

CAYMAN ISLANDS



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**THE MISUSE OF DRUGS (INTERNATIONAL COOPERATION)
(AMENDMENT) LAW, 2003**

(LAW 29 OF 2003)

**THE MISUSE OF DRUGS (INTERNATIONAL COOPERATION)
(AMENDMENT) LAW, 2003**

ARRANGEMENT OF SECTIONS

1. Short title.
2. Amendment of section 1 of the Misuse of Drugs (International Co-operation) Law (2000 Revision) - short title.
3. Amendment of section 2 - definitions and interpretation.
4. Amendment of section 4 - Central Authority.
5. Amendment of section 8 - refusal of mutual legal assistance.
6. Amendment of section 10 - powers ancillary to the execution of a request.
7. Amendment of section 14 - protection of persons appearing in response to a request.
8. Repeal and replacement of section 23 - conflict of laws.
9. Insertion of section 23A - application of certain provisions of the Proceeds of Criminal Conduct Law (2001 Revision)
10. Amendment of First Schedule - countries or territories to which mutual legal assistance may be given by the Authority.
11. Savings and transitional provisions.

CAYMAN ISLANDS

Law 29 of 2003.

I Assent

B. H. Dinwiddy

Governor.

5 January, 2004

A LAW TO AMEND THE MISUSE OF DRUGS (INTERNATIONAL COOPERATION) LAW (2000 REVISION) TO ENHANCE THE ABILITY OF THE CAYMAN ISLANDS TO OFFER INTERNATIONAL COOPERATION IN CRIMINAL MATTERS

ENACTED by the Legislature of the Cayman Islands.

1. This Law may be cited as the Misuse of Drugs (International Cooperation) (Amendment) Law, 2003.

Short title

2. Section 1 of the Misuse of Drugs (International Cooperation) Law (2000 Revision), in this Law referred to as "the principal Law", is amended by repealing the words "Misuse of Drugs" and substituting the words "Criminal Justice".

Amendment of section 1 of the Misuse of Drugs (International Co-operation) Law (2000 Revision) - short title

3. The principal Law is amended in section 2 as follows -

Amendment of section 2 - definitions and interpretation

(a) in subsection (1) by inserting the following definition in its appropriate alphabetical place -

“law corresponding to this Law” means a law of a requesting Party which provides for legal assistance in criminal matters to foreign states and pursuant to which assistance of the kind sought under this Law could be similarly obtained;”;

(b) in subsection (1) by repealing the definition of the expression "Party" and substituting the following definition -

“Party” -

- (a) other than in the Convention, means a country or territory specified in the First Schedule; and
 - (b) in the Convention, means a party to the Convention;”;
- and
- (c) by repealing subsection (2) and substituting the following subsection -

“ (2) In this Law, references to an offence to which this Law applies are references to -

- (a) any offence under the laws of the Islands; and
- (b) conduct which would constitute an offence if it had occurred in the Islands.”.

Amendment of section 4 - Central Authority

4. The principal Law is amended in section 4 by repealing the words “For the purpose of Article 7(8)” and substituting the words “For the purposes of Article 7(8) and this Law”.

Amendment of section 8- refusal of mutual legal assistance

5. The principal Law is amended in section 8(1)(f) by inserting after the words “the Convention” the words “or under a law corresponding to this Law”.

Amendment of section 10 - powers ancillary to the execution of a request

6. The principal Law is amended by repealing subsection (1) of section 10 and substituting the following subsection -

“ (1) Subject to sections 8 and 9 -

- (a) upon receipt of a request relating to the Convention, the Authority shall execute the request in accordance with Article 7; and
- (b) upon receipt of any other request, the Authority may execute the request in accordance with this Law.”.

Amendment of section 14- protection of persons appearing in response to a request

7. The principal Law is amended in section 14(1) by inserting after the words “with Article 7(18)” the words “or under a law corresponding to this Law”.

Repeal and replacement of section 23 - conflict of laws

8. The principal Law is amended by repealing section 23 and substituting the following section -

“Conflict of laws

23. (1) This Law does not derogate from the provisions of -

- (a) the Confidential Relationships (Preservation) Law (1995 Revision);
- (b) the Mutual Legal Assistance (United States

- of America) Law (1999 Revision);
- (c) the Proceeds of Criminal Conduct Law (2001 Revision);
- (d) the Evidence (Proceedings in Other Jurisdictions) (Cayman Islands) Order 1978; or
- (e) any other law enabling international cooperation in criminal matters.

(2) This Law does not apply to a request for the exchange of information made pursuant to a Law or an agreement which has legal effect in the Islands and which enables international cooperation in taxation matters.

(3) Where there is any inconsistency between this Law and the Convention, this Law shall prevail to the extent of the inconsistency.

(4) In subsection (2) -

“taxation matters” means matters relating to the collection, calculation or assessment of a tax or matters incidental thereto.”.

9. The principal Law is amended by inserting after section 23 the following section -

“Application of certain provisions of the Proceeds of Criminal Conduct Law (2001 Revision)

23A.(1) Where a request has been made for the purpose of -

- (a) identifying or tracing proceeds, property, instruments or such other things for the purposes of evidence;
- (b) immobilising criminally obtained assets; or
- (c) assisting in proceedings related to forfeiture and restitution,

the provisions of sections 32 to 38, and the Schedule, of the Proceeds of Criminal Conduct Law (2001 Revision) shall mutatis mutandis apply, except that -

- (i) any reference in those provisions to a designated country shall be construed as a reference to a country or territory specified in the First Schedule of this Law; and

Insertion of section 23A - application of certain provisions of the Proceeds of Criminal Conduct Law (2001 Revision)

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(ii) any reference in those provisions to the institution of proceedings shall be disregarded.

(2) For the purposes of this Law, the powers of the Grand Court under paragraphs 6(1) and 7(1) of the Schedule of the Proceeds of Criminal Conduct Law (2001 Revision) are exercisable where either an external confiscation order has been made or it appears to the Grand Court that there are reasonable grounds for thinking that such an order may be made.”.

Amendment of First Schedule - countries or territories to which mutual legal assistance may be given by the Authority

10. The principal Law is amended in the First Schedule by repealing the words “PARTIES TO WHOM” and substituting the words “COUNTRIES OR TERRITORIES TO WHICH”.

Savings and transitional provisions

11. (1) Every request for mutual legal assistance made under the former Law and wholly or partly dealt with when the new Law comes into force, is to be continued and dealt with in all respects as if the new Law had not come into force.

(2) Every request for mutual legal assistance made under the former Law and not wholly or partly dealt with when the new Law comes into force, is to be taken to be an application made under the new Law and the provisions of the new Law are to apply accordingly.

(3) In this section -

“the new Law” means the principal Law as amended by this Law; and

“the former Law” means the principal Law in force immediately before the date of commencement of this Law.

Passed by the Legislative Assembly the 3rd day of December , 2003.

LINFORD A. PIERSON

Speaker.

WENDY LAUER EBANKS

Clerk of the Legislative Assembly.