BERMUDA

PROCEEDS OF CRIME AMENDMENT ACT 2026

2026 : 32

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WHEREAS it is expedient to amend the Proceeds of Crime Act 1997, and to make consequential amendments to the Criminal Code Act 1907 to create a robust asset recovery and asset management framework in Bermuda;

Be it enacted by The King'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:

Citation

1 This Act which amends the Proceeds of Crime Act 1997 (the principal Act) may be cited as the Proceeds of Crime Amendment Act 2026.

Amends sections 7

2 Section 7 of the principal Act is amended—

(a) by repealing the following definition "respondent".

(b) by inserting in the appropriate alphabetical order the following definitions—

"asset recovery" means the process of identifying, tracing, evaluating, freezing, seizing, detaining, restraining, forfeiting, recovering and confiscating the proceeds of criminal conduct or unlawful conduct, and includes all processes involved in the management and maintenance of such property, as well as the actions taken to enforce orders related to such property, and the disposal, realisation, return or sharing of such property or of property of corresponding value;

"respondent" means—

(a) where proceedings are brought by the enforcement authority by virtue of Part IIIA, the person against whom the proceedings are brought;

(b) where no such proceedings have been brought but the enforcement authority has applied for an interim receiving order or property freezing order, the person against whom he intends to bring such proceedings;

"Unit" means the Asset Recovery and Management Unit established under section 36.2A;".

Amends section 27

3 Section 27 of the principal Act is amended by repealing subsection (3) and substituting the following—

"(3) These powers are also exercisable where the court is satisfied—

(a) a criminal investigation has commenced against a person with regard to a drug trafficking or relevant offence;

(b) an application for a restraint order is made to the court; and

(c) a person referred to in paragraph (a) has benefitted from a drug trafficking or a relevant offence."

Inserts Part IIIB

4 The principal Act is amended by inserting after Part IIIA, the following new Part—

"PART IIIB

ASSET RECOVERY AND MANAGEMENT UNIT

Interpretation

36.1Z In this Part—

"authority" means—

(a) Attorney General's Chamber;

(b) Department of Public Prosecutions;

(c) Financial Intelligence Agency;

(d) Bermuda Police Service; and

(e) any other authority that the Minister may prescribe.

"Director" means the Director of the Unit;

"officer" means an officer of the Unit;

Asset Recovery and Management Unit

36.2A (1) There is established the Asset Recovery and Management Unit in the Ministry of Justice which shall provide for the effective administration of the various mechanisms and processes for the recovery, preservation, management, realisation and disposal of property under this Act.

(2) The Unit shall be staffed by officers with expertise in the following areas—

(a) law;

(b) accounting;

(c) financial services;

(d) law enforcement and investigations;

(e) intelligence and data analysis;

(f) information technology; and

(g) any other area of expertise that the Minister may prescribe.

(3) The Unit shall comprise of a Director, Deputy Director and other officers to exercise and perform the functions and duties under section 36.2E and as provided for in other provisions of the Act.

(4) The Director shall be responsible to the Minister for the administration and operation of the Unit in accordance with this Act.

Delegation of functions by Director

36.2B (1) The Director may delegate in writing to the Deputy Director and to any officer the functions conferred or imposed on him or the Unit under this Act, than the power of delegation under this section.

(2) The Director may at any time revoke a delegation made under subsection (1).

(3) A delegation under subsection (1) does not prevent the exercise by the Director himself of a power so delegated.

Ministerial direction

36.2C Subject to the provisions of this Act, and in the exercise of its functions under this Act, the Unit shall be subject to the direction and control of the Minister.

Engagement of experts, advisers, etc

36.2D The Unit may arrange for the engagement of experts, advisers and consultants to assist in the conduct of its duties, functions and responsibilities under this Act.

Functions of the Unit

36.2E The functions of the Unit shall be—

(a) to collaborate with all authorities responsible for dealing with properties seized, detained, frozen, forfeited, recovered, or subject to realisation for the satisfaction of a confiscation order under the laws in force in Bermuda;

(b) to make administrative arrangements for the custody of realisable properties seized, detained, restrained, recovered, forfeited or confiscated under the provisions this Act or the regulations;

(c) to maintain the properties which are seized, forfeited, confiscated, detained, restrained or recovered until they are disposed of under the provisions of this Act or the regulations;

(d) to take administrative measures for the disposal of recovered, forfeited or confiscated properties and also for disposal of any property upon an order of the court;

(e) to liaise with the enforcement authority for filing appropriate applications before the courts for freezing or seizing properties to prevent dealing with or transfer or disposal of such properties;

(f) to take steps to counter actions taken by other parties seeking to prevent Bermuda from taking steps to freeze, detain, seize or restrain property that is liable to forfeiture or recovery or which is realisable property that may satisfy a confiscation order;

(g) to support the administration of provisional measures, such as freezing or seizing, to prevent any dealing, transfer or disposal of property subject to forfeiture or confiscation;

(h) to maintain proper records of the properties taken into custody under paragraph (b);

(i) to take steps for identifying auctioneers licensed under the Auctioneers Act 1955 for the disposal of ant property subject to disposal in accordance with the order of a court under this Act or any other law in force in Bermuda;

(j) to take steps for identifying persons, agencies or institutions to maintain frozen, seized, detained or restrained property;

(k) to assist the authorities to implement a coordinated mechanism for the disposal of pre-forfeited, forfeited, recovered or confiscated properties;

(l) to assist with the prescribed measures to be taken to protect the rights of bona fide third parties;

(m) to take all necessary steps for the proper management of frozen, seized, detained or forfeited properties, or property subject to realisation for the satisfaction of a confiscation order;

(n) to issue policies and procedures related to the custody and management of properties in the custody or control of the Unit;

(o) to make administrative arrangements for the disposal of property in accordance with court directions using market value benchmarks for valuation of the property;

(p) to arrange for the utilisation of regulated custody and exchange providers licensed in Bermuda or regulated to an equivalent standard to those in Bermuda for the custody and liquidation of recovered digital assets; and

(q) to exercise any other functions as may be prescribed.

Officers of the Unit may be appointed as receiver, interim receiver or trustee for civil recovery

36.2F (1) Notwithstanding any other provisions of this Act, unless the court considers that the circumstances require the appointment of another suitably qualified person, the court shall appoint the Director or an officer as receiver, interim receiver or trustee for civil recovery where such an appointment is required under this Act.

(2) A person appointed as a receiver, interim receiver or trustee for civil recovery under subsection (1)—

(a) in the exercise of his functions, may act with the administrative, technical, financial and logistical support of the Unit; and

(b) shall have all the powers, duties, obligations, protections and liabilities of the receiver, interim receiver or trustee for civil recovery under this Act.

No compensation for officers of the Unit

36.2G Notwithstanding any other provisions of this Act, where the court appoints the Director or an officer under section 36.2F, no compensation shall be paid to the Director or officer.

Relationship between the Unit and an authority

36.2H (1) The Director or an officer may consult or seek directions from any authority where it would assist the Unit in exercising its functions.

(2) The Unit may upon request provide assistance to any authority as the Director considers appropriate in all the circumstances.

Taking over of properties by the Unit

36.2I (1) An authority upon freezing, seizing, detaining, restraining, charging, recovering, forfeiting or upon making an application under section 31(1), shall provide the data of such properties to the Unit within two working days from the date on which such action is taken.

(2) An authority who has powers to freeze, seize, detain, restrain, recover, forfeit property or enforce a confiscation order shall appoint a liaison officer, who shall be in charge of liaising with the Unit and shall provide the data under subsection (1).

(3) The Unit shall take administrative and physical custody of all the properties seized, detained, frozen, restrained, forfeited or property subject to a charging order or where physical custody is not authorised by the court as soon as practicable after receipt of data under subsection (1).

(4) An authority, which is in custody of properties as on the appointed date shall hand over all the properties in their possession to the Unit with all the relevant documents available for assisting in taking further actions against the properties.

Management of property

36.2J The Unit shall be responsible for the administrative custody and management of all property that is recovered under Part IIIA.

Responsibility continues after final order

36.2K (1) Where property specified in section 36.2I is subject to a final order of the court, the Unit shall continue to be responsible for the administrative custody and management of the property, until arrangements for the disposal of the property is completed.

(2) For the purposes of this section, a final order, is an order for—

(a) forfeiture under—

(i) sections 48A and 51;

(ii) sections 14 and 15 and paragraph 6(2) of Schedule 3 under the Anti Terrorism(Finance and Other Measures) Act 2004;

(b) realisation under section 31;

(c) recovery under section 36X;

(d) deprivation under section 701A of the Criminal Code Act 1907.

(3) For the purposes of this section, a final order includes a preservation sale order made under section 52C.

Protection of action taken in good faith

36.2L A suit or other legal proceedings shall not lie against any officer of the Unit for anything done or intended to be done in good faith in pursuance of this Act.

Conflict of interest

36.2M Where the Director or any other officer of the Unit has an actual, apparent or reasonably foreseeable conflict of a direct or indirect interest in a matter under consideration by the Unit, he shall disclose the fact of his interest in writing to the Minister at the earliest opportunity and shall not participate in the consideration of the matter.

Immunity and liability against loss

36.2N The Director and officers of the Unit in respect of property for which the Unit is responsible shall—

(a) not be liable for any loss or damage sustained by a person claiming an interest in all or part of the property in it's custody;

(b) not be liable for the cost of proceedings taken to establish an interest in the property;

(c) not pay any rates, taxes, municipal or statutory charges imposed under any law pertaining to the property, except where there are accrued rents or profits from the property in the Unit's custody.

Coordination with other countries in the seizure, forfeiture or confiscation of the properties

36.2O (1) The Unit shall act as a coordinating agency to support the Attorney-General's Office in arranging coordination activities in regards to the seizure and forfeiture or confiscation of properties.

(2) The Unit shall coordinate with the Attorney-General's Office where it reaches an agreement or arrangement for disposing of properties with countries when the forfeiture or confiscation is directly or indirectly a result of a coordinated law enforcement action.

(3) The Unit shall issue administrative guidelines for the coordination between authorities on the administrative arrangements for the custody, management and disposal of properties subject to this Act.

Annual report on work of the Unit

36.2P (1) The Director shall submit a report annually to the Minister, within three months after the end of the year, on the activities of the Unit.

(2) The Minister shall lay before each House of the Legislature a copy of the annual report at the next sitting of each House of the Legislature after receiving the report.

Regulations

36.2Q (1) The Minister may make regulations for the purpose of carrying out the provisions of this Part.

(2) Without prejudice to the generality of the power under subsection (1), such regulations may provide for—

(a) procedures to manage and maintain or dispose of the properties, which were subject to seizure, forfeiture or confiscation;

(b) the procedures for the storage of—

(i) precious metals, jewels and artwork;

(ii) motor vehicles, boats and air planes;

(iii) seized cash, bank accounts, cryptocurrency and assets and financial instruments; and

(iv) any other property to which this Act applies.

(c) the procedures for the management or disposal of—

(i) motor vehicles, boats and air planes;

(ii) seized cash, bank accounts and financial instruments;

(iii) real property; and

(iv) any other property subject to seizure, forfeiture or confiscation;

(d) administrative procedures and processes for addressing claims for victim compensation and third party rights;

(e) prescribing for the duty to keep an asset register and to prescribe the information and form in which the asset register is to be kept;

(f) policies and procedures for the management of a seized business;

(g) the procedures for the exchange of information, evidence and property made pursuant to sections 36.2O;

(h) the making of any forms required to be made under this Part; and

(i) any other matter which is required to be, or may be, prescribed for implementation of this Part.".

Inserts Part VIA

5 The principal Act is amended by inserting after Part VI, the following new Part—

"**PART VIA**

PRESERVATION SALE ORDERS

Interpretation

52B In this Part—

"asset recovery proceedings" includes proceedings for the forfeiture or recovery of the proceeds of criminal conduct or unlawful conduct and proceedings for the realization of property in accordance with section 31;

"authority" means any of the following—

(a) Attorney General's Chambers;

(b) Department of Public Prosecutions;

(c) Bermuda Police Service;

(d) any other authority that the Minister may prescribe.

"average value" means the average of all valuations obtained from the nominated experts during the permitted period;

"depreciating property " means a qualifying property that is declining in value since the date of seizure or after restraint order was granted against the property or is subject to unpredictable deflation;

"gross sale price" means the sale price realised not considering any fees or taxes incurred during the sale process;

"instrumentality" means property used or intended for use by a person for the commission of a drug trafficking, or relevant offence;

"interest " in relation to property includes—

(a) a right, including a right to possession of the property;

(b) any legal interest or estate; and

(c) any equitable interest or power;

"management" includes the cost of supervising, operating, storing, preserving, repairing, transporting any qualifying property;

"minimum amount" has the meaning given in section 52E;

"nominated expert" means a suitably qualified individual nominated by the authority liaising with the Unit, an institution, professional body or respondent as applicable to assess the value of the qualifying property;

"permitted period " means the forty-five day period preceding the day on which the application for a preservation sale order is made, or in the case of perishables as soon as reasonably practicable;

"preservation sale order" means an order issued pursuant to section 52C;

"qualifying property" for the purpose of section 52D includes—

(a) vehicles;

(b) vessels;

(c) aircraft;

(d) digital assets or virtual currencies;

(e) furniture;

(f) machinery;

(g) equipment including digital devices;

(h) securities including stocks and shares; or

(i) any other property of any type or description identified to have a value that has depreciated below fifteen percent of its value at the time of seizure or restraint or for which the cost of management is disproportionate to its value;

"reasonable cost " includes direct costs incurred in selling the qualifying property such as the cost of nominated experts, auctioneers, maintenance and other such cost;

"recovery proceedings" includes proceedings for restraint, civil recovery proceedings, confiscation or forfeiture;

"respondent" includes—

(a) the first respondent being the qualifying property;

(b) the second respondent being the person from whom the property was seized; or

(c) any other person against whom the proceedings under this Part are brought;

"social reuse" means an act which involves repurposing qualifying property to address the needs of society;

"tainted property" has the same meaning as in section 70IA(2) of the Criminal Code;

"valuation" means a document establishing the authenticity and value of qualifying property prepared and signed by a nominated expert;

Application process for court preservation sale order

52C (1) The court may issue a preservation sale order to the Director of Public Prosecutions, where the court is satisfied that the conditions in section 52D are met, and where—

(a) proceedings for a drug trafficking offence or a relevant offence have been instituted in Bermuda and there is reasonable cause to believe that the defendant has benefited from criminal conduct; or

(b) the property is an instrumentality of an offence or tainted property in accordance with the laws of Bermuda.

(2) The court may issue a preservation sale order to the enforcement authority, where the court is satisfied that the conditions in section 52D are met and there is a written undertaking by the enforcement authority that the depreciating property will be subjected to civil recovery proceedings, where—

(a) an investigation has started to determine whether there is unlawful conduct and there is reasonable cause to believe that the property has been obtained through unlawful conduct; or

(b) the property is an instrumentality of an offence or tainted property in accordance with the laws of Bermuda.

Conditions for granting a preservation order

52D The court shall before granting a preservation sale order under section 52C, be satisfied that the following conditions are met—

(a) the application for the preservation sale order is made by the Director of Public Prosecution or the enforcement authority;

(b) that notice of the seizure of the qualifying property had been published in the Gazette, at least one newspaper in general circulation and on the Government's website;

(c) the application is in relation to a qualifying property in which the person from whom the property was seized has an interest;

(d) during the permitted period, that the average value of the qualifying property or group of qualifying property has depreciated or the cost of management is disproportionate to its value;

(e) a qualifying property is a depreciating property;

(f) the application is made with notice to the person whose property was seized or restrained or any person or entity having an interest in the property;

(g) the valuation of the qualifying property is made by an expert arranged for under Part IIIB.

Applying the conditions

52E (1) For the purposes of section 52D (b) the prescribed notice of seizure shall contain such particulars as are necessary for the identification and location of the qualifying property by the relevant authority.

(2) For the purposes of section 52D (d)—

(a) the permitted period is the forty-five-day period preceding the day on which the application for a preservation sale order is made, or in the case of perishables as soon as reasonably practicable;

(b) the average value is the average of all valuations obtained from nominated experts during the permitted period; and

(c) the minimum amount to be accepted for each classification of qualifying property will be the market value or where uncertain determined by a nominated expert.

(3) For the purposes of section 52D (e) a depreciating property is a qualifying property if it is—

(a) declining in value since the date of seizure or after a restraint order was granted against the property; or

(b) subject o unpredictable deflation.

(4) For the purposes of section 52D (f) an application with notice shall be served at least seven days before the hearing of the application for a preservation sale order on—

(a) all interested parties, their representatives or both to the proceedings;

(b) the person from whom the property was seized or in respect of whom the restraint order has been issued.

(5) For the purposes of section 54D (f) a restraint order is an order pursuant to section 28.

Contents of a preservation sale order

52F (1) A preservation sale order shall be in the prescribed form and shall—

(a) specify—

(i) the authority;

(ii) the date and the court before which the freezing, restraint or detention order was obtained or the date of the seizure and by whom;

(iii) the qualifying property;

(iv) the nominated expert(s) as may be applicable;

(v) the valuations obtained;

(vi) the average value;

(vii) how to deal with any third party or joint owner's rights; and

(viii) the minimum amount;

(b) confirm that the conditions in section 52E are satisfied;

(c) require an authority to arrange the sale of the qualifying property immediately but no more than one hundred and eighty days after the issuance of the preservation sale order;

(d) stipulate the conditions relating to the sale and require that the sale of the qualifying property is made by the most reasonable and appropriate means which may include any of the following—

(i) online sale;

(ii) private treaty;

(iii) public auction;

(iv) public tender; or

(v) sealed bid sale;

(e) stipulate that the qualifying property shall not be sold unless one of the following conditions is met in the order of priority stated below—

(i) the gross sale price is greater or equal to eighty per cent of the average value at the date of the order;

(ii) a price is agreed by the nominated experts; or

(iii) in other circumstances the most reasonable price available on the market;

(f) order that the proceeds of the sale of the qualifying property less the reasonable costs incurred which are incidental to the sale or any attempted sale are to be paid, at the first opportunity, into the Fund and held on trust for the person in respect of whom the seizure or restraint order was made or their representatives;

(g) order that any excepted joint owner's share to be paid to the person or their designate;

(h) where applicable, the order is to include provisions for an authority to make application within thirty days of the sale of the qualifying property or group of qualifying properties to vary the restraint order to permit the qualifying property to be sold and its proceeds held; and

(i) the order shall include conditions for an authority to lawfully register the property in the name of the purchaser and transfer legal title to the person.

(2) Pursuant to subsection (1)(f) the interest rates applicable will be the prevailing savings rate as fixed by the Bermuda Monetary Authority.

Functions of an authority

52G In the exercise of its functions under this Part, an authority shall liaise with the Unit to—

(a) arrange and facilitate the sale of property subject to section 52H;

(b) keep appropriate records of the sale process for a period of seven years;

(c) ensure transparency in the valuation and sale process;

(d) perform any other duties prescribed by the Minister.

Preservation sale process

52H (1) Notwithstanding section 52 (1)(c), an authority may delegate the process of arranging the sale in accordance with this Act of the qualifying property to the Unit or a private entity, in accordance with a preservation order issued under section 52F.

(2) Pursuant to section 52F (1)(d)(i) an online sale is where members of the public can browse or view the qualifying property, bid, and pay for the qualifying property online.

(3) Pursuant to 52F (1)(d)(ii) a private treaty sale is where the seller sets the price for the item and negotiates with interested parties the final selling price.

(4) Pursuant to 52F (1)(d)(iii) a public auction is one where members of the public have right of access and where the auction of the qualifying property is advertised to the public with at least seven days' notice.

(5) Pursuant to 52F (1)(d)(iv) a public tender is one where members of the public are invited to submit bids on the advertised qualifying property.

(6) Pursuant to 52F (1)(d)(v)—

(a) a sealed bid sale allows members of the public to view the qualifying property online or in person and then submit their bid by post or electronic mail; and

(b) the invitation for the bid shall contain the qualifying property descriptions, sale terms and conditions, its location, inspection times, and bid form.

Gross sale price

52I For the purposes of 52F (1)(e)(i) the gross sale price is the sale price realised not considering any fees or taxes incurred during the sale process.

Consent order

52J (1) A person with an interest in a qualifying property, including the person from whom the property was seized or the person in whom custody, possession or control of the frozen or restrained property is, may upon application of an authority for a preservation sale order, consent to the application for sale of the qualifying property.

(2) The consent of a person with interest in the qualifying property shall be made in accordance with the prescribed form where the person is the second respondent or the prescribed form for any other person with an interest in the qualifying property.

(3) The court shall give effect to the prescribed consent form on its merit if it is—

(a) signed by the second respondent and where applicable by each person with an interest in the qualifying property; and

(b) witnessed and signed with the full name of one of the following persons—

(i) a Justice of Peace who is not a law enforcement officer;

(ii) the barrister and attorney for each person giving consent;

(iii) a Notary Public; or

(iv) the Registrar.

(4) The applicant is to file with the court supporting documentation showing that the conditions above were met.

(5) The supporting documentation in subsection (4) refers to—

(a) the completed consent form;

(b) a certified copy of the photo identification of the second respondent or where applicable by each person with an interest in the qualifying property; and

(c) any other document evidencing the authenticity of the consent form.

Hearing the application for a preservation sale order

52K (1) Pursuant to sections 52D and 52E, the hearing of an application for a preservation sale order shall be heard in Chambers.

(2) Pursuant to section 52I, the court may hear an application and issue a preservation sale order where any interested party or the person from whom the depreciating property was seized or restrained has signed a consent order.

(3) The court may proceed to issue a preservation sale order of any interested party or the person from whom the depreciating property was seized or retrained where the court considers that service was effected and no objection was filed in accordance with the prescribed form with the court contesting the application to issue a preservation sale order.

(4) A person having an interest in the property may make submissions to the court regarding the effects that the issue of a preservation sale order would have on him.

(5) The court shall not issue a preservation sale order if it believes that to do so would be disproportionate or unjust either for the person in respect of whom the restraint order was made or any other person who has an interest in the qualifying property.

(6) Subject to subsection (5), where the court finds that granting an application for sale would be disproportionate, unjust or where the conditions in section 52F are not met, the court may exercise its discretion to—

(a) return the property to the second respondent with conditions for preservation including maintaining insurance, licensing and regular maintenance of the qualified property;

(b) appoint a receiver in accordance with section 28 or 36L;

(c) release the property to the second respondent upon payment of a sum of the equivalent value of the qualified property; or

(d) any other order the court considers fit including social reuse of the qualifying property.

Preservation sale order where the second respondent absconds or dies

52L (1) In accordance with section 22 with the necessary modifications and amendments, the court may grant a preservation sale order where the second respondent absconds or dies.

(2) All references in sections 22 to the Director of Public Prosecutions should read the authority.

(3) In any proceedings for an application for sale order under this section—

(a) section 52J shall not apply;

(b) the court shall not make an order for sale of the qualifying property against a person who has absconded, unless it is satisfied that the provisions in 52C have been met.

Lapse of a preservation sale order

52M (1) Pursuant to section 52F, the preservation sale order lapses if the sale of a qualifying property does not take place within one hundred and eighty days of the date of the preservation sale order.

(2) The calculation of the days does not include public holidays.

(3) The lapse of a preservation sale order pursuant to this section does not preclude an authority from making a further application for a preservation sale order for the same qualifying property.

(4) The court may grant a further application for a preservation sale order under this Act by an authority where the court considers it reasonable to do so.

Reasonable costs

52N (1) For the purposes of section 52I(1)(f), an authority shall within thirty days of the sale of the qualifying property apply to the court with a schedule of reasonable costs for approval by the court.

(2) Where the court has approved a reasonable cost, the court shall authorise the costs as it considers to be reasonable to be paid from the sale of the qualifying property to those authorities that have incurred costs during the process of the sale.

(3) The total value of reasonable costs shall not exceed ten percent of the gross sale price of the qualifying property and all other cost shall be satisfied by the Crown.

(4) An authority and any other public authorities are precluded from receiving costs from the sale of the qualifying property for the exercise of their functions under this Part.

Application of sale proceeds

52O (1) The proceeds of a preservation sale order obtained under this section, and any accrued interest, shall be paid into the Fund within sixty days of the sale.

(2) The court may, upon an application by the second respondent or interested person made in accordance with the prescribed form order that the proceeds from the sale along with the interest be paid over to the second respondent when the qualifying property has concluded and—

(a) the second respondent is acquitted on all counts;

(b) the indictment or charge is withdrawn against the second respondent;

(c) the conviction is quashed; or

(d) all asset recovery proceedings against the second respondent or against the qualifying property have concluded in the second respondent's favour.

(3) The amount to be paid over under this section shall be such as the court thinks just in all the circumstances of the case.

(4) The court shall not order the proceeds from the sale to be paid over unless the court is satisfied by either of the parties that any asset recovery proceedings, in any relation to the second respondent or the qualifying property has concluded.

(5) At the conclusion of any successful asset recovery proceedings by the Crown in relation to the qualifying property the sums shall be applied as stipulated in the instrument under which the asset recovery proceedings are initiated.

(6) An order under this section shall be in the prescribed form.

Regulations for this Part

52P The Minister may make regulations under this Part for the following matters—

(a) the storage of seized, detained or restrained assets;

(b) the management and maintenance of seized, detained or restrained assets;

(c) the sale of seized, detained or restrained assets;

(d) the allocation of the proceeds of the qualifying property; and

(e) any other matters the Minister may consider appropriate to further the purposes of this Part. ".

Inserts Part VIB

6 The principal Act is amended by inserting after the new Part VIA, the following new Part—

"**PART VIB**

VICTIM COMPENSATION

Interpretation

52Q (1) In this Part—

"compensation order" means an order made under Part VIA;

"person" means a victim within the jurisdiction or a victim outside the jurisdiction;

"relevant authority" means the Director of Public Prosecutions or the enforcement authority;

"relevant order" means an order made under Part II, Part IIIA, Part IV, or Part V;

"relevant Part" means Part II, Part IIIA, Part IV, or Part V.

(2) For the purposes of this Part, a person is a victim—

(a) if he has suffered economic loss or harm, such as—

(i) property loss;

(ii) damages; or

(iii) financial loss,

caused directly by the criminal conduct or unlawful conduct that gave rise to the application made by the relevant authority under the relevant Part; and

(b) if the person is a close relative or dependent of the person referred to in paragraph (a) and that relative or dependent has also suffered identifiable harm or loss arising from the harm done to the person in paragraph (a).

Compensation to victims

52R (1) In any proceedings under the relevant Part, the court may, on the application of a person, make a compensation order directing that—

(a) all or part of any seized, detained or restrained property which represents property for which the person was the prior legitimate owner, be returned to them; or

(b) all or part of any realised proceeds be paid to the person in compensation, for the loss suffered as a result of the relevant criminal conduct, unlawful conduct.

(2) Before the court makes a compensation order in proceedings under a relevant Part, the court shall first assess the evidence of the loss submitted by a person in an application under section 52T.

(3) The court shall determine the amount of compensation having regard to subsection (2), as the court considers is reasonable.

Notice of proceedings under the relevant Part

52S (1) The relevant authority shall give prior notice of any proceedings under the relevant Part, where it is known to the relevant authority that there are persons who may have a claim for compensation.

(2) The relevant authority shall publish the notice in the Gazette, a newspaper in general circulation or on the government's website in the form prescribed under section 52X.

Applying for compensation

52T During the proceedings under a relevant Part where a court considers the making of a relevant order, a person may apply to the court for a compensation order under section 52R.

Giving notice of the matters relevant to an application

52U (1) A person who applies for a compensation order in proceedings under the relevant Part shall give seven days written notice in the prescribed form to the relevant authority of—

(a) the application; and

(b) the grounds on which the compensation order is sought.

(2) The relevant authority shall give written notice in the form prescribed under section 52X of any grounds on which it proposes to challenge the application to the applicant.

Applying for compensation after a relevant order is made

52V (1) A person may with the leave of the court, apply for a compensation order after a relevant order is made under the relevant Part.

(2) A person is estopped from applying for leave under subsection (1) where he—

(a) was notified of the application for the relevant order, but failed to make an application under subsection (1) before the relevant order was made;

(b) appeared at the hearing of the application for the relevant order.

(3) A court may give a person leave to apply under subsection (1) where the court is satisfied that—

(a) the person had a good reason for failing to make an application under section 52T before the relevant order was made; or

(b) there are other special grounds for granting leave.

Direction for payment of compensation order

52W (1) Where the court makes a compensation order under section 52R(1)(b), the court shall at the same time direct that payment is to be made out of the amount to be recovered from the relevant order, before the remainder is paid into the Fund.

(2) The court shall in making a direction under subsection (1), take into consideration the existing priority of payments under the relevant Part.

Regulations

52X (1) The Minister may by regulations provide for the better carrying out of the purposes and the provisions of this Part.

(2) Regulations made under this section shall be subject to the negative resolution procedure.

Transitional for this Part

52Y Subject to this Part, any relevant order made under the relevant part before the coming into force of this Act shall after the coming into force of this Act continue to have effect and shall be regulated by the provisions under which it was issued and shall not be affected by the provisions of this Part.".

Repeals and replaces section 54A

7 Section 54A of the principal Act is repealed and replaced with the following—

"**External confiscation order or external recovery order: retention, asset sharing and transfer of assets**

54A (1) Where an external confiscation order or external recovery order or external forfeiture order is registered in the court the Minister may, having considered all the circumstances, including—

(a) the total value of any such order;

(b) the total law enforcement effort as a whole; and

(c) the level of assistance provided by Bermuda,

direct that fifty percent of the property (or of the proceeds of the sale of the property), or such other prescribed percentage, be retained in the Fund.

(2) Where the court grants a confiscation order or a recovery order or a forfeiture order the Minister may, after having considered the coordinated law enforcement actions with a foreign country, direct that a prescribed percentage of the property (or of the proceeds of the sale of the property), be shared with the foreign country.".

Amends section 55A

8 Section 55A of the principal Act is amended—

(a) in subsection (2)–

(i) by inserting after paragraph (bb) the following—

"(bc) income generated from managed property;

(bd) grants or appropriations; "; and

(ii) by deleting the full stop at the end of paragraph (e) and substituting a semicolon and inserting after paragraph (e) the following—

"(f) amounts paid as a fine under this Act;"; and

(b) in subsection (3)—

(i) by inserting after paragraph (b) the following—

"(ba) to satisfy an obligation of the Government of Bermuda to pay money to a foreign country arising from a domestic forfeiture, confiscation or recovery order'"; and

(ii) by inserting after paragraph (cb) the following—

"(cc) to meet the expenses of the Unit;

(cd) expenses for preserving and disposing of property under Part IIIB; and"

(iii) by inserting after paragraph (d) the following—

"(da) to meet the remuneration, allowances, advances and expenses payable to experts, advisers or consultants engaged under this Act;

(db) to meet the maintenance and insurance cost of property subject to be maintained under this Act;

(dc) legal fees and expenses; "; and

(c) in paragraph (e), insert after the words "to pay", the words "any other".

Amends section 65

9 Section 65 of the principal Act is amended—

(a) in subsection (1A)(a) by inserting after the words "enforcement authority" the words "and the Unit";

(b) in subsection (1B)(a) by inserting after the words "enforcement authority" the words "and the Unit"

Consequential Amendment of the Criminal Code Act 1907

10 The Criminal Code Act 1907 is amended in section 70IA by repealing subsections (4) and (5) and substituting the following new subsections (4) and (5)—

"(4) An order under this section shall operate to deprive the offender of his rights, if any, in the property to which it relates and the property shall (if not already in their possession) be taken into the possession of the police and the police shall turn over the property in accordance with section 36.2H of the Proceeds of Crime Act 1997 to the Asset Recovery and Management Unit established under section 36.2A of the said Act.

(5) Subject to subsection (3) property derived from a person under subsection (1) may, after the expiry of six months from the date of the deprivation order, be disposed of by administrative arrangements to be made by the Asset Recovery and Management Unit and the proceeds shall be deposited into the Confiscated Asset Fund under section 55A of the Proceeds of Crime Act 1997.".

Transitional

11 (1) All properties that are seized, detained, forfeited, recovered or otherwise liable to be disposed of under this Act, the Anti-Terrorism (Financial and Other Measures) Act 2004 and the Misuse of Drugs Act 1972 shall be transferred for administrative custody to the Unit, on and from the date as may be notified by the Minister and shall be dealt with in accordance with the provisions of this Act.

(2) Notwithstanding any other provision of this Act, if a receiver has been appointed by the Court under any other law in force in Bermuda to take custody and dispose of any property, the receiver so appointed shall coordinate with the Unit for the disposal of the property and the proceeds of sale of the property shall be credited to the Fund.

Commencement

12 This Act shall come into operation on such day as the Minister may appoint by notice published in the Gazette, and different dates may be appointed for different provisions and different purposes.

[Assent Date: 14 September 2026]