



**THE REPUBLIC OF KENYA**

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**THE MUTUAL LEGAL ASSISTANCE ACT**

NO. 36 OF 2011

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**MUTUAL LEGAL ASSISTANCE**

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## NO. 36 OF 2011

## MUTUAL LEGAL ASSISTANCE

[Date of assent: 11th November, 2011.]

[Date of commencement: 2nd December, 2011.]

**An Act of Parliament to provide for mutual legal assistance to be given and received by Kenya in investigations, prosecutions and judicial proceedings in relation to criminal matters, and for connected purposes**

[Act No. 36 of 2011.]

## PART I – PRELIMINARY

**1. Short title**

This Act may be cited as the Mutual Legal Assistance Act, 2011.

**2. Interpretation**

In this Act, unless the context otherwise requires—

**"Central Authority"** means an authority established under section 5 of this Act;

**"Competent Authority"** means the Attorney-General of the Republic of Kenya, any criminal investigation agency established by law, or any other person designated as such by the Attorney-General by notice in the *Gazette*;

**"communications"** includes telecommunications and the transmission of an item through the public postal service;

**"communications data"** includes—

- (a) traffic data;
- (b) subscriber information;
- (c) any information not falling within paragraph (a) or (b) that is held or obtained by the provider of a postal service or a telecommunications service and which relates to the provision of that service but does not include content data;

**"confiscation proceedings"** means proceedings, whether civil or criminal, for an order to—

- (a) confiscate any property derived or obtained whether directly or indirectly from an offence or used in, or in connection with, the commission of an offence; or
- (b) impose a pecuniary penalty calculated by reference to the value of any property derived or obtained whether directly or indirectly from an offence or used in, or in connection with, the commission of an offence;

**"content data"** means the subject or purpose of the communication, or the message or information being conveyed by the communication, whether or not any interpretation, process, mechanism or device needs to be applied or used to make the meaning of the communication intelligible;