 3); or
 - (ii) property that belongs to a person who has unlawfully benefited from significant foreign criminal activity; or
 - (iii) an instrument of crime (as defined in relation to Part 3); or
 - (iv) property that will satisfy some or all of a foreign pecuniary penalty order; and
 - (b) there are reasonable grounds to believe that all or part of the property to which the criminal investigation relates is located in New Zealand.

Section 61: substituted, on 1 December 2009, by section 10 of the Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9).

62 Request for examination order in New Zealand

- (1) A foreign country may request the Attorney-General to make an application for the issue of an examination order in New Zealand.
- (2) After a request is made, the Attorney-General may authorise the Commissioner to make an application under section 106 of the Criminal Proceeds (Recovery) Act 2009 if the Attorney-General is satisfied—
 - (a) that the request relates to a criminal investigation that relates to—
 - (i) tainted property (as defined in relation to Part 3); or
 - (ii) property that belongs to a person who has unlawfully benefited from significant foreign criminal activity; or
 - (iii) an instrument of crime (as defined in relation to Part 3); or
 - (iv) property that will satisfy some or all of a foreign pecuniary penalty order; and
 - (b) that there are reasonable grounds to believe that all or part of the property to which the criminal investigation relates is located in New Zealand.

Section 62: substituted, on 1 December 2009, by section 10 of the Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9).

Part 4
Miscellaneous provisions

63 Authentication of documents

- (1) Subject to section 23 and to the rules of law relating to the admission of evidence, any document that is obtained, provided, or produced pursuant to a request made under this Act and that is duly authenticated is admissible in evidence in any criminal proceedings.
- (2) A document is duly authenticated for the purposes of subsection (1) if—
 - (a) it purports to be signed or certified by a Judge, Magistrate, or official in or of a foreign country; and
 - (b) either—
 - (i) it is verified by the oath of a witness, or of an official of the Government of a foreign country; or
 - (ii) it purports to be sealed with an official or public seal of the foreign country or of a Minister of State, or of a department or official of the Government, of a foreign country.
- (3) Nothing in this section prevents the proof of any matter, or the admission in evidence of any document, in accordance with any other law of New Zealand.

Compare: Mutual Assistance in Criminal Matters Act 1987 s 43 (Aust)

64 Certificates given by Attorney-General

- (1) Where the Attorney-General receives a request made pursuant to this Act, the Attorney-General may give a certificate, in the prescribed form, certifying all or any of the following facts:
 - (a) that a request for assistance under this Act has been made by a foreign country:
 - (b) that the request meets the requirements of this Act:
 - (c) that the acceptance of the request has been duly made under and in accordance with this Act.
- (2) In any proceedings under this Act, or any proceedings under or pursuant to the Criminal Proceeds (Recovery) Act 2009 that arise directly or indirectly from a request made under this Act, a certificate purporting to have been given under subsection (1) shall, in the absence of proof to the contrary, be sufficient evidence of the matters certified by the certificate.

Section 64(2): amended, on 1 December 2009, by section 11 of the Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9).

64A Certificates relating to convention countries

- (1) For the purposes of Part 3, a certificate given by the Secretary of Foreign Affairs and Trade, certifying that any country is or is not, at any material time, a party to 1 or more of the conventions referred to in column 1 of the table in the Schedule, is sufficient evidence of that fact.
- (2) The court or person acting judicially to whom any certificate under subsection (1) is produced must take judicial notice of the signature of the Secretary of Foreign Affairs and Trade.

Section 64A: inserted, on 1 March 1999, by section 6 of the Mutual Assistance in Criminal Matters Amendment Act 1998 (1998 No 15).

Section 64A(1): amended, on 18 June 2002, by section 12 of the Mutual Assistance in Criminal Matters Amendment Act 2002 (2002 No 23).

64B Amendment of Schedule 1

[Repealed]

Section 64B: repealed, on 18 June 2002, by section 13 of the Mutual Assistance in Criminal Matters Amendment Act 2002 (2002 No 23).

65 Regulations

- (1) The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:
 - (a) declaring a country to be a foreign country to which Part 3 applies:
 - (b) prescribing the forms of applications, notices, certificates, and other documents for the purposes of this Act, and requiring the use of such forms:

- (c) prescribing the procedure to be followed in dealing with requests made under this Act, and providing for notification of the results of action taken pursuant to any such request:
 - (d) prescribing the procedures for obtaining evidence, or producing documents or articles, pursuant to a request made under section 31:
 - (e) providing for the payment of fees, travelling allowances, and expenses to any person in New Zealand who gives or provides evidence or assistance pursuant to a request made under this Act:
 - (f) prescribing conditions for the protection of any property sent to or by a foreign country pursuant to a request made under this Act; and making provision for the return of property in New Zealand pursuant to a request:
 - (g) providing for such other matters as are contemplated by or are necessary for giving full effect to this Act and for its due administration.
- (2) Regulations made pursuant to subsection (1)(a) may state that the application of Part 3 to a prescribed foreign country may—
- (a) be subject to such conditions, exceptions, or qualifications as are specified in the regulations:
 - (b) be subject to such limitations, conditions, exceptions, or qualifications as are necessary to give effect to a treaty between New Zealand and that country and relating (in whole or in part) to the provision of assistance in criminal matters, being a treaty a copy of which is set out in the regulations.
- (3) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: Mutual Assistance in Criminal Matters Act 1987 s 44 (Aust)

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 65(1)(a): substituted, on 1 March 1999, by section 7 of the Mutual Assistance in Criminal Matters Amendment Act 1998 (1998 No 15).

Section 65(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Schedule 1

Limitations on requests by convention countries

ss 2(1), 24A, 24B, 26

Schedule 1: substituted, on 18 June 2002, by section 14(1) of the Mutual Assistance in Criminal Matters Amendment Act 2002 (2002 No 23).

Convention under which request made	New Zealand offence that convention country offence would correspond to
1 The Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents, opened for signature at New York on 14 December 1973	An offence against any of the following sections of the Crimes Act 1961: <i>section</i> <i>subject matter</i> 128 sexual violation 129 attempt to commit sexual violation 142A compelling indecent act with animal
<i>or</i>	
2 The Convention on the Safety of United Nations and Associated Personnel, opened for signature at New York on 9 December 1994	167, 168 murder 171 manslaughter 173 attempt to murder 174 counselling or attempting to procure murder 176 accessory after the fact to murder 188(1) wounding with intent to cause grievous bodily harm 188(2) wounding with intent to injure 189(1) injuring with intent to cause grievous bodily harm 189(2) injuring with intent to injure, or with reckless disregard for the safety of others 191(1) aggravated wounding 191(2) aggravated injury 192 aggravated assault 197 disabling 198 discharging firearm or doing dangerous act with intent 199 acid throwing 200 poisoning with intent 201 infecting with disease 209 kidnapping 294 arson 295 attempted arson 296 damage to other property by fire or explosive

Convention under which request made	New Zealand offence that convention country offence would correspond to																
	<p>297 attempt to damage property by fire or explosive</p> <p>298 wilful damage</p> <p>300 interfering with means of transport</p>																
	<p>An offence against any of the following sections of the Crimes (Internationally Protected Persons, United Nations and Associated Personnel, and Hostages) Act 1980:</p> <table border="0"> <tr> <td><i>section</i></td> <td><i>subject matter</i></td> </tr> <tr> <td>3</td> <td>crimes against persons</td> </tr> <tr> <td>4</td> <td>crimes against premises or vehicles</td> </tr> <tr> <td>5</td> <td>threats against persons</td> </tr> <tr> <td>6</td> <td>threats against premises or vehicles</td> </tr> </table>	<i>section</i>	<i>subject matter</i>	3	crimes against persons	4	crimes against premises or vehicles	5	threats against persons	6	threats against premises or vehicles						
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3	<p>The Convention Against the Taking of Hostages, opened for signature at New York on 18 December 1979</p> <p>An offence against the following section of the Crimes (Internationally Protected Persons, United Nations and Associated Personnel, and Hostages) Act 1980:</p> <table border="0"> <tr> <td><i>section</i></td> <td><i>subject matter</i></td> </tr> <tr> <td>8</td> <td>hostage taking</td> </tr> </table>	<i>section</i>	<i>subject matter</i>	8	hostage taking												
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8	hostage taking																
4	<p>The United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, adopted in Vienna on 19 December 1988</p> <p>An offence against any of the following sections of the Misuse of Drugs Act 1975:</p> <table border="0"> <tr> <td><i>section</i></td> <td><i>subject matter</i></td> </tr> <tr> <td>6</td> <td>dealing with controlled drugs</td> </tr> <tr> <td>9</td> <td>cultivation of prohibited plants</td> </tr> <tr> <td>10</td> <td>aiding offences against corresponding law of another country</td> </tr> <tr> <td>12A</td> <td>equipment, material, and substances used in production or cultivation of controlled drugs</td> </tr> <tr> <td>12AB</td> <td>knowingly import or export precursor substances for unlawful use</td> </tr> <tr> <td>12B</td> <td>laundering proceeds of drug offences</td> </tr> <tr> <td>12C</td> <td>commission of offences outside New Zealand</td> </tr> </table>	<i>section</i>	<i>subject matter</i>	6	dealing with controlled drugs	9	cultivation of prohibited plants	10	aiding offences against corresponding law of another country	12A	equipment, material, and substances used in production or cultivation of controlled drugs	12AB	knowingly import or export precursor substances for unlawful use	12B	laundering proceeds of drug offences	12C	commission of offences outside New Zealand
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5 <i>or</i>	<p>The Single Convention on Narcotic Drugs, done at New York on 30 March 1961</p> <p>An offence against any of the following sections of the Misuse of Drugs Act 1975:</p> <table border="0"> <tr> <td><i>section</i></td> <td><i>subject matter</i></td> </tr> <tr> <td>6</td> <td>dealing with controlled drugs</td> </tr> </table>	<i>section</i>	<i>subject matter</i>	6	dealing with controlled drugs												
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Convention under which request made	New Zealand offence that convention country offence would correspond to
6 The Protocol to the Single Convention on Narcotic Drugs, done at Geneva on 25 March 1972	9 cultivation of prohibited plants
<i>or</i>	
7 The Convention on Psychotropic Substances, done at Vienna on 21 February 1971	
8 The Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, adopted by the General Assembly of the United Nations on 10 December 1984	An offence against the following section of the Crimes of Torture Act 1989: <i>section</i> <i>subject matter</i> 3 acts of torture
9 The Convention for the Suppression of Unlawful Seizure of Aircraft, done at the Hague on 16 December 1970	An offence against any of the following sections of the Aviation Crimes Act 1972: <i>section</i> <i>subject matter</i> 3 hijacking 4 crimes in connection with hijacking
10 The Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, done at Montreal on 23 September 1971	An offence against the following section of the Aviation Crimes Act 1972: <i>section</i> <i>subject matter</i> 5 other crimes relating to aircraft
11 The Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, done at Montreal on 24 February 1988	An offence against the following section of the Aviation Crimes Act 1972: <i>section</i> <i>subject matter</i> 5A crimes relating to international airports
12 The Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, done at Rome on 10 March 1988	An offence against any of the following sections of the Maritime Crimes Act 1999: <i>section</i> <i>subject matter</i> 4 offences relating to ships 4A further offences relating to ships
<i>or</i>	
12A The Protocol of 2005 to the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, done at London on 14 October 2005	4B transportation of weapons and nuclear material and equipment by ship 4C transportation of fugitives by ship 6 causing death or injury in connection with offence against section 4, 4A, 4B, or 4C of that Act

Convention under which request made	New Zealand offence that convention country offence would correspond to
13 The Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10 March 1988	An offence against any of the following sections of the Maritime Crimes Act 1999: <i>section</i> <i>subject matter</i> 5 offences relating to fixed platforms
<i>or</i>	5A further offences relating to fixed platforms
13A The Protocol of 2005 to the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf, done at London on 14 October 2005	6 causing death or injury in connection with offence against section 5 or 5A of that Act
14 The Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, done at Paris on 17 December 1997	An offence against any of the following sections of the Crimes Act 1961: <i>section</i> <i>subject matter</i> 105C bribery of foreign public official 105D bribery outside New Zealand of foreign public official
15 The Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, adopted at Geneva on 12 August 1949	An offence against the following section of the Geneva Conventions Act 1958: <i>section</i> <i>subject matter</i> 3 punishment for grave breaches of Conventions or First Protocol
16 The Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, adopted at Geneva on 12 August 1949	An offence against the following section of the Geneva Conventions Act 1958: <i>section</i> <i>subject matter</i> 3 punishment for grave breaches of Conventions or First Protocol
17 The Geneva Convention Relative to the Treatment of Prisoners of War, adopted at Geneva on 12 August 1949	An offence against the following section of the Geneva Conventions Act 1958: <i>section</i> <i>subject matter</i> 3 punishment for grave breaches of Conventions or First Protocol
18 The Geneva Convention Relative to the Protection of Civilian Persons in Time of War, adopted at Geneva on 12 August 1949	An offence against the following section of the Geneva Conventions Act 1958: <i>section</i> <i>subject matter</i> 3 punishment for grave breaches of Conventions or First Protocol
19 The Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts, adopted at Geneva on 8 June 1977	An offence against the following section of the Geneva Conventions Act 1958: <i>section</i> <i>subject matter</i> 3 punishment for grave breaches of Conventions or First Protocol

Convention under which request made	New Zealand offence that convention country offence would correspond to																						
20 The United Nations Convention against Transnational Organised Crime, done at New York on 15 November 2000	<p>An offence against any of the following sections of the Crimes Act 1961:</p> <table border="1"> <thead> <tr> <th data-bbox="762 488 853 517"><i>section</i></th> <th data-bbox="954 488 1125 517"><i>subject matter</i></th> </tr> </thead> <tbody> <tr> <td data-bbox="762 524 821 553">98A</td> <td data-bbox="954 524 1252 589">participation in organised criminal group</td> </tr> <tr> <td data-bbox="762 595 813 624">100</td> <td data-bbox="954 595 1173 624">judicial corruption</td> </tr> <tr> <td data-bbox="762 631 813 660">101</td> <td data-bbox="954 631 1300 660">bribery of judicial officer, etc</td> </tr> <tr> <td data-bbox="762 667 813 696">102</td> <td data-bbox="954 667 1252 732">corruption and bribery of Minister of the Crown</td> </tr> <tr> <td data-bbox="762 739 813 768">103</td> <td data-bbox="954 739 1252 804">corruption and bribery of member of Parliament</td> </tr> <tr> <td data-bbox="762 810 813 840">104</td> <td data-bbox="954 810 1300 875">corruption and bribery of law enforcement officer</td> </tr> <tr> <td data-bbox="762 882 813 911">105</td> <td data-bbox="954 882 1252 947">corruption and bribery of official</td> </tr> <tr> <td data-bbox="762 954 813 983">116</td> <td data-bbox="954 954 1268 983">conspiring to defeat justice</td> </tr> <tr> <td data-bbox="762 990 813 1019">117</td> <td data-bbox="954 990 1316 1019">corrupting juries and witnesses</td> </tr> <tr> <td data-bbox="762 1025 837 1055">257A</td> <td data-bbox="954 1025 1173 1055">money laundering</td> </tr> </tbody> </table> <p>Any offence against any Act if—</p> <p>(a) it is punishable by imprisonment for a term of 4 years or more; and</p> <p>(b) there are reasonable grounds to suspect that it is transnational in nature (as defined in Articles 3(2) and 18(1) of the convention referred to in column 1) and involves an organised criminal group (as defined in Article 2(a) of that convention)</p>	<i>section</i>	<i>subject matter</i>	98A	participation in organised criminal group	100	judicial corruption	101	bribery of judicial officer, etc	102	corruption and bribery of Minister of the Crown	103	corruption and bribery of member of Parliament	104	corruption and bribery of law enforcement officer	105	corruption and bribery of official	116	conspiring to defeat justice	117	corrupting juries and witnesses	257A	money laundering
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21 The Protocol against the Smuggling of Migrants, by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organised Crime, done at New York on 15 November 2000	<p>An offence against the, following section of the Crimes Act 1961:</p> <table border="1"> <thead> <tr> <th data-bbox="762 1435 853 1464"><i>section</i></th> <th data-bbox="954 1435 1125 1464"><i>subject matter</i></th> </tr> </thead> <tbody> <tr> <td data-bbox="762 1471 821 1500">98C</td> <td data-bbox="954 1471 1189 1500">smuggling migrants</td> </tr> </tbody> </table> <p>An offence against any of the following sections of the Passports Act 1992:</p> <table border="1"> <tbody> <tr> <td data-bbox="762 1585 821 1615">29A</td> <td data-bbox="954 1585 1300 1650">forged and false New Zealand travel documents</td> </tr> <tr> <td data-bbox="762 1657 798 1686">30</td> <td data-bbox="954 1657 1284 1722">offences relating to passport information and material</td> </tr> <tr> <td data-bbox="762 1729 821 1758">30A</td> <td data-bbox="954 1729 1316 1794">improper issue of New Zealand travel document</td> </tr> <tr> <td data-bbox="762 1800 837 1830">31(1)</td> <td data-bbox="954 1800 1125 1830">other offences</td> </tr> <tr> <td data-bbox="762 1836 837 1865">31(2)</td> <td data-bbox="954 1836 1220 1901">defacing or destroying document</td> </tr> <tr> <td data-bbox="762 1908 798 1937">32</td> <td data-bbox="954 1908 1189 1937">false representations</td> </tr> </tbody> </table>	<i>section</i>	<i>subject matter</i>	98C	smuggling migrants	29A	forged and false New Zealand travel documents	30	offences relating to passport information and material	30A	improper issue of New Zealand travel document	31(1)	other offences	31(2)	defacing or destroying document	32	false representations						
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Convention under which request made	New Zealand offence that convention country offence would correspond to
22 The Protocol to Prevent, Suppress and Punish Trafficking of Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime, done at New York on 15 November 2000	An offence against the following section of the Crimes Act 1961: <i>section</i> <i>subject matter</i> 98D trafficking in people by means of coercion or deception
23 The International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations at New York on 15 December 1997	An offence against the following section of the Terrorism Suppression Act 2002: <i>section</i> <i>subject matter</i> 7(1) terrorist bombing
24 The International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations at New York on 9 December 1999	An offence— (a) against the following section of the Terrorism Suppression Act 2002: <i>section</i> <i>subject matter</i> 8(1) financing of terrorism; and (b) that involves a terrorist act of a kind referred to in section 5(1)(b) or (c) of that Act
27 The Convention on the Physical Protection of Nuclear Materials done at Vienna on 26 October 1979	An offence against the following section of the Terrorism Suppression Act 2002: <i>section</i> <i>subject matter</i> 13C offences involving the physical protection of nuclear materials
28 The International Convention against the Recruitment, Use, Financing and Training of Mercenaries, done at New York on 4 December 1989	An offence against the following sections of the Mercenary Activities (Prohibition) Act 2004: <i>section</i> <i>subject matter</i> 7 recruiting person to be mercenary 8 using mercenary 9 financing mercenary 10 training prospective mercenary 11 training mercenary 12 mercenary taking part in hostilities or concerted act of violence
29 Optional Protocol to the United Nations Convention on the Rights of the Child on the sale of children, child prostitution, and child pornography	An offence against any of the following sections of the Crimes Act 1961 <i>section</i> <i>subject matter</i>

Convention under which request made	New Zealand offence that convention country offence would correspond to
	98AA Dealing in people under 18 for sexual exploitation, removal of body parts, or engagement in forced labour
	144A Sexual conduct with children and young people outside New Zealand
	An offence against the following section of the Prostitution Reform Act 2003 section subject matter 23(1) Breach of prohibitions on use in prostitution of people under 18
30 The Convention for the Suppression of Acts of Nuclear Terrorism, adopted by the General Assembly of the United Nations at New York on 13 April 2005	An offence against the following section of the Terrorism Suppression Act 2002 <i>section subject matter</i> 13E offences involving radioactive material and radioactive devices
31 The Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict, done at The Hague on 26 March 1999.	An offence against the following section of the Cultural Property (Protection in Armed Conflict) Act 2012: <i>section subject matter</i> 7 Serious violations of the Second Protocol.
32 The United Nations Convention against Corruption (2003)	An offence against any of the following sections of the Crimes Act 1961: <i>section subject matter</i> 100 judicial corruption 101 bribery of judicial officer, etc 102 corruption and bribery of Minister of the Crown 103 corruption and bribery of member of Parliament 104 corruption and bribery of law enforcement officer 105 corruption and bribery of official 105A corrupt use of official information 105B use or disclosure of personal information disclosed in breach of section 105A 105C bribery of foreign public official 105D bribery outside New Zealand of foreign public official

Convention under which request made	New Zealand offence that convention country offence would correspond to	
	105E	corruption of foreign public officials
	105F	trading in influence
	116	conspiring to defeat justice
	117	corrupting juries and witnesses
	219	theft or stealing
	220	theft by person in special relationship
	228	dishonestly taking or using document
	240	obtaining by deception or causing loss by deception
	243	money laundering
	246	receiving
	249	accessing computer system for dishonest purpose
	An offence against any of the following sections of the Secret Commissions Act 1910:	
	<i>section</i>	<i>subject matter</i>
	3	gifts to agent without consent of principal an offence
	4	acceptance of such gifts by agent an offence
	8	receiving secret reward for procuring contracts an offence

Schedule 1 item 4: amended, on 22 June 2005, by section 23 of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

Schedule 1 item 12: replaced, on 27 May 2018, by section 24 of the Maritime Crimes Amendment Act 2017 (2017 No 49).

Schedule 1 item 12A: inserted, on 27 May 2018, by section 24 of the Maritime Crimes Amendment Act 2017 (2017 No 49).

Schedule 1 item 13: replaced, on 27 May 2018, by section 24 of the Maritime Crimes Amendment Act 2017 (2017 No 49).

Schedule 1 item 13A: inserted, on 27 May 2018, by section 24 of the Maritime Crimes Amendment Act 2017 (2017 No 49).

Schedule 1 item 20: added, on 29 September 2003, by section 15 of the Mutual Assistance in Criminal Matters Amendment Act 2002 (2002 No 23).

Schedule 1 item 21: added, on 1 January 2004, by section 16 of the Mutual Assistance in Criminal Matters Amendment Act 2002 (2002 No 23).

Schedule 1 item 22: added, on 1 January 2004, by section 17 of the Mutual Assistance in Criminal Matters Amendment Act 2002 (2002 No 23).

Schedule 1 item 23: added, on 5 December 2002, by section 79 of the Terrorism Suppression Act 2002 (2002 No 34).

Schedule 1 item 24: added, on 5 December 2002, by section 80 of the Terrorism Suppression Act 2002 (2002 No 34).

Schedule 1 item 27: added, on 18 January 2004, by section 18 of the Terrorism Suppression Amendment Act 2003 (2003 No 106).

Schedule 1 item 28: added, on 22 October 2004, by section 23 of the Mercenary Activities (Prohibition) Act 2004 (2004 No 69).

Schedule 1 item 29: replaced, on 1 June 2017, by section 10 of the Crimes Amendment Act 2005 (2005 No 41).

Schedule 1 item 30: added, on 20 November 2007, by section 48(2) of the Terrorism Suppression Amendment Act 2007 (2007 No 102).

Schedule 1 item 31: inserted, on 1 July 2013, by section 47 of the Cultural Property (Protection in Armed Conflict) Act 2012 (2012 No 118).

Schedule 1 item 32: inserted, on 7 November 2015, by section 5 of the Mutual Assistance in Criminal Matters Amendment Act 2015 (2015 No 107).

Schedule 2

[Repealed]

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Schedule 2: repealed, on 18 June 2002, by section 14(1) of the Mutual Assistance in Criminal Matters Amendment Act 2002 (2002 No 23).

Mutual Assistance in Criminal Matters Amendment Act 2009

Public Act	2009 No 9
Date of assent	21 April 2009
Commencement	see section 2

1 Title

This Act is the Mutual Assistance in Criminal Matters Amendment Act 2009.

2 Commencement

This Act comes into force on 1 December 2009.

3 Principal Act amended

This Act amends the Mutual Assistance in Criminal Matters Act 1992.

4 Purpose of Act

The purpose of this Act is to amend the Mutual Assistance in Criminal Matters Act 1992 so that it applies to foreign restraining order and foreign forfeiture order schemes that are civil, as well as criminal, in nature.

12 Savings and transitional provisions

The Mutual Assistance in Criminal Matters Act 1992 continues in force as it did before the commencement of this Act for the purpose of completing any request or any matter relating to or arising from a request made under that Act before the commencement of this Act, including, without limitation,—

- (a) taking action in relation to any matter relating to an application under the Mutual Assistance in Criminal Matters Act 1992; and
- (b) continuing or completing any proceedings or other matter commenced under that Act; and
- (c) enforcing orders made or registered under that Act; and
- (d) the exercise of any power or function under the Act in relation to any matter in paragraph (a).

Notes

1 *General*

This is a consolidation of the Mutual Assistance in Criminal Matters Act 1992 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 *Amendments incorporated in this consolidation*

Criminal Proceeds (Recovery) Amendment Act 2023 (2023 No 6): Part 2 subpart 2

Secondary Legislation Act 2021 (2021 No 7): section 3

Maritime Crimes Amendment Act 2017 (2017 No 49): section 24

Mutual Assistance in Criminal Matters Amendment Act 2015 (2015 No 107)

Cultural Property (Protection in Armed Conflict) Act 2012 (2012 No 118): section 47

Search and Surveillance Act 2012 (2012 No 24): section 335

Mutual Assistance in Criminal Matters Amendment Act 2012 (2012 No 14)

Immigration Act 2009 (2009 No 51): section 406(1)

Mutual Assistance in Criminal Matters Amendment Act 2009 (2009 No 9)

Policing Act 2008 (2008 No 72): section 116(a)(ii)

Terrorism Suppression Amendment Act 2007 (2007 No 102): section 48(2)

Sentencing Amendment Act 2007 (2007 No 27): section 58

Evidence Act 2006 (2006 No 69): section 216

Misuse of Drugs Amendment Act 2005 (2005 No 81): section 23

Crimes Amendment Act 2005 (2005 No 41): section 10

Mercenary Activities (Prohibition) Act 2004 (2004 No 69): section 23

Corrections Act 2004 (2004 No 50): section 206

Terrorism Suppression Amendment Act 2003 (2003 No 106): section 18

Terrorism Suppression Act 2002 (2002 No 34): sections 79, 80

Mutual Assistance in Criminal Matters Amendment Act 2002 (2002 No 23)

Parole Act 2002 (2002 No 10): section 125

Mutual Assistance in Criminal Matters Amendment Act 1999 (1999 No 41)

District Courts Amendment Act 1998 (1998 No 76): section 7

Mutual Assistance in Criminal Matters Amendment Act 1998 (1998 No 15)

Crimes Amendment Act (No 2) 1997 (1997 No 93): section 25

Mutual Assistance in Criminal Matters Amendment Act 1996 (1996 No 135)