

## **Malaysia: Mutual Assistance in Criminal Matters Regulations**

### MUTUAL ASSISTANCE IN CRIMINAL MATTERS ACT 2002

### MUTUAL ASSISTANCE IN CRIMINAL MATTERS REGULATIONS 2003

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## MUTUAL ASSISTANCE IN CRIMINAL MATTERS ACT 2002

### MUTUAL ASSISTANCE IN CRIMINAL MATTERS REGULATIONS 2003

In exercise of the powers conferred by section 44 of the Mutual Assistance Criminal Matters Act 2002 [Act 621], the Minister makes the following regulations:

#### PART I

##### PRELIMINARY

#### Citation and commencement

1. (1) These regulations may be cited as the **Mutual Assistance in Criminal Matters Regulations 2003**.

(2) These Regulations come into operation on 15 June 2003.

#### Interpretation

2. In these Regulations, unless the context otherwise requires—

“affidavit” includes any affirmation, statutory or other declaratory acknowledgement, examination and attestation or protestation of honour;

“Director General of Prison” means the Director General of Prison appointed under section 10 of the Prison Act 1995 [Act 537];

“court” means a court of competent jurisdiction.

#### Forms

3. The forms in the First Schedule, with such variation as the circumstances of each case require, may be used for the respective purposes of the Act and these Regulations.

#### Applicable procedure

4. (1) The Criminal Procedure Code [Act 593] shall, unless expressly provided otherwise in these Regulations, apply for the purposes of the Act and these Regulations.

(2) Where a request by a prescribed foreign State to Malaysia for assistance in a criminal matter under Part III of the Act contains details of the procedure which that prescribed foreign State wishes Malaysia to follow in giving effect to the request, such procedure shall be applied to the extent that it is not contrary to written law and the provisions in these Regulations and in such case the relevant provisions of the Criminal Procedure Code shall apply with the necessary modifications.

**PART II****REQUEST BY MALAYSIA****Request by Malaysia**

5. A request by Malaysia to a foreign State for assistance in a criminal matter under Part II of the Act shall be made in writing in such form as the Attorney General may determine.

**Form and attestation of authenticity of evidence and records obtained**

6. For the purposes of section 8 of the Act—

- (a) statements made shall, except when recorded in writing by a court, be in the form of an affidavit in accordance with Form 1; and
- (b) documents and records obtained by the appropriate authority of the foreign State shall be accompanied by an attestation of authenticity in accordance with Form 2.

**Attendance and custody of prisoner or person under detention while in Malaysia**

7. (1) If the attendance of a prisoner or a person under detention in a foreign State is required in Malaysia for the purpose of giving evidence or assistance in relation to a criminal matter in Malaysia pursuant to a request by Malaysia under section 9 of the Act, the Attorney General may issue a warrant in accordance with Form 3 to the Director General of Prison requiring the Director General of Prison to take custody of that prisoner or person under detention in the foreign State and to convey him in custody to Malaysia and in Malaysia, to keep him in custody until his attendance is dispensed with by the relevant authority or court in Malaysia.

(2) Immediately upon the attendance of the prisoner or person under detention being dispensed with by the relevant authority or court in Malaysia before which his attendance was required, the Attorney General shall—

- (a) inform the appropriate authority in the foreign State in writing accordingly; and
- (b) issue a warrant in accordance with Form 4 to the Director General of Prison requiring the Director General of Prison to convey the prisoner or person under detention in custody to the foreign State and there to deliver him into the custody of the authority of the foreign State duly appointed by the appropriate authority of the foreign State to receive the prisoner or person under detention.

(3) Nothing in this regulation shall be construed as preventing an authorised officer of the foreign State from accompanying the prisoner or person under detention during his transportation and stay in Malaysia.

**Certification of person attending in Malaysia**

8. A certificate of the Attorney General under subparagraph 11(2)(b)(ii) of Act shall be in accordance with Form 5.

**Certification of recovery of property by foreign State**

9. (1) A certificate of the appropriate authority of a foreign State under subsection 13(2) of the Act shall be in accordance with Form 6.

(2) The value of the property recovered shall be stated as at the date of recovery.

(3) The value of the property recovered shall be stated in the currency of the foreign State with its equivalent in Malaysian ringgit.

(4) For the purposes of this regulation, the applicable exchange rate shall be the exchange rate prevailing on the date the property is recovered.

**Service of documents and proof of service**

10. (1) For the purposes of section 15 of the Act, the appropriate authority of the foreign State may submit an affidavit as proof of service of the process.

(2) An affidavit of a person who has served a document in a foreign State for the purposes of the Act shall be in accordance with Form 7.

**PART III****REQUEST TO MALAYSIA****DIVISION I****GENERAL****Request to Malaysia**

11. A request by a prescribed foreign State to Malaysia for assistance in a criminal matter under Part III of the Act shall be made in writing.

**Special direction of Minister**

12. A special direction of the Minister under section 18 of the Act shall be made in accordance with Form 8.

**DIVISION 2****TAKING OF EVIDENCE****Taking of evidence for criminal proceedings**

13. (1) If the Attorney General authorises the taking of evidence under subsection 22(1) of the Act, the Attorney General shall present the authorisation in accordance with Form 9 to the Sessions Court Judge to take the evidence required.

(2) The certificate of the Sessions Court Judge required under paragraph 22(2)(b) of the Act shall be in accordance with Form 10.

**Request for summons**

14. A request for the issue of a summons shall be made by an authorised officer in accordance with Form 11 and shall be supported by—

- (a) a statement setting out the name and description of the appropriate authority of the prescribed foreign State making the request for assistance and the grounds on which the summons is sought; and
- (b) affidavits verifying the facts relied on.

**Witness fees**

15. (1) A person who attends as a witness before a Sessions Court Judge in accordance with a summons under regulation 14 is entitled to be paid witness fees as specified in the Second Schedule.

(2) The witness fees shall be payable by the Attorney General to a witness after the witness has been excused or released from attending as a witness by the Sessions Court Judge.

(3) Nothing in subregulation (2) shall prevent the Attorney General from paying or tendering to a witness summoned under regulation 14 any part of such witness fees in advance if the Attorney General considers it appropriate.

**Issue of production order**

16. (1) An authorisation given by the Attorney General to a person duly appointed by him under subsection 23(1) of the Act to apply to a court for a production order in respect of any particular thing or description of a thing shall be in accordance with Form 12.

(2) An application to the court for a production order under section 23 of the Act shall be in accordance with Form 13 and shall be supported by—

- (a) a statement setting out the name and description of the appropriate authority of the prescribed foreign State making the request for assistance and the grounds on which the production order is sought; and
- (b) affidavits verifying the facts relied on.

(3) The production order issued by the court under subsection 23(3) of the Act shall be in accordance with Form 14.

### *DIVISION 3*

#### **ATTENDANCE OF PERSON IN PRESCRIBED FOREIGN STATE**

##### **Request for attendance of person in prescribed foreign State**

17. (1) For the purposes of section 27 of the Act, the Attorney General shall issue a notice in accordance with Form 15 for the attendance of the person concerned before the Attorney General or an authorised officer to ascertain whether the person freely consents to travel to and attend in the prescribed foreign State as requested.

(2) When the person attends at the date, time and place specified in the notice issued under subregulation (1), the Attorney General or an authorised officer shall inform the person, in the presence of his legal representative, if any, of his rights and liabilities if he consents to travel to the prescribed foreign State to give evidence or assist in the criminal matter to which the request relates, including the following matters:

- (a) the substance, so far as relevant to the person, of the international arrangements in accordance with which it is proposed for him to travel to the prescribed foreign State;
- (b) the details of the arrangements for his accommodation while he is in the prescribed foreign State;
- (c) the details of the fees, allowances and expenses, if any, payable to him by the prescribed foreign State;
- (d) the details of the arrangements for his security while he is travelling to and from the prescribed foreign State and while he is in the prescribed foreign State, if any;
- (e) his rights and obligations in giving the evidence or assistance in relation to the criminal matter to which the request relates; and
- (f) the effect and consequences of his consent.

(3) The consent given by the person for the purposes of subregulation (2) shall be given by the person himself in writing.

(4) Unless expressly agreed otherwise by the Attorney General, the prescribed foreign State shall bear and be responsible for travel and incidental expenses of the person travelling to and returning from the prescribed foreign State, including those of the accompanying officials.

##### **Request for attendance of prisoner or person under detention**

18. (1) If the person requested to attend in a prescribed foreign State under section 27 of the Act for the purpose of giving evidence or assistance in relation to a criminal matter in that prescribed foreign State is a prisoner or person under detention, the Attorney General may, in addition to the notice issued under



regulation 17, make a request under section 31 of the Prison Act 1995 or the applicable written law in respect of which the person under detention is held for the attendance of that prisoner or person under detention before the Attorney General or an authorised officer to ascertain whether the prisoner or person under detention freely consents to travel to and attend in the prescribed foreign State as requested.

(2) A request under subregulation (1) shall be made in accordance with Form 16.

(3) When the prisoner or person under detention is produced at the date, time and place specified in the request issued under subregulation (1), the Attorney General or an authorised officer shall inform the prisoner or person under detention, in the presence of his legal representative, if any, of his rights and liabilities if he consents to travel to the prescribed foreign State to give evidence or assist in the criminal matter to which the request relates, including the following matters:

- (a) the substance, so far as relevant to the prisoner or person under detention, of the international arrangements in accordance with which it is proposed to temporarily transfer him to the prescribed foreign State;
- (b) the effect, in relation to the prisoner or person under detention, of the warrant which is proposed to be issued in respect of him under these Regulations;
- (c) the details of the arrangements for his accommodation while he is in the prescribed foreign State;
- (d) the details of the fees, allowances and expenses, if any, payable to him by the prescribed foreign State;
- (e) the details of the arrangements for his security while he is travelling to and from the prescribed foreign State and while he is in the prescribed foreign State, if any;
- (f) his rights and obligations in giving the evidence or assistance in relation to the criminal matter to which the request relates;
- (g) the effect of the temporary transfer of custody on his period of imprisonment or detention in Malaysia;
- (h) that he will be deemed to be lawfully confined in the receiving prison in the prescribed foreign State;
- (i) that while he is in custody in the prescribed foreign State, he will be subject to all the laws, regulations and rules applicable in the receiving prison in the prescribed foreign State; and
- (j) the effect and consequences of his consent, including that the consent cannot be withdrawn once the warrant under regulation 19 has been issued.

(4) The consent given by the prisoner or person under detention for the purposes of subregulation (3) shall be given by the prisoner or person under detention himself in writing.

(5) The consent given by the prisoner or person under detention for purposes of subregulation (3) shall not be capable of being withdrawn after a warrant has been issued in respect of the prisoner or person under detention under regulation 19 and accordingly, a withdrawal of that consent after that time shall not affect the validity of the warrant.

### **Temporary transfer of prisoner or person under detention**

19. (1) If the prisoner or person under detention freely consents to travel and attend in the prescribed foreign State to give evidence or assist in a criminal matter to which the request relates and the Attorney General agrees to his attendance in the prescribed foreign State, the Attorney General shall issue a warrant in accordance with Form 17 for the temporary transfer of the prisoner or person under detention to the prescribed foreign State.

(2) The Attorney General shall specify in the warrant—

- (a) the date on which the prisoner or person under detention is due to be released from custody or detention under the laws of Malaysia; and
- (b) the date by which the prisoner or person under detention is to be returned to Malaysia.

and shall notify the appropriate authority of the prescribed foreign State of any variations in such dates.

(3) The prisoner or person under detention shall be transferred into the custody of an officer of the prescribed foreign State for the purpose of transporting him from Malaysia to the prescribed foreign State.

(4) Nothing in this regulation shall be construed as preventing an authorised officer from accompanying the prisoner or person under detention during his transportation and stay in the prescribed foreign State.

### **Return of prisoner or person under detention**

20. (1) If a prisoner or person under detention has travelled to the prescribed foreign State to give evidence or assist in the criminal matter pursuant to a request under section 27 of the Act, then immediately upon his further attendance being dispensed with by the appropriate authority or court in the prescribed foreign State before which his attendance was required, the appropriate authority in the prescribed foreign State shall inform the Attorney General in writing accordingly.

(2) On receipt of the notice under subregulation (1), the Attorney General shall issue a warrant in accordance with Form 18 for the return of the prisoner or person under detention into custody or detention in Malaysia.

(3) Nothing in this regulation shall preclude the release of the prisoner or person under detention in the prescribed foreign State without returning to Malaysia where the prisoner or person under detention becomes entitled to be released while he is in the prescribed foreign State if the Attorney General agrees with the appropriate authority of the prescribed foreign State and the prisoner or person under detention so agree.

### **Transport of person in custody through Malaysia**

21. (1) A notice to the Attorney General under subsection 29(1) of the Act that a person who is in custody in a prescribed foreign State is to be transported to another prescribed foreign State through Malaysia shall be made in writing.

(2) A direction of the Attorney General under subsection 29(3) of the Act for the removal and return of a person who is in custody being transported through Malaysia to the prescribed foreign State from which he was first transported shall be in accordance with Form 19.

#### *DIVISION 4*

### **ENFORCEMENT OF FOREIGN FORFEITURE ORDERS**

#### **Authorisation for enforcement of foreign forfeiture order and restraint of dealing in property**

22. (1) An authorisation given by the Attorney General under paragraph 31(2)(a) of the Act to enforce a foreign forfeiture order shall be in accordance with Form 20.

(2) An authorisation given by the Attorney General under paragraph 31(2)(b) of the Act to restrain dealing in property shall be in accordance with Form 21.

#### **Cases in which restraint order may be made**

23. (1) The powers conferred on the High Court by regulation 24 to make a restraint order are exercisable where—

(a) judicial proceedings have been instituted in a prescribed foreign State;

(b) the judicial proceedings have not been concluded; and

(c) either—

(i) a foreign forfeiture order has been made in the judicial proceedings; or

(ii) it appears to the High Court that there are reasonable grounds for believing that a foreign forfeiture order may be made in the judicial proceedings.

(2) The powers conferred on the High Court by regulation 24 to make a restraint order are also exercisable where—

(a) the High Court is satisfied, whether by information that has been placed before it or otherwise, that judicial proceedings are to be instituted in the prescribed foreign State; and

(b) it appears to the High Court that a foreign forfeiture order may be made in the judicial proceedings.

(3) Where the High Court has made a restraint order under regulation 24 by virtue of subregulation (2), the High Court shall discharge the restraint order if the proposed judicial proceedings are not instituted within such time as the High Court considers reasonable and which shall not in any event exceed a period of three months.

(4) The High Court shall not make a restraint order under regulation 24 if it is of the opinion that it is contrary to the interests of justice for the restraint order to be made.

#### **Issue of restraint order**

24. (1) An application for a restraint order under section 31 of the Act shall be made *ex parte* in accordance with Form 22 to a Judge in Chambers and shall be supported by—

- (a) a statement setting out the name and description of the appropriate authority of the prescribed foreign State making the request for assistance and the grounds on which the restraint order is sought;
- (b) affidavits verifying the facts relied on;
- (c) a certificate issued by or on behalf of the appropriate authority of the prescribed foreign State making the request for assistance stating—
  - (i) that judicial proceedings have been instituted in the prescribed foreign State and have not been concluded, or that judicial proceedings are to be instituted in the prescribed foreign State and, if so, when it is intended that the judicial proceedings should be instituted;
  - (ii) where applicable, the grounds for believing that a foreign forfeiture order may be made in the judicial proceedings instituted or to be instituted in the prescribed foreign State;
  - (iii) the particulars of the property in respect of which the restraint order is sought and specifying the person or persons holding such property;
  - (iv) the particulars of the link between the defendant in the judicial proceedings in the prescribed foreign State and the property in respect of which the restraint order is sought; and
  - (v) the details of any court or other orders made in the prescribed foreign State against the defendant in the prescribed foreign State in respect of the property in respect of which the restraint order is sought,

and the certificate may contain statements of information or belief with the sources and grounds thereof; and

- (d) where available, a duly authenticated copy of any court or other order made against the defendant in the prescribed foreign State in respect of the property in respect of which the restraint order is sought.

(2) Where an authorised officer applies to the Judge in Chambers for the issue of a restraint order in accordance with subregulation (1), the Judge in Chambers shall issue a restraint order against the person holding the property specified in the application or any part of it in accordance with Form 23 to prohibit that person from dealing with the property specified in the restraint order, subject to such conditions and exceptions as may be specified in the order.

(3) Before issuing a restraint order under subregulation (2), the Judge in Chambers may require the Attorney General to give such undertakings as the Judge considers appropriate with respect to the payment of damages or costs, or both, in relation to the issuance of the restraint order.

(4) For the purposes of this regulation, the Bank may issue a certificate in accordance with Form 24 stating the exchange rate prevailing on a specified date.

(5) The certificate issued by or on behalf of the appropriate authority of a prescribed foreign State under section 34 of the Act shall be in accordance with Form 25.

(6) Subject to subregulation (10), the restraint order shall take effect on the date specified in the restraint order, which shall not be a date earlier than the date of the restraint order itself.

(7) Subject to subregulation 23(3), a restraint order issued under subregulation (2) shall remain in force until it is discharged under regulation 26.

(8) In urgent situations, the Attorney General may issue an interim restraint order in accordance with Form 26 for a period not exceeding fourteen days pending the issue of a restraint order under subregulation (2) and the interim restraint order shall have effect as if it were a restraint order issued under subregulation (2) and be sufficient authority for all persons to whom it is directed.

(9) An interim restraint order shall cease to have effect upon the issue of a restraint order under subregulation (2).

(10) Where an interim restraint order has been issued under subregulation (8), the restraint order issued under subregulation (2) shall take effect on the date of the interim restraint order.

(11) For the purposes of these Regulations, property is held by any person if he holds any interest in it.

#### **Enforcement of restraint order**

25. (1) A restraint order issued under regulation 24 may apply to all property in respect of which a foreign forfeiture order could be made that is held by a specified person—

- (a) regardless whether the property is described in the restraint order or not; or

(b) being property transferred to him after the making of the restraint order.

(2) A restraint order may provide for service on, or the provision of notice to, persons affected by the order in such manner as the High Court may direct.

(3) A restraint order may be discharged or varied in relation to any property by an order of the High Court issued under regulation 26.

(4) A restraint order shall be discharged by an order of the High Court issued under regulation 26 when judicial proceedings instituted in the prescribed foreign State in relation to which the order was issued are concluded and no foreign forfeiture order is issued.

(5) The Government of Malaysia shall have absolute discretion on the management and disposition of any property in relation to which a restraint order is made.

(6) Where a restraint order has been issued under regulation 24, an authorised officer may, for the purpose of preventing any dealing in any property or the removal of any property from Malaysia, seize the property.

(7) For the purposes of subregulation (6), seizure of immovable property shall be effected—

- (a) by the issue of a Notice of Seizure in accordance with Form 27 in the Attorney General setting out the particulars of the immovable property that is seized in so far as such particulars are within his knowledge and prohibiting all dealings in such immovable property;
- (b) by publishing a copy of such Notice of Seizure in two newspapers circulating in Malaysia, one of which shall be in the national language and the other in the English language; and
- (c) by serving a copy of such Notice of Seizure on the Land Administrator or the Registrar of Titles, as the case may be, in Peninsular Malaysia or on the Registrar of Titles or Collector of Land Revenue, as the case may be, in Sabah, or on the Director of Lands and Surveys or the Registrar responsible for land title, as the case may be, in Sarawak of the area in which the immovable property is situated.

(8) The Land Administrator, the Collector of Land Revenue, the Director of Lands and Surveys, the Registrar of Titles or the Registrar responsible for land title, as the case may be, referred to in subregulation (7) shall immediately upon being served with a Notice of Seizure under subregulation (7), endorse the terms of the Notice of Seizure on the document of title in respect of the immovable property in the Register at his office.

(9) If an endorsement of a Notice of Seizure has been made under subregulation (8), the Notice of Seizure shall have the effect of prohibiting all dealings in respect of the immovable property with effect from the date specified in the restraint order, and after such endorsement has been made no dealing in respect of the immovable property shall be registered, regardless whether it was effected before or after the issue of such Notice or the making of such endorsement.

(10) Subregulation (9) shall not apply to a dealing effected under these Regulations by a public officer in his capacity as such officer, or otherwise by or on behalf of the Government of Malaysia or the Government of a State, or a local authority or other statutory authority.

(11) A person who contravenes subregulation (8) or (9) or does any act that results in, or causes, a contravention of subregulation (8) or (9) commits an offence and shall on conviction be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding one year or to both.

#### **Discharge or variation of restraint order**

26. (1) An application for the discharge or variation of a restraint order may be made by the Attorney General or by any person affected by it.

(2) An application to discharge or vary a restraint order under subregulation 25(3) or to discharge a restraint order under subregulation 25(4) shall be made in accordance with Form 28 to a Judge in Chambers and shall be supported by—

- (a) a statement setting out the name and description of the applicant and the grounds on which the discharge order or variation order is sought; and
- (b) affidavits verifying the facts relied on.

(3) On receipt of an application under subregulation (2), the Judge in Chambers shall examine the application and, on being satisfied—

- (a) in relation to an application to discharge or vary a restraint order under subregulation 25(3)—
  - (i) that the person affected by the order is lawfully entitled to the restrained property or any part of it;
  - (ii) that no foreign serious offence has been committed in respect of the restrained property or any part of it; and
  - (iii) that the restrained property or any part of it is not, wholly or partly, directly or indirectly, derived or obtained from or by means of a foreign serious offence; and
- (b) in relation to an application to discharge a restraint order under subregulation 25(4), that the judicial proceedings in the prescribed foreign State in relation to which the restraint order was issued have been concluded and no foreign forfeiture order has been made,

shall issue a discharge order or variation order, as the case may be, against the property specified in the application or any part of it in accordance with Form 29, subject to such conditions and restrictions as may be specified in the order.

(4) The discharge or variation of a restraint order shall take effect on the date specified in the discharge order or variation order, as the case may be, which shall not be a date earlier than the date of the discharge order or variation order itself.

### **Registration of foreign forfeiture order**

27. (1) An application for the registration of a foreign forfeiture order under section 32 of the Act shall be made *ex parte* in accordance with Form 30 to a Judge in Chambers and shall be supported by—

- (a) a statement setting out the name and description of the appropriate authority of the prescribed foreign State making the request for assistance and the grounds on which the registration is sought;
- (b) affidavits verifying the facts relied on; and
- (c) a copy of the sealed or authenticated copy of the foreign forfeiture order.

(2) Where an authorised officer applies to the Judge in Chambers for registration of a foreign forfeiture order in accordance with subregulation 27 and sections 32, 33 and 34 of the Act, the Judge in Chambers shall register the foreign forfeiture order and issue a warrant for its enforcement in accordance with Form 31.

(3) Before issuing a warrant for the enforcement of a registered foreign forfeiture order under subregulation (2), the Judge may require the Attorney General to give such undertakings as the Judge considers appropriate with respect to the payment of damages or costs, or both, in relation to the issue of the warrant for enforcement.

(4) The certificate issued by the Bank for the purposes of subsection 32 of the Act shall be in accordance with Form 24.

(5) The certificate issued by or on behalf of the appropriate authority of a prescribed foreign State under section 34 of the Act shall be in accordance with Form 25.

(6) For the purposes of subsection 32(4) of the Act, the Attorney General may direct an authorised officer to apply to the High Court in which the foreign forfeiture order has been registered in accordance with this regulation for cancellation of the registration.

(7) Where the authorised officer applies to the High Court for cancellation of a registration in accordance with a direction under subregulation (6), the High Court shall cancel the registration accordingly.

(8) An application for the cancellation of the registration of a foreign forfeiture order shall be in accordance with Form 32.

(9) An order for the cancellation of the registration of a foreign forfeiture order shall be in accordance with Form 33.



### **Enforcement of foreign forfeiture order**

28. (1) On the recovery of the property to which the foreign forfeiture order relates or any part of it under the warrant for enforcement issued under regulation 27, the ownership of the property or, if sold, of the net proceeds of it shall then pass to and become vested in the Government of Malaysia free from any right, interest or encumbrance of any person except a right, interest or encumbrance that is held by a purchaser in good faith for valuable consideration and that is not otherwise void under any written law.

(2) If any property is vested in the Government of Malaysia under subregulation (1), the vesting shall take effect without any transfer, conveyance, deed or other instrument whatsoever and where any registration of such vesting is required under any law, the authority empowered to effect the registration shall do so in the name of such public officer or such authority, person or body as the Attorney General may specify.

(3) If the property vested in the Government of Malaysia under subregulation (1) is immovable property, the vesting shall be registered in the name of the Federal Lands Commissioner upon production of the warrant for the enforcement of the foreign forfeiture order—

- (a) in Peninsular Malaysia, to the Registrar of Titles or the Land Administrator, as the case may be;
- (b) in Sabah, to the Registrar of Titles or the Collector of Land Revenue, as the case may be; and
- (c) in Sarawak, to the Registrar of Titles or the Director of Lands and Surveys, as the case may be.

(4) The Government of Malaysia shall have absolute discretion on the management and disposition of any property seized and forfeited pursuant to section 32 of the Act and regulation 27.

(5) Subject to subregulation (6), the sums in the hands of the Government of Malaysia or the manager appointed under regulation 29 shall first be applied in payment of expenses incurred by the Attorney General in executing the request for assistance under section 31 of the Act and then the manager's remuneration and expenses, if any, and after that in payment of such other payments, if any, as the Minister may direct to be made out of those sums.

(6) Where a fixed amount is payable under the foreign forfeiture order and, after that amount has been fully paid, any such sums remain in the hands of the Government of Malaysia or the manager, the manager shall distribute them—

- (a) among the persons who held property which has been realised under the Act and these Regulations; and
- (b) in such proportions,

as the Minister may direct after giving reasonable opportunity for such persons to make representations to the Minister.

(7) Any sums remaining after all the payments required to be made under subregulations (5) and (6) have been made shall be paid into the Federal Consolidated Fund.

#### **Appointment of manager**

29. For the purposes of regulation 24 or 27, the Minister shall in accordance with Form 34—

- (a) appoint a person or body to take control of, and manage or otherwise deal with, all or part of the property in accordance with the directions of the Minister; and
- (b) require any person having possession of that property to give possession of the property to the person or body appointed under paragraph (a).

#### **Voidable transfers**

30. For the purposes of section 31 of the Act, the High Court may set aside any conveyance or transfer of property that occurred after the registration of the foreign forfeiture order or the service of the restraint order, unless the conveyance or transfer was for valuable consideration to a person acting in good faith.

#### **Protection of *bona fide* third party interest**

31. (1) Any third party claiming an interest in any property restrained or forfeited under the Act and these Regulations may apply to the High Court for an order—

- (a) declaring that the interest of the applicant in that property or part of it was acquired *bona fide*; and
- (b) restoring such property or the value of the interest in such property to the applicant.

(2) An application for an order under subregulation (1) shall be made in accordance with Form 35 and shall be supported by—

- (a) a statement setting out the name and description of the applicant and the grounds on which the order is sought; and
- (b) affidavits verifying the facts relied on.

(3) On receipt of an application under subregulation (2), the High Court shall examine the application and, on being satisfied that the property was acquired *bona fide*, issue an order in accordance with Form 36.

**DIVISION 5****SEARCH AND SEIZURE****Authorisation to apply for search warrant**

32. A direction given by the Attorney General to an authorised officer under subsection 35(2) of the Act to apply to the court for a warrant under section 36 of the Act shall be in accordance with Form 37.

**DIVISION 6****LOCATING OR IDENTIFYING PERSON****Authorisation for locating or identifying person**

33. An authorisation given by the Attorney General under subsection 39(2) of the Act to provide assistance in locating, or identifying and locating, a person who is reasonably believed to be in Malaysia shall be in accordance with Form 38.

**DIVISION 7****SERVICE OF PROCESS****Authorisation for service of process**

34. (1) An authorisation given by the Attorney General under subsection 40(2) of the Act to provide assistance in effecting the service of process on a person in Malaysia shall be in accordance with Form 39.

(2) For the purposes of subsection 40(3) of the Act, the Attorney General may arrange for the process to be served—

- (a) by registered post;
- (b) by personal service; or
- (c) by any other appropriate means.

(3) Without prejudice to the generality of subregulation (2), for the purposes of paragraph (2)(b) the Attorney General may direct the Officer in charge of a Police District for the area in which that person appears to be to cause it to be personally served on him by showing the person concerned the original process and by tendering or delivering to him a copy of it.

(4) Every person on whom a process is served shall, if so required by the serving officer, sign a receipt for the copy of the process on the back of the original process.

(5) In the case of a corporation, the process may be served on the secretary or other like officer of the corporation.

(6) Where the person to be served cannot by the exercise of due diligence be found, the process may be served by leaving a copy of it for him with an adult member of his family or with his employee residing with him.

(7) Where the person to be served cannot by the exercise of due diligence be found and service cannot be effected as specified in subregulation (6), the serving officer shall affix a copy of the process to some conspicuous part of the house or place in which the person to be served ordinarily resides, and in such case, the process shall be deemed to have been duly served.

(8) The serving officer shall after it has been served immediately inform the Attorney General when and how it was served and, where possible, furnish the Attorney General with a receipt signed by the person on whom it was served and if the serving officer has not been able to cause the process to be served he shall immediately inform the Attorney General of that fact and of the reasons therefor.

(9) For the purposes of subsection 40(4) of the Act, an affidavit of a person who has served a process in Malaysia for the purposes of the Act shall be in accordance with Form 40.

#### PART IV

#### GENERAL

#### Register

35. (1) The Attorney General shall keep and maintain a Register in such form and at such places as he considers appropriate.

(2) The Register shall contain information pertaining to requests for assistance under the Act including on the following matters:

- (a) requests made by Malaysia to a foreign State under the Act;
- (b) the results of requests made by Malaysia to a foreign State under the Act;
- (c) details of the things seized pursuant to a request made by Malaysia to a foreign State under the Act and the return of such things to the appropriate authority of the foreign State, where applicable;
- (d) details of the prisoners and persons under detention transported to or from Malaysia pursuant to a request made by Malaysia to a foreign State under the Act;
- (e) details of the assets traced, restrained and recovered pursuant to a request made by Malaysia to a foreign State to enforce a forfeiture order under the Act;
- (f) details of the persons located pursuant to a request made by Malaysia to a foreign State under the Act;
- (g) details of the processes served in a foreign State pursuant to a request made by Malaysia to a foreign State under the Act;

- (h) requests received by Malaysia from a prescribed foreign State under the Act;
- (i) the results of requests received by Malaysia from a prescribed foreign State under the Act;
- (j) details of the things seized pursuant to a request received by Malaysia from a prescribed foreign State under the Act, the return of such things to the appropriate authority of Malaysia, where applicable, and the return of such things to the rightful owner, where applicable;
- (k) details of the persons who have travelled to and the prisoners and persons under detention who have been transported to a prescribed foreign State pursuant to a request received by Malaysia from a prescribed foreign State under the Act;
- (l) details of the assets traced, restrained and recovered pursuant to a request received by Malaysia from a prescribed foreign State under the Act and their disposal;
- (m) details of the persons located pursuant to a request received by Malaysia from a prescribed foreign State under the Act;
- (n) details of the processes served in Malaysia pursuant to a request received by Malaysia from a prescribed foreign State under the Act; and
- (o) such other information as the Attorney General considers appropriate.

### **Affidavits**

36. (1) An affidavit required under the Act and these Regulations may be sworn or affirmed or, if those options are not available, the affidavit may be made under such caution or admonition as would be accepted by the courts of the foreign State for the purpose of giving testimony before those courts.

(2) The affidavit must be expressed in the first person and must state the place of residence of the deponent and his occupation or, if he has none, his description, and if he is, or is employed by, a party to the matter in which the affidavit is made, the affidavit must state the fact.

(3) The affidavit must be divided into paragraphs numbered consecutively, each paragraph being as far as possible confined to a distinct portion of the subject.

(4) Dates, sums and other numbers must be expressed in figures and not in words.

(5) The affidavit must be signed by the deponent and the jurat must be completed and signed by the person before whom it is made.

(6) The affidavit must be made before a judge, magistrate or other judicial officer of the foreign State or before any other officer in or of the foreign State who has authority under the laws of that foreign State to administer any oath, affirmation, caution or admonition, as the case may be.

(7) If the affidavit runs for more than one page, each page other than last should be initialled both by the deponent and by the person before whom the affidavit is made.

(8) Any document to be used in conjunction with an affidavit must be exhibited and a copy of it annexed to the affidavit.

(9) Each exhibit to an affidavit must be identified by a certificate of person before whom the affidavit is made.

(10) An affidavit made in accordance with this regulation shall be admissible in evidence.

FIRST SCHEDULE  
[Regulation 3]

FORMS

FORM 1  
[Paragraph 6(a)]

MUTUAL ASSISTANCE IN CRIMINAL MATTERS ACT 2002

AFFIDAVIT

1. ....(name, residential address and description of deponent) (Identification Card/Passport Number:.....), a .....§ citizen of full age with an address for service at ..... do \*make oath/\*affirm and say as follows:

1. I am .....(occupation or description) of ... (name of \*office/\*agency) in ..... a foreign State, and I am duly authorised to \*swear/ \*affirm this affidavit on behalf of ..... (name of \*office/\*agency).

2. Except as the contrary is expressly stated, \*the facts deposed in this affidavit are true to best of my knowledge/\*the records of ... (name of \*office/\*agency) are records to which I have full access.

3. (Statement of relevant facts)

\*Sworn/\*affirmed by  
.....  
(deponent)  
on .....  
(date)  
at .....  
(place)

.....  
(Signature of deponent)

Before me

.....  
(Signature of the judge, magistrate or other officer before whom the affidavit is made)

.....  
(Name and title of the judge, magistrate or

**\*CERTIFICATION OF EXHIBIT**

I certify that the following is the exhibit marked "..." referred to in the Affidavit of .....  
 \*sworn/ \*affirmed before me on .....

Before me

.....  
 (Signature of the judge, magistrate or other  
 officer before whom the affidavit is made)

.....  
 (Name and title of the judge, magistrate or  
 other officer)

\* Delete if not applicable or replace if affidavit is neither sworn nor affirmed

§ Insert name of foreign State

**Notes**

1. The affidavit may be sworn or affirmed. If those options are not available, the affidavit may be made under such caution or admonition as would be accepted by the courts of the foreign State for the purpose of giving testimony before those courts.
2. The affidavit must be expressed in the first person and must state the place of residence of the deponent and his occupation or, if he has none, his description, and if he is, or is employed by, a party to the matter in which the affidavit is made, the affidavit must state the fact.
3. The affidavit must be divided into paragraphs numbered consecutively, each paragraph being as far as possible confined to a distinct portion of the subject.
4. Dates, sums and other numbers must be expressed in figures and not in words.
5. The affidavit must be signed by the deponent and the jurat must be completed and signed by the person before whom it is made.
6. The affidavit must be made before a judge, magistrate or other judicial officer of the foreign State or before any other officer in or of the foreign State who has authority under the laws of that foreign State to administer any oath, affirmation, caution or admonition, as the case may be.
7. If the affidavit runs for more than one page, each page other than the last should be initialled both by the deponent and by the person before whom the affidavit is made.
8. Any document to be used in conjunction with an affidavit must be exhibited and a copy of it annexed to the affidavit.
9. Each exhibit to an affidavit must be identified by a certificate of the person before whom the affidavit is made.

**FORM 2**

[Paragraph 6(b)]

**MUTUAL ASSISTANCE IN CRIMINAL MATTERS ACT 2002****ATTESTATION OF AUTHENTICITY OF RECORDS OBTAINED**

I, ..... (name, residential address and description of deponent) (Identification Card /Passport Number.....), a .....§ citizen of full age with an address for service at ..... do \*make oath/\*affirm and say as follows:

1. I am.....(occupation or description) of ... (name of \*office/\*agency) in .....§, a foreign State, and I am duly authorised to \*swear/ \*affirm this affidavit on behalf of.....(name of \*office/\*agency).

2. Except as the contrary is expressly stated, \*the facts deposed in this affidavit are true to best of my knowledge/\*the records of ..... (name of \*office/\*agency) are records to which I have full access.
3. I am, among other things, responsible for \*keeping/\*maintaining/\*holding the records related to .....
4. In the course of my normal duties I have access to the records kept by ..... (name of \*office/\*agency) in relation to .....
5. The documents annexed to this affidavit marked "....." and which are initialed by me are true and accurate copies of original official records \*kept/\*maintained/\*held by ..... (name of \*office/\*agency) in the ordinary course of its operations in relation to ..... (description of relevant official duties).
6. The documents referred to in paragraph 5 were created in the ordinary course of the \*business operation of ..... (name of \*office/\*agency) by persons who had personal knowledge of the relevant matters or on the basis of information supplied by people who had personal knowledge of those matters.

\*Sworn/\*affirmed by  
 .....  
 (deponent)  
 on .....  
 (date)  
 at .....  
 (place)

.....  
 (Signature of deponent)

Before me  
 .....  
 (Signature of the judge, magistrate or other officer before whom the attestation is made)

.....  
 (Name and title of the judge, magistrate or other officer)

**\*CERTIFICATION OF EXHIBIT**

I certify that the following is the exhibit marked "..." referred to in the Attestation of .....  
 \*sworn/ \*affirmed before me on .....

Before me  
 .....  
 (Signature of the judge, magistrate or other officer before whom the attestation is made)

.....  
 (Name and title of the judge, magistrate or other officer)

- \* Delete if not applicable or replace if attestation is neither sworn nor affirmed.
- § Insert name of foreign State
- ¥ Insert name or brief description of records to which request relates.



## Notes

1. The attestation may be sworn or affirmed. If those options are not available, the attestation may be made under such caution or admonition as would be accepted by the courts of the foreign State for the purpose of giving testimony before those courts.
2. The attestation must be expressed in the first person and must state the place of residence of the deponent and his occupation or, if he has none, his description, and if he is, or is employed by, a party to the matter in which the attestation is made, the attestation must state the fact.
3. The attestation must be divided into paragraphs numbered consecutively, each paragraph being as far as possible confined to a distinct portion of the subject.
4. Dates, sums and other numbers must be expressed in figures and not in words.
5. The attestation must be signed by the deponent and the jurat must be completed and signed by the person before whom it is made.
6. The attestation must be made before a judge, magistrate or other judicial officer of the foreign State or before any other officer in or of the foreign State who has authority under the laws of that foreign State to administer any oath, affirmation, caution or admonition, as the case may be.
7. If the attestation runs for more than one page, each page other than the last should be initialled both by the deponent and by the person before whom the attestation is made.
8. Any document to be used in conjunction with an attestation must be exhibited and a copy of it annexed to the attestation.
9. Each exhibit to an attestation must be identified by a certificate of the person before whom the attestation is made.

## FORM 3

[Subregulation 7(1)]

## MUTUAL ASSISTANCE IN CRIMINAL MATTERS ACT 2002

## WARRANT FOR CUSTODY OF \*PRISONER/\*PERSON UNDER DETENTION

To: .....

## WHEREAS:

- (a) \*criminal proceedings/\*an investigation relating to a criminal matter involving the serious offence of ..... (*description of offence*) has commenced in Malaysia;
- (b) there are reasonable grounds to believe that ..... (*name of person*), a \*prisoner/ \*person under detention at ..... (*place of imprisonment or detention*) in ..... §, a foreign State, is capable of giving evidence or assistance relevant to that criminal matter;
- (c) pursuant to a request for assistance under section 9 of the Mutual Assistance in Criminal Matters Act 2002, ..... (*appropriate authority of foreign State*) has agreed to arrange for the transfer of ..... (*name of person*) to Malaysia for the purpose of giving such evidence or assistance in that criminal matter; and
- (d) ..... (*name of person*) has freely consented to travel to Malaysia and attend as requested for the purpose of giving such evidence or assistance in that criminal matter;

NOW THEREFORE, in exercise of the powers conferred on me by section 9 of the Mutual Assistance in Criminal Matters Act 2002, I, ....., the Attorney General of Malaysia, direct you, ....., to receive ..... (name of person) into your custody in ..... § to convey him in custody to Malaysia and there to keep him safely in the custody of ..... (name of person/authority) to be further dealt with in accordance with the provisions of the Mutual Assistance in Criminal Matters Act 2002 and ..... (relevant applicable law) until he is delivered into the custody of ..... (name of person/authority) who in my opinion has been duly appointed by the appropriate authorities of ..... § to receive him, which this shall be your warrant.

.....  
(Date)

.....  
Attorney General  
Malaysia

\* Delete if not applicable.

§ Insert name of foreign State.

FORM 4  
[Paragraph 7(2)(b)]

MUTUAL ASSISTANCE IN CRIMINAL MATTERS ACT 2002

WARRANT FOR RETURN OF \*PRISONER/\*PERSON UNDER DETENTION

To: .....

WHEREAS:

- (a) ..... (name of person), a \*prisoner/ \*person under detention at ..... (place of imprisonment or detention) in ..... §, a foreign State, was transferred to Malaysia to give evidence or assistance relating to \*criminal proceedings/\*an investigation relevant to a criminal matter involving the serious offence of ..... (description of offence) that had commenced in Malaysia pursuant to a request for assistance under section 9 of the Mutual Assistance in Criminal Matters Act 2002 dated .....
- (b) ..... (name of person) was conveyed in custody to Malaysia on ..... (date) and kept safely in the custody of ..... (name of person/authority) from ..... (date);
- (c) \*the \*criminal proceedings/\*investigation relating to the criminal matter has been completed/\*the further attendance of ..... (name of person) in Malaysia has been dispensed with by the \*relevant authority/\*court in Malaysia as of .....; and
- (d) under the undertaking given to ..... (appropriate authority of foreign State) ..... (name of person) is now to be returned to ..... § on ..... (date, time and place):

NOW THEREFORE, in exercise of the powers conferred on me by section 9 of the Mutual Assistance in Criminal Matters Act 2002, I, ....., the Attorney General of Malaysia, direct you, ....., to convey ... (name of person) in custody to ..... and there to deliver him into the custody of ..... (name of person/authority) who in my opinion has been duly appointed by the appropriate authorities of ..... § to receive him, for which this shall be your warrant.

.....  
(Date)

.....  
Attorney General  
Malaysia

\* Delete if not applicable.

§ Insert name of foreign State

FORM 5  
[Regulation 8]

MUTUAL ASSISTANCE IN CRIMINAL MATTERS ACT 2002

CERTIFICATE OF ATTORNEY GENERAL UNDER SUBPARAGRAPH 11(2)(b)(II) OF THE  
MUTUAL ASSISTANCE IN CRIMINAL MATTERS ACT 2002

To: .....

In exercise of the powers conferred on me by subparagraph 11(2)(b)(ii) of the Mutual Assistance in Criminal Matters Act 2002 I, ....., the Attorney General of Malaysia certify as follows:

- (a) that \*criminal proceedings/\*an investigation relating to a criminal matter involving the serious offence of ..... (description of offence) has commenced in Malaysia;
- (b) that it is desirable that ..... (name and residential address of person), a person in ..... §, a foreign State, attend in Malaysia for the purpose of giving \*evidence/\*assistance in the \*criminal proceedings/\*investigation; and
- (c) that ..... (name of person) has freely consented to \*travel to/\*attend in Malaysia for the purpose of giving such \*evidence/\*assistance in the \*criminal proceedings/\*investigation.

.....  
(Date)

.....  
Attorney General  
Malaysia

\* Delete if not applicable.

§ Insert name of foreign State.

FORM 6  
[Subregulation 9(1)]

MUTUAL ASSISTANCE IN CRIMINAL MATTERS ACT 2002

CERTIFICATE OF RECOVERY OF PROPERTY

In exercise of the powers conferred on me by ... (relevant provision of applicable law of foreign State) I, ..... (name), ..... (position with appropriate authority of foreign State) certify that the following property has been recovered by ..... (name of appropriate authority of foreign State) in ..... § pursuant to a request by Malaysia under subsection 13(1) of the Mutual Assistance in Criminal Matters Act 2002:

.....  
(description of property recovered, date of recovery and the value\* of the property)

.....  
(Date)

.....  
(Signature)

.....  
(Description)

§ Insert name of foreign State.

\* State value of property as at the date of its recovery in the currency of the foreign State with its equivalent in Malaysian ringgit. The exchange rate prevailing on the date of recovery shall apply.

FORM 7  
[Subregulation 10(2)]

MUTUAL ASSISTANCE IN CRIMINAL MATTERS ACT 2002

AFFIDAVIT OF SERVICE

1. .... (name, residential address and description of deponent) (Identification Card Number: ....., a ..... § citizen of full age with an address for service at ..... do \*make oath/\*affirm and say as follows:

1. I am ..... (occupation or description) of ..... (name of \*office/\*agency) ..... §, a foreign State, and I am duly authorised to \*swear/ \*affirm this affidavit on behalf of ..... (name of \*office/\*agency).

2. Except as the contrary is expressly stated, the facts deposed in this affidavit are true to the best of my knowledge.

3. That I did on ..... (date) at ..... \*am/ \*pm (time) at ..... (place) serve the following document/\*s dated ..... on ..... (name and description of person served), namely:

.....  
(identify and describe document/\*s)

4. Service was effected:

- \* by posting the document/\*s by registered post to ..... (name) at ..... (full address);
- \* by delivering the document/\*s to ..... (name) personally at ..... (full address);
- \* by leaving the document/\*s with ..... (name and description) at ..... (full address);
- \* by affixing a copy of the document/\*s at ..... (full address).

5. (To be completed in the case of personal service). That ..... (name and description of person served) \*is known to me/ \*was pointed out to me by ...../ \*admitted to me that ..... (name and description of person to be served).

6. That I did on ..... (date) indorse on ..... (description of document/\*s) the day and date of the said service.

7. A true copy of the document/\*s served is annexed hereto and marked ".....".

\*Sworn/\*affirmed by  
.....  
(deponent)

on .....  
(date)

at .....  
(place)

.....  
(Signature of deponent)

Before me

.....  
(Signature of the judge, magistrate or other officer before whom the affidavit is made)

.....  
(Name and title of the judge, magistrate or other officer)

**\*CERTIFICATION OF EXHIBIT**

I certify that the following is the exhibit marked "....." referred to in the Affidavit of .....  
 \*sworn/ \*affirmed before me on .....

Before me

.....  
 (Signature of the judge, magistrate or other  
 officer before whom the affidavit is made)

.....  
 (Name and title of the judge, magistrate or  
 other officer)

\* Delete if not applicable or replace if affidavit is neither sworn nor affirmed.

s Insert name of foreign State.

**Notes**

1. The affidavit may be sworn or affirmed. If those options are not available, the affidavit may be made under such caution or admonition as would be accepted by the courts of the foreign State for the purpose of giving testimony before those courts.
2. The affidavit must be expressed in the first person and must state the place of residence of the deponent and his occupation or, if he has none, his description, and if he is, or is employed by, a party to the matter in which the affidavit is made, the affidavit must state the fact.
3. The affidavit must be divided into paragraphs numbered consecutively, each paragraph being as far as possible confined to a distinct portion of the subject.
4. Dates, sums and other numbers must be expressed in figures and not in words.
5. The affidavit must be signed by the deponent and the jurat must be completed and signed by the person before whom it is made.
6. The affidavit must be made before a judge, magistrate or other judicial officer of the foreign State or before any other officer in or of the foreign State who has authority under the laws of that foreign State to administer any oath, affirmation, caution or admonition, as the case may be.
7. If the affidavit runs for more than one page, each page other than the last should be initialled both by the deponent and by the person before whom the affidavit is made.
8. Any document to be used in conjunction with an affidavit must be exhibited and a copy of it annexed to the affidavit.
9. Each exhibit to an affidavit must be identified by a certificate of the person before whom the affidavit is made.

**FORM 8**

[Regulation 12]

**MUTUAL ASSISTANCE IN CRIMINAL MATTERS ACT 2002****SPECIAL DIRECTION OF THE MINISTER****WHEREAS:**

- (a) \*criminal proceedings/\*an investigation relating to a criminal matter involving the foreign serious offence of ..... (description of offence) has commenced in .....B, a foreign State;

- (b) the ..... (*appropriate authority of foreign State*) has made a request for mutual assistance in relation to that criminal matter under the Mutual Assistance in Criminal Matters Act 2002;
- (c) no order under section 17 of the Mutual Assistance in Criminal Matters Act 2002 has been made in relation to ..... §; and
- (d) the Attorney General has recommended that mutual assistance be given to ..... in relation to that criminal matter under the Mutual Assistance in Criminal Matters Act 2002:

NOW THEREFORE, in exercise of the powers conferred on me by section 18 of the Mutual Assistance in Criminal Matters Act 2002, I, ....., the Minister responsible for legal affairs in Malaysia, do direct that the provisions of the Mutual Assistance in Criminal Matters Act 2002 be applied in relation to the request for mutual assistance in relation to that criminal matter as if there is in effect in respect of ..... § an order made under section 17 of the Mutual Assistance in Criminal Matters Act 2002 subject to the following \*restriction/ \*limitation/ \*exception/ \*modification/ \*adaptation/ \*condition/ \*qualification:

.....  
 (*Specify applicable \*restriction/ \*limitation/ \*exception/ \*modification/ \*adaptation/ \*condition/ \*qualification, if any*)

.....  
 (Date)

.....  
 Minister

- Delete: if not applicable.
- § Insert name of foreign State.

**FORM 9**  
 [Subregulation 13(1)]

**MUTUAL ASSISTANCE IN CRIMINAL MATTERS ACT 2002**

**AUTHORISATION OF THE ATTORNEY GENERAL FOR THE TAKING OF EVIDENCE**

To the Sessions Court Judge at .....

**WHEREAS:**

- (a) a request has been made by ..... (*appropriate authority of prescribed foreign State*) that evidence be taken in Malaysia for the purpose of \*criminal proceedings/ \*an investigation relating to a criminal matter involving the foreign serious offence of ..... (*description of offence*) in ..... §;
- (b) there are reasonable grounds to believe that ..... (*name or description of person*), a person knowing or in possession of material evidence relevant to the \*criminal proceedings/\*investigation, is located in Malaysia; and
- (c) the ..... (*appropriate authority of prescribed foreign State*) has requested me to arrange for the evidence of that person, being ..... §, to be taken:

NOW THEREFORE, in exercise of the powers conferred on me by subsection 22(1) of the Mutual Assistance in Criminal Matters Act 2002, I, ....., the Attorney General of Malaysia, authorise you to take the evidence requested in accordance with section 22 of the Mutual Assistance in Criminal Matters Act 2002 for transmission to ..... § for use in the \*criminal proceedings/\*investigation relating to a criminal matter involving the foreign serious offence of ..... (description of offence).

.....  
(Date)

.....  
Attorney General  
Malaysia

- Delete if not applicable.
- § Insert name of prescribed foreign State.
- ∨ Insert name or brief description of material evidence to which request of prescribed foreign State relates.

FORM 10  
[Subregulation 13(2)]

MUTUAL ASSISTANCE IN CRIMINAL MATTERS ACT 2002

CERTIFICATE OF SESSIONS COURT JUDGE UNDER PARAGRAPH 22(2)(B) OF THE  
MUTUAL ASSISTANCE IN CRIMINAL MATTERS ACT 2002

[Note:

This Certificate is to be attached at the end of the record of evidence taken under section 22 of the Mutual Assistance in Criminal Matters Act 2002.]

I, ..... (name), a Sessions Court Judge at ..... certify as follows:

- (a) the evidence recorded above was taken by me and is a true and accurate record of the evidence on \*oath/\*affirmation of ..... (name of witness) appearing before me;
- (b) \*the person to whom the \*criminal proceedings/\*investigation in the prescribed foreign State relates /\* his legal representative \*was / \*was not present at the proceedings;
- (c) the following persons were present at the proceedings:

.....  
(name and description of persons)

- (d) \* ..... (name of witness), being the person summoned to give the material evidence requested, claimed \*immunity/\*incapacity/\*privilege under ... (specify relevant law of prescribed foreign State);
- (e) \*a foreign law immunity certificate issued under ..... (specify relevant law of prescribed foreign State) adduced by ..... (name) in relation to the following matters was admitted as prima facie evidence of the matters stated in the certificate:

.....  
(description of evidence to which foreign law immunity certificate relates)

(f) \*the claim of \*immunity/\*incapacity/\*privilege under ..... (specify relevant of prescribed foreign State) was duly noted and the evidence of ..... (name witness) was \*taken subject to that claim/ \*not taken;

(g) \*(other relevant matters)

.....  
(Date)

.....  
Signature

.....  
(Description)

\* Delete if not applicable.

FORM 11  
[Regulation 14]

MUTUAL ASSISTANCE IN CRIMINAL MATTERS ACT 2002

REQUEST FOR SUMMONS

On the application of the .....

Date of hearing the .....day of .....

at .....\*am/ \*pm in the Sessions Court.

Witness' name in full.

His residence or place of business.

His occupation.

If \*materials/ \*articles are required to be produced, specify them.

.....  
(Description of \*materials/ \*articles sought)

If witness is not required to give evidence but only to produce \*materials/ \*articles, so state .....

The grounds in support of this request are those appearing in the Statement filed with this request.

The affidavit of ..... \*sworn/ \*affirmed on the ..... day of ..... and filed this request shall be read in support of this request.

.....  
(Date)

.....  
Signature

.....  
(Description)

\* Delete if not applicable.



FORM 12  
[Subregulation 16(1)]

*MUTUAL ASSISTANCE IN CRIMINAL MATTERS ACT 2002*

AUTHORISATION TO APPLY FOR PRODUCTION ORDER

To ..... of ....., an authorised officer within the meaning of the Mutual Assistance in Criminal Matters Act 2002.

WHEREAS:

- (a) a request has been made by ..... (*appropriate authority of prescribed foreign State*) of ..... §, a foreign State, under section 23 of the Mutual Assistance in Criminal Matters Act 2002 that .....¥ be produced for the purpose of \*criminal proceedings/\*an investigation relating to a criminal matter involving the foreign serious offence of ..... (*description of offence*) in ..... §; and
- (b) there are reasonable grounds to believe that material evidence relevant to the \*criminal proceedings/\*investigation being .....¥, is located in Malaysia \*in the possession of ..... (*name or description of person or authority*)/ \*at ..... (*name or description of place*):

NOW THEREFORE, in exercise of the powers conferred on me by subsection 23(1) of the Mutual Assistance in Criminal Matters Act 2002 I, ....., the Attorney General of Malaysia, authorise ..... (*name of authorised officer*) to apply to the \*Magistrate's/ \*Sessions/ \*High Court at ..... (*name of State or District*), being the \*State/ \*District in which that material evidence is believed to be located, for the production of .....¥ requested by ..... § by ..... (*name or description of person or authority*).

.....  
(Date)

.....  
Attorney General  
Malaysia

\* Delete if not applicable.

§ Insert name of prescribed foreign State.

¥ Insert name or brief description of material evidence to which request of prescribed foreign State relates.

FORM 13  
[Subregulation 16(2)]

*MUTUAL ASSISTANCE IN CRIMINAL MATTERS ACT 2002*

APPLICATION FOR PRODUCTION ORDER

TAKE NOTICE that the \*Magistrate's/ \*Sessions/ \*High Court will be moved on ..... (*date*) by the Applicant abovenamed for a Production Order under section 23 of the Mutual Assistance in Criminal Matters Act 2002.

The grounds in support of this application are those appearing in the Statement filed with application.

The affidavit of ..... \*sworn/ \*affirmed on ..... (date) and filed in this application shall be read in support of this application.

.....  
(Date)

Entered No. .... of .....

.....  
(Clerk)

(Seal)

.....  
Signature

.....  
(Description)

\* Delete if not applicable

FORM 14  
[Subregulation 16(3)]

MUTUAL ASSISTANCE IN CRIMINAL MATTERS ACT 2002

PRODUCTION ORDER

To: ..... (name and address of person)

UPON the application of ..... and upon reading the statement of ..... and the affidavit/\*s of ..... filed on ..... and \*upon hearing .....

AND WHEREAS I am satisfied that—

- (a) \*criminal proceedings/\*an investigation relating to a criminal matter involving foreign serious offence of ... (description of offence) has commenced in ..... a foreign State;
- (b) there are reasonable grounds to believe that material evidence relevant to the \*criminal proceedings/\*investigation, being ....., is located in Malaysia \*in possession of ... (name or description of person or authority)/ \*at ... (name or description of place); and
- (c) the ..... (appropriate authority of prescribed foreign State) has requested the Attorney General of Malaysia to arrange for the production of that material evidence under section 23 of the Mutual Assistance in Criminal Matters Act 2002;

AND WHEREAS I am satisfied that the following conditions have been fulfilled:

- (d) that there are reasonable grounds for suspecting that ..... (name and address of person) has committed or benefited from a foreign serious offence ..... (description of offence);
- (e) that there are reasonable grounds for believing that the thing to which the application relates being .....—
  - (i) is likely to be of substantial value, whether by itself or together with another thing, to the criminal matter in respect of which the application has been made and
  - (ii) does not consist of or include items subject to legal privilege (as defined in subsection 2(1) of the Mutual Assistance in Criminal Matters Act 2002); a

(f) that it is not contrary to the public interest or to any written law for the thing to be produced or access to it to be given:

Now THEREFORE, in exercise of the powers conferred on me by section 23 of the Mutual Assistance in Criminal Matters Act 2002, I, ..... \*Magistrate/ \*Sessions Court Judge/ \*Judge of the High Court at ..... (name of State or District), being the \*State/ \*District in which that ..... § is believed to be located, by this Order require you, ..... (name and address of person) to—

within \*7 days/ \* ..... (such other period determined by the court) of this Order at ..... (place) produce that ..... § and where that ..... § consists of information contained in or accessible by means of any data equipment (as defined in subsection 24(7) of the Mutual Assistance in Criminal Matters Act 2002), to produce the material in a form which can be taken away and which is visible, legible and comprehensible;

within \*7 days/ \* ..... (such other period determined by the court) of this Order give ..... (name and address of authorised officer) access to that ..... § and where that ..... § consists of information contained in or accessible by means of any data equipment (as defined in subsection 24(7) of the Mutual Assistance in Criminal Matters Act 2002), to give access to the material in a form which is visible, legible and comprehensible;

grant entry to the premises at ..... (name, description and address of premises) to allow ..... (name and address of authorised officer) to enter the premises to obtain access to that ..... § at ..... (date and time);

allow ..... (name and address of authorised officer) to photograph or to make copies of or both to photograph and make copies of any thing produced or to which access is granted pursuant to this Order;

such ..... § to be transmitted to ..... § for use in the \*criminal proceedings/\* investigation relating to a criminal matter involving the foreign serious offence of ..... (description of offence).

This Order—

- (a) shall not confer any right to the production of, or of access to, items subject to legal privilege; and
- (b) shall have effect notwithstanding any obligations as to secrecy or other restrictions upon the disclosure of information imposed by law or otherwise.

.....  
(Date)

Entered No. .... of .....

.....  
(Clerk)

(Seal)

.....  
Signature

.....  
(Description)

- \* Delete if not applicable.
- § Insert name of prescribed foreign State
- ¥ Insert name or brief description of thing to which request of prescribed foreign State relates.
- Tick (✓) where applicable.

**Note:**

A person who has been served with a production order under section 23 of the Mutual Assistance in Criminal Matters Act 2002 who—

- (a) without reasonable excuse contravenes or fails to comply with the production order or
- (b) in purported compliance with such an order, produces or makes available to an authorised officer any material known to the person to be false or misleading in a material particular without—
  - (i) indicating to the authorised officer that the material is false or misleading and the part of the material that is false or misleading; or
  - (ii) providing correct information to the authorised officer if the person is in possession of, or can reasonably acquire, the correct information.

commits an offence and shall on conviction be liable to a fine not exceeding RM50,000 or imprisonment for a term not exceeding 1 year or to both.

## FORM 15

[Subregulation 17(1)]

*MUTUAL ASSISTANCE IN CRIMINAL MATTERS ACT 2002*

## NOTICE FOR ATTENDANCE IN PRESCRIBED FOREIGN STATE

To: ..... (name and address of person)

## WHEREAS:

- (a) \*criminal proceedings/\*an investigation relating to a criminal matter involving a foreign serious offence of ..... (description of offence) has commenced ..... §, a foreign State;
- (b) there are reasonable grounds to believe that you know or are in possession of material evidence relevant to the \*criminal proceedings/\*investigation relating to the criminal matter, being ..... §, or are otherwise able to assist in that criminal matter;
- (c) the ... (appropriate authority of prescribed foreign State) has requested me to assist in arranging your attendance in ..... § for the purpose of giving \*evidence/\*assistance in relation to the \*criminal proceedings/\*investigation relating to the criminal matter under section 27 of the Mutual Assistance in Criminal Matters Act 2002;
- (d) I am satisfied that—
  - (i) the request relates to a criminal matter in ..... §, a prescribed foreign State, involving a foreign serious offence;
  - (ii) there are reasonable grounds to believe that you are capable of giving \*evidence/\*assistance relevant to the criminal matter;
  - (iii) the ..... (appropriate authority of prescribed foreign State) has given adequate undertakings in respect of the matters required under subsection 27(3) of the Mutual Assistance in Criminal Matters Act 2002;
- (e) the arrangements for your accommodation while you are in ..... pursuant to the request shall be as follows:

.....  
(Particulars of accommodation arrangements)

\*(f) the ..... (appropriate authority of prescribed foreign State) has undertaken to pay the following \*fees/\*allowances/\*expenses to you while you are in ..... § pursuant to the request:

..... (Particulars of \*fees/\*allowances/\*expenses)

\*(g) the arrangements for your security while you are \*travelling to and from/ \*in ..... § pursuant to the request shall be as follows:

..... (Particulars of security arrangements)

NOW THEREFORE, in exercise of the powers conferred on me by section 27 of the Mutual Assistance in Criminal Matters Act 2002 I, ....., the Attorney General of Malaysia, request you to attend at ..... (date, time and place) to ascertain whether you freely consent to travel to and attend in ..... § as requested and if so, to assist in your travel arrangements to ..... §.

You are informed that under subsection 27(4) of the Mutual Assistance in Criminal Matters Act 2002, you will not be subject to any penalty or liability or be otherwise prejudiced in law by reason only of your refusal or failure to consent to attend as requested.

..... (Date)

..... Attorney General Malaysia

\* Delete if not applicable.

§ Insert name of prescribed foreign State

† Insert name or brief description of material evidence to which request of prescribed foreign State relates

FORM 16 [Subregulation 18(2)]

MUTUAL ASSISTANCE IN CRIMINAL MATTERS ACT 2002

REQUEST FOR PRODUCTION

To: .....

WHEREAS:

- (a) \*criminal proceedings/\*an investigation relating to a criminal matter involving the foreign serious offence of ... (description of offence) has commenced in ..... §, a foreign State;
(b) there are reasonable grounds to believe that ..... (name of person) \*who was convicted by the ..... Court at ..... on ..... for the commission of the offence of ..... and is now serving a sentence of ..... at ..... / \*who is detained under ..... (specify relevant law) at ..... (place of detention) knows or is in possession of material evidence relevant to the \*criminal proceedings/\*investigation relating to the criminal matter, being ..... †, or is otherwise able to assist in that criminal matter; and
(c) the ..... (appropriate authority of prescribed foreign State) has requested me to assist in arranging for the temporary transfer of ..... (name of person) to ..... § for the purpose of giving \*evidence/\*assistance in relation to the \*criminal proceedings/ \*investigation relating to the criminal matter under section 27 of the Mutual Assistance in Criminal Matters Act 2002:

NOW THEREFORE, in exercise of the powers conferred on me by section 28 of the Mutual Assistance in Criminal Matters Act 2002, I, ....., the Attorney General of Malaysia, request you, ....., to produce ..... (name of person) at ..... (date, time and place) to ascertain whether he freely consents to travel to and attend in ..... § as requested; and if so, to assist in his travel arrangements to ..... §.

.....  
(Date)

.....  
Attorney General  
Malaysia

\* Delete if not applicable

§ Insert name of prescribed foreign State

∇ Insert name or brief description of material evidence to which request of prescribed foreign State relates

FORM 17

[Subregulation 19(1)]

MUTUAL ASSISTANCE IN CRIMINAL MATTERS ACT 2002

TEMPORARY TRANSFER WARRANT

To: .....

WHEREAS:

- (a) \*criminal proceedings/\*an investigation relating to a criminal matter involving a foreign serious offence of ..... (description of offence) has commenced in ..... a foreign State;
- (b) there are reasonable grounds to believe that ..... (name of person), \*a prisoner/\*a person under detention at ..... (place of imprisonment or detention) in Malaysia is capable of giving evidence or assistance relevant to that criminal matter;
- (c) the ..... (appropriate authority of prescribed foreign State) has requested assistance under section 27 of the Mutual Assistance in Criminal Matters Act 2002 to arrange for the temporary transfer of ..... (name of person) to ..... § for the purpose of giving such \*evidence/\*assistance in that criminal matter;
- (d) ..... (name of person) has freely consented to travel to and attend in ..... as requested for the purpose of giving such \*evidence/ \*assistance in that criminal matter; and
- (e) ..... (name of person) is due to be released from \*custody/ \*detention on ..... (date) under ..... (specify relevant law):

NOW THEREFORE, in exercise of the powers conferred on me by section 28 of the Mutual Assistance in Criminal Matters Act 2002, I, ....., the Attorney General of Malaysia, request you, ....., to deliver ..... (name of person) into the custody of ..... (name and description of officer of prescribed foreign State) at ..... (place) and I request you, ..... (name and description of officer of prescribed foreign State), to receive the said person into custody at ..... (place) and to convey him in custody to ..... § and there to place him in the custody of ..... (name of person/authority) who in my opinion has been duly appointed for that purpose.

by the appropriate authorities of .....§ to receive him for the period of ..... (*specify period*) at or before the expiration of which he must be returned to Malaysia, for which this shall be your warrant.

.....  
(Date)

.....  
*Attorney General  
Malaysia*

\* Delete if not applicable.

§ Insert name of prescribed foreign State.

**FORM 18**  
**[Subregulation 20(2)]**

**MUTUAL ASSISTANCE IN CRIMINAL MATTERS ACT 2002**

**WARRANT FOR RETURN**

To: .....

**WHEREAS:**

- (a) ..... (*name of person*), \*a prisoner/ \*a person under detention at ..... (*place of imprisonment or detention*) in Malaysia, was temporarily transferred to ..... §, a foreign State, to give \*evidence/\*assistance relating to \*criminal proceedings/\*an investigation relating to a criminal matter involving the foreign serious offence of ..... (*description of offence*) pursuant to a request for assistance under section 27 of the Mutual Assistance in Criminal Matters Act 2002 dated .....
- (b) \*the \*criminal proceedings/\*investigation relating to the criminal matter has been completed/ \*the further attendance of ..... (*name of person*) in ..... §, has been dispensed with by the \*relevant authority/\*court in ..... §, as of .....; and
- (c) under the undertaking given to Malaysia by ..... (*appropriate authority of prescribed foreign State*) the said person is now to be returned to Malaysia on ..... (*date, time and place*):

NOW THEREFORE, in exercise of the powers conferred on me by section 28 of the Mutual Assistance in Criminal Matters Act 2002, I, ....., the Attorney General of Malaysia, request you, ....., to receive ..... (*name of person*) from the custody of ..... (*name of person/authority of prescribed foreign State*) at ..... (*place*) and deliver him into the custody of ..... at ..... and you ..... (*person/authority taking custody*) shall receive the said person into your custody to continue to undergo the \*imprisonment/ \*detention which he was undergoing prior to the transfer of his custody, for which this shall be your warrant.

.....  
(Date)

.....  
*Attorney General  
Malaysia*

\* Delete if not applicable.

§ Insert name of prescribed foreign State.

FORM 19  
[Subregulation 21(2)]

MUTUAL ASSISTANCE IN CRIMINAL MATTERS ACT 2002

DIRECTION FOR REMOVAL AND RETURN OF PERSON BEING TRANSPORTED THROUGH MALAYSIA

To the Director General of Immigration Malaysia and the ..... (appropriate authority) §

WHEREAS:

- (a) ..... (name of person), a person in custody in ..... §, was being transported to ..... λ to give evidence or assistance in relation to a criminal matter ..... λ;
- (b) the \*aircraft/\*vessel/\*train (Flight/Vessel/Train No.: ..... ) in which the person was being transported \*landed/\*called/\*stopped in Malaysia on ..... ( and
- (c) the transportation of the said person was not continued within a reasonable time he has been kept in custody in Malaysia from ..... (relevant date) to ..... (relevant date):

NOW THEREFORE, in exercise of the powers conferred on me by subsection 29(3) of the Mutual Assistance in Criminal Matters Act 2002, I, ....., the Attorney General of Malaysia, require you to transport ..... (name of person) in custody to ..... § by the first available \*aircraft/\*vessel/\*train (Flight/Vessel/Train No.: ..... ), for which this shall be your authority

.....  
(Date)

.....  
Attorney General  
Malaysia

\* Delete if not applicable.  
§ Insert name of prescribed foreign State from which person in custody was first transported.  
λ Insert name of prescribed foreign State to which person in custody was first to be transported.

FORM 20  
[Subregulation 22(1)]

MUTUAL ASSISTANCE IN CRIMINAL MATTERS ACT 2002

AUTHORISATION TO ENFORCE FOREIGN FORFEITURE ORDER

To ..... of ....., an authorised officer within the meaning of the Mutual Assistance in Criminal Matters Act 2002.

WHEREAS:

- (a) a foreign forfeiture order dated ..... has been made by ..... (name of court) in judicial proceedings instituted in ..... §, a foreign State, against ..... (name of person) in relation to ..... (description of property) that is reasonably believed to be located in Malaysia;
- (b) the foreign forfeiture order is in force and not subject to further appeal in .....
- (c) the ..... (appropriate authority of prescribed foreign State) has requested my assistance in the enforcement and satisfaction of the foreign forfeiture order under section .....



- (d) the enforcement of the foreign forfeiture order in Malaysia would not be contrary to the interests of justice:

NOW THEREFORE, in exercise of the powers conferred on me by paragraph 31(2)(a) of the Mutual Assistance in Criminal Matters Act 2002 I, ....., the Attorney General of Malaysia, authorise ..... (name of authorised officer) to apply to the High Court at ..... (name of State), being the State in which the property to which the foreign forfeiture order relates is located, for the registration of the foreign forfeiture order in accordance with section 32 of the Mutual Assistance in Criminal Matters Act 2002 and for the issuance of a warrant for the enforcement of that foreign forfeiture order in accordance with regulation 27 of the Mutual Assistance in Criminal Matters Regulations 2003.

.....  
(Date)

.....  
*Attorney General  
Malaysia*

Insert name of prescribed foreign State

FORM 21  
[Subregulation 22(2)]

MUTUAL ASSISTANCE IN CRIMINAL MATTERS ACT 2002

AUTHORISATION TO RESTRAIN DEALING IN PROPERTY

To ..... of ....., an authorised officer within the meaning of the Mutual Assistance in Criminal Matters Act 2002.

WHEREAS:

- (a) judicial proceedings \*have been/\*are to be instituted in .....§, a foreign State, and a foreign forfeiture order \*is to be made/ \*is in the course of being made in the judicial proceedings against ..... (name of person) in relation to ..... (description of property) that is reasonably believed to be located in Malaysia;
- (b) the ..... (appropriate authority of prescribed foreign State) has requested me to assist in the restraining of dealing in the property under section 31 of the Mutual Assistance in Criminal Matters Act 2002 pending the issuance of a foreign forfeiture order in respect of that property; and
- (c) the enforcement of such foreign forfeiture order, if issued, in Malaysia would not be contrary to the interests of justice:

NOW THEREFORE, in exercise of the powers conferred on me by paragraph 31(2)(b) of the Mutual Assistance in Criminal Matters Act 2002 I, ....., the Attorney General of Malaysia, authorise ..... (name of authorised officer) to apply to the High Court at ..... (name of State), being the State in which the property to which the request relates is located, for the issue of a restraint order in accordance with regulation 24 of the Mutual Assistance in Criminal Matters Regulations 2003.

.....  
(Date)

.....  
*Attorney General  
Malaysia*

\* Delete if not applicable

§ Insert name of prescribed foreign State.

FORM 22  
[Subregulation 24(1)]

MUTUAL ASSISTANCE IN CRIMINAL MATTERS ACT 2002  
APPLICATION FOR RESTRAINT ORDER

TAKE NOTICE that the High Court will be moved on ..... (date) by the Applicant abovenamed a Restraint Order under regulation 24 of the Mutual Assistance in Criminal Matters Regulation 2003.

The grounds in support of this application are those appearing in the Statement filed with this application.

The affidavit of ..... \*sworn/ \*affirmed on ..... (date) and filed in this application shall be read in support of this application.

.....  
(Date)

Entered No. .... of .....

.....  
(Clerk)

(Seal)

.....  
(Signature)

.....  
(Description)

\* Delete if not applicable.

FORM 23  
[Subregulation 24(2)]

MUTUAL ASSISTANCE IN CRIMINAL MATTERS ACT 2002  
RESTRAINT ORDER

To: ..... (name of person holding the property concerned)

UPON the application of ..... and upon reading the statement of ..... and the certificate of ..... and the affidavit/\*s of ..... filed on ..... and \*upon hearing .....

AND WHEREAS the High Court is satisfied that—

- (a) judicial proceedings \*have been/\*are to be instituted in .....§, a foreign State, and a foreign forfeiture order \*is to be made/ \*is in the course of being made in the judicial proceedings against ..... (name of person) in relation to ..... (description of property) that is reasonably believed to be located in Malaysia;
- (b) the ..... (appropriate authority of prescribed foreign State) has requested the Attorney General to assist in the restraining of dealing in the property under section 31 of the Mutual Assistance in Criminal Matters Act 2002 pending the issuance of a foreign forfeiture order in respect of that property; and
- (c) the issue of such restraint order in Malaysia would not be contrary to the interests of justice;

AND WHEREAS the High Court is satisfied that—

(d) ..... (name of person) that will be affected by the foreign forfeiture order \*has/  
\*has not been notified of the judicial proceedings in accordance with the law of  
.....§; and

(e) the foreign forfeiture order to be made by the ..... (name of court) in .....§  
has the purpose of—

\*recovering/ \*forfeiting/ \*confiscating—

payments or other rewards received in connection with an offence  
against the law of .....§ ..... (description of offence),  
that is a foreign serious offence, or the value of the payments or  
rewards; or

property derived or realised, directly or indirectly, from payments or  
other rewards received in connection with an offence against the law  
of .....§ ..... (description of offence), that is a foreign  
serious offence, or the value of such property;

\*forfeiting or destroying/ \*forfeiting or otherwise disposing of, any drugs or  
other substance in respect of which an offence against the corresponding drug  
law of .....§ has been committed, or which was used in connection  
with the commission of such an offence;

NOW THEREFORE, in exercise of the powers conferred on the High Court by regulation 24 of the  
Mutual Assistance in Criminal Matters Regulations 2003, you, ..... (name of person holding  
the property concerned), are restrained from any dealing with ..... (description of property  
concerned) with effect from ..... (relevant date).

TAKE NOTICE that under subregulation 25(6) of the Mutual Assistance in Criminal Matters Regulations  
2003, an authorised officer may seize any property that is subject to this Order for the purpose  
of preventing any dealing in the property or the removal of the property from Malaysia.

\*This Order is issued subject to the following \*conditions/ \*exceptions:

.....  
(Specify \*conditions/\*exceptions (if any).)

.....  
(Date)

Entered No. .... of .....

.....  
(Clerk)

(Seal)

.....  
(Signature)

.....  
(Description)

\* Delete if not applicable.

.....  
Insert name of prescribed foreign State.

Tick (✓) where applicable.

FORM 24  
[Subregulations 24(4) and 27(4)]

MUTUAL ASSISTANCE IN CRIMINAL MATTERS ACT 2002

CERTIFICATE OF CENTRAL BANK OF MALAYSIA

In exercise of the powers conferred on me by \*subsection 32(6) of the Mutual Assistance Criminal Matters Act 2002/ \*subregulation 24(4) of the Mutual Assistance in Criminal Matters Regulations 2003, I, ....., \*the Governor/ \*an authorised officer of the Central Bank Malaysia certify that the exchange rate prevailing on ..... (date) is as follows:

.....  
(Date)

.....  
(Signature)

.....  
(Description)

\* Delete if not applicable.

FORM 25  
[Subregulations 24(5) and 27(5)]

MUTUAL ASSISTANCE IN CRIMINAL MATTERS ACT 2002

CERTIFICATE UNDER SECTION 34 OF THE MUTUAL ASSISTANCE IN CRIMINAL MATTERS ACT 2002

In exercise of the powers conferred on me by ..... (relevant provision in applicable law prescribed foreign State), I, ....., a duly authorised officer of..... (appropriate authority of prescribed foreign State) in .....§ certify that—

- judicial proceedings \*have been/\*are to be instituted in .....§ against ..... (name of person) in relation to ..... (description of property) that is reasonably believed to be located in Malaysia and the judicial proceedings \*have not been concluded;
- a foreign forfeiture order against ..... (name of person) in relation to ..... (description of property) that is reasonably believed to be located in Malaysia is in force and is not subject to further appeal in .....§;
- \*all or ..... (amount unpaid) of the sum payable under the foreign forfeiture order remains unpaid in .....§/\* ..... (description of property recoverable under the foreign forfeiture order) remains unrecovered in .....§;
- ..... (name of person), being a person \*affected/ \*that will be affected by the foreign forfeiture order, \*has/ \*has not been notified of the judicial proceedings in .....§ in accordance with the law of .....§;

- the foreign forfeiture order \*made/\*to be made by the ... (name of court) in .....§ has the purpose of—
  - \*recovering/ \*forfeiting/ \*confiscating—
    - payments or other rewards received in connection with an offence against the law of .....§ ..... (description of offence), that is a foreign serious offence, or the value of the payments or rewards; or
    - property derived or realised, directly or indirectly, from payments or other rewards received in connection with an offence against the law of .....§ ..... (description of offence), that is a foreign serious offence, or the value of such property;
  - \*forfeiting or destroying/ \*forfeiting or otherwise disposing of, any drugs or other substance in respect of which an offence against the corresponding drug law of .....§ has been committed, or which was used in connection with the commission of such an offence;
- the foreign forfeiture order—
  - has not been satisfied by payment of the amount due under it or by ..... (name of person) against whom it was made serving imprisonment in default of payment or by other means;
  - has been partly satisfied by the payment of ..... (amount paid) but ..... (amount unpaid) of the sum payable remains unpaid in .....§;
  - has not been satisfied by the recovery of ..... (description of property to be recovered);
  - has been partly satisfied by the recovery of ..... (description of property recovered) but ..... (description of property to be recovered) remains unrecovered in .....§.

.....  
(Date)

.....  
(Signature)

.....  
(Description)

\* Delete if not applicable

§ Insert name of prescribed foreign State.

Tick (✓) where applicable.

FORM 26  
[Subregulation 24(8)]

MUTUAL ASSISTANCE IN CRIMINAL MATTERS ACT 2002

INTERIM RESTRAINT ORDER

To:..... (name of person holding the property concerned).

WHEREAS—

- (a) judicial proceedings \*have been/\*are to be instituted in ..... foreign State, and a foreign forfeiture order \*is to be made/ \*is in the course of be made in the judicial proceedings against... (name of person) in relation to ... (description of property) that is reasonably believed to be located in Malaysia;
- (b) the ..... (appropriate authority of prescribed foreign State) has requested Attorney General to assist in the restraining of dealing in the property under sect 31 of the Mutual Assistance in Criminal Matters Act 2002 pending the issuance of a foreign forfeiture order in respect of that property; and
- (c) the issue of such restraint order in Malaysia would not be contrary to the interests of justice;

AND WHEREAS I am satisfied that the urgency of the situation requires the issue of an interim restraint order against ..... (name of person) holding ..... (description of property) for a period of ... (specify period not exceeding fourteen days) pending the issue of a restraint order under subregulation 24(2) of the Mutual Assistance in Criminal Matters Regulations 2003:

NOW THEREFORE, in exercise of the powers conferred on the Attorney General by subregulation 24 of the Mutual Assistance in Criminal Matters Regulations 2003, you, ..... (name of person holding the property concerned), are restrained from any dealing with ..... (description of property concerned) with effect from ..... (relevant date) for a period of ..... (specify period not exceeding fourteen days).

TAKE NOTICE that under subregulations 24(8) and 25(6) of the Mutual Assistance in Criminal Matters Regulations 2003, an authorised officer may seize any property that is subject to this Order for the purpose of preventing any dealing in the property or the removal of the property from Malaysia.

\*This Order is issued subject to the following \*conditions/ \*exceptions:

.....  
(Specify \*conditions/\*exceptions (if any).)

.....  
(Date)

.....  
Attorney General  
Malaysia

This interim restraint order shall cease to have effect upon the issue of a restraint order under subregulation 24(2) of the Mutual Assistance in Criminal Matters Regulations 2003 or the expiry of the period specified above, whichever is the earlier.

\* Delete if not applicable.  
§ Insert name of prescribed foreign State

FORM 27  
[Paragraph 25(7)(a)]

MUTUAL ASSISTANCE IN CRIMINAL MATTERS ACT 2002

NOTICE OF SEIZURE OF IMMOVABLE PROPERTY

To: ..... (name of appropriate authority)

IN exercise of the powers conferred on me by paragraph 25(7)(a) of the Mutual Assistance in Criminal Matters Regulations 2003, I, ....., the Attorney General of Malaysia being satisfied that a Restraint Order No. .... of ..... has been issued under regulation 24 of the Mutual Assistance in Criminal Matters Regulations 2003 in relation to ..... (description of immovable property) with effect from ..... (date) and that it is necessary to seize that property to prevent any dealing with it, issue this Notice of Seizure to you to seize ..... (description of immovable property), and prohibit all dealings with that property. You shall immediately endorse the terms of this Notice of Seizure on the document of title in respect of that immovable property in the Register at your office.

TAKE NOTICE that by virtue of subregulation 25(11) of the Mutual Assistance in Criminal Matters Regulations 2003, a person who contravenes the requirements of this Notice of Seizure or does any act that results in, or causes, a contravention of the terms of this Notice of Seizure commits an offence and shall on conviction be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding one year or to both.

.....  
(Date)

.....  
Attorney General  
Malaysia

ACKNOWLEDGEMENT OF RECEIPT

I ..... (name) (Identification Card Number: ..... ) acknowledge that I have received this Notice of Seizure on ..... (date) at ..... (address).

.....  
(Signature)

.....  
(Description)

FORM 28  
[Subregulation 26(2)]

MUTUAL ASSISTANCE IN CRIMINAL MATTERS ACT 2002

APPLICATION FOR \*DISCHARGE/ \*VARIATION ORDER

TAKE NOTICE that the High Court will be moved on ..... (date) by the Applicant abovenamed for a \*Discharge/ \*Variation Order under regulation 26 of the Mutual Assistance in Criminal Matters Regulations 2003.

The grounds in support of this application are those appearing in the Statement filed with this application.

The affidavit of ..... \*sworn/ \*affirmed on ..... (date) and filed in this application shall be read in support of this application.

.....  
(Date)

Entered No. .... of .....

.....  
(Clerk)

(Seal)

.....  
(Signature)

.....  
(Description)

\* Delete if not applicable.

FORM 29  
[Subregulation 26(3)]

MUTUAL ASSISTANCE IN CRIMINAL MATTERS ACT 2002

\*DISCHARGE/ \*VARIATION ORDER

To: ..... (name of authorised officer)

UPON the application of ..... and upon reading the statement of ..... and affidavit/\*s of ..... filed on ..... and \*upon hearing .....

AND WHEREAS the High Court is satisfied that—

- \*(a) the judicial proceedings instituted in ..... §, a foreign State, in relation to which a Restraint Order No. .... of ..... was issued have been concluded and a foreign forfeiture order was made;
- \*(b) sufficient grounds have been adduced before the High Court that Restraint Order ..... of ..... issued in relation to ... (description of property) should \*discharged with effect from ... (date)/ \*varied with effect from ..... (date) follows:

.....  
(State particulars of variation of restraint order)

NOW THEREFORE, in exercise of the powers conferred on the High Court by regulation 26 of Mutual Assistance in Criminal Matters Regulations 2003—

- Restraint Order No. .... of ..... is discharged with effect from ..... (relevant date)
- Restraint Order No. .... of ..... is varied with effect from ..... (relevant date) as follows:

.....  
(State particulars of variation of restraint order)



for which this order shall be your authority.

This Order shall have effect from ... (relevant date).

\*This Order is issued subject to the following \*conditions/ \*restrictions:

(Specify \*conditions/\*restrictions (if any).)

(Date)

Entered No. .... of .....

(Clerk)

(Seal)

(Signature)

(Description)

- Delete if not applicable.
- § Insert name of prescribed foreign State.
- Tick (✓) where applicable.

FORM 30  
[Subregulation 27(1)]

MUTUAL ASSISTANCE IN CRIMINAL MATTERS ACT 2002

APPLICATION FOR REGISTRATION AND ENFORCEMENT OF FOREIGN FORFEITURE ORDER

TAKE NOTICE that the High Court will be moved on ..... (date) by the Applicant abovenamed for the registration of a Foreign Forfeiture Order under section 32 of the Mutual Assistance in Criminal Matters Act 2002 and the issuance of a warrant for the enforcement of that Foreign Forfeiture Order under regulation 27 of the Mutual Assistance in Criminal Matters Regulations 2003.

The grounds in support of this application are those appearing in the Statement filed with this application.

The affidavit of ..... \*sworn/ \*affirmed on ..... (date) and filed in this application shall be read in support of this application.

(Date)

Entered No. .... of .....

(Clerk)

(Seal)

(Signature)

(Description)

- Delete if not applicable.

FORM 31  
[Subregulation 27(2)]

MUTUAL ASSISTANCE IN CRIMINAL MATTERS ACT 2002

WARRANT FOR ENFORCEMENT OF FOREIGN FORFEITURE ORDER

To:..... (name of authorised officer)

UPON the application of ..... and upon reading the statement of ..... and affidavits of ..... filed on ..... and upon hearing .....

AND WHEREAS the High Court is satisfied that—

- (a) a foreign forfeiture order dated ..... has been made by ... (name of court) judicial proceedings instituted in ..... §, a foreign State, against ..... (name of person) in relation to ..... (description of property) that is reasonably believed to be located in Malaysia;
- (b) the foreign forfeiture order is in force and not subject to further appeal ..... §;
- (c) the ..... (appropriate authority of prescribed foreign State) has requested Attorney General to assist in the enforcement and satisfaction of the foreign forfeiture order under section 31 of the Mutual Assistance in Criminal Matters Act 2002;
- (d) the enforcement of the foreign forfeiture order in Malaysia would not be contrary to the interests of justice:

AND WHEREAS the High Court is satisfied that—

- (e) ..... (name of person) affected by the foreign forfeiture order did appear at the judicial proceedings/ was notified of the judicial proceedings in accordance with the law of ..... § but did not appear in the judicial proceedings
- (f) the foreign forfeiture order made by the ... (name of court) in ..... has the purpose of—

- recovering/ forfeiting/ confiscating—
  - payments or other benefits received in connection with an offence against the law of ..... § ..... (description of offence), that is a foreign serious offence, or the value of the payments or rewards;
  - property derived or realised, directly or indirectly, from payments or other benefits received in connection with an offence against the law ..... § ..... (description of offence), that is a foreign serious offence, or the value of such property;
  - forfeiting or destroying/ forfeiting or otherwise disposing of, any drugs or other substance in respect of which an offence against the corresponding drug law ..... § has been committed, or which was used in connection with the commission of such an offence;

- (g) the foreign forfeiture order—
  - has not been satisfied by payment of the amount due under it or by ... (name of person) against whom it was made serving imprisonment in default of payment or by other means;
  - has been partly satisfied by the payment of ... (amount paid) but ... (amount unpaid) of the sum payable remains unpaid in ..... §;

- has not been satisfied by the recovery of ..... (description of property to be recovered);
- has been partly satisfied by the recovery of ..... (description of property recovered) but ..... (description of property to be recovered) remains unrecovered in .....§:

NOW THEREFORE, in exercise of the powers conferred on the High Court by section 32 of the Mutual Assistance in Criminal Matters Act 2002, the foreign forfeiture order dated ..... is ordered to be registered and by virtue of regulation 27 of the Mutual Assistance in Criminal Matters Regulations 2003 you are ordered to—

- cause to be levied and made out of the ..... (description of property to be seized under foreign forfeiture order) by seizure and if necessary by its sale the sum of RM..... which the ..... (relevant authority in prescribed foreign State) recovered against ..... (name of person) through judicial proceedings in.....§ by \*order/ \*judgement dated .....
- without delay, seize and deliver to the Attorney General of Malaysia the moveable property ..... (description of moveable property delivery of which has been adjudged or ordered) \*and (RM ..... damages and RM..... costs) that the ..... (relevant authority in prescribed foreign State) recovered against..... (name of person) through judicial proceedings in .....§ by \*order/ \*judgement dated .....
- enter ..... (description of immovable property delivery of which has been adjudged or ordered) and cause the Attorney General of Malaysia to have possession of it.
- And further to cause to be levied and made out of the property liable to seizure under the foreign forfeiture order and if necessary by the sale of it the sum of RM .....

for which this shall be your warrant.

\*This Warrant is issued subject to the following \*conditions/ \*exceptions:

.....  
(Specify \*conditions/\*exceptions (if any).)

.....  
(Date)

Entered No. .... of .....

.....  
(Clerk)

(Seal)

.....  
(Signature)

.....  
(Description)

- \* Delete if not applicable.
- § Insert name of prescribed foreign State.
- Tick (✓) where applicable.

FORM 32  
[Subregulation 27(8)]

MUTUAL ASSISTANCE IN CRIMINAL MATTERS ACT 2002

APPLICATION FOR CANCELLATION OF REGISTRATION OF FOREIGN FORFEITURE ORDER

TAKE NOTICE that the High Court will be moved on ..... (date) by the Applicant abovenar for an Order for the Cancellation of the Registration of a Foreign Forfeiture Order under subject 32(4) of the Mutual Assistance in Criminal Matters Act 2002.

The grounds in support of this application are those appearing in the Statement filed with application.

The affidavit of ..... \*sworn/ \*affirmed on ...(date) and filed in this application shall read in support of this application.

.....  
(Date)

Entered No. .... of .....

.....  
(Clerk)

(Seal)

.....  
(Signature)

.....  
(Description)

\* Delete if not applicable.

FORM 33  
[Subregulation 27(9)]

MUTUAL ASSISTANCE IN CRIMINAL MATTERS ACT 2002

ORDER FOR CANCELLATION OF REGISTRATION OF FOREIGN FORFEITURE ORDER

To:.....

UPON the application of ..... and upon reading the statement of ..... and the affidavit/s of ..... filed on ..... and \*upon hearing .....

AND WHEREAS the High Court is satisfied that the foreign forfeiture order issued by ..... (name of court) in ..... §. a foreign State, against ..... (name of person) in relation to ..... (description of property) and registered in this High Court on ..... (relevant date) has been satisfied \*by payment of the amount due under it/ \*by the person against whom it was made serving imprisonment in default of payment/ \* by other means, that is ..... (specify means):

NOW THEREFORE, in exercise of the powers conferred on the High Court by subsection 32(4) of the Mutual Assistance in Criminal Matters Act 2002, the registration of the said foreign forfeiture order is revoked with effect from ..... (relevant date).

.....  
(Date)

Entered No. .... of .....

.....  
(Clerk)

(Seal)

.....  
(Signature)

.....  
(Description)

\* Delete if not applicable

§ Insert name of prescribed foreign State

FORM 34  
[Regulation 29]

MUTUAL ASSISTANCE IN CRIMINAL MATTERS ACT 2002

APPOINTMENT OF MANAGER

To: ..... (name of person)

WHEREAS I am satisfied that—

- (a) \*a foreign forfeiture order has been issued by ..... (name of court) in .....§, a foreign State, against ..... (name of person) in relation to ..... (description of property) that is reasonably believed to be located in Malaysia/ \*judicial proceedings \*have been/\*are to be instituted in .....§, a foreign State, and a foreign forfeiture order \*is to be made/\*is in the course of being made in the judicial proceedings against ... (name of person) in relation to ... (description of property) that is reasonably believed to be located in Malaysia;
- (b) the ..... (appropriate authority in prescribed foreign State) has requested the Attorney General to assist in the \*restraining of dealing in the property pending the issuance of a foreign forfeiture order in respect of that property/ \*enforcement and satisfaction of the foreign forfeiture order under section 31 of the Mutual Assistance in Criminal Matters Act 2002; and
- (c) the enforcement of such foreign forfeiture order in Malaysia would not be contrary to the interests of justice;

AND WHEREAS a \*restraint order/\*warrant for the enforcement of the foreign forfeiture order has been issued on ..... (date) in relation to ..... (description of property):

NOW THEREFORE, in exercise of the powers conferred on me by regulation 29 of the Mutual Assistance in Criminal Matters Regulations 2003, I, ....., the Minister responsible for legal affairs in Malaysia, do appoint you, ... (name of person/body), to take control of, and manage or otherwise deal with, all or part of the property in accordance with my directions

.....  
(Date)

.....  
Minister

\* Delete if not applicable.

§ Insert name of prescribed foreign State.

FORM 35

[Subregulation 31(2)]

MUTUAL ASSISTANCE IN CRIMINAL MATTERS ACT 2002

APPLICATION FOR ORDER RELATING TO THIRD PARTY INTEREST

TAKE NOTICE that the High Court will be moved on ... (date) by the Applicant abovenamed for an Order under regulation 31 of the Mutual Assistance in Criminal Matters Regulations 2003—

- (a) declaring that the interest of the Applicant in ..... (description of property) was acquired bona fide; and
- (b) restoring such \*property/ \*the value of the interest in such property being RM ..... to the Applicant.

The grounds in support of this application are those appearing in the Statement filed with this application.

The affidavit of ..... \*sworn/ \*affirmed on ... (date) and filed in this application shall be read in support of this application.

.....  
(Date)

Entered No. .... of .....

.....  
(Clerk)

(Seal)

.....  
(Signature)

.....  
(Description)

\* Delete if not applicable.

FORM 36  
[Subregulation 31(3)]

MUTUAL ASSISTANCE IN CRIMINAL MATTERS ACT 2002

ORDER RELATING TO THIRD PARTY INTEREST

To: ..... (name of person/authorised officer)

UPON the application of ..... and upon reading the statement of ..... and the affidavit/\*s of ..... filed on ..... and \*upon hearing .....

AND WHEREAS the High Court is satisfied that the interest of ... (name of person) in ... (description of property) was acquired bona fide:

NOW THEREFORE, in exercise of the powers conferred on the High Court by regulation 31 of the Mutual Assistance in Criminal Matters Regulations 2003, it is declared that the interest of ..... (name of person) in ..... (description of property) was acquired bona fide and you, ..... (name of person/authority), are ordered to restore \*..... (description of property) \*the value of the interest in ..... (description of property) being RM ..... to ..... (name of person), for which this shall be your authority.

.....  
(Date)

Entered No. .... of .....

.....  
(Clerk)

(Seal)

.....  
(Signature)

.....  
(Description)

\* Delete if not applicable.

FORM 37  
[Regulation 32]

MUTUAL ASSISTANCE IN CRIMINAL MATTERS ACT 2002

DIRECTION TO APPLY FOR SEARCH WARRANT

To ..... of ..... , an authorised officer within the meaning of the Mutual Assistance in Criminal Matters Act 2002.

WHEREAS:

- (a) a request has been made by ..... (appropriate authority of prescribed foreign State) of .....§, a foreign State, under section 35 of the Mutual Assistance in Criminal Matters Act 2002 that .....¥ which is reasonably believed to be located in Malaysia be \*searched for/ \*seized for the purpose of criminal proceedings/\*an investigation relating to a criminal matter involving the foreign serious offence of ..... (description of offence) in .....§; and

(b) there are reasonable grounds to believe that material evidence relevant to the \*criminal proceedings/\*investigation, being .....¥, is located in Malaysia \*in the possession of ..... (name or description of person or authority)/\*at ... (name or description of premises):

NOW THEREFORE, in exercise of the powers conferred on me by subsection 35(1) of the Mutual Assistance in Criminal Matters Act 2002, I, ..... the Attorney General of Malaysia, authorise ..... (name of authorised officer) to apply to the \*Magistrate's/\*Sessions/\*High Court at ..... (name of State or District), being the \*State/\*District in which that material evidence is believed to be located, for the \*search/\*seizure of .....¥ requested by .....§.

.....  
(Date)

.....  
Attorney General  
Malaysia

- Delete if not applicable
- § Insert name of prescribed foreign State
- ¥ Insert name or brief description of material evidence to which request of prescribed foreign State relates

FORM 38

[Regulation 33]

MUTUAL ASSISTANCE IN CRIMINAL MATTERS ACT 2002

AUTHORISATION TO \*LOCATE/\*IDENTIFY AND LOCATE PERSON

To: ..... (appropriate authority in Malaysia)

WHEREAS:

- (a) a request has been made by ..... (appropriate authority of prescribed foreign State) of .....§, a foreign State, under section 39 of the Mutual Assistance in Criminal Matters Act 2002 that ..... (name or description of person) be \*located/\*identified and located for the purpose of \*criminal proceedings/\*an investigation relating to a criminal matter involving the foreign serious offence of ..... (description of offence) in .....§; and
- (b) there are reasonable grounds to believe that ..... (name or description of person)—
  - (i) is or might be concerned in, or could give or provide evidence or assistance relevant to, the \*criminal proceedings/\*investigation relating to the criminal matter; and
  - (ii) is in Malaysia,

NOW THEREFORE, in exercise of the powers conferred on me by subsection 39(3) of the Mutual Assistance in Criminal Matters Act 2002, I, ..... the Attorney General of Malaysia, by this authorisation do direct ..... (appropriate authority in Malaysia) to \*locate/\*identify and locate ..... (name or description of person), the person to whom the request relates.

.....  
(Date)

.....  
Attorney General  
Malaysia

- Delete if not applicable.
- § Insert name of prescribed foreign State



FORM 39  
[Subregulation 34(1)]

MUTUAL ASSISTANCE IN CRIMINAL MATTERS ACT 2002

AUTHORISATION OF SERVICE OF PROCESS

To: ..... (appropriate authority in Malaysia)

WHEREAS:

- (a) a request has been made by ..... (appropriate authority of prescribed foreign State) of ..... §, a foreign State, under section 40 of the Mutual Assistance in Criminal Matters Act 2002 that ..... (description of process) be served in Malaysia for the purpose of \*criminal proceedings/\*an investigation relating to a criminal matter involving the foreign serious offence of ..... (description of offence) in ..... §;
- (b) there are reasonable grounds to believe that ..... (name or description of person) is in Malaysia;
- (c) the ..... (appropriate authority of prescribed foreign State) has furnished sufficient details of the consequences of a failure to comply with such process as follows:

.....  
(Details of consequences of a failure to comply with the process)

- \*\* (d) the ..... (appropriate authority of prescribed foreign State) has given an undertaking that ..... (name or description of person) will not be subjected to any penalty or liability or otherwise prejudiced in law by reason only of his refusal or failure to accept or comply with the summons, notwithstanding anything to the contrary in the summons:

NOW THEREFORE, in exercise of the powers conferred on me by subsection 40(3) of the Mutual Assistance in Criminal Matters Act 2002, I, ....., the Attorney General of Malaysia, by this authorisation do direct ..... (appropriate authority in Malaysia) to effect service of the following process relating to the criminal matter in ..... §:

.....  
(Details of process to be served in Malaysia)

.....  
(Date)

.....  
Attorney General  
Malaysia

\* Delete if not applicable.

§ Insert name of prescribed foreign State

\*\* Applicable only if the process to be served is a summons to appear as a witness in the prescribed foreign State

FORM 40  
[Subregulation 34(4)]

MUTUAL ASSISTANCE IN CRIMINAL MATTERS ACT 2002

AFFIDAVIT OF SERVICE

1. .... (name, residential address and description of deponent) (Identification Card/ Passport Number:.....), a Malaysian citizen of full age with an address for service at ..... do \*make oath/\*affirm and say as follows:

1. I am ..... (occupation or description) of ..... (name of \*office/\*agency) in Malaysia and I am duly authorised to \*swear/ \*affirm this affidavit on behalf of ..... (name of \*office/\*agency).

2. Except as the contrary is expressly stated, the facts deposed in this affidavit are true to the best of my knowledge.

3 That I did on ..... (date) at ..... \*am/ \*pm (time) at ..... (place) serve the following document/\*s dated ..... on ..... (name and description of person served), namely:

.....  
(identify and describe document/\*s)

4. Service was effected:

- \* by posting the document/\*s by registered post to ..... (name) at ..... (full address);
- \* by delivering the document/\*s to ..... (name) personally at ..... (full address);
- \* by leaving the document/\*s with ..... (name and description) at ..... (full address);
- \* by affixing a copy of the document/\*s at ..... (full address).

5. (To be completed in the case of personal service). That ..... (name and description of person served) \*is known to me/ \*was pointed out to me by...../ \*admitted to me that he is ..... (name and description of person to be served).

6. That I did on ..... (date) indorse on ..... (description of document/\*s) the day and date of the said service.

7. A true copy of the document/\*s served is annexed hereto and marked ".....".

\*Sworn/\*affirmed by  
.....  
(deponent)

on .....  
(date)

at .....  
(place)

.....  
(Signature of deponent)

Before me

.....  
(Signature of the judge, magistrate or other officer before whom the affidavit is made)

.....  
(Name and title of the judge, magistrate or other officer)

**\*CERTIFICATION OF EXHIBIT**

I certify that the following is the exhibit marked "....." referred to in the Affidavit of .....  
 \*sworn/ \*affirmed before me on .....

Before me

.....  
*(Signature of the judge, magistrate or other officer before whom the affidavit is made)*

.....  
*(Name and title of the judge, magistrate or other officer)*

\* Delete if not applicable or replace if affidavit is neither sworn nor affirmed.

**Notes**

1. The affidavit may be sworn or affirmed. If those options are not available, the affidavit may be made under such caution or admonition as would be accepted by the courts of the foreign State for the purpose of giving testimony before those courts.
2. The affidavit must be expressed in the first person and must state the place of residence of the deponent and his occupation or, if he has none, his description, and if he is, or is employed by, a party to the matter in which the affidavit is made, the affidavit must state the fact.
3. The affidavit must be divided into paragraphs numbered consecutively, each paragraph being as far as possible confined to a distinct portion of the subject.
4. Dates, sums and other numbers must be expressed in figures and not in words.
5. The affidavit must be signed by the deponent and the jurat must be completed and signed by the person before whom it is made.
6. The affidavit must be made before a judge, magistrate or other judicial officer of the foreign State or before any other officer in or of the foreign State who has authority under the laws of that foreign State to administer any oath, affirmation, caution or admonition, as the case may be.
7. If the affidavit runs for more than one page, each page other than the last should be initialled both by the deponent and by the person before whom the affidavit is made.
8. Any document to be used in conjunction with an affidavit must be exhibited and a copy of it annexed to the affidavit.
9. Each exhibit to an affidavit must be identified by a certificate of the person before whom the affidavit is made.

**SECOND SCHEDULE**

[Regulation 15]

**WITNESS FEES**

<i>Item No.</i>	<i>Description</i>	<i>Fees</i>
		<i>(RM)</i>
1.	Witness fees	
	(a) Expert witness	300.00 per day or part of it
	(b) Ordinary witness	50.00 per day or part of it

<i>Item No.</i>	<i>Description</i>	<i>Fees (RM)</i>
2.	Travelling allowance	Expenses actually and reasonably incurred in travelling to and from the court
3.	Lodging allowance	Expenses actually and reasonably incurred in staying in a hotel

Made 4 June 2003  
[JPN(R)200/235 Jld. 7; PN(PU<sup>2</sup>)628]

DATUK SERI UTAMA DR. RAIS YATIM  
*Minister in the Prime Minister's Department*