

**MUTUAL ASSISTANCE IN CRIMINAL MATTERS
(AMENDMENT) ACT, 2022**

No. 16



of 2022

ARRANGEMENT OF SECTIONS

SECTION

1. Short title
2. Amendment of section 31 of Cap. 08:04
3. Amendment of section 32 of the Act

An Act to amend the Mutual Assistance in Criminal Matters Act.

Date of assent: 25.02.2022

Date of commencement: 25.02.2022

ENACTED by the Parliament of Botswana.

1. This Act may be cited as the Mutual Assistance in Criminal Matters (Amendment) Act, 2022.

Short title

2. The Mutual Assistance in Criminal Matters Act (herein after referred to as “the Act”) is amended by substituting for section 31 the following section —

Amendment of section 31 of Cap. 08:04

“Requests for “31. Where —
restraining orders

- (a) a criminal proceeding has commenced in a foreign country in respect of a serious offence;
 - (b) there are reasonable grounds to believe that property that may be made or is about to be made the subject of a foreign restraining order is located in Botswana; and
 - (c) the foreign country requests the Director of Public Prosecutions to obtain the issue of a restraining order under the Proceeds of Serious Crime Act against the property,
- the Director of Public Prosecutions may, not later than 7 days from the date of a request made under paragraph (c), apply to a magistrate’s court or the High Court for the restraining order requested by the foreign country.”.

3. The Act is amended by substituting for section 32 the following section —

Amendment of section 32 of the Act

“Requests for 32. (1) Where —
information gathering orders

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

- (b) a document in relation to the offence is reasonably believed to be located in Botswana; and
- (c) the foreign country requests the Director of Public Prosecutions to obtain the issue of —
 - (i) a production order under the Proceeds and Instruments of Crime Act in respect of the document; or
 - (ii) a search warrant under the Criminal Procedure and Evidence Act in respect of the document,

the Director of Public Prosecutions may, not later than 7 days from the date of a request made under paragraph (c), apply to a magistrate or a judge of the High Court for the order requested by the foreign country.

(2) Where —

- (a) a criminal proceeding or criminal investigation has commenced in a foreign country in respect of a serious offence that is —
 - (i) a money laundering offence in respect of proceeds of a serious offence; or
 - (ii) an ancillary offence in relation to an offence of a kind referred to in subparagraph (i);
- (b) information about transaction conducted through an account with a financial institution in Botswana is reasonably believed to be relevant to the proceeding or investigation; and
- (c) the foreign country requests the Director of Public Prosecutions to obtain the issue of an order under the Proceeds and Instruments of Crime Act directing the financial institution to give information to the police about transactions conducted through the account,

the Director of Public Prosecutions may, not later than 7 days from the date of a request made under paragraph (c), apply to a magistrate or a judge of the High Court for the order requested by the foreign country.”.

PASSED by the National Assembly this 1st day of February, 2022.

BARBARA N. DITHAPO,
Clerk of the National Assembly.