

GENERAL EXPLANATORY NOTE:

_____ Words underlined with a solid line indicate insertions in the existing provisions

() Words in bold type in square brackets indicate omissions from existing provisions

BILL

To amend the International Co-operation in Criminal Matters Act, 2000 so as to provide for a definition of instrumentality of crime **and Intended Instrumentality of an offence; provisions to further provide grounds for refusal; provision a request of forfeiture or confiscation of instrumentalities of crime from foreign states**

1. “Instrumentality of crime” means Instrumentality of an offence as defined in section 1 of the Prevention of Organised Crime Act, 2004 (Act No. 29 of 2004)

The definition of “instrumentality of crime” is inserted by Act 29 of 2004. But for correct alphabetical order it should appear above the definition of “letter of request”.

2. “Intended Instrumentality of an offence” means Intended Instrumentalities of an offence as defined in section 1 of the Prevention of Organised Crime Act, 2004 (Act No. 29 of 2004)

“The definition of Intended Instrumentality of an offence” is inserted by Act 29 of 2004. But for correct alphabetical order it should appear below the definition of “instrumentalities of crime”

3. Amend Section 7A (1) of the act, by the additions after paragraph (d) of the following paragraphs.

(e) the request relates to a political offence or an offence of a political character;

(f) the request relates to an offence under military law which would not be an offence under ordinary criminal law

4. Amend section 19 of the act, by inserting 19A which will read as follows:

19A Request for forfeiture or confiscation of instrumentalities of crime from foreign states

a) The Requested State shall upon request initiate proceedings for forfeiture or confiscation of any instrumentalities of an offence or Intended Instrumentalities of an offence.

b) Requests shall be executed in accordance with the laws of the Requested State.

5. **Short title and commencement**

This act shall be called the International Co-operation in Criminal Matters Amendment Act, 2022, and shall come into operation on a date of its publication in the Gazette