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[reference to the provisions of the Budapest Convention]

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Signature of the Budapest Convention:	N/A
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Chapter I – Use of terms	
<p>Article 1 – “Computer system”, “computer data”, “service provider”, “traffic data”:</p> <p>For the purposes of this Convention:</p> <p>a “computer system” means any device or a group of interconnected or related devices, one or more of which, pursuant to a program, performs automatic processing of data;</p> <p>b “computer data” means any representation of facts, information or concepts in a form suitable for processing in a computer system, including a program suitable to cause a computer system to perform a function;</p> <p>c “service provider” means:</p> <p>i any public or private entity that provides to users of its service the ability to communicate by means of a computer system, and</p> <p>ii any other entity that processes or stores computer data on behalf of such communication service or users of such service;</p> <p>d “traffic data” means any computer data relating to a communication by means of a computer system, generated by a computer system that formed a part in the chain of communication, indicating the communication’s origin, destination, route, time, date, size, duration, or type of underlying service</p>	
Chapter II – Measures to be taken at the national level	
Section 1 – Substantive criminal law	
Title 1 – Offences against the confidentiality, integrity and availability of computer data and systems	
<p>Article 2 – Illegal access</p> <p>Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when</p>	

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<p>committed intentionally, the access to the whole or any part of a computer system without right. A Party may require that the offence be committed by infringing security measures, with the intent of obtaining computer data or other dishonest intent, or in relation to a computer system that is connected to another computer system.</p>	
<p>Article 3 – Illegal interception Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, the interception without right, made by technical means, of non-public transmissions of computer data to, from or within a computer system, including electromagnetic emissions from a computer system carrying such computer data. A Party may require that the offence be committed with dishonest intent, or in relation to a computer system that is connected to another computer system.</p>	<p>Protection of Private Communications Act 1973 Part II– Protection of privacy Section 4-Use of illegally intercepted communications. Subject to this Act, a person who: (a) divulges to another or publishes in any way any information obtained, to the knowledge of that person, by the prohibited interception of a private communication; or (b) communicates any such information contrary to this Act, is guilty of an offence. Penalty: A fine not exceeding K2,000.00 or imprisonment for a term not exceeding 12 months, or both.</p>
<p>Article 4 – Data interference 1 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, the damaging, deletion, deterioration, alteration or suppression of computer data without right. 2 A Party may reserve the right to require that the conduct described in paragraph 1 result in serious harm.</p>	
<p>Article 5 – System interference Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, the serious hindering without right of the functioning of a computer system by inputting, transmitting, damaging, deleting, deteriorating, altering or suppressing computer data</p>	
<p>Article 6 – Misuse of devices 1 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally and without right:</p>	

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<p>a the production, sale, procurement for use, import, distribution or otherwise making available of:</p> <p>i a device, including a computer program, designed or adapted primarily for the purpose of committing any of the offences established in accordance with the above Articles 2 through 5;</p> <p>ii a computer password, access code, or similar data by which the whole or any part of a computer system is capable of being accessed, with intent that it be used for the purpose of committing any of the offences established in Articles 2 through 5; and</p> <p>b the possession of an item referred to in paragraphs a.i or ii above, with intent that it be used for the purpose of committing any of the offences established in Articles 2 through 5. A Party may require by law that a number of such items be possessed before criminal liability attaches.</p> <p>2 This article shall not be interpreted as imposing criminal liability where the production, sale, procurement for use, import, distribution or otherwise making available or possession referred to in paragraph 1 of this article is not for the purpose of committing an offence established in accordance with Articles 2 through 5 of this Convention, such as for the authorised testing or protection of a computer system.</p> <p>3 Each Party may reserve the right not to apply paragraph 1 of this article, provided that the reservation does not concern the sale, distribution or otherwise making available of the items referred to in paragraph 1 a.ii of this article.</p>	
Title 2 – Computer-related offences	
<p>Article 7 – Computer-related forgery</p> <p>Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally and without right, the input, alteration, deletion, or suppression of computer data, resulting in inauthentic data with the intent that it be considered or acted upon for legal purposes as if it were authentic, regardless whether or not the data is directly readable and intelligible. A Party may require an intent to defraud, or similar dishonest intent, before criminal liability attaches.</p>	<p>Criminal Code Act 1974</p> <p>Subdivision B, 462-Forgery in general: punishment in special cases.</p> <p>(1) A person who forges any document, writing or seal is guilty of an offence that, unless otherwise stated, is a crime.</p> <p>Penalty: If no other punishment is provided imprisonment for a term not exceeding three years.</p> <p>(2) If the thing forged–</p> <p>(a) purports to be, or is intended by the offender to be understood to be or to be used as–</p> <p>(i) the National Seal; or</p>

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	<p>(ii) the great seal of the United Kingdom, or of Australia; or</p> <p>(iii) the privy seal, or any privy signet of the Queen and Head of State; or</p> <p>(iv) the royal sign manual of the Queen and Head of State; or</p> <p>(v) the seal of the Head of State or the Governor-General; or</p> <p>(vi) any public seal lawfully appointed to be used for authenticating an act of State in any part of Her Majesty's Dominions; or</p> <p>(b) is a document having on it or affixed to it any such seal, signet or sign manual, or anything that purports to be, or is intended by the offender to be understood to be, any such seal, signet or sign manual, the offender is liable, subject to Section 19, to imprisonment for life.</p> <p>(3) If the thing forged purports to be, or is intended by the offender to be understood to be or to be used as-</p> <p>(a) a document that is-</p> <p>(i) evidence of title to-</p> <p>(A) any portion of the public debt of any of Her Majesty's Dominions or of any foreign State; or</p> <p>(B) any dividend or interest payable in respect of a debt referred to in Clause (A); or</p> <p>(ii) a transfer or assignment of any document referred to in Subparagraph (i); or</p> <p>(iii) a receipt or certificate for any interest or money payable or accruing on or in respect of a debt referred to in Subparagraph (i); or</p> <p>(b) a transfer or assignment of-</p> <p>(i) a share in any corporation, company or society, whether domestic or foreign; or</p> <p>(ii) any share or interest in-</p> <p>(A) the capital stock of any such corporation, company or society; or</p> <p>(B) the debt of any such corporation, company or society; or</p> <p>(c) a receipt or certificate for any interest or money payable or accruing on or in respect of any share, interest or debt referred to in Paragraph (b); or</p> <p>(d) a document acknowledging or being evidence of the indebtedness of the Government or of the Government of any of Her Majesty's Dominions, or of any foreign Prince or State, to any person; or</p> <p>(e) a document that by the law of Papua New Guinea or of any other country, is evidence of the title to any land or estate in land in Papua New Guinea or that other country, or an entry in any register or book that is such evidence; or</p> <p>(f) a document that by law is required for procuring the registration of any title to any land or estate in land; or</p> <p>(g) a testamentary instrument, whether the testator is living or dead, or a probate or letters of administration; or</p>

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	<p>(h) a bank note, bill of exchange or promissory note, or an acceptance, endorsement, or assignment of a bank note, bill of exchange or promissory note; or</p> <p>(i) a deed bond or other written obligation, or a warrant, order or other security for—</p> <p>(i) the payment of money; or</p> <p>(ii) the delivery or transfer of a valuable security; or</p> <p>(iii) procuring or giving credit, whether negotiable or not, or an endorsement or assignment of any such document; or</p> <p>(j) an accountable receipt, or an acknowledgment of the deposit, receipt, payment or delivery of money or goods, or of any valuable security, or an endorsement or assignment of any such document; or</p> <p>(k) a bill of lading, dock warrant, warehouse-keeper's certificate, warrant or order for the delivery of goods, or any other document used in the ordinary course of business—</p> <p>(i) as proof of the possession or control of goods; or</p> <p>(ii) as authorizing, or purporting to authorize, either by endorsement or by delivery, the possessor of the document to transfer or receive the goods represented by the document, or an endorsement or assignment of any such document; or</p> <p>(l) a charter party, or a shipping document accompanying a bill of lading, or an endorsement or assignment of a charter party or such a document; or</p> <p>(m) a policy of insurance of any kind; or</p> <p>(n) a power of attorney or other authority to execute any document referred to in the preceding provisions of this section; or</p> <p>(o) the signature of a witness to any of the documents referred to in the preceding provisions of this section to which attestation is by law required; or</p> <p>(p) a register of births, baptisms, marriages, deaths or burials authorized or required by law to be kept, or any entry in any such register; or</p> <p>(q) a copy of any register or entry referred to in Paragraph (p), that is authorized or required by law to be given or sent to or by any person; or</p> <p>(r) a seal used by a registrar appointed to keep any register referred to in this subsection, or the impression of any such seal, or the signature of any such registrar,</p> <p>the offender is liable to imprisonment for a term not exceeding 14 years.</p> <p>(4) If the thing forged purports to be, or is intended by the offender to be understood to be or to be used as—</p> <p>(a) the signature of the Head of State, a member of the National Executive Council, the Governor-General of Australia, a member of the Federal Executive Council of Australia, or any of Her Majesty's Principal Secretaries of State or Under Secretaries of State, on any grant, commission, warrant, or order; or</p>

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	<p>(b) a seal or stamp, used for the purposes of the public revenue in Papua New Guinea or of any part of Her Majesty's Dominions or in any foreign State; or</p> <p>(c) a document relating to the obtaining or receiving of any money payable on account of the Public Service of Papua New Guinea or any part of Her Majesty's Dominions, or any other property of Her Majesty in any part of Her Dominions, or a power of attorney or other authority to execute any such document, the offender is liable to imprisonment for a term not exceeding 14 years.</p> <p>(5) If the thing forged purports to be, or is intended by the offender to be understood to be or to be used as—</p> <p>(a) the seal of a court of record of Papua New Guinea or in any part of Her Majesty's Dominions, or a seal used at the Chambers of a Judge for stamping or sealing summonses or orders; or</p> <p>(b) a seal or signature by virtue of which any document can by law be used as evidence; or</p> <p>(c) any process of any court of justice of Papua New Guinea or in any part of Her Majesty's Dominions; or</p> <p>(d) a document issued or made by or out of or by the authority of a court referred to in Paragraph (c); or</p> <p>(e) a document or copy of a document of any kind, which document or copy is intended by the offender to be used as evidence in a court referred to in Paragraph (c); or</p> <p>(f) a record or other document of or belonging to a court of record of Papua New Guinea or in any part of Her Majesty's Dominions; or</p> <p>(g) a copy or certificate of any record of a court referred to in Paragraph (f); or</p> <p>(h) an instrument, that is made evidence by any law; or</p> <p>(i) a document that a justice is required or authorized by law to make, attest or issue, and purporting to be made, attested or issued by a justice; or</p> <p>(j) a stamp used for denoting the payment of fees or percentages in any court; or</p> <p>(k) a licence or certificate required or authorized by law to be given for the celebration of a marriage; or</p> <p>(l) a consent to the marriage of a minor given by a person authorized by law to give it; or</p> <p>(m) a certificate of marriage given under the laws relating to the solemnization of marriage; or</p> <p>(n) a copy of the registry of a marriage; or</p> <p>(o) a stamp issued or made under the laws relating to the Post Office; or</p> <p>(p) a power of attorney or letter of attorney; or</p> <p>(q) the signature of a witness to a power of attorney or letter of attorney; or</p> <p>(r) a contract, or a writing that constitutes, with other writings, a contract, or that is evidence of a contract; or</p>

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	<p>(s) an authority or request for the payment of money or for the delivery of property; or</p> <p>(t) an acquittance or discharge, a voucher of having received any property, or any document that is evidence of the receipt of any property; or</p> <p>(u) any mark that under the authority of a law is impressed on or otherwise attached to or connected with any article for the purpose of denoting–</p> <p>(i) the quality of the article; or</p> <p>(ii) the fact that it has been examined or approved by or under the authority of some public body or public officer; or</p> <p>(v) a certificate given under the laws relating to quarantine,</p> <p>the offender is liable to imprisonment for a term not exceeding seven years.</p> <p>(6) If the thing forged purports to be, or is intended by the offender to be understood to be or to be used as, a message to be sent by telegraph, or a message received by telegraph, the offender is liable to the same punishment as if he had forged a document to the same effect as the message.</p>
<p>Article 8 – Computer-related fraud</p> <p>Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally and without right, the causing of a loss of property to another person by:</p> <p style="padding-left: 40px;">a any input, alteration, deletion or suppression of computer data;</p> <p style="padding-left: 40px;">b any interference with the functioning of a computer system,</p> <p>with fraudulent or dishonest intent of procuring, without right, an economic benefit for oneself or for another person.</p>	
Title 3 – Content-related offences	
<p>Article 9 – Offences related to child pornography</p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally and without right, the following conduct:</p> <p style="padding-left: 40px;">a producing child pornography for the purpose of its distribution through a computer system;</p> <p style="padding-left: 40px;">b offering or making available child pornography through a computer system;</p>	<p>Criminal Code Act 1974</p> <p>Division 2B, 229S-Producing and distributing child pornography</p> <p>A person who:</p> <p>(a) knowingly produces, distributes, prints or publishes any child pornography; or</p> <p>(b) knowingly imports, exports, sells or shows any child pornography; or</p> <p>(c) knowingly possesses any child pornography for the purpose of distributing, publishing, exporting, selling or showing it, is guilty of a crime.</p> <p>Penalty: Imprisonment of a term of not exceeding 10 years.</p>

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<p>c distributing or transmitting child pornography through a computer system;</p> <p>d procuring child pornography through a computer system for oneself or for another person;</p> <p>e possessing child pornography in a computer system or on a computer-data storage medium.</p> <p>2 For the purpose of paragraph 1 above, the term "child pornography" shall include pornographic material that visually depicts:</p> <p>a a minor engaged in sexually explicit conduct;</p> <p>b a person appearing to be a minor engaged in sexually explicit conduct;</p> <p>c realistic images representing a minor engaged in sexually explicit conduct</p> <p>3 For the purpose of paragraph 2 above, the term "minor" shall include all persons under 18 years of age. A Party may, however, require a lower age-limit, which shall be not less than 16 years.</p> <p>4 Each Party may reserve the right not to apply, in whole or in part, paragraphs 1, sub-paragraphs d. and e, and 2, sub-paragraphs b. and c.</p>	
Title 4 – Offences related to infringements of copyright and related rights	
<p>Article 10 – Offences related to infringements of copyright and related rights</p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law the infringement of copyright, as defined under the law of that Party, pursuant to the obligations it has undertaken under the Paris Act of 24 July 1971 revising the Bern Convention for the Protection of Literary and Artistic Works, the Agreement on Trade-Related Aspects of Intellectual Property Rights and the WIPO Copyright Treaty, with the exception of any moral rights conferred by such conventions, where such acts are committed wilfully, on a commercial scale and by means of a computer system.</p> <p>2 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law the</p>	<p>Copyright and Neighboring Rights Act 2000</p> <p>Article 29-Measures, remedies and sanctions against abuses.</p> <p>(1) The following acts shall be considered unlawful and, in the application of Sections 26, 27 and 28, shall be assimilated to infringements of the rights protected under this Act:</p> <p>(a) the manufacture or importation for sale or rental of any device or means specifically designed or adapted to circumvent any device or means intended to prevent or restrict reproduction of a work, a sound recording or a broadcast, or to impair the quality of copies made;</p> <p>(b) the manufacture or importation for sale or rental of any device or means that is susceptible to enable or assist the reception of an encrypted program, which is broadcast or otherwise communicated to the public, including by satellite, by those who are not entitled to receive the program;</p> <p>(c) the removal or alteration of any electronic rights management information without authority;</p>

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<p>infringement of related rights, as defined under the law of that Party, pursuant to the obligations it has undertaken under the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations (Rome Convention), the Agreement on Trade-Related Aspects of Intellectual Property Rights and the WIPO Performances and Phonograms Treaty, with the exception of any moral rights conferred by such conventions, where such acts are committed wilfully, on a commercial scale and by means of a computer system.</p> <p>3 A Party may reserve the right not to impose criminal liability under paragraphs 1 and 2 of this article in limited circumstances, provided that other effective remedies are available and that such reservation does not derogate from the Party's international obligations set forth in the international instruments referred to in paragraphs 1 and 2 of this article.</p>	<p>(d) the distribution, import for distribution, broadcasting, communication to the public or making available to the public, without authority, of works, performances, sound recordings or broadcasts, knowing, or having reason to know, that electronic rights management information has been removed or altered without authority.</p> <p>(2) In the application of Sections 26, 27 and 28, any illicit device and means referred to in Subsection (1) and any copy from which rights management information has been removed, or in which such information has been altered, shall be assimilated to infringing copies or works, and any illicit act referred to in Subsection (1) shall be treated as an infringement of copyright or neighbouring rights to which the civil remedies and criminal sanctions provided for in Sections 26, 27 and 28 are applicable.</p>
Title 5 – Ancillary liability and sanctions	
<p>Article 11 – Attempt and aiding or abetting</p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, aiding or abetting the commission of any of the offences established in accordance with Articles 2 through 10 of the present Convention with intent that such offence be committed.</p> <p>2 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, an attempt to commit any of the offences established in accordance with Articles 3 through 5, 7, 8, and 9.1.a and c. of this Convention.</p> <p>3 Each Party may reserve the right not to apply, in whole or in part, paragraph 2 of this article.</p>	
<p>Article 12 – Corporate liability</p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to ensure that legal persons can be held liable for a criminal offence established in accordance with this Convention, committed for their benefit by any natural person, acting either individually or as part of an organ of the legal person, who has a leading position within it, based on:</p> <p style="padding-left: 20px;">a a power of representation of the legal person;</p>	

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<p>b an authority to take decisions on behalf of the legal person;</p> <p>c an authority to exercise control within the legal person.</p> <p>2 In addition to the cases already provided for in paragraph 1 of this article, each Party shall take the measures necessary to ensure that a legal person can be held liable where the lack of supervision or control by a natural person referred to in paragraph 1 has made possible the commission of a criminal offence established in accordance with this Convention for the benefit of that legal person by a natural person acting under its authority.</p> <p>3 Subject to the legal principles of the Party, the liability of a legal person may be criminal, civil or administrative.</p> <p>4 Such liability shall be without prejudice to the criminal liability of the natural persons who have committed the offence.</p>	
<p>Article 13 – Sanctions and measures</p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to ensure that the criminal offences established in accordance with Articles 2 through 11 are punishable by effective, proportionate and dissuasive sanctions, which include deprivation of liberty.</p> <p>2 Each Party shall ensure that legal persons held liable in accordance with Article 12 shall be subject to effective, proportionate and dissuasive criminal or non-criminal sanctions or measures, including monetary sanctions.</p>	
<i>Section 2 – Procedural law</i>	
<p>Article 14 – Scope of procedural provisions</p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to establish the powers and procedures provided for in this section for the purpose of specific criminal investigations or proceedings.</p> <p>2 Except as specifically provided otherwise in Article 21, each Party shall apply the powers and procedures referred to in paragraph 1 of this article to:</p> <ul style="list-style-type: none"> a the criminal offences established in accordance with Articles 2 through 11 of this Convention; b other criminal offences committed by means of a computer system; and c the collection of evidence in electronic form of a criminal offence. <p>3 a Each Party may reserve the right to apply the measures referred to in Article 20 only to offences or categories of offences specified in the</p>	

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<p>reservation, provided that the range of such offences or categories of offences is not more restricted than the range of offences to which it applies the measures referred to in Article 21. Each Party shall consider restricting such a reservation to enable the broadest application of the measure referred to in Article 20.</p> <p>b Where a Party, due to limitations in its legislation in force at the time of the adoption of the present Convention, is not able to apply the measures referred to in Articles 20 and 21 to communications being transmitted within a computer system of a service provider, which system:</p> <ul style="list-style-type: none"> i is being operated for the benefit of a closed group of users, and ii does not employ public communications networks and is not connected with another computer system, whether public or private, <p>that Party may reserve the right not to apply these measures to such communications. Each Party shall consider restricting such a reservation to enable the broadest application of the measures referred to in Articles 20 and 21</p>	
<p>Article 15 – Conditions and safeguards</p> <p>1 Each Party shall ensure that the establishment, implementation and application of the powers and procedures provided for in this Section are subject to conditions and safeguards provided for under its domestic law, which shall provide for the adequate protection of human rights and liberties, including rights arising pursuant to obligations it has undertaken under the 1950 Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms, the 1966 United Nations International Covenant on Civil and Political Rights, and other applicable international human rights instruments, and which shall incorporate the principle of proportionality.</p> <p>2 Such conditions and safeguards shall, as appropriate in view of the nature of the procedure or power concerned, <i>inter alia</i>, include judicial or other independent supervision, grounds justifying application, and limitation of the scope and the duration of such power or procedure.</p> <p>3 To the extent that it is consistent with the public interest, in particular the sound administration of justice, each Party shall consider the impact of the</p>	

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<p>powers and procedures in this section upon the rights, responsibilities and legitimate interests of third parties.</p>	
<p>Article 16 – Expedited preservation of stored computer data</p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to enable its competent authorities to order or similarly obtain the expeditious preservation of specified computer data, including traffic data, that has been stored by means of a computer system, in particular where there are grounds to believe that the computer data is particularly vulnerable to loss or modification.</p> <p>2 Where a Party gives effect to paragraph 1 above by means of an order to a person to preserve specified stored computer data in the person’s possession or control, the Party shall adopt such legislative and other measures as may be necessary to oblige that person to preserve and maintain the integrity of that computer data for a period of time as long as necessary, up to a maximum of ninety days, to enable the competent authorities to seek its disclosure. A Party may provide for such an order to be subsequently renewed.</p> <p>3 Each Party shall adopt such legislative and other measures as may be necessary to oblige the custodian or other person who is to preserve the computer data to keep confidential the undertaking of such procedures for the period of time provided for by its domestic law.</p> <p>4 The powers and procedures referred to in this article shall be subject to Articles 14 and 15.</p>	
<p>Article 17 – Expedited preservation and partial disclosure of traffic data</p> <p>1 Each Party shall adopt, in respect of traffic data that is to be preserved under Article 16, such legislative and other measures as may be necessary to:</p> <p>a ensure that such expeditious preservation of traffic data is available regardless of whether one or more service providers were involved in the transmission of that communication; and</p> <p>b ensure the expeditious disclosure to the Party’s competent authority, or a person designated by that authority, of a sufficient amount of traffic data</p>	

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<p>to enable the Party to identify the service providers and the path through which the communication was transmitted.</p> <p>2 The powers and procedures referred to in this article shall be subject to Articles 14 and 15.</p>	
<p>Article 18 – Production order</p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to order:</p> <p>a a person in its territory to submit specified computer data in that person’s possession or control, which is stored in a computer system or a computer-data storage medium; and</p> <p>b a service provider offering its services in the territory of the Party to submit subscriber information relating to such services in that service provider’s possession or control.</p> <p>2 The powers and procedures referred to in this article shall be subject to Articles 14 and 15.</p> <p>3 For the purpose of this article, the term “subscriber information” means any information contained in the form of computer data or any other form that is held by a service provider, relating to subscribers of its services other than traffic or content data and by which can be established:</p> <p>a the type of communication service used, the technical provisions taken thereto and the period of service;</p> <p>b the subscriber’s identity, postal or geographic address, telephone and other access number, billing and payment information, available on the basis of the service agreement or arrangement;</p> <p>c any other information on the site of the installation of communication equipment, available on the basis of the service agreement or arrangement.</p>	
<p>Article 19 – Search and seizure of stored computer data</p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to search or similarly access:</p> <p>a a computer system or part of it and computer data stored therein;</p> <p>and</p>	<p>Search Act 1977</p> <p>Section 9-Powers and duties relating to searches of premises, containers, etc.</p> <p>(1) A person conducting a search under Sections 5 and 6 in any place (other than in a baggage or freight container) and his assistants (if any)-</p> <p>(a) have power-</p>

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<p>b a computer-data storage medium in which computer data may be stored in its territory.</p> <p>2 Each Party shall adopt such legislative and other measures as may be necessary to ensure that where its authorities search or similarly access a specific computer system or part of it, pursuant to paragraph 1.a, and have grounds to believe that the data sought is stored in another computer system or part of it in its territory, and such data is lawfully accessible from or available to the initial system, the authorities shall be able to expeditiously extend the search or similar accessing to the other system.</p> <p>3 Each Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to seize or similarly secure computer data accessed according to paragraphs 1 or 2. These measures shall include the power to:</p> <p>a seize or similarly secure a computer system or part of it or a computer-data storage medium;</p> <p>b make and retain a copy of those computer data;</p> <p>c maintain the integrity of the relevant stored computer data;</p> <p>d render inaccessible or remove those computer data in the accessed computer system.</p> <p>4 Each Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to order any person who has knowledge about the functioning of the computer system or measures applied to protect the computer data therein to provide, as is reasonable, the necessary information, to enable the undertaking of the measures referred to in paragraphs 1 and 2.</p> <p>5 The powers and procedures referred to in this article shall be subject to Articles 14 and 15.</p>	<p>(i) to enter and be in that place for the duration of the search and for that purpose to use such force as is reasonably necessary; and</p> <p>(ii) to the least extent necessary with the least amount of damage—to interfere with the structure of the place for the purpose of search; and</p> <p>(iii) to touch any article in that place; and</p> <p>(iv) to stop and search any person found in that place in accordance with Section 4; and</p> <p>(b) shall, within a reasonable period after the conclusion of the search, restore the place or cause the place to be restored as nearly as possible to the same state of cleanliness and neatness that existed immediately before the commencement of the search.</p> <p>Section 10-Certain property may be seized</p> <p>(1) Where, during the course of a search that is authorized by this Act, a policeman finds any thing that he believes on reasonable grounds—</p> <p>(a) has been stolen or otherwise unlawfully obtained; or</p> <p>(b) has been used or is intended to be used in the commission of any indictable offence; or</p> <p>(c) will provide evidence of an offence, he may seize that thing.</p> <p>(2) For the purposes of Sections 3(2), 5(2) and 5(3), where the person searching finds a firearm or offensive weapon he may seize it.</p> <p>(3) For the purposes of Sections 3(3) and 3(4), where the person searching finds any thing which in his opinion may be dangerous or inexpedient to leave in the possession of the person searched he may seize that thing.</p> <p>(4) For the purposes of Sections 3(5) and 5(4), where the person searching finds any thing that in his opinion—</p> <p>(a) constitutes a danger or is capable of constituting a danger to the safety of the craft; or</p> <p>(b) is capable of being used to threaten a person on the craft, he may seize that thing.</p> <p>Evidence Act 1975</p> <p>Section 65-Admissibility of computerized information</p> <p>(1) In any legal proceedings a statement contained in a document produced by a computer is admissible as evidence of any fact, stated in the document, of which direct oral evidence would be admissible, if it is shown to the satisfaction of the court that—</p> <p>(a) the document containing the statement was produced by the computer in the course of a period during which the computer was used regularly to store or process information for the purposes of activities regularly carried on over that period, whether for profit or not; and</p>

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	<p>(b) during the period there was regularly supplied to the computer, in the ordinary course of those activities, information of the kind contained in the statement or of the kind from which the information so contained was derived; and</p> <p>(c) throughout the material part of the period the computer was operating properly or, if not, that any defect in its operation during that part of the period was not such as to affect the production of the document or the accuracy of its contents; and</p> <p>(d) the information contained in the statement reproduces or is derived from information supplied to the computer in the ordinary course of those activities.</p> <p>(2) For the purpose of deciding whether or not a statement is admissible in evidence under this section, the court may draw any reasonable inference from the circumstances in which the statement was made or otherwise came into being or from any other circumstances (including, in the case of a statement contained in a document, the form and contents of that document).</p>
<p>Article 20 – Real-time collection of traffic data</p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to:</p> <ul style="list-style-type: none"> a collect or record through the application of technical means on the territory of that Party, and b compel a service provider, within its existing technical capability: <ul style="list-style-type: none"> i to collect or record through the application of technical means on the territory of that Party; or ii to co-operate and assist the competent authorities in the collection or recording of, traffic data, in real-time, associated with specified communications in its territory transmitted by means of a computer system. <p>2 Where a Party, due to the established principles of its domestic legal system, cannot adopt the measures referred to in paragraph 1.a, it may instead adopt legislative and other measures as may be necessary to ensure the real-time collection or recording of traffic data associated with specified communications transmitted in its territory, through the application of technical means on that territory.</p> <p>3 Each Party shall adopt such legislative and other measures as may be necessary to oblige a service provider to keep confidential the fact of the execution of any power provided for in this article and any information relating to it.</p>	<p>Protection of Private Communications Act 1973</p> <p>Section 15-Warrants for interception for the detection or prevention of serious offences.</p> <p>(1) Where a Judge is satisfied:</p> <ul style="list-style-type: none"> (a) that there are reasonable grounds for believing that– <ul style="list-style-type: none"> (i) an offence that is punishable by death or imprisonment for a term of not less than seven years; or (ii) an offence that is of so serious a nature in the particular circumstances of the case that he considers that any invasion of privacy resulting from the use of a secret listening device would be justified in terms of public interest, (b) that in all the circumstances the particular offence that has been or is about to be committed was or would be serious; and (c) that– <ul style="list-style-type: none"> (i) other methods of investigation have been tried and have failed, or would because of the circumstances of the particular case be unlikely to succeed; or (ii) the urgency of the matter is such that it would be impracticable to carry out an investigation of the offence by other methods of investigation; and (d) that there is good reason to believe that the interception is likely to result in a conviction or in the protection of life or property, or in the prevention of the offence, <p>the Judge may issue a warrant to the Commissioner of Police authorizing the interception of communications to or from a particular person, place or vehicle, or within a particular place or vehicle.</p> <p>(2) An application for a warrant under Subsection (1) shall be made as prescribed by the Rules of Court of the National Court or as directed by a Judge in the</p>

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<p>4 The powers and procedures referred to in this article shall be subject to Articles 14 and 15.</p>	<p>particular case, and shall be heard ex parte and in camera, no notice or report relating to the application shall be published and no record of the application or of a warrant issued on it shall be available for search by any person except by direction of a Judge.</p> <p>(3) A warrant under Subsection (1)–</p> <p>(a) shall specify–</p> <p>(i) the person, place or vehicle the subject of the warrant; and</p> <p>(ii) if the warrant is to be in force for a period of less than one month–the period for which, subject to earlier termination under this section, it is to be in force; and</p> <p>(iii) the conditions (if any) to which it is subject; and</p> <p>(b) authorizes the interception of communications to which it relates by the Commissioner of Police or a person authorized by him, subject to–</p> <p>(i) the provisions of this section; and</p> <p>(ii) such conditions and restrictions as the Judge specifies in the warrant, for the protection of privacy.</p> <p>(4) Subject to Subsection (5) a warrant under Subsection (1) remains in force–</p> <p>(a) until the end of such period as is specified in the warrant; or</p> <p>(b) until the Commissioner of Police is satisfied that the justification for its issue has ceased,</p> <p>whichever first occurs, but in any case ceases to be in force at the end of the period of one month after the date of issue.</p> <p>(5) A Judge may withdraw a warrant issued under Subsection (1).</p> <p>(6) The Commissioner of Police shall report to the Judge who issued the warrant or, if that Judge is not readily available, to some other Judge as to the result of interceptions under a warrant under Subsection (1)–</p> <p>(a) immediately after the warrant ceases to be in force; and</p> <p>(b) at such other times as a Judge directs.</p> <p>(7) Subject to Section 18, any information obtained as a result of interceptions of private communications under a warrant under Subsection (1) may be communicated to a person other than a Judge, the Commissioner of Police or a person authorized by the Commissioner only for the purpose of the investigation or prosecution of an offence disclosed by the information, or by the information and any other available evidence.</p> <p>(8) The record of a private communication intercepted under a warrant under Subsection (1) shall–</p> <p>(a) immediately be examined by the Commissioner of Police or a person authorized by him; and</p> <p>(b) unless it provides evidence of an offence of the nature referred to in Subsection (1)(a) and then to the extent that it does not provide such evidence, be immediately destroyed, together with all copies and extracts, in a manner approved by the Head of State, acting on advice.</p>

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	<p>(9) After a record is dealt with in accordance with Subsection (8), the remainder (if any) shall–</p> <p>(a) be kept, when not actually in use, in safe custody; and</p> <p>(b) be destroyed, together with all copies and extracts, in such manner as the Head of State, acting on advice, directs–</p> <p>(i) immediately the Commissioner of Police is satisfied that it is no longer of use for the purpose for which it was obtained; or</p> <p>(ii) when directed by the Judge, unless it is in the custody of a court or is in the custody of the Public Prosecutor with a view to indictment.</p> <p>Section 18-Evidentiary value of intercepted communications.</p> <p>(1) Subject to this section, evidence obtained by the interception of a communication is admissible for the same purposes and to the same extent as it would be if it had been obtained in any other way.</p> <p>(2) A private communication that has been intercepted in circumstances such that Section 10 would provide a defence to a charge of an offence against Section 3 arising out of the interception is not admissible in evidence.</p> <p>(3) A private communication that has been intercepted in circumstances such that Section 11 would provide a defence to a charge of an offence against Section 3 arising out of the interception is admissible in evidence against a person on a criminal charge only if the charge is a charge of an offence specified in Section 11.</p> <p>(4) A private communication that has been intercepted under a warrant under this Act is admissible in evidence against a person on a criminal charge only if–</p> <p>(a) the interception was made in accordance with the conditions of the warrant and of this Act; and</p> <p>(b) the charge is a charge of an offence of a kind referred to in Section 15(1)(a), and in all the circumstances the particular offence is serious, or if the charge is a charge of an offence specified in Section 11 or 12.</p> <p>(5) Private communications intercepted otherwise than in circumstances in which Part III. would provide a defence to a charge under Section 3 arising out of the interception, and records of private communications which have not been destroyed as required by this Act, are not admissible in evidence for any purpose other than–</p> <p>(a) a prosecution for an offence against this Act or any other offence–</p> <p>(i) that is constituted by the interception or failure to destroy; or</p> <p>(ii) of which the interception or failure to destroy is an element or is evidence, in whole or in part; or</p> <p>(b) a civil proceeding–</p> <p>(i) arising out of the interception or the failure to destroy, or the use or publication of information obtained by the interception; or</p>

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	(ii) in which the face of the interception, failure, use or publication is in issue. (6) This section does not render inadmissible any evidence of an intercepted communication where the evidence is independent of the interception.
<p>Article 21 – Interception of content data</p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary, in relation to a range of serious offences to be determined by domestic law, to empower its competent authorities to:</p> <p>a collect or record through the application of technical means on the territory of that Party, and</p> <p>b compel a service provider, within its existing technical capability:</p> <p> i to collect or record through the application of technical means on the territory of that Party, or</p> <p> ii to co-operate and assist the competent authorities in the collection or recording of, content data, in real-time, of specified communications in its territory transmitted by means of a computer system.</p> <p>2 Where a Party, due to the established principles of its domestic legal system, cannot adopt the measures referred to in paragraph 1.a, it may instead adopt legislative and other measures as may be necessary to ensure the real-time collection or recording of content data on specified communications in its territory through the application of technical means on that territory.</p> <p>3 Each Party shall adopt such legislative and other measures as may be necessary to oblige a service provider to keep confidential the fact of the execution of any power provided for in this article and any information relating to it.</p> <p>4 The powers and procedures referred to in this article shall be subject to Articles 14 and 15.</p>	
Section 3 – Jurisdiction	
<p>Article 22 – Jurisdiction</p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to establish jurisdiction over any offence established in accordance with Articles 2 through 11 of this Convention, when the offence is committed:</p> <p>a in its territory; or</p> <p>b on board a ship flying the flag of that Party; or</p> <p>c on board an aircraft registered under the laws of that Party; or</p>	

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<p>d by one of its nationals, if the offence is punishable under criminal law where it was committed or if the offence is committed outside the territorial jurisdiction of any State.</p> <p>2 Each Party may reserve the right not to apply or to apply only in specific cases or conditions the jurisdiction rules laid down in paragraphs 1.b through 1.d of this article or any part thereof.</p> <p>3 Each Party shall adopt such measures as may be necessary to establish jurisdiction over the offences referred to in Article 24, paragraph 1, of this Convention, in cases where an alleged offender is present in its territory and it does not extradite him or her to another Party, solely on the basis of his or her nationality, after a request for extradition.</p> <p>4 This Convention does not exclude any criminal jurisdiction exercised by a Party in accordance with its domestic law.</p> <p>When more than one Party claims jurisdiction over an alleged offence established in accordance with this Convention, the Parties involved shall, where appropriate, consult with a view to determining the most appropriate jurisdiction for prosecution.</p>	
Chapter III – International co-operation	
<p>Article 24 – Extradition</p> <p>1 a This article applies to extradition between Parties for the criminal offences established in accordance with Articles 2 through 11 of this Convention, provided that they are punishable under the laws of both Parties concerned by deprivation of liberty for a maximum period of at least one year, or by a more severe penalty.</p> <p>b Where a different minimum penalty is to be applied under an arrangement agreed on the basis of uniform or reciprocal legislation or an extradition treaty, including the European Convention on Extradition (ETS No. 24), applicable between two or more parties, the minimum penalty provided for under such arrangement or treaty shall apply.</p> <p>2 The criminal offences described in paragraph 1 of this article shall be deemed to be included as extraditable offences in any extradition treaty existing between or among the Parties. The Parties undertake to include such offences as extraditable offences in any extradition treaty to be concluded between or among them.</p>	<p>Extradition Act 1975</p> <p>Section 2-Act may be applied in relation to foreign state by regulations.</p> <p>(1) Where an extradition treaty is in force between Papua New Guinea and a foreign state–</p> <p>(a) if this Act applies in relation to the foreign state at the time of coming into force of the treaty–the regulations may provide that this Act applies in relation to that state after that time subject to such limitations, conditions, exceptions or qualifications as are necessary or desirable to give effect to the treaty and are specified in the regulations; or</p> <p>(b) if this Act does not apply in relation to the foreign state at the time of coming into force of the treaty–the regulations may provide that this Act applies in relation to that state after that time, and may also provide that it so applies subject to such limitations, conditions, exceptions or qualifications as are necessary or desirable to give effect to that treaty and are specified in the regulations.</p> <p>(2) In relation to a foreign state, the limitations, conditions, exceptions or qualifications referred to in Subsection (1) may be expressed in the form– “This Act applies in relation to <i>(insert name of state)</i> subject to <i>(the extradition treaty referred to in Section 2(1) of the Extradition Act)</i>”.</p> <p>Section 3-Effect of regulations applying act in relation to foreign state.</p>

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<p>3 If a Party that makes extradition conditional on the existence of a treaty receives a request for extradition from another Party with which it does not have an extradition treaty, it may consider this Convention as the legal basis for extradition with respect to any criminal offence referred to in paragraph 1 of this article.</p> <p>4 Parties that do not make extradition conditional on the existence of a treaty shall recognise the criminal offences referred to in paragraph 1 of this article as extraditable offences between themselves.</p> <p>5 Extradition shall be subject to the conditions provided for by the law of the requested Party or by applicable extradition treaties, including the grounds on which the requested Party may refuse extradition.</p> <p>6 If extradition for a criminal offence referred to in paragraph 1 of this article is refused solely on the basis of the nationality of the person sought, or because the requested Party deems that it has jurisdiction over the offence, the requested Party shall submit the case at the request of the requesting Party to its competent authorities for the purpose of prosecution and shall report the final outcome to the requesting Party in due course. Those authorities shall take their decision and conduct their investigations and proceedings in the same manner as for any other offence of a comparable nature under the law of that Party.</p> <p>7 a Each Party shall, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, communicate to the Secretary General of the Council of Europe the name and address of each authority responsible for making or receiving requests for extradition or provisional arrest in the absence of a treaty.</p> <p>b The Secretary General of the Council of Europe shall set up and keep updated a register of authorities so designated by the Parties. Each Party shall ensure</p>	<p>(1) Subject to Subsection (2), where the regulations provide that this Act applies in relation to a foreign state, this Act applies in relation to that state.</p> <p>(2) Where the regulations provide that this Act applies in relation to a foreign state subject to any limitations, conditions, exceptions or qualifications, this Act applies in relation to that state subject to those limitations, conditions, exceptions or qualifications.</p> <p>Section 4-Application of act to foreign states other than treaty states. Where the Head of State, acting on advice, is satisfied that, if this Act applied in relation to a foreign state, the law of that state would, with or without any limitations, conditions, exceptions or qualifications, permit the surrender to Papua New Guinea of persons accused or convicted of extraditable offences within the meaning of Part IV. who are found–</p> <p>(a) in that state; or (b) within the jurisdiction of, or of a part of, that state, the regulations may provide that this Act applies in relation– (c) to that state; or (d) to that state subject to limitations, conditions, exceptions or qualifications specified in the regulations.</p> <p>Section 7-Extradition offences. (1) For the purposes of this Act, an offence of which a person is accused or has been convicted in a treaty state or in a designated Commonwealth country is an extradition offence if–</p> <p>(a) in the case of an offence against the law of a treaty state–it is an offence that is provided for by the extradition treaty; and (b) in the case of an offence against the law of a designated Commonwealth country–it is an offence, however described in that law, that– (i) falls within any description set out in Schedule 1; and (ii) is punishable under that law with imprisonment for a term of 12 months or any greater punishment; and (c) in any case, the act or omission constituting the offence, or the equivalent act or omission, would constitute an offence against the law of Papua New Guinea if it took place– (i) within Papua New Guinea; or (ii) in the case of an extra-territorial offence, in corresponding circumstances outside Papua New Guinea.</p> <p>(2) In determining for the purposes of this section whether an offence against the law of a designated Commonwealth country falls within the description set out in Schedule 1, any special intent or state of mind or special circumstances of</p>

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	<p>aggravation that are necessary to constitute the offence under that law shall be disregarded.</p> <p>(3) The descriptions set out in Schedule 1 shall be deemed to include offences—</p> <p>(a) of attempting or conspiring to commit, of assisting, counselling or procuring, the commission of, or being accessory before or after the fact to, the offences in Schedule 1; and</p> <p>(b) of impeding the apprehension or prosecution of persons guilty of those offences.</p> <p>(4) References in this section to the law of any state or country include references to the law of any part of that country.</p> <p>Section 8-General restrictions on extradition.</p> <p>(1) A person shall not be—</p> <p>(a) extradited under this Act to a treaty state or to a designated Commonwealth country; or</p> <p>(b) committed to or kept in custody for the purposes of extradition to a treaty state or designated Commonwealth country,</p> <p>if it appears to the Minister, or to the court of committal or the National Court on an application for <i>habeas corpus</i> or for review of the order of committal—</p> <p>(c) that the offence of which that person is accused or was convicted is an offence of a political character; or</p> <p>(d) that the request for extradition (although purporting to be made on account of the extradition offence) is in fact made for the purpose of prosecuting or punishing him on account of his race, religion, nationality or political opinions; or</p> <p>(e) that, if extradited, he might be prejudiced at his trial or punished, detained or restricted in his personal liberty by reason of his race, religion, nationality or political opinions.</p> <p>(2) A person accused of an offence shall not be—</p> <p>(a) extradited under this Act to any state or country; or</p> <p>(b) committed to or kept in custody for the purpose of his extradition,</p> <p>if it appears to the Minister that if charged with the offence in Papua New Guinea the person would be entitled to be discharged under any law relating to previous acquittal or conviction.</p> <p>(3) A person shall not be—</p> <p>(a) extradited under this Act to any state or country; or</p> <p>(b) committed or kept in custody for the purposes of extradition to any state or country,</p> <p>unless provision is made by the law of that state or country, or by an arrangement made with that state or country, for securing that, unless he has first been restored or had an opportunity of returning to Papua New Guinea, he will not be</p>

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	<p>dealt with in that state or country for or in respect of any offence committed before his extradition under this Act other than—</p> <p>(c) the offence in respect of which the extradition under this Act is requested; or</p> <p>(d) any lesser offence proved by the facts proved before the court of committal; or</p> <p>(e) any other offence, that is an extradition offence in respect of which the Minister consents to his being so dealt with.</p> <p>(4) An arrangement referred to in Subsection (3) may be an arrangement—</p> <p>(a) made for the particular case; or</p> <p>(b) of a general nature,</p> <p>and for the purposes of that subsection a certificate issued by or under the authority of the Minister—</p> <p>(c) confirming the existence of an arrangement with a foreign state or Commonwealth country; and</p> <p>(d) stating its terms,</p> <p>is conclusive evidence of the matters contained in the certificate.</p> <p>Section 9—Authority to proceed.</p> <p>(1) Subject to the provisions of this Act relating to provisional warrants, a person shall not be dealt with under this Act except under an order of the Minister issued in accordance with a request made to him by or on behalf of the treaty state or the designated Commonwealth country in which the person to be extradited is accused or was convicted.</p> <p>(2) There shall be furnished with any request made for the purposes of this section on behalf of any treaty state or designated Commonwealth country—</p> <p>(a) in the case of a person accused of an offence—a warrant for his arrest issued in that state or country; and</p> <p>(b) in the case of a person unlawfully at large after conviction of an offence—a certificate of the conviction and sentence in that state or country, and a statement of the amount (if any) of that sentence that has been served,</p> <p>together, in each case, with—</p> <p>(c) particulars of—</p> <p>(i) the person whose extradition is requested; and</p> <p>(ii) the facts on which and the law under which he is accused or was convicted; and</p> <p>(d) evidence sufficient to satisfy the issue of a warrant for his arrest under Section 10.</p> <p>(3) On receipt of a request in accordance with this section, the Minister may issue an authority to proceed unless it appears to him that an order for extradition of the person concerned cannot lawfully be made, or would not in fact be made, in accordance with this Act.</p>

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<p>Article 25 – General principles relating to mutual assistance</p> <p>1 The Parties shall afford one another mutual assistance to the widest extent possible for the purpose of investigations or proceedings concerning criminal offences related to computer systems and data, or for the collection of evidence in electronic form of a criminal offence.</p> <p>2 Each Party shall also adopt such legislative and other measures as may be necessary to carry out the obligations set forth in Articles 27 through 35.</p> <p>3 Each Party may, in urgent circumstances, make requests for mutual assistance or communications related thereto by expedited means of communication, including fax or e-mail, to the extent that such means provide appropriate levels of security and authentication (including the use of encryption, where necessary), with formal confirmation to follow, where required by the requested Party. The requested Party shall accept and respond to the request by any such expedited means of communication.</p> <p>4 Except as otherwise specifically provided in articles in this chapter, mutual assistance shall be subject to the conditions provided for by the law of the requested Party or by applicable mutual assistance treaties, including the grounds on which the requested Party may refuse co-operation. The requested Party shall not exercise the right to refuse mutual assistance in relation to the offences referred to in Articles 2 through 11 solely on the ground that the request concerns an offence which it considers a fiscal offence.</p> <p>5 Where, in accordance with the provisions of this chapter, the requested Party is permitted to make mutual assistance conditional upon the existence of dual criminality, that condition shall be deemed fulfilled, irrespective of whether its laws place the offence within the same category of offence or denominate the offence by the same terminology as the requesting Party, if the conduct underlying the offence for which assistance is sought is a criminal offence under its laws.</p>	<p>Mutual Assistance in Criminal Matters Act 2005</p> <p>Section 4-Authorised officers. The Commissioner of Police may authorise a police officer to perform 1 or more functions under this Act.</p> <p>Section 5-Act not to limit other provision of assistance. This Act does not limit the provision or obtaining of intentional assistance in criminal matters other than assistance of a kind that may be provided or obtained under this Act.</p> <p>Section 6-Requests by Papua New Guinea for assistance. A request for international assistance in a criminal matter that Papua New Guinea is authorised to make under this Act may be made only by the Minister or a person authorised in writing by the Minister to make such a request.</p> <p>Section 7-Request by foreign countries for assistance. (1) A request under this Act by a foreign country for international assistance in a criminal matter must be made to the Minister or a person authorised by the Minister to receive requests by foreign countries under this Act. (2) A request must be in writing and must include the following information: (a) the name of the authority concerned with the criminal matter to which the request relates; (b) a description of the nature of the criminal matter and a statement setting out a summary of the relevant facts and laws including the maximum penalty for each criminal offence; (c) a description of the purpose of the request and of the nature of the assistance being sought; (d) any information that may assist in giving effect to the request. (3) Failure to comply with Subsection (2) is not a ground for refusing the request, but the Minister is not obliged to consider the request until the subsection is complied with. (4) If a foreign country makes a request to a person authorised under Subsection (1), the request is taken, for this Act, to have been made to the Minister. (5) If a foreign country makes a request to the Court for international assistance in a criminal matter: (a) the Court must refer the request to the Minister; and (b) the request is then taken, for this Act, to have been made to the Minister.</p> <p>Section 8-Assistance may be provided subject to conditions. Assistance under this Act may be provided to a foreign country subject to any conditions that the Minister determines.</p> <p>Section 9-Refusal of assistance generally.</p>

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	<p>(1) A request by a foreign country for assistance under this Act must be refused if, in the opinion of the Minister:</p> <p>(a) the request relates to an investigation of, or a proceeding for, a political offence; or</p> <p>(b) there are substantial grounds for believing that the request has been made with a view to prosecuting or punishing a person for a political offence; or</p> <p>(c) there are substantial grounds for believing that the request was made for the purpose of prosecuting, punishing or otherwise causing prejudice to a person on account of the person's race, sex, religion, nationality or political opinions; or</p> <p>(d) the request relates to the prosecution or punishment of a person in respect of an act or omission that if it had occurred in Papua New Guinea, would have constituted an offence under the military law of Papua New Guinea but not also under the ordinary criminal law of Papua New Guinea; or</p> <p>(e) providing the assistance would prejudice the sovereignty, security or national interest of Papua New Guinea; or</p> <p>(f) the request relates to an investigation of, or proceeding for, an offence for which the person concerned:</p> <p>(i) has been acquitted or pardoned by a competent tribunal or authority in the foreign country; or</p> <p>(ii) has undergone the punishment provided by the law of that country of that offence or another offence constituted by the same act or omission as that offence.</p> <p>(2) In this sections: "political offence" has the meaning given in the Extradition Act 2005.</p>
<p>Article 26 – Spontaneous information</p> <p>1 A Party may, within the limits of its domestic law and without prior request, forward to another Party information obtained within the framework of its own investigations when it considers that the disclosure of such information might assist the receiving Party in initiating or carrying out investigations or proceedings concerning criminal offences established in accordance with this Convention or might lead to a request for co-operation by that Party under this chapter.</p> <p>2 Prior to providing such information, the providing Party may request that it be kept confidential or only used subject to conditions. If the receiving Party cannot comply with such request, it shall notify the providing Party, which shall then determine whether the information should nevertheless be provided. If the receiving Party accepts the information subject to the conditions, it shall be bound by them.</p>	

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<p>Article 27 – Procedures pertaining to mutual assistance requests in the absence of applicable international agreements</p> <p>1 Where there is no mutual assistance treaty or arrangement on the basis of uniform or reciprocal legislation in force between the requesting and requested Parties, the provisions of paragraphs 2 through 9 of this article shall apply. The provisions of this article shall not apply where such treaty, arrangement or legislation exists, unless the Parties concerned agree to apply any or all of the remainder of this article in lieu thereof.</p> <p>2 a Each Party shall designate a central authority or authorities responsible for sending and answering requests for mutual assistance, the execution of such requests or their transmission to the authorities competent for their execution.</p> <p>b The central authorities shall communicate directly with each other;</p> <p>c Each Party shall, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, communicate to the Secretary General of the Council of Europe the names and addresses of the authorities designated in pursuance of this paragraph;</p> <p>d The Secretary General of the Council of Europe shall set up and keep updated a register of central authorities designated by the Parties. Each Party shall ensure that the details held on the register are correct at all times.</p> <p>3 Mutual assistance requests under this article shall be executed in accordance with the procedures specified by the requesting Party, except where incompatible with the law of the requested Party.</p> <p>4 The requested Party may, in addition to the grounds for refusal established in Article 25, paragraph 4, refuse assistance if:</p> <p>a the request concerns an offence which the requested Party considers a political offence or an offence connected with a political offence, or</p> <p>b it considers that execution of the request is likely to prejudice its sovereignty, security, <i>ordre public</i> or other essential interests.</p> <p>5 The requested Party may postpone action on a request if such action would prejudice criminal investigations or proceedings conducted by its authorities.</p> <p>6 Before refusing or postponing assistance, the requested Party shall, where appropriate after having consulted with the requesting Party, consider whether the request may be granted partially or subject to such conditions as it deems necessary.</p>	

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<p>7 The requested Party shall promptly inform the requesting Party of the outcome of the execution of a request for assistance. Reasons shall be given for any refusal or postponement of the request. The requested Party shall also inform the requesting Party of any reasons that render impossible the execution of the request or are likely to delay it significantly.</p> <p>8 The requesting Party may request that the requested Party keep confidential the fact of any request made under this chapter as well as its subject, except to the extent necessary for its execution. If the requested Party cannot comply with the request for confidentiality, it shall promptly inform the requesting Party, which shall then determine whether the request should nevertheless be executed.</p> <p>9 a In the event of urgency, requests for mutual assistance or communications related thereto may be sent directly by judicial authorities of the requesting Party to such authorities of the requested Party. In any such cases, a copy shall be sent at the same time to the central authority of the requested Party through the central authority of the requesting Party.</p> <p>b Any request or communication under this paragraph may be made through the International Criminal Police Organisation (Interpol).</p> <p>c Where a request is made pursuant to sub-paragraph a. of this article and the authority is not competent to deal with the request, it shall refer the request to the competent national authority and inform directly the requesting Party that it has done so.</p> <p>d Requests or communications made under this paragraph that do not involve coercive action may be directly transmitted by the competent authorities of the requesting Party to the competent authorities of the requested Party.</p> <p>e Each Party may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, inform the Secretary General of the Council of Europe that, for reasons of efficiency, requests made under this paragraph are to be addressed to its central authority.</p>	
<p>Article 28 – Confidentiality and limitation on use</p> <p>1 When there is no mutual assistance treaty or arrangement on the basis of uniform or reciprocal legislation in force between the requesting and the requested Parties, the provisions of this article shall apply. The provisions of this article shall not apply where such treaty, arrangement or legislation</p>	

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<p>exists, unless the Parties concerned agree to apply any or all of the remainder of this article in lieu thereof.</p> <p>2 The requested Party may make the supply of information or material in response to a request dependent on the condition that it is:</p> <p>a kept confidential where the request for mutual legal assistance could not be complied with in the absence of such condition, or</p> <p>b not used for investigations or proceedings other than those stated in the request.</p> <p>3 If the requesting Party cannot comply with a condition referred to in paragraph 2, it shall promptly inform the other Party, which shall then determine whether the information should nevertheless be provided. When the requesting Party accepts the condition, it shall be bound by it.</p> <p>4 Any Party that supplies information or material subject to a condition referred to in paragraph 2 may require the other Party to explain, in relation to that condition, the use made of such information or material.</p>	
<p>Article 29 – Expedited preservation of stored computer data</p> <p>1 A Party may request another Party to order or otherwise obtain the expeditious preservation of data stored by means of a computer system, located within the territory of that other Party and in respect of which the requesting Party intends to submit a request for mutual assistance for the search or similar access, seizure or similar securing, or disclosure of the data.</p> <p>2 A request for preservation made under paragraph 1 shall specify:</p> <p>a the authority seeking the preservation;</p> <p>b the offence that is the subject of a criminal investigation or proceedings and a brief summary of the related facts;</p> <p>c the stored computer data to be preserved and its relationship to the offence;</p> <p>d any available information identifying the custodian of the stored computer data or the location of the computer system;</p> <p>e the necessity of the preservation; and</p> <p>f that the Party intends to submit a request for mutual assistance for the search or similar access, seizure or similar securing, or disclosure of the stored computer data.</p> <p>3 Upon receiving the request from another Party, the requested Party shall take all appropriate measures to preserve expeditiously the specified data in accordance with its domestic law. For the purposes of responding to a</p>	

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<p>request, dual criminality shall not be required as a condition to providing such preservation.</p> <p>4 A Party that requires dual criminality as a condition for responding to a request for mutual assistance for the search or similar access, seizure or similar securing, or disclosure of stored data may, in respect of offences other than those established in accordance with Articles 2 through 11 of this Convention, reserve the right to refuse the request for preservation under this article in cases where it has reasons to believe that at the time of disclosure the condition of dual criminality cannot be fulfilled.</p> <p>5 In addition, a request for preservation may only be refused if:</p> <p>a the request concerns an offence which the requested Party considers a political offence or an offence connected with a political offence, or</p> <p>b the requested Party considers that execution of the request is likely to prejudice its sovereignty, security, <i>ordre public</i> or other essential interests.</p> <p>6 Where the requested Party believes that preservation will not ensure the future availability of the data or will threaten the confidentiality of or otherwise prejudice the requesting Party's investigation, it shall promptly so inform the requesting Party, which shall then determine whether the request should nevertheless be executed.</p> <p>4 Any preservation effected in response to the request referred to in paragraph 1 shall be for a period not less than sixty days, in order to enable the requesting Party to submit a request for the search or similar access, seizure or similar securing, or disclosure of the data. Following the receipt of such a request, the data shall continue to be preserved pending a decision on that request.</p>	
<p>Article 30 – Expedited disclosure of preserved traffic data</p> <p>1 Where, in the course of the execution of a request made pursuant to Article 29 to preserve traffic data concerning a specific communication, the requested Party discovers that a service provider in another State was involved in the transmission of the communication, the requested Party shall expeditiously disclose to the requesting Party a sufficient amount of traffic data to identify that service provider and the path through which the communication was transmitted.</p> <p>2 Disclosure of traffic data under paragraph 1 may only be withheld if:</p>	

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<p>a the request concerns an offence which the requested Party considers a political offence or an offence connected with a political offence; or</p> <p>b the requested Party considers that execution of the request is likely to prejudice its sovereignty, security, <i>ordre public</i> or other essential interests.</p>	
<p>Article 31 – Mutual assistance regarding accessing of stored computer data</p> <p>1 A Party may request another Party to search or similarly access, seize or similarly secure, and disclose data stored by means of a computer system located within the territory of the requested Party, including data that has been preserved pursuant to Article 29.</p> <p>2 The requested Party shall respond to the request through the application of international instruments, arrangements and laws referred to in Article 23, and in accordance with other relevant provisions of this chapter.</p> <p>3 The request shall be responded to on an expedited basis where:</p> <p>a there are grounds to believe that relevant data is particularly vulnerable to loss or modification; or</p> <p>b the instruments, arrangements and laws referred to in paragraph 2 otherwise provide for expedited co-operation.</p>	
<p>Article 32 – Trans-border access to stored computer data with consent or where publicly available</p> <p>A Party may, without the authorisation of another Party:</p> <p>a access publicly available (open source) stored computer data, regardless of where the data is located geographically; or</p> <p>b access or receive, through a computer system in its territory, stored computer data located in another Party, if the Party obtains the lawful and voluntary consent of the person who has the lawful authority to disclose the data to the Party through that computer system.</p>	
<p>Article 33 – Mutual assistance in the real-time collection of traffic data</p> <p>1 The Parties shall provide mutual assistance to each other in the real-time collection of traffic data associated with specified communications in their territory transmitted by means of a computer system. Subject to the provisions of paragraph 2, this assistance shall be governed by the conditions and procedures provided for under domestic law.</p>	

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<p>2 Each Party shall provide such assistance at least with respect to criminal offences for which real-time collection of traffic data would be available in a similar domestic case.</p>	
<p>Article 34 – Mutual assistance regarding the interception of content data The Parties shall provide mutual assistance to each other in the real-time collection or recording of content data of specified communications transmitted by means of a computer system to the extent permitted under their applicable treaties and domestic laws.</p>	
<p>Article 35 – 24/7 Network 1 Each Party shall designate a point of contact available on a twenty-four hour, seven-day-a-week basis, in order to ensure the provision of immediate assistance for the purpose of investigations or proceedings concerning criminal offences related to computer systems and data, or for the collection of evidence in electronic form of a criminal offence. Such assistance shall include facilitating, or, if permitted by its domestic law and practice, directly carrying out the following measures: a the provision of technical advice; b the preservation of data pursuant to Articles 29 and 30; c the collection of evidence, the provision of legal information, and locating of suspects. 2 a A Party’s point of contact shall have the capacity to carry out communications with the point of contact of another Party on an expedited basis. b If the point of contact designated by a Party is not part of that Party’s authority or authorities responsible for international mutual assistance or extradition, the point of contact shall ensure that it is able to co-ordinate with such authority or authorities on an expedited basis. 3 Each Party shall ensure that trained and equipped personnel are available, in order to facilitate the operation of the network.</p>	
<p>Article 42 – Reservations</p>	

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By a written notification addressed to the Secretary General of the Council of Europe, any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, declare that it avails itself of the reservation(s) provided for in Article 4, paragraph 2, Article 6, paragraph 3, Article 9, paragraph 4, Article 10, paragraph 3, Article 11, paragraph 3, Article 14, paragraph 3, Article 22, paragraph 2, Article 29, paragraph 4, and Article 41, paragraph 1. No other reservation may be made.	