

S.R.O NO.....-Law/2013

Date:.....

**In exercise of powers conferred by section 38 of the Mutual Legal Assistance in Criminal Matters Act, 2012 the Government is pleased to make the following Rules, namely-**

**Part-I**  
**Preliminary**

**1. Short title and commencement.**-(1) This Rules may be called as the Mutual Legal Assistance in Criminal Matters Rules, 2013.

(2) It shall come into force immediately.

**2. Definitions.**-(1) In this Rules, unless there is anything repugnant to the subject or context-

(a) ‘**Act**’ means Mutual Legal Assistance in Criminal Matters Act, 2012;

(b) ‘**Ancillary criminal matter**’ means the restraining of dealing with or seizure, forfeiture or confiscation of property in connection with an offence committed in Bangladesh or in a foreign country and also includes the obtaining, enforcement or satisfaction of a Bangladesh confiscation order or of a foreign confiscation order ;

(c) ‘**Appropriate authority**’ in relation to a foreign country means a person or authority, which the central authority constituted under this Act is satisfied that under the law of that country-

(i) is authorized to make a request for assistance in criminal matters; or

(ii) is authorized to receive a request of assistance in criminal matters, if made by Bangladesh;

(d) **‘Authorized officer’** means any investigator or police officer or any other person or class of persons appointed by the Government or central authority for the purpose of this Act;

(e) **‘Central authority’** means the authority determined in accordance with section 3 of the Act;

(f) **‘Competent authority’** means any organization which is asked for by the central authority on the basis of a request made by a foreign State for assistance under this Act to take steps and is authorized and able to afford such assistance;

(g) **‘Criminal matters’** means any criminal matter as defined in section 2(1) of the Act and also includes ancillary criminal matters;

(h) **‘Criminal investigation’** means an investigation into an offence committed in Bangladesh or in a foreign country, or of an ancillary criminal matter;

(i) **‘Criminal proceeding’** means trial of a person for an offence committed in Bangladesh or in a foreign country, and also includes any proceeding to determine whether a particular person should be tried for the offence;

(j) **‘Dealing with’** in relation to a property means-

- (i) receiving or acquiring the property;
- (ii) concealing or disguising the property as to its source, nature, location, disposition, movement or ownership or any right with respect to it;
- (iii) disposing of or converting the property;
- (iv) bringing the property into or moving the property from Bangladesh; using the property to borrow money or as a security whether by way of charge, mortgage, pledge or otherwise; and

(v) where a debt is owed to the person holding the property, making a payment to any person in reduction of the amount of the debt;

(k) **‘Foreign confiscation order’** means an order made by a court in a foreign country for the recovery, forfeiture, or confiscation of payments or other rewards received in connection with an offence against the law of that country, or the value of such payments or rewards, or the property derived or realized from payments or other rewards received in connection with such an offence, or the value of such property;

(l) **‘Foreign country’** means any country or territory other than Bangladesh and also includes ships and aircrafts of that country;

(m) **‘Legal privilege’** means communications made between advocate and his client or any person representing the client, in connection with or in contemplation of judicial proceedings which are privileged communications under the Evidence Act, 1872;

(n) **‘Material’** means any book, document or other record in any form whatsoever, and any container or article relating thereto;

(o) **‘Premises’** means any structure, building, tent, vehicle, vessel, hovercraft or aircraft and also includes a place or part of a premise;

(p) **‘Process’** means any summons, warrant, order or other document in respect of a criminal matter issued by a court;

(q) **‘Proceeds of crime’** means any property suspected, or found by a court, to be property directly or indirectly derived or realized as a result of the commission of an offence or to represent the value of property and other benefits derived from the commission of an offence; and

(r) **‘Thing’** means material.

## **Part-II**

### **Request by Bangladesh**

**3. Requests for assistance by Bangladesh.-** (1) A request for assistance under this Act may be made to a foreign country by Bangladesh.

(2) A request by Bangladesh for assistance under this Act may be made only by the central authority.

(3) The central authority may request the appropriate authority of a foreign country to arrange for-

- (a) evidence to be taken in the foreign country; and
- (b) the evidence to be sent to the central authority,

if the central authority is satisfied that there are reasonable grounds for believing that such evidence would be relevant to any criminal proceedings in Bangladesh.

(4) Any evidence received by the central authority pursuant to a request under sub-rule (1) and (2) may, subject to the provision of the Code of Criminal Procedure, 1898 and the Evidence Act, 1872 be admitted as evidence in any criminal proceedings to which such a request relates.

(5) In estimating the weight, if any, to be attached to a statement contained in any thing received by the central authority pursuant to a request under sub-rule (1) which has been admitted as evidence in any criminal proceeding to which the request relates, the court shall have regard to-

- (a) whether it was possible to challenge the statement by questioning the person who made it; and
- (b) whether the law of the foreign country concerned allowed the parties to the criminal proceedings to be legally represented when the evidence was being taken.

(6) Where the central authority is satisfied that-

(a) there are reasonable grounds to believe that a person in a foreign country is capable of giving evidence or assistance relevant to a criminal matter involving offence in Bangladesh; and

(b) that person consents to travel to Bangladesh for the purpose of giving such evidence or assistance,

the central authority may request the appropriate authority of the foreign country to assist in making available the attendance of that person in Bangladesh for the purpose of giving such evidence or assistance.

(7) The central authority may make arrangement with the appropriate authority of the foreign country for the purpose of return of that person from Bangladesh to the foreign country of origin or such other relevant steps as required.

(8) Where pursuant to sub-rule (6) the central authority requests the assistance of the appropriate authority of a foreign country for attendance of any person in Bangladesh, the person to whom the request relates shall not be subject to any penalty or liability or otherwise prejudiced in law by reason of his refusal or failure to consent to attend as requested.

(9) A person who is in Bangladesh pursuant to a request made under sub-rule 6 shall not -

(a) be detained, prosecuted or punished for any offence alleged to have been committed that preceded such person's departure from the foreign country concerned; or

(b) be subjected to any civil suit in respect of any act or omission alleged to have occurred before that person's departure from the foreign country concerned pursuant to the request; or

(c) be required to give evidence or assistance in relation to any criminal matter other than the criminal matter to which the request relates.

(10) The provision of sub-rule (9) shall not apply, if the person has left Bangladesh or has had the opportunity of leaving Bangladesh within the specified time limit under the Act, and has remained in Bangladesh otherwise than for the purpose to which the request relates, or that person is officially notified that his presence is no longer required or having left has voluntarily returned.

(11) Where a person is in Bangladesh pursuant to a request made under sub-rule (6) and that person has made a statement in relation to a criminal matter to which the request relates, that statement-

(a) shall not be admitted or otherwise used in any prosecution against him unless the appropriate authority of the concerned foreign country consents to its being so used;

(b) may be admitted or used against him in any criminal proceeding in Bangladesh, for the purpose of impeaching his credibility, or as evidence of any fact of which direct oral evidence is admissible; or

(c) shall not be admitted if it brings inconsistency with the material fact.

**4. Content of requests.**-(1) Request for assistance by Bangladesh shall include-

(a) The name of the requesting office and the competent authority conducting the investigation or court proceedings of which the request relates;

(b) The purpose of the request and a brief description of the assistance sought;

(c) A description of the facts alleged to constitute the offence and a statement or text of the relevant laws, except in cases of a request for service of documents;

(d) The name and address of the person to be served, where necessary;

(e) The reasons for and details of any particular procedure or requirement that Bangladesh wishes to be followed, including a statement as to whether sworn or affirmed evidence or statements are required; and

(f) Specification of any time-limit within which compliance with the request is desired.

(2) Requests, supporting documents and other communications made pursuant to this Act, shall be accompanied by a translation into English language, if those were in Bengali or in any other language other than English.

(3) If requested country considers that the information contained in the request is not sufficient to enable the request to be dealt with, it may request additional information.

**5. Special provision on certain measures.**-(1) In execution of searching, freezing or seizing order under this Act, property may be searched, seized, freezed or attached by the competent authority in accordance with the respective law under which the offence is alleged to have been committed.

(2) Where execution of a request requires freezing, seizing or attaching any property which does not cover by executive order the appropriate authority shall make an application to the competent court for freezing, seizing or attachment.

(3) The appropriate authority shall in so far as the law of the requested country permits, carry out requests for search, seizure

or attachment and subsequent delivery of any material to Bangladesh for evidentiary purposes, provided that the rights of *bonafide* third parties are protected.

**6. Requests for enforcement of confiscation order made by Bangladesh.**-(1) Where there are reasonable grounds for believing that some of or all of the property concerned is located in a foreign country, the central authority of Bangladesh may request the appropriate authority of that foreign country to make arrangement for the enforcement of a confiscation order made by Bangladesh in a judicial process.

(2) A certificate shall be issued by or on behalf of the appropriate authority of a foreign country stating that the property has been recovered in the foreign country pursuant to a request so made and also include the value of the property so recovered. Such a certificate shall be admissible in evidence in judicial proceedings.

(3) Where the value of property recovered is expressed in a currency other than that of Bangladesh, the extent to which the amount payable under Bangladesh confiscation order is to be reduced in writing, and shall be calculated on the basis of exchange rate prevailing on the date on which the property was recovered in the foreign country concerned.

**7. Assistance in locating or identifying persons.**-Where the central authority of Bangladesh is satisfied that there are reasonable grounds for believing that there is, in any foreign country a person who is or might be concerned in or affected by or could give or provide evidence or assistance relevant to any criminal matter in Bangladesh, the central authority of Bangladesh may request that foreign country to assist in locating or identifying that person.

**8. Assistance in service of process.**-The central authority of Bangladesh may request the appropriate authority of a foreign country to assist in effecting service of any process where the central authority is satisfied that, for the purpose of, or in



connection with, any criminal matter in Bangladesh, it is necessary or desirable to serve that process on a person or authority in that country.

### **Part-III**

#### **Request to Bangladesh**

**9. Request for assistance to Bangladesh.**-(1) An appropriate authority of a foreign country may request central authority of Bangladesh for assistance in criminal matters, on condition that such foreign country will comply with a future request of Bangladesh to that country for similar assistance, involving an offence which corresponds to an offence under the law of that foreign country, for which assistance is sought.

(2) Every request by a foreign country to Bangladesh for assistance shall be made to the central authority. Such request shall-

- (a) specify the purpose of the request and the nature of the request sought for;
- (b) identify the authority that initiated the request;
- (c) be accompanied by a certificate from the appropriate authority of that country to the effect that the request is made in respect of a criminal matter within the scope of the Act;
- (d) specify a description of the nature of the criminal matter and a statement setting out a summary of the relevant fact and laws;
- (e) specify the location of a suspected person or property involving the commission of an offence under the Act, the name, identity, nationality, location or description of that person or property (if known) and a statement setting forth such suspicion;

(f) state a description of the offence to which the criminal matter relates, including its maximum penalty;

(g) specify details of the procedure that the requesting foreign country wishes to be followed by Bangladesh in giving effect to the request, including details of the manner and form in which any information or thing is to be supplied to that country pursuant to the request;

(h) specify that the request is for assistance relating to an ancillary criminal matter and judicial proceedings to obtain a foreign confiscation order have not been instituted in that country, a statement indicating that they are likely to be instituted;

(i) contain a statement setting out the wishes of that foreign country concerning the confidentiality of the request and the reason for those wishes;

(j) state details of the period within which that country wishes the request to be met;

(k) specify if the request involves a person travelling from Bangladesh to that foreign country, details of allowances to which the person will be entitled, and of the arrangements for accommodation for the person while he is in that country pursuant to the request;

(l) specify any other information required to be included with the request under any treaty, memorandum of understanding or other agreement between Bangladesh and that country; and

(m) contain any other information that may assist in giving effect to the request or which is required under the provisions of this Act.

**10. Execution of the request and procedures to be followed.-**

- (1) Apart from notification in official Gazette, central authority of Bangladesh may determine competent authority depending on the subject matter for execution of the request for assistance by issuance of office order.
- (2) In executing the request, laws and practices in the related field as applied in Bangladesh shall be followed unless otherwise provided in this Act.
- (3) Having received the request of assistance the competent authority shall acknowledge as to the acceptance of the request to the central authority immediately.
- (4) Where execution of a request is sent to the higher authority as competent authority, he may by himself or by taking assistance of his competent subordinate may execute the same.
- (5) If in any case the execution of a request becomes impossible due to conflict of laws, force majeure, technicalities or for some other reasonable cause, the competent authority shall forthwith communicate it to the central authority recording reasons thereof.

**11. Refusal of assistance by Bangladesh.-**(1) A request by a foreign country for assistance under this Part shall be refused if, in the opinion of the central authority of Bangladesh-

- (a) the appropriate authority of that country has in respect of that request, failed to comply with the terms of any treaty, memorandum of understanding or other agreement between Bangladesh and that country,
- (b) the request relates to the investigation prosecution or punishment of a person for an offence that is, or is by reason of the circumstances in which it is alleged to have been committed or was committed, an offence of a political character;

(c) the request relates to the investigation, prosecution or punishment of a person in respect of an act or omission that, if it had occurred in Bangladesh, would have constituted an offence under the military law applicable in Bangladesh which is not also an offence under the ordinary criminal law of law of Bangladesh;

(d) there are substantial grounds for believing that the request was made for the purpose of investigating, prosecuting, punishing or otherwise causing prejudice to a person on account of the person's race, religion six, ethnic origin, nationality or political opinions or that person's position may be prejudiced for any of those reasons ;

(e) the request relates to the investigation, prosecution or punishment of a person for an offence in a case where the person-

(i) has been convicted, acquitted or pardoned by a competent court or other authority in that country; or

(ii) has undergone the punishment provided by the law of that country,

in respect of that offence or of another offence constituted by the same act or omission as the first-mentioned offence;

(f) the request relates to the investigation, prosecution or punishment of a person in respect of an act or omission that, if it had occurred in Bangladesh, would not have constituted an offence;

(g) the offence to which the request relates is not an offence of sufficient gravity;

(h) it is contrary to public interest to provide the assistance;

(i) the thing requested for is of insufficient importance to the investigation or could reasonably be obtained by other means;

(j) the appropriate authority fails to undertake that the thing requested for will not be used for a matter other than the criminal matter in respect of which the request was made, except with the consent of the central authority; or

(k) the provision of the assistance could prejudice a criminal matter in Bangladesh.

(2) A request by a foreign country for assistance under this Part may be refused by the central authority of Bangladesh-

(a) pursuant to the terms of any treaty, memorandum of understanding or other agreement between Bangladesh and that country;

(b) if, in the opinion of the central authority, the provision of the assistance would, or would be likely to, prejudice the safety of any person (whether in Bangladesh or elsewhere);

(c) if, in the opinion of the central authority, the assistance would impose an excessive burden on the resources of Bangladesh; or

(d) if, in the case of any assistance the appropriate authority of that foreign country fails to give an undertaking to the central authority that the requesting foreign country will comply with a future request by Bangladesh to that country for similar assistance in a criminal matter involving an offence that corresponds to be the foreign offence for which assistance is sought.

**12. Taking of evidence for criminal proceedings.**-(1) where a request is made by the appropriate authority of a foreign country that evidence requires to be taken in Bangladesh for the purpose of any criminal proceedings pending in a court in the foreign country, the central authority may by notice in writing, subject to such conditions as specified in the notice, authorize a First class Magistrate to take the evidence and transmit the evidence to the appropriate authority of that foreign country.

(2) Upon receipt of the notice made under sub-section (1), the Magistrate shall-

(a) take the evidence of each witness appearing before him to depose in relation to the criminal matter, as if the witness were giving evidence on a charge against a person for an offence committed under the law of Bangladesh;

(b) cause the evidence to be reduced in writing and certify at the end of that writing the evidence was taken by him ; and

(c) cause the writing, so certified, to be sent to the 'central authority'.

(3) The proceedings may be conducted in presence or absence of the person to whom the criminal proceedings in the foreign country relates or his legal representative (if any).

(4) The evidence so taken under sub-section (2) shall state whether the person to whom the criminal proceedings in the foreign country relates or his legal representative (if any) was present at the proceedings.

(5) For the purposes of this rule, the laws for the time being in force with respect to compelling persons to attend before a Magistrate, and to give evidence, answer questions and produce documents, upon the hearing of a charge against a person for an offence against the law of Bangladesh shall apply, so far as they are capable of application, with respect to compelling of persons

to attend before a Magistrate, and to give evidence, answer questions and produce documents.

(6) For the purpose of this rule, the person to whom the criminal proceedings in the foreign country relates is competent, but not compellable, to give evidence.

(7) No person who is required under this rule to give evidence for the purpose of any criminal proceeding in a foreign country shall be required to answer any question which that person could not be compelled to answer in those proceedings in that foreign country.

(8) Evidence taken under this rule shall not be admissible in evidence, or otherwise used, for the purpose of any judicial proceedings, disciplinary proceedings, or other proceedings, in Bangladesh except a prosecution of the person who gave that evidence for the offence of giving false evidence or contempt of court, in respect of that evidence.

**13. Production orders for criminal matters.-** (1) Where a request is made by the appropriate authority of a foreign country that any particular thing in Bangladesh shall be produced in that country for the purpose of any criminal matters, the central authority may file an application to the court having competent jurisdiction, seeking for an order to that effect.

(2) If such an application is made and the court is satisfied that there are reasonable grounds for believing that the thing is likely to be of substantial value to the criminal matter in respect of which the application is made, and is not contrary to the public interest for the thing to be produced, and does not include any privileged communication under Evidence Act, 1872, it may pass an order.

(3) Such a proceeding may be conducted in presence or absence of the person to whom the criminal proceedings in the foreign country relates to and such a proceeding may be heard in camera.

(4) Where such an application relates to a thing in possession of any financial institution, it shall be made to the District and Session Judge.

(5) No person who is required by an order under this rule to produce anything in any criminal proceedings in the requesting foreign country shall be required to produce that thing and such a person could not be compelled to do so.

(6) Where a court orders a person to give an authorized officer or police officer appointed by the central authority access to any thing on any premises, it may, order any person who appears to him to be entitled to grant entry to the premises to allow such an authorized officer or police officer appointed by the central authority, to enter into the premises to obtain access to the thing.

(7) Where any material to which such an order relates to any information contained in or accessible by means of any data equipment shall have effect as an order to produce the material in a form which can be taken away and which is visible and legible, and shall have effect as an order to give access to the material in a form which is visible and legible.

(8) Where an order is passed by a court, no person is excused from producing or making available anything on the ground that the production or making available of the thing might tend to incriminate the person or make the person liable to a penalty, or the production or making available of the thing would be in breach of an obligation of the person not to disclose the existence of the contents of the thing unless it is subject legal privilege, or there is any secrecy or other restrictions upon the disclosure of information imposed by statute or otherwise.

(9) An authorised officer may take photograph or make copies of any thing produced or to which access is granted pursuant to an order made by the court.



(10) Where an authorised officer takes possession of anything by an order of the court or takes any photograph or makes any copy of the thing, he may retain the thing, photograph or copy for a period of up to one month pending a written direction from the central authority as to the manner in which the thing, photograph or copy is to be dealt with for sending it to the appropriate authority of the foreign country concerned.

**14. Immunities-** (1) No civil or criminal action, shall lie against any person for producing or giving access to any thing, if he had produced or given access to the thing in good faith in compliance with an order of the court made against him under rule-13, or for doing any act if he had done the act in good faith as a result of complying with such an order of the court.

(2) Any person who complies with an order made under rule-13, shall not be treated as being in breach of any restriction upon the disclosure of information or thing imposed by law, contract or rules of professional conduct.

**15. Failure to comply with production order.-** Any person who without reasonable excuse contravenes or fails to comply with an order under rule-13 or 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, without indicating to the authorised officer that the material is false or misleading, shall be guilty of an offence and liable to imprisonment for a term not exceeding two years or shall be liable to a fine not exceeding TK.1,00,000/-(one lac) or with both.

**16. Requests for attendance of person in foreign country.-**

(1) Where the appropriate authority of a foreign country is satisfied that-

(a) there are reasonable grounds to believe that a person in Bangladesh is capable of giving evidence or assistance relevant to a criminal matter involving offence in that foreign country ; and

(b) that person consents to travel to the requesting foreign country for the purpose of giving such evidence or assistance,

the appropriate authority of that foreign country may request the central authority of Bangladesh to assist in making available the attendance of that person in the requesting foreign country for the purpose of giving such evidence or assistance.

(2) The central authority of Bangladesh may make arrangement with the appropriate authority of the foreign country for the purpose of return of that person from the foreign country to Bangladesh or such other relevant steps as may be required.

(3) Where pursuant to sub-rule (1) the appropriate authority of a foreign country requests the assistance of the central authority of Bangladesh for attendance of any person in that foreign country, the person to whom the request relates shall not be subject to any penalty or liability or otherwise prejudiced in law by reason of his refusal or failure to consent to attend as requested.

(4) A person who is in foreign country pursuant to a request made under sub-rule (1) shall not -

(a) be detained, prosecuted or punished for any offence alleged to have been committed before that person's departure from Bangladesh; or

(b) be subjected to any civil suit in respect of any act or omission alleged to have occurred before that person's departure from Bangladesh pursuant to the request; or

(c) be required to give evidence or assistance in relation to any criminal matter other than the criminal matter to which the request relates.

(5) The provision of sub-rule (4) shall not apply, if the person has left the foreign country or has had the opportunity of leaving the foreign country, and has remained in the foreign country otherwise than for the purpose to which the request relates.

(6) Where a person is in foreign country pursuant to a request made under sub-rule (1) and that person has made a statement in relation to a criminal matter to which the request relates, that statement-

(a) shall not be admitted or otherwise used in any prosecution against him unless the central authority of Bangladesh consents to its being so used;

(b) may be admitted or used against him in any criminal proceeding in foreign country, for the purpose of impeaching his credibility or as evidence of any fact of which direct oral evidence is admissible; or

(c) shall not be admitted if it brings inconsistency with the material fact.

**17. Custody of persons in transit.**-(1) A person who is in custody in a foreign country and has consented to give evidence or assistance in relation to a criminal matter in another foreign country may be transported through Bangladesh, in the custody of that other foreign country, if the first-mentioned foreign country gives prior notice of this to the central authority of Bangladesh.

(2) The person being transported through Bangladesh in custody may, if an aircraft, vessel or train by which the person is being transported lands or calls in Bangladesh, be kept in such custody in Bangladesh with such authorised officer as the central authority directs in writing until his transportation is continued.

(3) Where a person is being held in custody pursuant to a direction under sub-rule (2) and the person's transportation is not, in the opinion of the central authority, continued within a reasonable time, the central authority may direct that the person be transported in custody to the foreign country from which the person was first transported, and such direction shall be

sufficient authority for that person's removal from Bangladesh by such means as the central authority directs.

(4) If a person who is in custody pursuant to a direction under sub-rule (2) escapes from the custody, any police officer may arrest him without warrant, and such person shall be guilty of an offence and shall be liable to imprisonment for a term not exceeding two years or with fine not exceeding TK. 1,00,000/- (one lac) or with both.

(5) A person who has been arrested as mentioned in sub-rule (4) shall be returned to custody in accordance with the direction.

### **18. Requests for enforcement of foreign confiscation order.-**

(1) Where there are reasonable grounds for believing that some of or all of the property concerned is located in Bangladesh, the appropriate authority of foreign country may request the central authority of Bangladesh to make arrangement for the enforcement of a confiscation order made by foreign country in a judicial process.

(2) On receipt of a request under sub-rule (1) the central authority of Bangladesh may take action to implement foreign confiscation order under the existing law.

(4) A certificate shall be issued by or on behalf of the central authority of Bangladesh stating that the property has been recovered in the Bangladesh pursuant to a request so made and also include the value of the property so recovered. Such a certificate shall be admissible in evidence in judicial proceedings.

(5) Where the value of property recovered is expressed in a currency other than that of Bangladesh, the extent to which the amount payable under foreign confiscation order is to be reduced in writing, and shall be calculated on the basis of exchange rate prevailing on the date on which the property was recovered in Bangladesh.

**19. Foreign request for assistance in locating or identifying persons.-** Where the appropriate authority of a foreign country is satisfied that there are reasonable grounds for believing that there is, in Bangladesh a person who is or might be concerned in or affected by or could give or provide evidence or assistance relevant to any criminal matter in foreign country, the appropriate authority of that foreign country may request the central authority of Bangladesh to assist in locating or identifying that person. ###

**20. Foreign request for assistance in service of process.-**The appropriate authority of a foreign country may request the central authority of Bangladesh to assist in effecting service of any process where the appropriate authority of that foreign country is satisfied that, for the purpose of, or in connection with, any criminal matter in that foreign country, it is necessary or desirable to serve that process on a person or authority in Bangladesh.

**21. Proof of orders, process etc. of foreign country.-**(1) For the purposes of rule 18, 19 and 20-

(a) any order made or judgment given by a court of a foreign country purporting to bear the seal of that court or to be signed by any person in his capacity as a judge, magistrate or officer of the court, shall be deemed without further proof to have been duly sealed or, as the case may be, to have been signed by that person; and

(b) any process issued, or a document duly authenticated, that purports to be a copy of any process issued or order made or judgment given by a court of a foreign country shall be deemed without further proof to be a true copy.

(2) A document is duly authenticated for the purpose of sub-rule (1)(a) and 1(b), if it purports to be certified by any person in his capacity as a judge, magistrate or officer of the court in question or by or on behalf of the appropriate authority of that foreign country.

**22. Special provision on certain measures.**-(1) On receipt of a request for execution of searching, freezing and seizing order of a foreign country under this Act, property may be searched, seized, freezed and attached by the competent authority being directed by the central authority of Bangladesh in accordance with the respective law under which the offence is alleged to have been committed.

(2) Where execution of a request requires freezing, seizing or attaching any property which does not cover by executive order the competent authority shall make an application to the competent court for freezing, seizing or attachment. In execution of such a request the corresponding provisions of the Code of Criminal Procedure, 1898 shall apply.

(3) The central authority shall in so far as law of Bangladesh permits, carry out requests for search and seizure, and delivery of any material to the requesting State for evidentiary purposes, provided that the rights of *bonafide* third parties are protected.

## **PART-IV**

### **Miscellaneous provisions**

**23. Central authority to give notice to the Government.**-(1) The central authority of Bangladesh shall give notice in written form as to every request made by Bangladesh and every request received from foreign country.

(2) A notice under sub-rule (1) shall in case of a request made by Bangladesh be given before the request is made, and in case of foreign request soon after the receipt of the request and before being processed.

(3) Every such notice shall be accompanied by a copy of the request, relevant documents, summary of material facts and such other materials as may be required by the Government.

(4) Upon receipt of a notice under sub-rule (1), the Government may give such direction to the central authority not to take action, where it contravenes any provision of the Act or where

such a request by Bangladesh or by any foreign country is against the sovereignty, security or public order of Bangladesh.

(5) Where a foreign request has been complied with, the central authority shall, if the Government so requires, provide the Government with particulars of any evidence, documents or other assistance provided pursuant to the request.

**24. Authentication of documents.**-(1) Subject to the law relating to the admissibility of evidence, any document that is obtained, provided, or produced pursuant to a request made under this Act and that is duly authenticated is admissible in evidence in any criminal proceedings.

(2) A document is duly authenticated for the purposes of sub-rule (1), if it purports to be signed or certified by a judge, magistrate, or official of a foreign country, and either it is verified by the oath of a witness, or of an official of the government of that country or it purports to be sealed with an official or public seal of that country or of a department or official of the Government, of that country.

(3) Nothing in this rule prevents the proof of any matter, or the admission in evidence of any document, in accordance with any other provision of this Act or any other law of Bangladesh.

**25. Provisions of publicly available documents and other records.**-(1) The requested country shall provide copies of documents and records in so far as they are open to public access as part of a public register or otherwise, or in so far as they are available for the purchase or inspection by the public.

(2) The requested country may provide copies of any other document or record under the same conditions as such document or record may be provided to its own law enforcement and judicial authorities.

**26. Costs.**-The ordinary costs of executing a request shall be borne by the requesting country unless otherwise determined by the parties. If expenses of a substantial or extraordinary nature

are or will be required to execute the request, the parties shall consult in advance to determine the terms and conditions under which the request shall be executed as well as the manner in which the costs shall be borne.

**27. Protection of confidentiality.-** (1) The requested country shall use its best endeavours to keep confidential the request for assistance, its contents and supporting documents as well as fact of granting such assistance. If the request cannot be executed without breaching confidentiality, the requested country shall so inform the requesting country, which shall then determine whether the request should nevertheless be executed.

(2) The requesting country shall keep confidential evidence and information provided by the requested country, except to the extent that the evidence and information is needed for the investigation and proceedings described in the request.

**28. Proceeds of crime.-**(1) The requested country shall, upon request, endeavour to ascertain whether any proceeds of the alleged crime are located within its jurisdiction and shall notify the requesting country of the results of its inquiries. In making the request, the requesting country shall notify the requested country of the basis of its belief that such proceeds may be located within its jurisdiction.

(2) In pursuance of a request made under sub-rule (1), the requested country shall endeavour to trace assets, investigate financial dealings, and obtain other information or evidence that may help to secure the recovery of proceeds of crime.

(3) Where, pursuant to sub-rule (1), suspected proceeds of crime are found, the requested country shall upon request take such measures as are permitted by its law to prevent any dealing in, transfer or disposal of, those suspected proceeds of crime, pending a final determination in respect of those proceeds by a court of the requesting country.



(4) The requested country shall to the extent permitted by its law, give effect to or permit enforcement of a final order forfeiting or confiscating the proceeds of crime made by a court of the requesting country or take such other appropriate action to secure the proceeds following a request by the requesting country.

(5) Nothing in sub-rule (1) shall prejudice the rights of *bona fide* third parties.