

政府總部
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GOVERNMENT SECRETARIAT
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HONG KONG

本函編號 OUR REF.: SBCR 3/5691/95 Pt. 40

來函編號 YOUR REF.: LS/R/10/06-07

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25 May 2007

Legislative Council Secretariat
Legal Service Division
Legislative Council Building
8, Jackson Road, Central
Hong Kong
(Attn: Mr LEE Ka-yun, Kelvin)

Dear Mr Lee,

Mutual Legal Assistance in Criminal Matters (Malaysia) Order

I refer to your letter of 21 May 2007. Our response to your questions on the above Order is set out in the following paragraphs –

Article 1 – Scope of Assistance

Article 1(2)(b) reflects the statutory confines within which Malaysia can assist Hong Kong on a request for service, i.e. limited to “judicial” documents, on the basis of their implementing legislation, being the Mutual Legal Assistance in Criminal Matters Act. On the other hand, the corresponding Hong Kong statute, Mutual Legal Assistance in Criminal Matters Ordinance (Cap. 525), allows service of any document relating to a foreign criminal matter.^{Note} Article 13(1) reflects the assistance that may be rendered by Hong Kong to Malaysia.

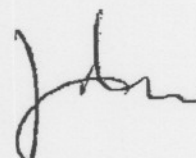
^{Note} A criminal matter is defined as an investigation; a prosecution or an ancillary criminal matter under Cap. 525.

Articles 1(2)(b) and 13(1) together accord with the spirit of bilateral agreements on mutual legal assistance, i.e. to render the widest possible assistance, permitted under a party's domestic law, to the other party.

Article 11 – Taking of Testimony by Video or Television Link

Section 10 of Cap. 525 as amended by the Evidence (Miscellaneous Amendments) Ordinance 2003 (Ord. No. 23 of 2003), which implements the agreements on mutual legal assistance, empowers the Secretary for Justice to authorise the taking of evidence by way of video or live television link upon a foreign request. The admissibility of evidence in a court in Malaysia is a matter for them as the requesting party.

Yours sincerely,



(Miss Jane Lee)
for Secretary for Security