

ANTIGUA AND BARBUDA



MUTUAL ASSISTANCE IN CRIMINAL MATTERS (AMENDMENT) BILL 2019

NO. OF 2019

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ARRANGEMENT OF CLAUSES

Clauses

1. Short title
2. Interpretation
3. Amendment of Section 3 – Interpretation
4. Amendment to Section 19 – Acceptance or refusal of requests, etc.
5. Amendment to Section 27 – Assistance to country in relation to certain orders
6. Amendments to Section 29 – Definition for purposes of Part IV
7. Amendment to Section 30 – Implementation of treaty

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AN ACT to amend The Mutual Assistance in Criminal Matters Act, 1993, No. 2 of 1993

ENACTED by the Parliament of Antigua and Barbuda as follows:

1. Short title

This Act may be cited as the Mutual Assistance In Criminal Matters (Amendment) Act 2019.

2. Interpretation

In this Act –

“the principal Act” means the Mutual Assistance in Criminal Matters Act, 1993, No. 2 of 1993.

3. Amendment to Section 3 - Interpretation

The principal Act is amended in Section 3 (1) by repealing the definition of “confiscation order” and replacing it as follows –

“confiscation order” refers to any order made in any criminal or civil proceedings for the forfeiture or recovery of property derived from criminal conduct;”

4. Amendment to Section 19 – Acceptance or refusal of requests

Subsection 19 of the principal Act is amended by inserting immediately after the provisions of subsection (2) a new subsection (2A) to be worded as follows –

“(2A) The central authority for Antigua and Barbuda may consider a request that would otherwise be refused under the provisions of subsection (2) where the request does not require Antigua and Barbuda to bring any criminal proceedings against or take any coercive action against the person that is the subject of the request.”

5. Amendment to Section 30 – Implementation of treaty

Section 30 of the principal Act is amended in subsection (1) by –

(a) deleting the word “bilateral” which appears before the words “mutual assistance”; and

(b) by inserting after the word “country” but before the word “specified” the words, “or any number of countries that are Parties to the treaty”

No. of 2019

*Mutual Assistance in Criminal Matters (Amendment)
Bill 2019*

Passed by the House of Representatives
on the day of 2019.

Passed by the Senate on the
day of 2019.

Speaker

President

Clerk to the House of Representative

Clerk to the Senate

EXPLANTORY MEMORANDUM

Clause 3 - Amendment to Section 3 of the Act provides for a broadening of the definition of the term “confiscation order” to include not only orders made on criminal proceedings but also in civil proceeding regardless of the statute under which the proceedings are brought.

Clause 4 - Amendment to Section 19 of the Act addresses FATF criterion 37.6 and Intermediate Outcome-2 which requires that dual criminality not be an absolute condition for refusing to render mutual legal assistance. The amendment introduces a new subsection (2A) which puts it within the power of the Central Authority in Antigua and Barbuda to consider any request as long as compliance with the request would not require Antigua and Barbuda to bring criminal proceedings or take any coercive measure against the individual that is the subject of the request.

Clause 5 - Amendment to Section 30 of the Act removes the word “Bilateral” which may be interpreted as restricting mutual legal assistance only to cases where a bilateral treaty exists; and inserts the words, “or any number of countries that are Parties to the treaty” to make abundantly clear that the legislation also applies to multilateral treaties for mutual assistance in criminal matters.

Hon. Steadroy C. O. Benjamin

Minister with responsibility for Legal Affairs,

National Security and labour