

**PROCEEDS OF CRIME AMENDMENT ACT 2000**

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**BERMUDA  
2000 : 35**

**PROCEEDS OF CRIME AMENDMENT ACT 2000**

[Date of Assent: 29 August 2000]

[Operative Date: 1 June 2001]

WHEREAS it is expedient to amend the Proceeds of Crime Act 1997 and repeal the Proceeds of Crime Amendment Act 1999;

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:—

**Short title and commencement**

1 (1) This Act may be cited as the Proceeds of Crime Amendment Act 2000.

(2) This Act comes into operation on such day as the Minister of Finance may appoint by notice published in the Gazette.

**Amendment of definition of "relevant offence"**

2 (1) In section 3 of the Proceeds of Crime Act 1997 ("the principal Act"), for the definition of "relevant offence" there shall be substituted—

" "relevant offence" means—

- (a) any indictable offence in Bermuda other than a drug trafficking offence; or

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(b) any act or omission which, had it occurred in Bermuda, would have constituted an indictable offence other than a drug trafficking offence."

(2) The Schedule to the principal Act (which is superseded by the new definition of "relevant offence") is repealed.

### **Use of guidance notes in criminal proceedings**

3 After section 49 of the principal Act there shall be inserted—

#### **"Use of guidance notes**

49A In determining whether a person has committed an offence under this Act the court shall take account of any relevant guidance issued by the National Anti-Money Laundering Committee."

### **Repeal of Act No 39 of 1999**

4 The Proceeds of Crime Amendment Act 1999 is repealed.

### **Confiscated Assets Fund**

5 (1) After section 55 of the principal Act there shall be inserted—

#### **"Confiscated Assets Fund**

55A (1) There shall be established a fund to be known as the Confiscated Assets Fund ("the Fund").

(2) There shall be paid into the Fund—

- (a) proceeds of criminal conduct recovered under a confiscation order;
- (b) cash forfeited under Part VI;
- (c) money forfeited under section 37 of the Misuse of Drugs Act 1972;
- (d) money paid to the Government of Bermuda by a foreign jurisdiction in respect of confiscated assets, whether under a treaty or arrangement providing for mutual assistance in criminal matters or otherwise.

(3) The Minister of Finance may, after consulting the National Anti-Money Laundering Committee, authorise payments to be made out of the Fund—

- (a) for purposes related to—

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- (i) law enforcement, including in particular the investigation of suspected cases of drug trafficking and money laundering;
  - (ii) treatment and rehabilitation of drug addicts; and
  - (iii) public education in relation to drug addiction;
- (b) to satisfy an obligation of the Government of Bermuda to a foreign jurisdiction in respect of confiscated assets, whether under a treaty or arrangement providing for mutual assistance in criminal matters or otherwise;
- (c) to meet the expenses of the National Anti-Money Laundering Committee;
- (d) to meet the remuneration and expenses of a receiver appointed under this Act;
- (e) to pay compensation or costs awarded under this Act;
- (f) to cover costs associated with the administration of the Fund.

### **Administration of the Fund**

55B (1) The moneys paid into the Fund shall be invested in accordance with the Public Funds Act 1954, and the income earned from such investments shall be paid into the Fund.

(2) The financial year of the Fund shall end on 31st March in each year.

(3) The Minister of Finance shall cause proper accounts, and proper records in relation to the accounts, of the Fund to be kept, and shall cause to be prepared in respect of each financial year a statement of the accounts of the Fund in such form as the Minister may direct.

(4) Within six months after the end of each financial year, the Minister shall send to the Auditor a copy of the statement of accounts for that financial year.

(5) The Auditor shall examine every statement of accounts received by him under this section and shall make a report in writing on the statement to the Minister.

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(6) The Minister shall lay before each House of the Legislature a copy of the Auditor's report."

### **Consequential amendments**

6 (1) In section 7 of the principal Act (definitions), in the appropriate place in alphabetical order there shall be inserted—

"Confiscated Assets Fund" means the Fund established under section 55A;"

(2) At the end of section 34(2) of the principal Act (expenses of receiver to be paid out of the Consolidated Fund) there shall be added "or the Confiscated Assets Fund".

(3) At the end of section 60(7) of the principal Act (compensation to be paid out of the Consolidated Fund) there shall be added "or the Confiscated Assets Fund".

(4) At the end of section 61(3) of the principal Act (costs to be paid out of the Consolidated Fund) there shall be added "or the Confiscated Assets Fund".

(5) In section 4 of the Public Funds Act 1954 (management of specified public funds), at the end of subsection (5)(c) there shall be added—

"(vii) the Confiscated Assets Fund established under section 55A of the Proceeds of Crime Act 1997."