

COMBATING TRANSNATIONAL CRIME

MUTUAL ASSISTANCE IN CRIMINAL MATTERS (AMENDMENT) BILL 2014

**A note from Indranee Rajah S.C.,
Senior Minister of State for Law**

The amendments to the Mutual Assistance in Criminal Matters Act (MACMA) passed by Parliament at the July 2014 sitting will enhance mutual legal assistance and international cooperation between Singapore and foreign states in the fight against transnational crime.

ABOUT MACMA

The MACMA sets out the framework under which Singapore and foreign countries provide mutual legal assistance on criminal matters. It was enacted in 2000 and amended in 2006.



KEY AMENDMENTS

Relaxing the dual criminality requirements for certain categories of cases

Prior to the amendments, foreign requests for mutual legal assistance could only be acceded to if the act constituting the foreign offence also constituted a serious offence in Singapore, had it occurred in Singapore (i.e. a dual criminality requirement).

The dual criminality requirement has been removed for non-coercive types of assistance which do not attract penal consequences for non-compliance or adversely affect an individual's property rights. So, for example, we can now facilitate the voluntary attendance of a person in Singapore to give evidence for a foreign criminal matter, even if the foreign offence does not constitute a serious offence in Singapore. Previously we could not do so.

The dual criminality requirement will remain for coercive types of assistance enforceable by penal consequences (e.g. search and seizure) or which affect property rights (e.g. confiscation of assets) – save for certain types of assistance related to tax evasion offences (see below).

For foreign tax evasion offences, the dual criminality requirement will not be required for :

- requests requiring a court order to produce information or items; and
- requests that involve search and seizure or the forfeiture of assets, where there is an Avoidance of Double Taxation Agreement, Exchange of Information arrangement or international tax compliance agreement between Singapore and the requesting country.

This reinforces our commitment to combating transnational financial crimes, a matter of importance to us given our position as a financial centre.

Wider scope of mutual legal assistance

Currently, Singapore can assist in the enforcement of foreign forfeiture orders which confiscate the instruments of crime only in relation to drug offences.

The amendments now allow us to assist in the enforcement of foreign orders forfeiting the instruments used in the commission of all serious offences, and not just of drug offences.

Expanded list of offences for which mutual legal assistance can be provided

Before the amendments, assistance could only be rendered for the offences listed in the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (CDSA), which are money laundering-related offences. The CDSA does not generally cover offences which are not linked to money laundering. This restricted the types of offences for which mutual legal assistance could be sought and given.

Going forward, the offences for which mutual legal assistance requests can be made will be de-linked from the CDSA. The MACMA will contain a standalone list comprising not only money laundering offences, but other serious offences as well.

Offences carrying a maximum sentence of at least four years' imprisonment under Singapore law will also be automatically included in the new list.

These changes remove unnecessary constraints on the types of offences for which mutual legal assistance can be given.

Better alignment of MACMA and CDSA

The recent amendments also align the MACMA with the recent changes to the CDSA. These include

- extending legal privilege to in-house counsel;
- updating the definition of a "financial institution"; and
- removing the requirement for a certificate by a foreign authority to prove a foreign offence.

The MACMA amendments, taken together with the recent CDSA amendments and the changes to the Terrorism (Suppression of Financing) Act in 2013, collectively strengthen Singapore's ability to contribute to the global fight against transnational crime.

Indranee Rajah S.C.
Senior Minister of State for Law

