

Bermuda Proceeds of Crime Act 1997 and Related Legislation

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Preface

As a service to our clients, Conyers Dill & Pearman has prepared this compendium of the Bermuda Proceeds of Crime Act 1997 and Related Legislation, including statutes, statutory instruments, rules and statutory appointments, incorporating all amendments to date.

The most recent legislative update includes amendments to the Proceeds of Crime (Anti Money Laundering and Anti-Terrorist Financing Supervision and Enforcement Act 2008 made by the Proceeds of Crime (Miscellaneous) Act 2026 effective 25 September 2026.

Previous updates include the repeal of the Charities (Anti-Money Laundering, Anti-Terrorist Financing and Reporting) Regulations 2014 by the Charities Amendment (No. 2) Act 2026, amendments to regulation 3 of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008 made by the Trustee Amendment Act 2026 and amendments to the Financial Intelligence Agency Act 2007 made by the Financial Intelligence Agency Amendment Act 2026 all effective 14 September 2026. Section 18 of the Transitional Provisions for the Financial Intelligence Agency Amendment Act 2026 state:

> *(1) The FIA's entitlement to directly access registries and databases under section 16B shall take effect on the commencement of this Act, but the technical and administrative arrangements necessary to facilitate such access shall be implemented—*
>
> *(a) within six months of that commencement for critical public authority registries; and*
>
> *(b) within 12 months of that commencement for all public authority registries and databases.*
>
> *(2) For the purposes of this section "critical public authority registries" means a registry that the Director determines is necessary for the utmost effective performance of the functions of the FIA under this Act.*

Prior to that, amendments referencing proliferation financing to the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008 made by the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Amendment Regulations 2026, effective 22 June 2026.

GUIDANCE NOTES

Guidance notes on the Prevention of Money Laundering and Combating Terrorist Financing are available from www.bma.bm.

Conyers Dill & Pearman

Bermuda

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Proceeds of Crime (Miscellaneous) Act 2025 (2025:20)

Bermuda Monetary Authority Act 1969 (1969:57) (Select Provisions - Fees)

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Insurance Amendment Act 2008 (2008:34)
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Proceeds of Crime Regulations (Supervision and Enforcement) Act 2008 (2008:49)
Bermuda Monetary Authority Amendment Act 2009 (2009:37)
Bermuda Monetary Authority Amendment Act 2010 (2010:2)
Bermuda Monetary Authority (Regulatory Fees) Amendment Act 2010 (2010:58)
Bermuda Monetary Authority (Regulatory Fees) Amendment Act 2011 (2011:48)
Bermuda Monetary Authority Amendment Act 2012 (2012:4)
Corporate Service Provider Business Act 2012 (2012:35)
Investment Funds Amendment Act 2013 (2013:28)
Bermuda Monetary Authority Amendment Act 2014 (2014:35)
Bermuda Monetary Authority Amendment Act 2015 (2015:46)
Money Service Business Act 2016 (2016:36)
Bermuda Monetary Authority Amendment (No. 3) Act 2018 (2018:69)
Bermuda Monetary Authority Amendment Act 2020 (2020:17)
Bermuda Monetary Authority Amendment (No. 2) Act 2021 (2021:50)
Bermuda Monetary Authority Amendment (No. 2) Act 2022 (2022:22)
Bermuda Monetary Authority Amendment Act 2014 (2014:35)
Bermuda Monetary Authority Amendment Act 2024 (2014:43)

Anti-Terrorism (Financial and Other Measures) Act 2004 (2004:31)

Financial Intelligence Agency Act 2007 (2007:22)
Anti-Terrorism (Financial and Other Measures) Amendment Act 2008 (2008:36)
Proceeds of Crime Regulations (Supervision and Enforcement) Act 2008 (2008:49)
Anti-Terrorism (Financial and Other Measures) Amendment Act 2009 (2009:50)
Corporate Service Provider Business Act 2012 (2012:35)
Proceeds of Crime and Related Measures Amendment Act 2013 (2013:30)
Institute of Chartered Accountants of Bermuda Amendment Act 2014 (2014:8)
Casino Gaming Amendment Act 2015 (2015:35)
Proceeds of Crime Amendment Act 2015 (2015:53)
Proceeds of Crime Amendment (No. 2) Act 2016 (2013:45)
Money Service Business Act 2016 (2016:36)
Proceeds of Crime Amendment Act 2017 (2017:10)
Real Estate Brokers' Licensing Act 2017 (2017:28)

Proceeds of Crime (Miscellaneous) Act 2018 (2018:5)
Proceeds of Crime (Miscellaneous) (No. 3) Act 2018 (2018:50)
Proceeds of Crime (Miscellaneous) (No. 4) Amendment Act 2018 (2018:51)
Proceeds of Crime (Miscellaneous) (No. 2) Act 2018 (2018:49)
Digital Asset Business Act 2018 (2018:28)
Registrar of Companies (Supervision and Regulation) Act 2020 (2020:36)
Gaming (Transfer of Functions) Act 2021 (2021:23)

Financial Intelligence Agency Act 2007 (2007:22)

Financial Intelligence Agency Amendment Act 2008 (2008:27)
Proceeds of Crime Amendment Act 2009 (2009:18)
Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010 (2010:50)
Ministers (Change of Responsibilities and Style) Order 2011 (BR5/2011)
Charities Act 2014 (2014:2)
Proceeds of Crime Amendment Act 2015 (2015:53)
Proceeds of Crime Amendment (No. 2) Act 2016 (2016:45)
Proceeds of Crime Amendment (No. 2) Act 2017 (2017:31)
Proceeds of Crime Amendment (No. 3) Act 2017 (2017:35)
Land Title Registration Amendment Act 2017 (2017:47)
Proceeds of Crime (Miscellaneous) (No. 3) Act 2018 (2018:50)
Proceeds of Crime (Miscellaneous) (No. 4) Amendment Act 2018 (2018:51)
Proceeds of Crime Amendment Act 2019 (2019:2)
Registrar of Companies (Supervision and Regulation) Act 2020 (2020:36)
Gaming (Transfer of Functions) Act 2021 (2021:23)
Financial Intelligence Agency Amendment Act 2026 (2026:34)

Charities (Anti-Money Laundering, Anti-Terrorist Financing and Reporting) Regulations 2014 (BR 96/2014) ***[Repealed by Charities Amendment (No. 2) Act 2026 effective 14 September 2026]***

Proceeds of Crime Amendment (No. 3) Act 2017 (2017:35)

Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008 (BR 77/2008)

Proceeds of Crime Regulations (Supervision and Enforcement) Act 2008 (2008:49)
Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Amendment Regulations 2010 (BR 2/2010)
Corporate Service Provider Business Act 2012 (2012:35)
Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Amendment Regulations 2013 (BR 16/2013)
Proceeds of Crime and Related Measures Amendment Act 2013 (3013:30)
Institute of Chartered Accountants of Bermuda Amendment Act 2014 (2014:8)
Proceeds of Crime (Anti-Money and Anti- Terrorist Financing) Amendment Regulations 2014 (BR 61/2014)
Casino Gaming Amendment Act 2015 (2015:35)
Proceeds of Crime Amendment Act 2015 (2015:53)

Money Service Business Act 2016 (2016:36)

Proceeds of Crime Amendment (No. 2) Act 2016 (2016:45)

Proceeds of Crime Amendment (No. 3) Act 2016 (2016:51)

Proceeds of Crime Amendment Act 2017 (2017:10)

Real Estate Brokers' Licensing Act 2017 (2017:28)

Proceeds of Crime Amendment (No. 3) Act 2017 (2017:35)

Proceeds of Crime (Miscellaneous) Act 2018 (2018:5)

Proceeds of Crime (Miscellaneous) (No. 3) Act 2018 (2018:50)

Proceeds of Crime (Miscellaneous) (No. 4) Amendment Act 2018 (2018:51)

Proceeds of Crime (Miscellaneous) (No. 2) Act 2018 (2018:49)

Digital Asset Business Act 2018 (2018:28)

Registrar of Companies (Supervision and Regulation) Act 2020 (2020:36)

Gaming (Transfer of Functions) Act 2021 (2021:23)

Proceeds of Crime Amendment Act 2022 (2022:2)

Proceeds of Crime (Miscellaneous) Act 2025 (2025:20)

Beneficial Ownership (Consequential Amendments) Order 2025 (BR 100/2025)

Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Amendment Regulations 2026 (BR 70/2026)

Trustee Amendment Act 2026 (2026:26)

Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008 (2008:9)

Proceeds of Crime Regulations (Supervision and Enforcement) (Provisions Subject to Civil Penalties) Order 2010 (BR 1/2010)

Anti-Terrorism (Financial and Other Measures) Amendment Act 2009 (2009:50)

Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010 (2010:50)

Credit Unions Act 2010 (2010:43)

Bermuda Monetary Authority (Regulatory Fees) Amendment Act 2011 (2011:48)

Corporate Service Provider Business Act 2012 (2012:35)

Institute of Chartered Accountants of Bermuda Amendment Act 2014 (2014:8)

Casino Gaming Amendment Act 2015 (2015:35)

Proceeds of Crime Amendment Act 2015 (2015:53)

Proceeds of Crime Amendment (No. 2) Act 2016 (2016:45)

Money Service Business Act 2016 (2016:36)

Proceeds of Crime Amendment Act 2017 (2017:10)

Real Estate Brokers' Licensing Act 2017 (2017:28)

Appeal Tribunals (Miscellaneous) Act 2017 (2017:38)

Proceeds of Crime Amendment (No. 3) Act 2017 (2017:35)

Proceeds of Crime (Miscellaneous) Act 2018 (2018:5)

Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Amendment Act 2018 (2018:48)

Proceeds of Crime (Miscellaneous) (No. 4) Amendment Act 2018 (2018:51)

Proceeds of Crime (Miscellaneous) (No. 2) Act 2018 (2018:49)

Digital Asset Business Act 2018 (2018:28)

Bermuda Bar Amendment Act 2018 (2018:53)

Proceeds of Crime Amendment Act 2019 (2019:2)

Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Designation Order 2012 (BR /2012)

Fund Administration Provider Business Act 2019 (2019:32)

Registrar of Companies (Supervision and Regulation) Act 2020 (2020:36)

Gaming (Transfer of Functions) Act 2021 (2021:23)

Investment Business Amendment Act 2022 (2022:13)

Proceeds of Crime (Miscellaneous) Act 2025 (2025:20)

Proceeds of Crime (Miscellaneous) Act 2026 (2026:30)

BERMUDA

PROCEEDS OF CRIME ACT 1997

1997 : 34

[Date of Assent: 19 December 1997]

[Operative Date: 19 January 1998]

WHEREAS it is expedient to extend the powers of the police and the courts in relation to the tracing and confiscation of the proceeds of drug trafficking; to make new provision in relation to the tracing and confiscation of the proceeds of certain other indictable offences; to make new and amended provision in relation to money laundering; to extend the powers of seizure and forfeiture on import or export of cash suspected of being the proceeds of criminal conduct; and to make connected and consequential provision;

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:-

PART I - PRELIMINARY

INTRODUCTORY

1. Short title

This Act may be cited as the Proceeds of Crime Act 1997.

2. Commencement and application

(1) This Act shall come into operation on such day as the Minister responsible for the Police may appoint by notice published in the Gazette.

(2) This Act shall apply to any property, whether or not situated in Bermuda.

INTERPRETATION

3. Meaning of "drug trafficking", "relevant offence", "criminal conduct"

In this Act-

"criminal conduct" means-

(a) drug trafficking, or

(b) any relevant offence;

"drug trafficking offence" means an offence-

(a) under section 4, 5, 6(3), 7 or 11 of the Misuse of Drugs Act 1972 (importation, production, possession with intent to supply or handling of controlled drugs and cultivation of cannabis);

(b) under section 12 or 17 of the Criminal Justice (International Co-operation) (Bermuda) Act 1994 (manufacture and supply of scheduled substances and using ship for illicit traffic); or

(c) under section 43, 44 or 45 of this Act (money laundering) which relates to the proceeds of drug trafficking;

or an offence under section 32, 33, 230 or 231 of the Criminal Code Act 1907 (attempt, incitement, conspiracy etc) deriving from such an offence;

"drug trafficking" means doing or being concerned in, whether in Bermuda or elsewhere, any act constituting-

(a) a drug trafficking offence, or

(b) an offence punishable under a corresponding law,

and includes entering into or being otherwise concerned in, whether in Bermuda or elsewhere, a drug trafficking arrangement;

"drug trafficking arrangement" means an arrangement whereby-

(a) the retention or control by or on behalf of another person of that other person's proceeds of drug trafficking is facilitated; or

(b) the proceeds of drug trafficking by another person are used to secure that funds are placed at that other person's disposal or are used for that other person's benefit to acquire property by way of investment;

"relevant offence" means[1]-

(a) any indictable offence in Bermuda other than a drug trafficking offence;[2]

(b) any act or omission which, had it occurred in Bermuda, would have constituted an indictable offence other than a drug trafficking offence; or[3]

(c) any criminal act or omission in relation to any tax lawfully established in a jurisdiction outside Bermuda which, notwithstanding section 2 of the Taxes Management Act 1976, would have constituted an offence contrary to section 37(2) of that Act, had it occurred in Bermuda. [4]

["relevant offence" substituted by 2000:35 s. 2(1) effective 1 June 2001; "relevant offence" amended by 2017:31 s. 2 effective 6 October 2017]

4. Meaning of "property", "realisable property" etc

(1) In this Act-

"property" means money and all other property, movable or immovable, including things in action and other intangible or incorporeal property; and

"interest", in relation to property, includes right.

(2) For the purposes of this Act-

(a) property is held by any person if he holds any interest in it;

(b) references to property held by a person include a reference to property vested in his trustee in bankruptcy or liquidator;

(c) references to an interest held in property by a person beneficially include a reference to an interest which would be held by him beneficially if the property were not so vested in his trustee in bankruptcy or liquidator; and

(d) property is transferred by one person to another if the first person transfers or grants to the other any interest in the property.

(3) In this Act, "realisable property" means-

(a) any property held by the defendant (other than property in respect of which there is in force a forfeiture order under section 37 of the Misuse of Drugs Act 1972); and

(b) any property held by a person to whom the defendant has, directly or indirectly, made a gift caught by this Act.

(4) For the purposes of this Act, the amount that might be realised at the time a confiscation order is made against the defendant shall be-

(a) the total of the values at that time of all the realisable property held by the defendant; less

(b) where there are obligations having priority at that time, the total amounts payable in pursuance of such obligations,

together with the total of the values at that time of all gifts caught by this Act.

(5) For the purposes of subsection (4), an obligation has priority at any time if it is an obligation of the defendant-

(a) to pay an amount due in respect of a fine, or other order imposed or made on conviction of an offence, where the fine was imposed or order made before the confiscation order; or

(b) to pay any sum which would be included among the preferential debts in the defendant's bankruptcy commencing on the date of the confiscation order or winding up under an order of the court made on that date.

(6) For the purposes of subsection (5)(b), "preferential debts"-

(a) in relation to bankruptcy, means the debts to be paid in priority under section 39 of the Bankruptcy Act 1989 (assuming the date of the confiscation order to be the date of the receiving order); and

(b) in relation to winding up, means the debts to be paid in priority in accordance with section 236 of the Companies Act 1981 (assuming the date of the confiscation order to be the date of the winding up).

5. Value of property

(1) Subject to the following subsections and section 6, for the purposes of this Act, the value of property (other than cash) in relation to any person holding the property shall be its market value, except that where any other person holds an interest in the property, the value shall be-

(a) the market value of the first-mentioned person's beneficial interest in the property, less

(b) the amount required to discharge any incumbrance (other than a charging order) on that interest.

(2) Subject to section 6(3), references in this Act to the value at any time (referred to in subsection (3) as the "material time") of a gift caught by this Act are references to-

(a) the value of the gift to the recipient when he received it adjusted to take account of subsequent changes in the value of money; or

(b) where subsection (3) applies, the value mentioned therein,

whichever is the greater.

(3) Subject to section 6(3), if at the material time the recipient holds-

(a) the property which he received (not being cash); or

(b) property which, in whole or in part, directly or indirectly represents in his hands the property which he received,

the value referred to in subsection (2)(b) shall be the value to him at the material time of the property mentioned in paragraph (a) or as the case may be, of the property mentioned in paragraph (b) so far as it so represents the property which he received, but disregarding in either case any charging order.

6. Gifts caught by this Act

(1) In relation to a drug trafficking offence, a gift (including a gift made before the commencement of this Act) is caught by this Act if-

(a) it was made by the defendant at any time since the beginning of the period of six years ending-

(i) when the proceedings for the drug trafficking offence were instituted against him, or

(ii) where no such proceedings have been instituted, when an application for a charging or restraint order is made under section 28 or 29; or

(b) it was made by the defendant at any time and was a gift of property-

(i) received by the defendant in connection with drug trafficking carried on by him or another person, or

(ii) which in whole or in part directly or indirectly represented in the defendant's hands property received by him in that connection.

(2) In relation to a relevant offence, a gift (including a gift made before the commencement of this Act) is caught by this Act if-

(a) it was made by the defendant at any time since the commission of the relevant offence, or, if more than one, the earliest of the offences to which the proceedings relate (including any offence which the court takes into consideration in determining his sentence); and

(b) the court considers it appropriate in all the circumstances to take the gift into account.

(3) For the purposes of this Act-

(a) the circumstances in which the defendant is to be treated as making a gift include those where he transfers property to another person, directly or indirectly, for a consideration the value of which is significantly less than the value of the consideration provided by the defendant; and

(b) in those circumstances, this section and section 5 shall apply as if the defendant had made a gift of such share in the property as bears to the whole property the same proportion as the difference between the values referred to in paragraph (a) bears to the value of the consideration provided by the defendant.

7. Other definitions

(1) In this Act-[5]

“banking institution” means an institution licensed under the Banks and Deposit Companies Act 1999;[6]

"Bermuda Monetary Authority" means the Authority established under section 2 of the Bermuda Monetary Authority Act 1969;

“civil recovery investigation” means—[7]

(a) an investigation into—

(i) whether property is recoverable property or associated property;

(ii) who holds the property; or

(iii) the property’s extent or whereabouts,

(b) but an investigation is not a civil recovery investigation if—

(i) proceedings for a recovery order have been started in respect of the property in question;

(ii) an interim receiving order applies to the property in question; or

(iii) subject to section 36.1I(2), the property in question is detained under section 50;

“Confiscated Assets Fund” means the Fund established under section 55A; [8]

“confiscation investigation” means an investigation into—

(a) whether a person has benefited from his criminal conduct; or

(b) the extent or whereabouts of his benefit from his criminal conduct;[9]

"confiscation order" means an order made under section 9[10] (including such an order made by virtue of section 17 or 22);

"the court" means the Supreme Court;

"defendant" means a person against whom proceedings have been instituted for an offence (whether or not he has been convicted);

“enforcement authority” has the meaning given by section 36F;[11]

“excepted joint owner” has the meaning given by section 36.1A(4);[12]

“FIA” means the Financial Intelligence Agency established under section 3 of the Financial Intelligence Agency Act 2007;[13]

"items subject to legal privilege" means-

(a) communications between a professional legal adviser, and his client made in connection with the giving of legal advice to the client; and

(b) communications between a professional legal adviser and his client or between such an adviser and any other person made in connection with or in contemplation of legal proceedings and for the purpose of such proceedings,

when they are in the possession of a person who is entitled to possession of them; but items held with the intention of furthering a criminal purpose are not items subject to legal privilege;

"material" includes any book, document or other record in any form whatsoever, and any container or article relating thereto;

“Minister” means the Minister responsible for justice;[14]

“money laundering” means an act which —

(a) constitutes an offence under section 43, 44 or 45;

(b) constitutes an attempt, conspiracy or incitement to commit an offence specified in paragraph (a);

(c) constitutes aiding, abetting, counselling or procuring the commission of an offence specified in paragraph (a); or

(d) would constitute an offence specified in paragraph (a), (b) or (c) if done in Bermuda;

for these purposes, having possession of any property shall be taken to be doing an act in relation to it; and "money laundering offence" and "money laundering investigation" have a corresponding meaning;[15]

"premises" includes any place and, in particular, includes-

(a) any vehicle, vessel, aircraft, or offshore structure, and

(b) any tent or moveable structure;

"prescribe" means prescribe by regulations made under this Act;[16]

"recoverable property" means property obtained through unlawful conduct, and is to be read in accordance with sections 36X to 36.1G;[17]

"recovery order" means an order made under section 36X;[18]

"relevant institution" has the meaning given in subsection (2);[19]

"respondent" means—[20]

(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;

"share", in relation to an excepted joint owner, has the meaning given by section 36.1A(4); [21]

"suitably qualified person" includes a professional accountant or professional legal adviser; [22]

"unlawful conduct" has the meaning given by section 36B; [23]

(2) In this Act "relevant institution" means —[24]

(a) a banking institution; or

(b) an institution falling within a class of institutions designated as relevant institutions by order of the Minister.

(3) The Minister may by order subject to negative resolution procedure designate institutions for the purposes of subsection (2). [25]

(4) For the purpose of deciding whether or not property was recoverable at any time (including times before the commencement of the Proceeds of Crime Amendment (No. 2) Act 2013), it is to be assumed that the Proceeds of Crime Amendment (No. 2) Act 2013 was in force at that and any other relevant time.[26]

(5) References to the satisfaction of the enforcement authority's right to recover property obtained through unlawful conduct are to be read in accordance with section 36.1F. [27]

["Confiscated Assets Fund" inserted by 2000:35 s.6(1) effective 1 June 2001; "money laundering" deleted and substituted by 2007:25 s.3 effective 15 November 2008; "banking institution", "confiscation

investigation", "FIA", "Minister" "relevant institution", subsection 2 and 3 inserted by 2007:25 s.3 effective 15 November 2008; Section 7 subsection (1) amended by 2009:50 s. 5 effective 15 January 2010; Section 7 subsection (1) definitions "civil recovery investigation", "enforcement authority", "excepted joint owner", "recoverable property", "recovery order", "respondent", "share", "suitably qualified person", "unlawful conduct" and subsections (4) and (5) inserted by 2013:40 s. 2 effective 1 November 2013; amended by 2015:53 s. 2 effective 1 January 2016]

8. Institution and conclusion of proceedings

(1) For the purposes of this Act-

(a) proceedings for an offence are instituted in Bermuda when an information is laid charging a person with an offence;

(b) proceedings in Bermuda for an offence are concluded on the occurrence of one of the following events-

(i) the discontinuance of the proceedings;

(ii) the acquittal of the defendant;

(iii) the quashing of the defendant's conviction for the offence;

(iv) the satisfaction of a confiscation order made in the proceedings;

(c) an application under section 17, 18, 20 or 22 is concluded-

(i) if the court decides not to make or vary (as the case may be) a confiscation order against the defendant, when it makes that decision; or

(ii) if a confiscation order is made or varied as a result of that application, when the order is satisfied;

(d) a confiscation order is satisfied when no amount is due under it.

(e) an application under section 36X is concluded— [28]

(i) if the court decides not to make or vary (as the case may be) a recovery order, when it makes that decision; or

(ii) if a recovery order is made or varied as a result of that application, when the order is satisfied;

(f) a recovery order is satisfied when no amount is due pursuant to it. [29]

(2) For the purposes of this Act, an order is subject to appeal until (disregarding any power of a court to grant leave to appeal out of time) there is no further possibility of an appeal on which the order could be varied or set aside.

[Section 8 subsections (1)(e) and (1)(f) inserted by 2013:40 s. 3 effective 1 November 2013]

PART II - CONFISCATION ORDERS

CONFISCATION ORDERS

9. Confiscation orders[30]

(1) Where a defendant appears before the Supreme Court to be sentenced for one or more drug trafficking offences or relevant offences, the court shall proceed under this section—

(a) on the application of the Director of Public Prosecutions; or

(b) of its own motion where it considers it appropriate to do so.

(2) The court shall first determine whether the defendant has benefited from criminal conduct.

(3) For the purposes of this Act, a person has benefited from criminal conduct if he has at any time (whether before or after the commencement of this Act)—

(a) received any payment or other reward in connection with his or another person's criminal conduct;

(b) obtained property as a result of or in connection with his or another person's criminal conduct; or

(c) derived a pecuniary advantage as a result of or in connection with his or another person's criminal conduct.

(4) If the court determines that he has so benefited, it shall, before sentencing or otherwise dealing with him in respect of the offence or (as the case may be) any of the offences concerned, make a confiscation order and determine in accordance with section 15 the amount to be recovered in his case under the order.

(5) The court shall then, in respect of the offence or offences concerned—

(a) order the defendant to pay the amount of the confiscation order within such period as it may specify; and

(b) take into account the confiscation order before—

(i) imposing any fine on him;

(ii) making any other order involving any payment by him; and

(iii) making any order under section 37 of the Misuse of Drugs Act 1972 (forfeiture); but

(c) subject to paragraph (b), leave the confiscation order out of account in determining the appropriate sentence or other manner of dealing with the defendant.

[section 9 amended by 2007:25 s.20 effective 15 November 2008; repealed and replaced by 2015:53 s. 2 effective 1 January 2016]

10. Confiscation orders: relevant offences

[REPEALED by 2015:53 s. 2][31]

[Section 10 amended by 2007:25 s.20 effective 15 November 2008; repealed by 2015 : 53 s. 2 effective 1 January 2016]

11. Postponed determinations

(1) Where the court is proceeding under section 9[32], but considers that it needs more information before-

(a) determining whether the defendant has benefited as mentioned in the section in question, or

(b) determining the amount to be recovered from him under a confiscation order,

it may, for the purpose of enabling that information to be obtained, postpone making the determination for such period as it may specify.

(2) More than one postponement may be made under subsection (1).

(3) Unless satisfied that there are exceptional circumstances, the court shall not specify a period under subsection (1) which, by itself or taken together with any other postponement under this section, exceeds six months from the date of conviction.

(4) Where the defendant appeals against his conviction, the court may on that account-

(a) postpone making either or both of the determinations mentioned in subsection (1) for such period as it may specify; or

(b) where it has exercised its powers to postpone, extend the specified period.

(5) A postponement or extension under subsection (1) or (4) may be made on the application of the Director of Public Prosecutions[33] or the defence or by the court of its own motion.

(6) Unless the court is satisfied there are exceptional circumstances, any postponement or extension under subsection (4) shall not extend beyond three months after the appeal is determined or otherwise disposed of.

(7) Where the court exercises its power under this section it may nevertheless proceed to sentence the defendant in respect of the offence in question or any such offences; and on making a postponed confiscation order by virtue of this section it may vary any fine or other order involving payment imposed on the defendant in accordance with subsection (5)(b) of section 9[34].

[section 11 amended by 2007:25 s.20 effective15 November 2008; amended by 2015:53 s. 2 effective 1 January 2016]

12. Assessing the proceeds of criminal conduct[35]

(1) For the purposes of this Act—

(a) any payments or other rewards received, property obtained or pecuniary advantage derived by a person at any time (whether before or after the commencement of this Act) as a result of or in connection with criminal conduct carried on by him or another person are his proceeds of criminal conduct; and

(b) the value of his proceeds of criminal conduct is the aggregate of the values of the payments or other rewards, property and pecuniary advantage.

(2) Subject to subsections (5) and (6), the court shall make the required assumptions for the purpose—

(a) of determining whether the defendant has benefited from criminal conduct; and

(b) if he has, of determining the value of his proceeds of criminal conduct.

(3) The required assumptions are—

(a) that any property appearing to the court—

(i) to have been held by the defendant at any time since his conviction; or

(ii) to have been transferred to him at any time since the beginning of the period of six years ending when the proceedings were instituted against him,

was received by him as a payment or reward, property or a pecuniary advantage in connection with criminal conduct carried on by him;

(b) that any expenditure of his since the beginning of that period was met out of payments received by him in connection with criminal conduct carried on by him;

(c) that, for the purpose of valuing any property received or assumed to have been received by him at any time as such a reward, he received the property free of other interests in it.

(4) For the purposes of this Act, if a person derives a pecuniary advantage as a result of or in connection with the commission of an offence, he is to be treated as if he had obtained instead a sum of money equal to the value of the pecuniary advantage.

(5) The court shall not make any of the required assumptions in relation to any particular property or expenditure if—

(a) that assumption is shown to be incorrect in the defendant's case; or

(b) the court is satisfied that there would be a serious risk of injustice in the defendant's case if that assumption were to be made,

and where the court, by virtue of this subsection, does not make one of the required assumptions it shall state its reasons.

(6) For the purpose of assessing the value of the proceeds derived by the defendant from criminal conduct in a case where a confiscation order has previously been made against him (under this Act or the Drug Trafficking Suppression Act 1988), the court shall leave out of account any such proceeds that are shown to the court to have been taken into account in determining the amount to be recovered under the previous order.

[Section 12 repealed and replaced by 2015:53 s. 3 effective 1 January 2016]

13. Statements

(1) Where the Director of Public Prosecutions[36] asks the court to proceed under section 9[37] he shall give the court, within such period as it may direct, a statement (a "prosecutor's statement") of matters which he considers relevant in connection with-

(a) determining whether the defendant has benefited from criminal conduct[38] ; or

(b) assessing the value of his proceeds of criminal conduct. [39]

(2) Where the court proceeds under section 9[40] without the Director of Public Prosecutions[41] having asked it to do so, it may require him to give it a prosecutor's statement, within such period as it may direct.

(3) Where a prosecutor's statement has been given-

(a) the Director of Public Prosecutions[42] may at any time give the court a further such statement; and

(b) the court may at any time require him to give it a further such statement, within such period as it may direct.

(4) Where any prosecutor's statement has been given and the court is satisfied that it has been served on the defendant, it may require the defendant, within such period as it may direct-

(a) to indicate the extent to which he accepts the allegations in the statement; and

(b) so far as he does not accept any such allegation, to give particulars of any matters on which he proposes to rely;

and the court may for the purposes of the determination and assessment mentioned in subsection (1) treat any acceptance by the defendant as conclusive of the matters to which it relates.

(5) To the extent that the defendant fails in any respect to comply with a requirement under subsection (4), he may be treated for the purposes of this section as accepting every allegation in the statement.

(6) Where-

(a) there is tendered to the court by the defendant a statement as to any matters relevant to determining the amount that might be realised at the time the confiscation order is made; and

(b) the Director of Public Prosecutions[43] accepts to any extent any allegation in the statement,

the court may, for the purposes of that determination, treat that acceptance as conclusive of the matters to which it relates.

(7) An allegation may be accepted or a matter indicated for the purposes of this section either orally before the court or in writing.

(8) No acceptance by the defendant under this section that proceeds have been derived by him from criminal conduct [44] shall be admissible in evidence in any proceedings for an offence.

[section 13 amended by 2007:25 s.20 effective 15 November 2008; subsections (1) and (8) amended by 2015:53 s. 4 effective 1 January 2016]

14. Provision of information by defendant

(1) For the purpose of obtaining information to assist it in carrying out its functions in relation to making a confiscation order, the court may order the defendant to give it such information in such manner and before such date as may be specified in the order.

(2) If the defendant fails without reasonable excuse to comply with any order under this section, the court may draw such inference from that failure as it considers appropriate.

(3) Where the Director of Public Prosecutions[45] accepts to any extent any allegation made by the defendant in giving to the court information required under this section, the court may treat that acceptance as conclusive of the matters to which it relates.

[section 14 amended by 2007:25 s.20 effective15 November 2008]

15. Amount to be recovered

(1) Subject to subsection (3), the amount to be recovered under a confiscation order shall be the amount the court assesses to be the value of the defendant's proceeds of criminal conduct.[46]

(2) If the court is satisfied as to any matter relevant for determining the amount that might be realised at the time the confiscation order is made (whether by reason of the acceptance of an allegation made in a statement given under section 13 or made in the giving of information under section 14 or otherwise), the court may issue a certificate giving its opinion as to the matters concerned and shall do so if satisfied as mentioned in subsection (3).

(3) If the court is satisfied that the amount that might be realised at the time that the confiscation order is made is less than the amount the court assesses to be the value of the defendant's proceeds of criminal conduct, the amount to be recovered under the confiscation order shall be the amount appearing to the court to be the amount that might be so realised. [47]

[Section 15 subsections (1) and (3) deleted and substituted by 2015:53 s. 5 effective 1 January 2016]

16. Protection of third party rights

(1) Where an application is made for a confiscation order, a person who asserts an interest in realisable property may apply to the court, before the confiscation order is made, for an order under subsection (2).

(2) If a person applies to the court for an order under this subsection in respect of his interest in realisable property and the court is satisfied-

(a) that he was not in any way involved in the defendant's criminal conduct; and

(b) that he acquired the interest-

(i) for sufficient consideration; and

(ii) without knowing, and in circumstances such as not to arouse a reasonable suspicion, that the property was, at the time he acquired it, property that was involved in or was the proceeds of criminal conduct,

the court shall make an order declaring the nature, extent and value (as at the time the order is made) of his interest.

(3) Subject to subsection (4), where a confiscation order has already been made, a person who asserts an interest in the property may apply under this subsection to the court for an order under subsection (2).

(4) Except with the leave of the court, an application shall not be made under subsection (3)-

(a) by a person-

(i) who had knowledge of the application for a confiscation order before the order was made, or

(ii) who appeared at the hearing of that application; or

(b) later than 28 days beginning with the day on which the confiscation order was made.

(5) A person who makes an application under subsection (1) or (3) shall give not less than seven days' written notice of the making of the application to the Director of Public Prosecutions[48] who shall be a party to any proceedings on the application.

[section 16 amended by 2007:25 s.20 effective15 November 2008]

SUBSEQUENT PROCEEDINGS

17. Reconsideration of case

(1) This section applies where a defendant has appeared before the Supreme Court to be sentenced in respect of one or more drug trafficking or relevant offences but the court has not made a confiscation order because either— [49]

(a) it did not proceed under this Act; or

(b) it has made a determination that the defendant has not benefited from criminal conduct.

(2) If the Director of Public Prosecutions has evidence which was not previously available but which he believes would have led the court to determine that the defendant had benefited from criminal conduct, he may make an application to the court. [50]

(3) On such an application the court shall consider the evidence and if satisfied that the defendant had so benefited, the court shall make a confiscation order and order the payment of such amount as it thinks just in all the circumstances of the case, including in particular the amount of any fine or other orders for payment imposed on the defendant in respect of the offence or offences in question.

[section 17 amended by 2007:25 s.20 effective15 November 2008; subsections (1) and (2) deleted and substituted by 2015:53 s. 6 effective 1 January 2016]

18. Revised assessment of proceeds of criminal conduct

(1) This section applies where the court has made a determination of the amount to be recovered under a confiscation order ("the current determination").

(2) Where the Director of Public Prosecutions is of the opinion that the real value of the defendant's proceeds of criminal conduct was greater than their assessed value, he may apply to the court for the evidence on which he has formed his opinion to be considered by the court. [51]

(3) If, having considered the evidence, the court is satisfied that the real value of the defendant's proceeds of criminal conduct is greater than their assessed value (whether because the real value at the time of the current determination was higher than was thought or because the value of the proceeds or benefit in question has subsequently increased), the court shall make a fresh determination of the amount to be recovered under a confiscation order. [52]

(4) In this section—

"assessed value" means the value of the defendant's proceeds of criminal conduct as assessed by the court in accordance with section 15(1) of this Act; and

"real value" means the value of the defendant's proceeds of criminal conduct which took place in the period by reference to which the current determination was made or in any earlier period. [53]

(5) Any determination by virtue of this section shall be by reference to the amount that might be realised at the time when the determination is made.

(6) For the avoidance of doubt, section 12(6) shall not apply in relation to any of the defendant's proceeds of criminal conduct taken into account in respect of the current determination. [54]

(7) If, as a result of making the fresh determination required by subsection (3), the amount to be recovered exceeds the amount set by the current determination, the court may substitute for the amount to be recovered under the confiscation order such greater amount as it thinks just in all the circumstances of the case.

(8) Where the court varies a confiscation order by virtue of this section it shall substitute for the term of imprisonment in default fixed under section 25(1) in respect of the amount to be recovered under the order such longer term as may be determined in accordance with that section in respect of the greater amount to be recovered under the order as varied.

[section 18 amended by 2007:25 s.20 effective 15 November 2008; subsections (2), (3) and (4) deleted and substituted and subsection (6) amended by 2015:53 s. 7 effective 1 January 2016]

19. Reconsideration etc: supplementary

(1) On an application under section 17 or 18, the court may take into account any payment or other reward, property or pecuniary advantage received by the defendant on or after the date of the—[55]

(a) conviction (in the case of an application under section 17 by virtue of subsection (1)(a));

(b) determination (in the case of an application under section 17 by virtue of subsection (1)(b)); or

(c) current determination (in the case of an application under section 18),

but only if the Director of Public Prosecutions shows that it was received by the defendant in connection with criminal conduct, on or before that date.

(2) In considering any evidence which relates to any payment or reward, property or pecuniary advantage in relation to criminal conduct to which subsection (1) applies, the court shall not make the assumptions which would otherwise be required by section 12.[56]

(3) No application shall be entertained by the court under section 17 or 18 if it is made after the end of the period of six years beginning with the date on which the defendant was convicted, or where the application relates to more than one conviction, the date of the latest conviction.

(4) Sections 13 and 14 apply, with such modifications as may be necessary, in relation to applications under sections 17 and 18 as they apply in relation to proceedings under section 9.[57]

[section 19 amended by 2007:25 s.20 effective 15 November 2008; subsections (1) and (2) deleted and substituted and subsection (4) amended by 2015:53 s. 8 effective 1 January 2016]

20. Increase in realisable property

(1) This section applies where, by virtue of section 15(3), the amount which a person is ordered to pay under a confiscation order is less than the amount assessed to be his proceeds of drug trafficking or benefit from relevant offences (as the case may be).

(2) If, on an application made-

(a) by the Director of Public Prosecutions[58], or

(b) by a receiver appointed under section 28 or 31 in relation to the realisable property of the person in question,

the court is satisfied that the amount that might be realised in the case of the person in question is greater than the amount taken into account in making the confiscation order (whether it was greater than was thought when the order was made or has subsequently increased), the court shall issue a certificate to that effect, giving its reasons.

(3) Where a certificate has been issued the Director of Public Prosecutions[59] may apply to the court for an increase in the amount to be recovered under the confiscation order; and on that application the court may-

(a) substitute for that amount such amount not exceeding the amount assessed as the value referred to in subsection (1) as appears to the court to be appropriate having regard to the amount now shown to be realisable; and

(b) increase the term of imprisonment fixed in respect of the confiscation order under section 25(1) if the effect of the substitution is to increase the maximum period applicable in relation to the order under that section.

[section 20 amended by 2007:25 s.20 effective 15 November 2008]

21. Inadequacy of realisable property

(1) If, on an application made in respect of a confiscation order,

(a) by the defendant; or

(b) by a receiver appointed under section 28 or 31,

the court is satisfied that the realisable property is inadequate for the payment of any amount remaining to be recovered under the order, the court shall issue a certificate to that effect, giving its reasons.

(2) For the purposes of subsection (1)-

(a) in the case of realisable property held by a person who has been adjudged bankrupt, the court shall take into account the extent to which any property held by him may be distributed among creditors; and

(b) the court may disregard any inadequacy in the realisable property which appears to the court to be attributable, wholly or partly, to anything done by the defendant for the purpose of preserving any property held by a person to whom the defendant had, directly or indirectly, made a gift caught by this Act from any risk of realisation under this Act.

(3) Where a certificate has been issued under subsection (1), the person who applied for it may apply to the court which made the confiscation order for the amount to be recovered under the order to be reduced.

(4) The court shall, on an application under subsection (3)-

(a) substitute for the amount to be recovered under the order such lesser amount as the court thinks just in all the circumstances of the case; and

(b) substitute for the term of imprisonment in default fixed under section 25(1) in respect of the amount to be recovered under the order a shorter term if such is determined in accordance with that section in respect of the lesser amount to be recovered under the order as varied.

(5) Any person appearing to the court to be likely to be affected by any exercise of its powers under this section shall be entitled to appear before the court and make representations.

ABSCONDED PERSONS ETC

22. Confiscation order where defendant has absconded or died

(1) Where a person has been convicted of one or more drug trafficking or relevant offences, on the application of the Director of Public Prosecutions[60] the court may make a confiscation order against him if satisfied that he has absconded or died.

(2) Where proceedings for one or more drug trafficking or relevant offences have been instituted but not concluded, on the application of the Director of Public Prosecutions[61] the court may make a confiscation order against the defendant if satisfied that he has absconded, but shall not do so until after the period of two years beginning with the date which is, in the opinion of the court, the date on which the defendant absconded.

(3) In any proceedings under this section-

(a) section 12(2) shall not apply;

(b) section 13 shall apply with the omission of subsections (4) to (6);

(c) the court shall not make a confiscation order against a defendant unless it is satisfied that the Director of Public Prosecutions[62] has taken reasonable steps to contact him; and

(d) any person appearing to the court to be likely to be affected by the making of a confiscation order shall be entitled to appear before the court and make representations.

(4) Where an application has been made to the court under this section in relation to a defendant who has absconded and the court has decided not to make a confiscation order against him, section 17 shall not apply at any time while he remains an absconder.

[section 22 amended by 2007:25 s.20 effective15 November 2008]

23. Variation of order made against absconder

(1) Where a confiscation order is made by virtue of section 22(2) and the defendant ceases to be an absconder, he may apply to the court for a variation of the amount to be recovered under the order.

(2) If on such an application the court is satisfied that the value of the defendant's proceeds of criminal conduct[63] in the period by reference to which the determination in question was made[64], or the amount that might have been realised at the time the order was made, was less than the amount ordered to be paid under the confiscation order, the court-

(a) may if it considers it just in all the circumstances reduce the amount to be recovered under the confiscation order, and

(b) if it does so, shall reduce the term of imprisonment in default in accordance with section 25(1).

(3) Where the court reduces the amount to be recovered under a confiscation order it may, on the application of a person who held property which was realisable property, order compensation to be paid to him if satisfied that he has suffered loss as a result of the making of the confiscation order and if, having regard to all the circumstances of the case, it considers it appropriate to do so.

(4) No application shall be entertained by the court if it is made after the end of six years beginning on the day on which the confiscation order was made.

[Section 23 subsection (2) amended by 2015:53 s. 9 effective 1 January 2016]

24. Discharge of order where absconder acquitted etc

(1) Where a confiscation order is made by virtue of section 22(2) and the defendant is subsequently tried for the offence or offences in question and acquitted on all counts, the court shall cancel the confiscation order.

(2) Where a confiscation order is made by virtue of section 22(2) against a person who ceases to be an absconder and subsection (1) of this section does not apply, the court may on the application of the defendant cancel the confiscation order if satisfied that-

(a) there has been undue delay in continuing the proceedings in respect of which the power under section 22(2) of this Act was exercised; or

(b) the Director of Public Prosecutions[65] does not intend to proceed with the prosecution.

(3) Where the court cancels a confiscation order under this section it may, on the application of a person who held property which was realisable property, order compensation to be paid to him if satisfied that he has suffered loss as a result of the making of the confiscation order and if, having regard to all the circumstances of the case it considers it appropriate to do so.

(4) Where the court cancels a confiscation order under this section it may make such consequential or incidental order as it thinks fit.

[section 24 amended by 2007:25 s.20 effective15 November 2008]

PART III -ENFORCEMENT OF CONFISCATION ORDERS

DEFAULT POWERS

25. Imprisonment in default

(1) Notwithstanding section 63 of the Criminal Jurisdiction and Procedure Act 2015 (period of imprisonment in default of payment of fine or costs)[66], where the court orders the defendant to pay an amount under a confiscation order it shall in addition direct him to be imprisoned in default of payment of any amount under the confiscation order as follows-

(a) if the amount does not exceed $20,000, for a term not exceeding 2 years;

(b) if the amount exceeds $20,000 but does not exceed $50,000, for a term not exceeding 5 years;

(c) if the amount exceeds $50,000 but does not exceed $100,000, for a term not exceeding 7 years; and

(d) if the amount exceeds $100,000, for a term not exceeding 10 years.

(2) Where-

(a) a warrant to commit the defendant to prison is issued for a default in payment of an amount ordered to be paid under a confiscation order in respect of an offence or offences; and

(b) at the time the warrant is issued, the defendant is liable to serve any term of imprisonment in respect of the offence or offences,

the term of imprisonment to be served in default of payment of the amount shall not begin to run until after the term mentioned in paragraph (b).

(3) Where a defendant serves a term of imprisonment in default of paying any amount due under a confiscation order, his serving that term does not prevent the confiscation order from continuing to have effect, so far as any other method of enforcement is concerned.

[Section 25 subsection (1) amended by 2017:35 s. 2 effective 3 November 2017]

26. Interest on unpaid sums

(1) If any sum required to be paid by a person under a confiscation order is not paid when it is required to be paid, that person shall be liable to pay interest on that sum for the period for which it remains unpaid; and the amount of interest shall for the purposes of enforcement, be treated as part of the amount to be recovered from him under the confiscation order.

(2) The court may, on the application of the Director of Public Prosecutions[67], increase the term of imprisonment fixed in respect of the confiscation order if the effect of subsection (1) is to increase the maximum period applicable in relation to the order under section 25(1).

(3) The rate of interest under subsection (1) shall be that for the time being applying to a judgment debt.

[section 26 amended by 2007:25 s.20 effective 15 November 2008]

26A. Enforcement of payment of confiscation order[68]

(1) Where—

(a) the Supreme Court has made a confiscation order; and

(b) any sum required to be paid by a person under a confiscation order is not paid when it is required to be paid,

the court may issue a warrant under this section for the person's arrest.

(2) A warrant under this section shall be authority—

(a) for any police officer, whether he has the warrant with him or not, to arrest the person who is the subject of the warrant and bring him before the court to be dealt with according to law; and

(b) if the circumstances require, for the person to be detained in custody at a police station for a period of not more than two days after his arrest before he is brought before a court in accordance with paragraph (a).

(3) A police officer arresting a person by virtue of a warrant under this section shall, at the time of the arrest, either—

(a) show the warrant to the person being arrested; or

(b) if the officer does not have the warrant with him at the time of the arrest—

(i) inform the person being arrested of the existence and purport of the warrant; and

(ii) after such arrest, show the warrant to the person as soon as reasonably practicable but not more than four hours after the arrest.

(4) The powers under subsection (1), for the issuance of a warrant, are exercisable—

(a) on application by a police officer;

(b) on application by the Director of Public Prosecutions; or

(c) by the court on its own motion.

(5) Where a person has been brought before the court on a warrant issued under this section the court may—

(a) impose a period of imprisonment in default in accordance with section 25;

(b) order a fresh assessment of the realisable assets of the defendant;

(c) vary or discharge the confiscation order;

(d) exercise any of the powers as prescribed under sections 27 to 34; or

(e) make any other order that the court deems fit.

[Section 26A inserted by 2015:53 s. 10 effective 1 January 2016]

RESTRAINT AND CHARGING ORDERS

27. Cases in which restraint and charging orders may be made

(1) The powers conferred on the Supreme Court by section 28 to make a restraint order and by section 29 to make a charging order are exercisable where-

(a) proceedings have been instituted against the defendant for a drug trafficking or relevant offence or an application has been made in respect of the defendant under section 17, 18, 20 or 22;

(b) the proceedings have not, or the application has not been concluded;

(c) the court is satisfied that there is reasonable cause to believe-

(i) in the case of an application under section 18 or 20 of this Act, that the court will be satisfied as mentioned in section 18(3) or 20(2); or

(ii) in any other case, that the defendant has benefited from drug trafficking or from any relevant offence (as the case may be).

(2) The court shall not exercise those powers if it is satisfied that there has been undue delay in continuing the proceedings or application in question, or that it is not intended to proceed with the prosecution.

(3) Those powers are also exercisable where the court is satisfied-

(a) that a person is to be charged with a drug trafficking or relevant offence or an application as mentioned in subsection (1)(a) is to be made; and

(b) the court is satisfied as mentioned in subsection (1)(c).

(4) For the purposes of sections 28 and 29, at any time when those powers are exercisable before proceedings have been instituted-

(a) references in this Act to the defendant shall be construed as references to the person referred to in subsection (3)(a); and

(b) references in this Act to realisable property shall be construed as if, immediately before that time, proceedings had been instituted against the person referred to in subsection (2) for a drug trafficking or relevant offence.

(5) Where the court has made a restraint or charging order by virtue of subsection (3), the court shall discharge the order if proceedings in respect of the offence are not instituted, or if the application is not made, within such time as the court considers reasonable.

28. Restraint orders

(1) The court may make a restraint order to prohibit any person from dealing with any realisable property, subject to such conditions and exceptions as may be specified in the order.

(2) A restraint order may apply-

(a) to all realisable property held by a specified person, whether the property is described in the order or not; and

(b) to realisable property held by a specified person, being property transferred to him after the making of the order.

(3) This section shall not have effect in relation to any property for the time being subject to a charge under section 29 of this Act or under section 19 of the Drug Trafficking Suppression Act 1988.

(4) A restraint order-

(a) may be made only on an application by the Director of Public Prosecutions[69];

(b) may be made on an ex parte application to a Judge in chambers; and

(c) shall provide for notice to be given to persons affected by the order.

(5) A restraint order-

(a) may, on the application of any person affected by the order, be discharged or varied in relation to any property; and

(b) shall be discharged when proceedings for the offence are concluded.

(6) Where the court has made a restraint order, the court-

(a) may at any time appoint a receiver-

(i) to take possession of any realisable property; and

(ii) in accordance with the directions of the court, to manage or otherwise deal with any property in respect of which he is appointed,

subject to such exceptions and conditions as may be specified by the court; and

(b) may require any person having possession of property in respect of which the receiver is appointed under this section to give possession of it to the receiver.

(7) For the purposes of this section, dealing with property held by any person includes (without prejudice to the generality of the expression)-

(a) where a debt is owed to that person, making a payment to any person in reduction of the amount of the debt; and

(b) removing the property from Bermuda.

(8) Where the court has made a restraint order, a police officer may seize any realisable property for the purpose of preventing its removal from Bermuda; and property so seized shall be dealt with in accordance with the directions of the court.

[section 28 amended by 2007:25 s.20 effective 15 November 2008]

29. Charging orders

(1) For the purposes of this Act, a charging order is an order made under this section imposing on any such realisable property as may be specified in the order a charge for securing the payment of money to the Crown.

(2) The court may make a charging order on realisable property for securing the payment to the Crown-

(a) where a confiscation order has been made, of an amount not exceeding the amount payable under the confiscation order; and

(b) where a confiscation order has not been made, of an amount equal to the value from time to time of the property charged.

(3) A charging order-

(a) may be made only on an application by the Director of Public Prosecutions[70]; and

(b) may be made on an ex parte application to a Judge in chambers.

(4) Subject to subsection (6), a charge may be imposed by a charging order only on-

(a) any interest in realisable property, which is an interest held beneficially by the defendant or by a person to whom the defendant has directly or indirectly made a gift caught by this Act-

(i) in any chargeable asset; or

(ii) under any trust; or

(b) any interest in realisable property held by a person as trustee of a trust if the interest is in a chargeable asset or is an interest under another trust and a charge may, by virtue of paragraph (a), be imposed by a charging order on the whole beneficial interest under the first-mentioned trust.

(5) In this section-

(a) "chargeable asset" means any of the following-

(i) any land in Bermuda;

(ii) any relevant securities;

(iii) any motor vehicle;

(iv) any vessel;

(v) any aircraft;

(vi) any other type of asset which the Minister[71] may prescribe for the purposes of this section; and

(b) "relevant securities" means any of the following-

(i) securities of the government or of any public authority;

(ii) stock of any body incorporated in Bermuda;

(iii) stock of any body incorporated outside Bermuda or of any country or territory outside Bermuda, being stock registered in a register kept at any place within Bermuda;

(iv) options in relation to stock described in sub-paragraphs (ii) or (iii);

(v) units of any unit trust in respect of which a register of the unit holders is kept at any place in Bermuda.

(6) In any case where a charge is imposed by a charging order on any interest in any relevant securities, the court may provide for the charge to extend to any interest or dividend payable in respect of them.

(7) Where the court has made a charging order, the court may give such directions to such person as the court thinks fit to safeguard the assets under the charging order.

(8) The court-

(a) may, on the application of any person affected by the charging order, make an order discharging or varying it; and

(b) shall make an order discharging the charging order if the proceedings for the offence are concluded or on payment into court of the amount which is secured by the charge.

[section 29 amended by 2007:25 s.20 effective 15 November 2008]

30. Charging orders: supplementary

(1) A charging order may be made either absolutely or subject to conditions including in particular conditions-

(a) as to notifying any person holding any interest in the property to which the order relates; or

(b) as to the time when the charge is to become enforceable.

(2) Notice of any charging order shall be deposited in the office of the Registrar-General for recording and registration in accordance with section 3 of the Registrar-General (Recording of Documents) Act 1955 or, if it relates to land, the Land Title Registry Office for recording and registration in accordance with section 3 of the Land Title Registrar (Recording of Documents) Act 2017[72].

(3) Subject to any provision made under section 31, a charge imposed by a charging order shall have the like effect and shall be enforceable in the same manner as an equitable charge created by the person holding the beneficial interest or, as the case may be, the trustees by writing under their hand.

[Section 30 subsection (2) amended by 2017:9 s. 11 effective 20 February 2017]

REALISATION OF PROPERTY

31. Realisation of property

(1) The court may, on an application by the Director of Public Prosecutions[73], exercise the powers conferred by this section, where a confiscation order has been made and it is neither satisfied nor subject to appeal.

(2) The court may appoint a receiver in respect of realisable property.

(3) The court may empower the receiver appointed under this section or section 28 or in pursuance of a charging order-

(a) to enforce any charge imposed under section 29 on realisable property or on interest or dividends payable in respect of such property; and

(b) in relation to any realisable property other than property for the time being subject to a charge under section 29, to take possession of the property subject to such conditions or exceptions as may be specified by the court.

(4) The court may order any person having possession of realisable property to give possession of it to the receiver.

(5) The court may empower the receiver to realise any realisable property in such manner as the court may direct.

(6) The court-

(a) may order any person holding an interest in realisable property to make such payment to the receiver in respect of any beneficial interest held by the defendant or, as the case may be, the recipient of a gift caught by this Act as the court may direct; and

(b) may, on the payment being made, by order transfer, grant or extinguish any interest in the property.

(7) Subsections (4) to (6) shall not apply to property for the time being subject to a charge under section 29 of this Act (or section 19 of the Drug Trafficking Suppression Act 1988).

(8) The court shall not in respect of any property exercise the powers conferred by subsection (3)(a), (5) or (6) unless a reasonable opportunity has been given for persons holding any interest in the property to make representations to the court.

[section 31 amended by 2007:25 s.20 effective 15 November 2008]

32. Application of proceeds of realisation etc

(1) The following sums in the hands of the receiver pursuant to section 28 or 31 or in pursuance of a charging order-

(a) the proceeds of the enforcement of any charge imposed under section 29;

(b) the proceeds of the realisation, other than by the enforcement of such a charge, of any property under section 28 or 31; and

(c) any other sums, being property held by the defendant,

shall, after such payments (if any) as the court may direct have been made out of those sums, be applied on the defendant's behalf towards the satisfaction of the confiscation order.

(2) If, after the amount payable under the confiscation order has been fully paid, any such sums remain in the hands of the receiver, he shall distribute those sums-

(a) among such of those who held property which has been realised under this Act; and

(b) in such proportions,

as the court may direct after giving a reasonable opportunity for such persons to make representations to the court.

33. Exercise of powers for the realisation of property

(1) This section shall apply to the powers conferred on the court by sections 28 to 32 or on the receiver pursuant to section 28 or 31 or in pursuance of a charging order.

(2) Subject to subsections (3) to (6), the powers shall be exercised with a view to making available for satisfying the confiscation order or (as the case may be) any confiscation order that may be made in the defendant's case, the value for the time being of realisable property held by any person by the realisation of such property.

(3) In the case of realisable property held by a person to whom the defendant has, directly or indirectly, made a gift caught by this Act, the powers shall be exercised with a view to realising no more than the value for the time being of the gift.

(4) The powers shall be exercised with a view to allowing any person other than the defendant or the recipient of any such gift to retain or recover the value of any property held by him.

(5) In exercising those powers, no account shall be taken of any obligations of the defendant or of the recipient of any such gift which conflict with the obligation to satisfy the confiscation order.

(6) An order may be made or other action taken in respect of a debt owed by the Crown.

34. Receivers: supplementary

(1) Where a receiver appointed under section 28 or 31 or in pursuance of a charging order-

(a) takes any action in relation to property which is not realisable property, being action which he would be entitled to take if it were such property, and

(b) believes and has reasonable grounds for believing, that he is entitled to take that action in relation to that property,

he shall not be liable to any person in respect of any loss or damage resulting from his action, except in so far as the loss or damage is caused by his negligence.

(2) Any amount due in respect of the remuneration and expenses of a receiver so appointed shall be paid out of the Consolidated Fund or the Confiscated Assets Fund.[74]

[Section 34 amended by 2000:35 s.6(2) effective 1 June 2001]

INSOLVENCY

35. Bankruptcy of defendant or respondent[75]

(1) Where a person who holds realisable property or recoverable property[76] is adjudged bankrupt-

(a) property for the time being subject to a restraint order, a property freezing order or an interim receiving order[77] made before the order adjudging him bankrupt; [78]

(b) any proceeds of property realised by virtue of section 28(6) or 31(5) or (6) , or 36H or 36O,[79] for the time being in the hands of a receiver appointed under section 28 or 31; or 36L; and[80],

(c) any proceeds realised by virtue of Part IIIA for the time being in the hands of a trustee appointed under section 36Y,[81]

shall be excluded from the bankrupt's estate for the purposes of the Bankruptcy Act 1989 ("the 1989 Act").

(2) Where a person has been adjudged bankrupt, the powers conferred on the court by sections 28 to 32, section 36M or 36P[82] or on a receiver or trustee appointed under section 36Y[83] shall not be exercised in relation to property for the time being comprised in the property of the bankrupt for the purposes of the 1989 Act.

(3) Nothing in the 1989 Act shall be taken as restricting, or enabling the restriction of, the exercise of those powers referred to in subsection (2).

(4) Subsection (2) shall not affect the enforcement of a charging order-

(a) made before the order adjudging the person bankrupt; or

(b) on property which was subject to a restraint order when the order adjudging him bankrupt was made.

(5) Where, in the case of a debtor, the receiver constituted by virtue of section 9 of the 1989 Act or an interim receiver stands appointed under section 10 of the 1989 Act, and any property of the debtor is subject to a restraint order-

(a) the powers conferred on the receiver by virtue of that Act shall not apply to property for the time being subject to the restraint order; and

(b) any such property in the hands of the receiver shall, subject to a lien for any expenses (including his remuneration) properly incurred in respect of the property, be dealt with in such manner as the court may direct.

(6) Where a person is adjudged bankrupt and has directly or indirectly made a gift caught by this Act-

(a) no order shall be made by virtue of section 33 or 45 of the 1989 Act (avoidance of certain settlements etc) in respect of the making of the gift at any time when-

(i) proceedings for the drug trafficking or relevant offence have been instituted against him and have not been concluded;

(ii) an application has been made in respect of the defendant under section 17, 18, 20 or 22 of this Act and has not been concluded; or

(iii) property of the person to whom the gift was made is subject to a restraint order or a charging order; and

(b) any order made by virtue of section 33 or 45 of the 1989 Act after the conclusion of the proceedings shall take into account any realisation under this Act of property held by the person to whom the gift was made.

[Section 35 subsections (1) and (2) amended by 2013:40 s. 4 effective 1 November 2013]

36. Winding up of company holding realisable property or recoverable property[84]

(1) Where realisable property or recoverable property[85] is held by a company and an order for the winding up of the company has been made or a resolution has been passed by the company for the voluntary winding up, the functions of the liquidator shall not be exercisable in relation to-

(a) property for the time being subject to a restraint order made before the relevant time; and

(b) any proceeds of property realised by virtue of section 28(6) or 31(5) or (6) for the time being in the hands of a receiver appointed under section 28 or 31; or[86]

(c) any proceeds of property realised by virtue of Part IIIA for the time being in the hands of a trustee appointed under section 36Y,[87]

but there shall be payable out of such property any expenses (including the remuneration of the liquidator) properly incurred in the winding up in respect of the property.

(2) Where, in the case of a company, such an order has been made or such a resolution has been passed, the powers conferred on the court by sections 28 to 32 or section 36M or 36P or on a receiver or a trustee appointed under section 36Y or[88] on a receiver so appointed shall not be exercised in relation

to any realisable property held by the company in relation to which the functions of the liquidator are exercisable-

(a) so as to inhibit him from exercising those functions for the purpose of distributing any property held by the company to the company's creditors; or

(b) so as to prevent the payment out of any property of expenses (including the remuneration of the liquidator) properly incurred in the winding up in respect of the property.

(3) Nothing in the Companies Act 1981 shall be taken as restricting, or enabling the restriction of, the exercise of those powers referred to in subsection (2).

(4) Subsection (2) shall not affect the enforcement of a charging order made before the relevant time or on property which was subject to a restraint order at the relevant time.

(5) In this section-

"company" means any company which may be wound up under the Companies Act 1981;

"liquidator" includes any person appointed to the office of liquidator (whether provisionally or otherwise) under the Companies Act 1981;

"the relevant time" means-

(a) where no order for the winding up of the company has been made, the time of the passing of the resolution for voluntary winding up;

(b) where-

(i) such an order has been made; but

(ii) before the presentation of the petition for the winding up of the company by court order, such a resolution had been passed by the company,

the time of the passing of the resolution; and

(c) in any other case where such an order has been made, the time of the making of the order.

[Section 36 subsections (1) and (2) amended by 2013:40 s. 5 effective 1 November 2013]

PART IIIA[89]

CIVIL RECOVERY OF THE PROCEEDS ETC. OF UNLAWFUL CONDUCT

[Section 26 of the Proceeds of Crime Amendment (No. 2) Act 2013 (2013:40), effective 1 November 2013,

Transitional

Until the enforcement authority has been designated under section 36F, the Minister shall exercise the powers and perform the functions conferred on the enforcement authority for the purposes of Part IIIA.]

36A Civil recovery proceedings[90]

(1) The enforcement authority may recover, in civil proceedings before the Supreme Court, property which is, or represents, property obtained through unlawful conduct.

(2) The powers conferred by this Part are exercisable in relation to any property whether or not any proceedings have been brought for an offence in connection with the property.

(3) Proceedings for a recovery order may be taken by the enforcement authority against any person who the authority is satisfied holds recoverable property.

(4) The enforcement authority shall serve the originating summons –

(a) on the respondent; and

(b) unless the court dispenses with service, on any other person who the enforcement authority thinks holds any associated property which the authority wishes to be subject to a recovery order,

wherever domiciled, resident or present.

(5) If any property which the enforcement authority wishes to be subject to a recovery order is not specified in the originating summons it shall be described in the summons in general terms; and the originating summons shall state whether it is alleged to be recoverable property or associated property.

(6) The references above to the originating summons include any affidavit filed in support.

(7) Section 62 of the Supreme Court Act 1905 shall be deemed to extend to the making of rules under that section to regulate—

(a) the practice and procedure for the making of recovery orders;

(b) proceedings in relation to such orders.

[Section 36A inserted by 2013:40 s. 6 effective 1 November 2013]

36B Unlawful conduct[91]

(1) Conduct is unlawful conduct if it is unlawful under the criminal law of Bermuda.

(2) Conduct which –

(a) occurs in a country outside Bermuda and is unlawful under the criminal law of that country; and

(b) if it occurred in Bermuda, would be unlawful under the criminal law of Bermuda,

is also unlawful conduct.

(3) The court shall decide whether it is proved –

(a) that any matters alleged to constitute unlawful conduct have occurred; or

(b) that any person has obtained any property through such unlawful conduct.

[Section 36B inserted by 2013:40 s. 6 effective 1 November 2013]

36C Property obtained through unlawful conduct[92]

(1) A person obtains property through unlawful conduct (whether his own conduct or another's) if he obtains property by or in return for the conduct.

(2) In deciding whether any property was obtained through unlawful conduct –

(a) it is immaterial whether or not any money, goods or services were provided in order to put the person in question in a position to carry out the conduct;

(b) it is not necessary to show that the conduct was of a particular kind if it is shown that the property was obtained through conduct of one of a number of kinds, each of which would have been unlawful conduct.

[Section 36C inserted by 2013:40 s. 6 effective 1 November 2013]

36D Associated property[93]

(1) "Associated property" means property of any of the following descriptions (including property held by the respondent) which is not itself the recoverable property –

(a) any interest in the recoverable property;

(b) any other interest in the property in which the recoverable property subsists;

(c) if the recoverable property is a tenancy in common, the tenancy of the other tenant;

(d) if the recoverable property is part of a larger property, but not a separate part, the remainder of that property.

(2) References to property being associated with recoverable property are to be read accordingly.

(3) No property (referred to in subsection (1)) is to be treated as associated with recoverable property consisting of rights under a pension scheme, pension fund or pension plan.

[Section 36D inserted by 2013:40 s. 6 effective 1 November 2013]

36E Obtaining and disposing of property[94]

(1) References to a person disposing of his property include a reference—

(a) to his disposing of a part of it; or

(b) to his granting an interest in it,

(or to both); and references to the property disposed of are to any property obtained on the disposal.

(2) A person who makes a payment to another is to be treated as making a disposal of his property to the other, whatever form the payment takes.

(3) Where a person's property passes to another under a will or intestacy or by operation of law, it is to be treated as disposed of by him to the other.

(4) A person is only to be treated as having obtained his property for value in a case where he gave unexecuted consideration if the consideration has become executed consideration.

[Section 36E inserted by 2013:40 s. 6 effective 1 November 2013]

36F Enforcement authority[95]

(1) There shall be an enforcement authority which shall be designated by the Minister for the purposes of this Part.

(2) The Minister may by order designate a public authority as the enforcement authority.

(3) An order made by the Minister under subsection (2) shall be subject to the negative resolution procedure.

[Section 36F inserted by 2013:40 s. 6 effective 1 November 2013]

Transitional

Until the enforcement authority has been designated under section 36F, the Minister shall exercise the powers and perform the functions conferred on the enforcement authority for the purposes of Part IIIA.]

36G Financial threshold[96]

(1) The enforcement authority may not start proceedings for a recovery order unless the enforcement authority reasonably believes that the aggregate value of the recoverable property which the authority wishes to be subject to a recovery order is not less than $25,000.

(2) The Minister may by order vary the amount specified in subsection (1).

(3) If the enforcement authority applies for an interim receiving order before starting the proceedings, subsection (1) applies to the application instead of to the start of the proceedings.

(4) This section does not affect the continuation of proceedings for a recovery order which have been properly started or the making or continuing effect of an interim receiving order which has been properly applied for.

[Section 36G inserted by 2013:40 s. 6 effective 1 November 2013]

PROPERTY FREEZING ORDERS[97]

36H Application for property freezing order[98]

(1) Where the enforcement authority may take proceedings for a recovery order in the court, the authority may apply to the court for a property freezing order (whether before or after starting the proceedings).

(2) A property freezing order is an order that –

(a) specifies or describes the property to which it applies; or

(b) subject to any exclusions (see section 36J(1)(b) and (2)), prohibits any person to whose property the order applies from in any way dealing with the property.

(3) An application for a property freezing order may be made ex parte—

(a) if the circumstances are such that notice of the application would prejudice any right of the enforcement authority to obtain a recovery order in respect of any property; or

(b) if the enforcement authority has taken all reasonable steps to serve notice of the application, but has not been able to do so.

(4) The court may make a property freezing order on an application if it is satisfied that the condition in subsection (5) is met and, where applicable, that the condition in subsection (6) is met.

(5) The first condition is that there is a good arguable case –

(a) that the property to which the application for the order relates is or includes recoverable property; and

(b) that, if any of it is not recoverable property, it is associated property.

(6) The second condition is that, if –

(a) the property to which the application for the order relates includes property alleged to be associated property; and

(b) the enforcement authority has not established the identity of the person who holds it,

the authority has taken all reasonable steps to do so.

[Section 36H inserted by 2013:40 s. 6 effective 1 November 2013]

36I Variation and setting aside of order[99]

(1) The court may at any time vary or set aside a property freezing order.

(2) If the court makes an interim receiving order that applies to all of the property to which a property freezing order applies, it shall set aside the property freezing order.

(3) If the court makes an interim receiving order that applies to some but not all of the property to which a property freezing order applies, it shall vary the property freezing order so as to exclude any property to which the interim receiving order applies.

(4) If the court decides that any property to which a property freezing order applies is neither recoverable property nor associated property, it shall vary the order so as to exclude the property.

(5) Before exercising power under this Part to vary or set aside a property freezing order, the court shall (as well as giving the parties to the proceedings an opportunity to be heard) give such an opportunity to any person who may be affected by its decision.

(6) Subsection (5) does not apply where the court is acting as required by subsection (2) or (3).

[Section 36I inserted by 2013:40 s. 6 effective 1 November 2013]

36J Exclusions[100]

(1) The power to vary a property freezing order includes (in particular) power to make exclusions as follows –

(a) power to exclude property from the order; and

(b) power, otherwise than by excluding property from the order, to make exclusions from the prohibition on dealing with the property to which the order applies.

(2) Exclusions from the prohibition on dealing with the property to which the order applies (other than exclusions of property from the order) may also be made when the order is made.

(3) An exclusion may, in particular, make provision for the purpose of enabling any person –

(a) to meet his reasonable living expenses; or

(b) to carry on any trade, business, profession or occupation.

(4) An exclusion may be made subject to such conditions as the court deems appropriate in the circumstances.

(5) Where the court exercises the power to make an exclusion for the purpose of enabling a person to meet legal expenses that he has incurred, or may incur, in respect of proceedings under this Part, it shall ensure that the exclusion –

(a) is limited to reasonable legal expenses that the person has reasonably incurred or that he reasonably incurs;

(b) specifies the total amount that may be released for legal expenses in pursuance of the exclusion; and

(c) is made subject to the required conditions by virtue of section 65(1A) in addition to any conditions imposed under subsection (4).

(6) The court, in deciding whether to make an exclusion for the purpose of enabling a person to meet legal expenses of his in respect of proceedings under this Part shall have regard (in particular) to the desirability of the person being represented in any proceedings under this Part in which he is a participant.

(7) If excluded property is not specified in the order it shall be described in the order in general terms.

(8) The power to make exclusions shall, subject to subsection (6), be exercised with a view to ensuring, so far as practicable, that the satisfaction of any right of the enforcement authority to recover the property obtained through unlawful conduct is not unduly prejudiced.

(9) Subsection (8) does not apply where the court is acting as required by section 36I(3) or (4).

[Section 36J inserted by 2013:40 s. 6 effective 1 November 2013]

36K Restriction on proceedings and remedies[101]

(1) While a property freezing order has effect –

(a) the court may stay any action, execution or other legal process in respect of the property to which the order applies; and

(b) no distress may be levied against the property to which the order applies except with the leave of the court and subject to any terms the court may impose.

(2) If a court (whether the Supreme Court or any other court) in which proceedings are pending in respect of any property is satisfied that a property freezing order has been applied for or made in respect of the property, it may either stay the proceedings or allow them to continue on any terms it thinks fit.

(3) If a property freezing order applies to a tenancy of any premises, no landlord or other person to whom rent is payable may exercise the right of forfeiture by peaceable re-entry in relation to the premises in respect of any failure by the tenant to comply with any term or condition of the tenancy, except with the leave of the court and subject to any terms the court may impose.

(4) Before exercising any power conferred by this section, the court shall (as well as giving the parties to any of the proceedings concerned an opportunity to be heard) give such an opportunity to any person who may be affected by the court's decision.

[Section 36K inserted by 2013:40 s. 6 effective 1 November 2013]

36L Receivers in connection with property freezing orders[102]

(1) Subsection (2) applies if –

(a) the court makes a property freezing order on an application by the enforcement authority; and

(b) the authority applies to the court to proceed under subsection (2) (whether as part of the application for the property freezing order or at any time afterwards).

(2) The court may by order appoint a receiver in respect of any property to which the property freezing order applies.

(3) An application for an order under this section may be made ex parte if the circumstances are such that notice of the application would prejudice any right of the enforcement authority to obtain a recovery order in respect of any property.

(4) In its application for an order under this section, the enforcement authority shall nominate a suitably qualified person for appointment as a receiver.

(5) Such suitably qualified person may be a member of staff of the enforcement authority.

(6) The enforcement authority may apply a sum received by it under section 36.1G(2) in making payment of the remuneration and expenses of a receiver appointed under this section.

(7) Subsection (6) does not apply in relation to the remuneration of the receiver if he is a member of staff of the enforcement authority (but it does apply in relation to such remuneration if the receiver is a person providing services under arrangements made by the enforcement authority).

[Section 36L inserted by 2013:40 s. 6 effective 1 November 2013]

36M Powers of receiver appointed under section 36L[103]

(1) If the court appoints a receiver under section 36L on an application by an enforcement authority, the court may act under this section on the application of the authority.

(2) The court may by order authorise or require the receiver –

(a) to exercise any of the management powers mentioned in paragraph 5 of Schedule 1 in relation to any property in respect of which the receiver is appointed;

(b) to take any other steps the court thinks appropriate in connection with the management of any such property (including securing the detention, custody or preservation of the property in order to manage it).

(3) The court may by order require any person in respect of whose property the receiver is appointed –

(a) to bring the property to a place specified by the receiver or to place it in the custody of the receiver (if, in either case, he is able to do so);

(b) to do anything he is reasonably required to do by the receiver for the preservation of the property.

(4) The court may by order require any person in respect of whose property the receiver is appointed to bring any documents relating to the property which are in his possession or control to a place specified by the receiver or to place them in the custody of the receiver.

(5) Any prohibition on dealing with property imposed by a property freezing order does not prevent a person from complying with any requirements imposed by virtue of this section.

(6) If –

(a) the receiver deals with any property which is not property in respect of which he is appointed under section 36L; and

(b) at the time he deals with the property he believes on reasonable grounds that he is entitled to do so by virtue of his appointment,

the receiver shall not be liable to any person in respect of any loss or damage resulting from his dealing with the property except so far as the loss or damage is caused by his negligence.

(7) A receiver appointed under section 36L shall (subject to section 36L(7)) be entitled to be paid his remuneration and expenses out of the proceeds of the property realised by the receiver.

[Section 36M inserted by 2013:40 s. 6 effective 1 November 2013]

36N Supervision of section 36L receiver and variations[104]

(1) Any of the following persons may at any time apply to the court for directions as to the exercise of the functions of a receiver appointed under section 36L –

(a) the receiver;

(b) any party to the proceedings for the appointment of the receiver or the property freezing order concerned;

(c) any person affected by any action taken by the receiver;

(d) any person who may be affected by any action proposed to be taken by the receiver.

(2) Before giving any directions under subsection (1), the court shall give an opportunity to be heard to –

(a) the receiver;

(b) the parties to the proceedings for the appointment of the receiver and for the property freezing order concerned;

(c) any person who may be interested in the application under subsection (1).

(3) The court may at any time vary or set aside the appointment of a receiver under section 36L, or any order under section 36M.

(4) Before exercising any power under subsection (3), the court shall give an opportunity to be heard to—

(a) the receiver;

(b) the parties to the proceedings for the appointment of the receiver, for the order under section 36M or, as the case may be, for the directions under this section;

(c) the parties to the proceedings for the property freezing order concerned;

(d) any person who may be affected by the court's decision.

[Section 36N inserted by 2013:40 s. 6 effective 1 November 2013]

INTERIM RECEIVING ORDERS[105]

36O Application for interim receiving order[106]

(1) Where the enforcement authority may take proceedings for a recovery order in the court, the authority may apply to the court ex parte for an interim receiving order (whether before or after starting the proceedings).

(2) An interim receiving order is an order for –

(a) the detention, custody or preservation of property; and

(b) the appointment of an interim receiver.

(3) An application for an interim receiving order may be made ex parte if the circumstances are such that notice of the application would prejudice any right of the enforcement authority to obtain a recovery order in respect of any property.

(4) The court may make an interim receiving order on the application if it is satisfied that the conditions in subsections (5) and, where applicable, (6) are met.

(5) The first condition is that there is a good arguable case –

(a) that the property to which the application for the order relates is or includes recoverable property; and

(b) that, if any of it is not recoverable property, it is associated property.

(6) The second condition is that, if –

(a) the property to which the application for the order relates includes property alleged to be associated property; and

(b) the enforcement authority has not established the identity of the person who holds it,

the authority has taken all reasonable steps to do so.

(7) In its application for an interim receiving order, the enforcement authority shall nominate a suitably qualified person for appointment as interim receiver, but the nominee may not be a member of staff of the enforcement authority.

(8) The extent of the power to make an interim receiving order is not limited by sections 36P to 36W.

[Section 36O inserted by 2013:40 s. 6 effective 1 November 2013]

36P Functions of interim receiver[107]

(1) An interim receiving order may authorise or require the interim receiver –

(a) to exercise any of the powers mentioned in Schedule 1;

(b) to take any other steps the court thinks appropriate,

for the purpose of securing the detention, custody or preservation of the property to which the order applies or of taking any steps under subsection (2).

(2) An interim receiving order shall require the interim receiver to take any steps which the court thinks necessary to establish –

(a) whether or not the property to which the order applies is recoverable property or associated property;

(b) whether or not any other property is recoverable property (in relation to the same unlawful conduct) and, if it is, who holds it.

(3) If –

(a) the interim receiver deals with any property which is not property to which the order applies; and

(b) at the time he deals with the property he believes on reasonable grounds that he is entitled to do so in pursuance of the order,

the interim receiver is not liable to any person in respect of any loss or damage resulting from his dealing with the property except so far as the loss or damage is caused by his negligence.

[Section 36P inserted by 2013:40 s. 6 effective 1 November 2013]

36Q Registration[108] [109]

(1) Notice of any interim receiving order (which relates to land) shall be deposited in the office of the Land Title Registrar for recording and registration in accordance with section 3 of the Land Title Registrar (Recording of Documents) Act 2017[110].

(2) A person applying for an interim receiving order shall be treated for the purposes of Land Title Registrar (Recording of Documents) Act 2017[111] as a depositor as that term is defined in that Act.

[Section 36Q inserted by 2013:40 s. 6 effective 1 November 2013; subsections (1) and (2) amended by 2017:9 s. 11 effective 20 February 2017]

36R Duties of respondent etc. [112]

(1) An interim receiving order may require any person to whose property the order applies—

(a) to bring the property to a place specified by the interim receiver or place it in the custody of the interim receiver (if, in either case, he is able to do so);

(b) to do anything he is reasonably required to do by the interim receiver for the preservation of the property.

(2) An interim receiving order may require any person to whose property the order applies to bring any documents relating to the property which are in his possession or control to a place specified by the interim receiver or to place them in the custody of the interim receiver.

[Section 36R inserted by 2013:40 s. 6 effective 1 November 2013]

36S Supervision of interim receiver and variation of order[113]

(1) The interim receiver, any party to the proceedings and any person affected by any action taken by the interim receiver, or who may be affected by any action proposed to be taken by him, may at any time apply to the court for directions as to the exercise of the interim receiver's functions.

(2) Before giving any directions under subsection (1), the court shall (as well as giving the parties to the proceedings an opportunity to be heard) give such an opportunity to the interim receiver and to any person who may be interested in the application.

(3) The court may at any time vary or set aside an interim receiving order.

(4) Before exercising any power to vary or set aside an interim receiving order, the court shall (as well as giving the parties to the proceedings an opportunity to be heard) give such an opportunity to the interim receiver and to any person who may be affected by the court's decision.

[Section 36S inserted by 2013:40 s. 6 effective 1 November 2013]

36T Restrictions on dealing etc. with property[114]

(1) An interim receiving order shall, subject to any exclusions made in accordance with this section, prohibit any person to whose property the order applies from dealing with the property.

(2) Exclusions may be made when the interim receiving order is made or on an application to vary the order.

(3) An exclusion may, in particular, make provision for the purpose of enabling any person—

(a) to meet his reasonable living expenses; or

(b) to carry on any trade, business, profession or occupation,

and may be made subject to conditions.

(4) But an exclusion may not be made for the purpose of enabling any person to meet any legal expenses in respect of proceedings under this Part except as provided by regulations under section 65(1A).

(5) If the excluded property is not specified in the order it shall be described in the order in general terms.

(6) The power to make exclusions shall be exercised with a view to ensuring, so far as practicable, that the satisfaction of any right of the enforcement authority to recover the property obtained through unlawful conduct is not unduly prejudiced.

[Section 36T inserted by 2013:40 s. 6 effective 1 November 2013]

36U Restriction on proceedings and remedies[115]

(1) While an interim receiving order has effect—

(a) the court may stay any action, execution or other legal process in respect of the property to which the order applies;

(b) no distress may be levied against the property to which the order applies except with the leave of the court and subject to any terms the court may impose.

(2) If a court (whether the Supreme Court or any other court) in which proceedings are pending in respect of any property is satisfied that an interim receiving order has been applied for or made in respect of the property, the court may either stay the proceedings or allow them to continue on any terms it thinks fit.

(3) If the interim receiving order applies to a tenancy of any premises, no landlord or other person to whom rent is payable may exercise any right of forfeiture by peaceable re-entry in relation to the premises in respect of any failure by the tenant to comply with any term or condition of the tenancy, except with the leave of the court and subject to any terms the court may impose.

(4) Before exercising any power conferred by this section, the court shall (as well as giving the parties to any of the proceedings in question an opportunity to be heard) give such an opportunity to the interim receiver (if appointed) and any person who may be affected by the court 's decision.

[Section 36U inserted by 2013:40 s. 6 effective 1 November 2013]

36V Exclusion of property which is not recoverable etc. [116]

(1) If the court decides that any property to which an interim receiving order applies is neither recoverable property nor associated property, it shall vary the order so as to exclude it.

(2) The court may vary an interim receiving order so as to exclude from the property to which the order applies any property which is alleged to be associated property if the court thinks that the satisfaction of any right of the enforcement authority to recover the property obtained through unlawful conduct will not be prejudiced.

(3) The court may exclude any property within subsection (2) on any terms or conditions, applying while the interim receiving order has effect, which the court thinks necessary or expedient.

[Section 36V inserted by 2013:40 s. 6 effective 1 November 2013]

36W Reporting[117]

(1) An interim receiving order shall require the interim receiver to inform the enforcement authority and the court as soon as reasonably practicable if he thinks that—

(a) any property to which the order applies by virtue of a claim that it is recoverable property is not recoverable property;

(b) any property to which the order applies by virtue of a claim that it is associated property is not associated property;

(c) any property to which the order does not apply is recoverable property (in relation to the same unlawful conduct) or associated property;

(d) any property to which the order applies is held by a person who is different from the person it is claimed holds it; or

(e) there has been any other material change of circumstances.

(2) An interim receiving order shall require the interim receiver—

(a) to report his findings to the court;

(b) to serve copies of his report on the enforcement authority and on any person who holds any property to which the order applies or who may otherwise be affected by the report.

[Section 36W inserted by 2013:40 s. 6 effective 1 November 2013]

VESTING AND REALISATION OF RECOVERABLE PROPERTY[118]

36X Recovery orders[119]

(1) If in proceedings under this Part the court is satisfied that any property is recoverable, the court shall make a recovery order.

(2) The recovery order shall vest the recoverable property in the trustee for civil recovery.

(3) But the court may not make in a recovery order any provision in respect of any recoverable property if each of the conditions in subsection (4) or (as the case may be) (5) is met and it would not be just and equitable to do so.

(4) The conditions referred to in subsection (3) are that—

(a) the respondent obtained the recoverable property in good faith;

(b) he took steps after obtaining the property which he would not have taken if he had not obtained it or he took steps before obtaining the property which he would not have taken if he had not believed he was going to obtain it;

(c) when he took the steps, he had no notice that the property was recoverable property;

(d) if a recovery order were made in respect of the property, it would, by reason of the steps, be detrimental to him.

(5) In deciding whether it would be just and equitable to make the provision in the recovery order where the conditions in subsection (4) are met, the court shall have regard to—

(a) the degree of detriment that would be suffered by the respondent if the provision were made;

(b) the enforcement authority's interest in receiving the realised proceeds of the recoverable property.

(6) A recovery order may sever any property.

(7) A recovery order may impose conditions as to the manner in which the trustee for civil recovery may deal with any property vested by the order for the purpose of realising it.

(8) A recovery order made by the court may provide for payment under section 36.1D of reasonable legal expenses that a person has reasonably incurred, or may reasonably incur, in respect of—

(a) the proceedings under this Part in which the order is made; or

(b) any related proceedings under this Part.

(9) If regulations under section 65(1A) apply to an item of expenditure, a sum in respect of the item is not payable under section 36.1G in pursuance of provision under subsection (8) unless—

(a) the enforcement authority agrees to its payment; or

(b) the court has assessed the amount allowed by the regulations in respect of that item and the sum is paid in respect of the assessed amount.

(10) This section is subject to sections 36.1A to 36.1E.

[Section 36X inserted by 2013:40 s. 6 effective 1 November 2013]

36Y Functions of the trustee for civil recovery[120]

(1) The trustee for civil recovery is a suitably qualified person nominated by the enforcement authority, and appointed by the court to give effect to a recovery order.

(2) The functions of the trustee are—

(a) to secure the detention, custody or preservation of any property vested in him by the recovery order;

(b) in the case of property other than money, to realise the value of the property for the benefit of the enforcement authority; and

(c) to perform any other functions conferred on him by virtue of this Act.

(3) In performing his functions, the trustee acts on behalf of the enforcement authority and shall comply with any directions given by the enforcement authority.

(4) The trustee is to realise the value of property vested in him by the recovery order, so far as practicable, in the manner best calculated to maximise the amount payable to the enforcement authority.

(5) The trustee has the powers mentioned in Schedule 2.

(6) References in this section to a recovery order include an order under section 36.1D and references to property vested in the trustee by a recovery order include property vested in him in pursuance of an order under that section.

[Section 36Y inserted by 2013:40 s. 6 effective 1 November 2013]

36Z Rights of pre-emption, etc. [121]

(1) A recovery order is to have effect in relation to any property despite any provision (of whatever nature) which would otherwise prevent, penalise or restrict the vesting of the property.

(2) A right of pre-emption, right of return or other similar right does not operate or become exercisable as a result of the vesting of any property under a recovery order.

(3) A right of return means any right under a provision for the return or reversion of property in specified circumstances.

(4) Where property is vested under a recovery order, any such right is to have effect as if the person in whom the property is vested were the same person in law as the person who held the property and as if no transfer of the property had taken place.

(5) References to rights in subsections (2) and (3) do not include any rights in respect of which the recovery order was made.

(6) This section applies in relation to the creation of interests, or the doing of anything else, by a recovery order as it applies in relation to the vesting of property.

[Section 36Z inserted by 2013:40 s. 6 effective 1 November 2013]

36.1A Associated and joint property [122]

(1) Sections 36.1B to 36.1C apply if the court makes a recovery order in respect of any recoverable property in a case within subsection (2) or (3).

(2) A case is within this subsection if—

(a) the property to which the proceedings relate includes property which is associated with the recoverable property and is specified or described in the originating summons; and

(b) if the associated property is not the respondent's property, the summons or application has been served on the person whose property it is or the court has dispensed with service.

(3) A case is within this subsection if—

(a) the recoverable property belongs to joint tenants; and

(b) one of the tenants is an excepted joint owner.

(4) An excepted joint owner is a person who obtained the property in circumstances in which it would not be recoverable as against him; and references to the excepted joint owner's share of the recoverable property are to so much of the recoverable property as would have been his if the joint tenancy had been severed.

[Section 36.1A inserted by 2013:40 s. 6 effective 1 November 2013]

36.1B Agreements about associated and joint property[123]

(1) The recovery order may, instead of vesting the recoverable property in the trustee for civil recovery, require the person who holds the associated property or who is the excepted joint owner to make a payment to the trustee where—

(a) this section applies; and

(b) the enforcement authority (on the one hand) and the person who holds the associated property or who is the excepted joint owner (on the other) agree.

(2) A recovery order which makes any requirement under subsection (1) may, so far as required for giving effect to the agreement, include provision for vesting, creating or extinguishing any interest in property.

(3) The amount of the payment is to be the amount which the enforcement authority and that person agree represents—

(a) in a case within section 36.1A(2), the value of the recoverable property;

(b) in a case within section 36.1A(3), the value of the recoverable property less the value of the excepted joint owner's share.

(4) But if—

(a) an interim receiving order applied at any time to the associated property or joint tenancy; and

(b) the enforcement authority agrees that the person has suffered loss as a result of the interim receiving order,

the amount of the payment may be reduced by any amount the enforcement authority and that person agree is reasonable, having regard to that loss and to any other relevant circumstances.

(5) If there is more than one such item of associated property or excepted joint owner, the total amount to be paid to the trustee, and the part of that amount which is to be provided by each person who holds any such associated property or who is an excepted joint owner, is to be agreed between both (or all) of them and the enforcement authority.

(6) A recovery order which makes any requirement under subsection (1) shall make provision for any recoverable property to cease to be recoverable.

[Section 36.1B inserted by 2013:40 s. 6 effective 1 November 2013]

36.1C Associated and joint property: default of agreement[124]

(1) Where this section applies, the court may make the following provision if—

(a) there is no agreement under section 36.1B; and

(b) the court thinks it just and equitable to do so.

(2) The recovery order may provide—

(a) for the associated property to vest in the trustee for civil recovery or (as the case may be) for the excepted joint owner's interest to be extinguished; or

(b) in the case of an excepted joint owner, for the severance of his interest.

(3) A recovery order making any provision by virtue of subsection (2)(a) may provide—

(a) for the trustee to pay an amount to the person who holds the associated property or who is an excepted joint owner; or

(b) for the creation of interests in favour of that person, or the imposition of liabilities or conditions, in relation to the property vested in the trustee,

or for both.

(4) In making any provision in a recovery order by virtue of subsection (2) or (3), the court shall have regard to—

(a) the rights of any person who holds the associated property or who is an excepted joint owner and the value to him of that property or, as the case may be, of his share (including any value which cannot be assessed in terms of money);

(b) the enforcement authority's interest in receiving the realised proceeds of the recoverable property.

(5) If—

(a) an interim receiving order applied at any time to the associated property or joint tenancy; and

(b) the court is satisfied that the person who holds the associated property or who is an excepted joint owner has suffered loss as a result of the interim receiving order,

a recovery order making any provision by virtue of subsection (2) or (3) may require the enforcement authority to pay compensation to that person.

(6) The amount of compensation to be paid under subsection (5) is the amount the court thinks reasonable, having regard to the person's loss and to any other relevant circumstances.

[Section 36.1C inserted by 2013:40 s. 6 effective 1 November 2013]

36.1D Consent orders[125]

(1) The court may make an order staying any proceedings for a recovery order on terms agreed by the parties for the disposal of the proceedings if each person to whose property the proceedings, or the agreement, relates is a party both to the proceedings and the agreement.

(2) An order under subsection (1) may, as well as staying the proceedings on terms—

(a) make provision for any property which may be recoverable property to cease to be recoverable;

(b) make any further provision which the court thinks appropriate.

(3) Section 36.1G applies to property vested in the trustee for civil recovery, or money paid to him, in pursuance of the agreement as it applies to property vested in him by a recovery order or money paid under section 36.1B.

[Section 36.1D inserted by 2013:40 s. 6 effective 1 November 2013]

36.1E Limit on recovery[126]

(1) This section applies if the enforcement authority seeks a recovery order in respect of both property which is or represents property obtained through unlawful conduct and related property.

(2) For the purposes of this section—

(a) the original property means the property obtained through unlawful conduct;

(b) the original property, and any items of property which represent the original property, are to be treated as related to each other.

(3) The court is not to make a recovery order if it thinks that the enforcement authority's right to recover the original property has been satisfied by a previous recovery order.

(4) Subject to subsection (3), the court may act under subsection (5) if it thinks that—

(a) a recovery order may be made in respect of two or more related items of recoverable property; but

(b) the making of a recovery order in respect of both or all of them is not required in order to satisfy the enforcement authority's right to recover the original property.

(5) The court may in order to satisfy that right to the extent required make a recovery order in respect of—

(a) only some of the related items of property; or

(b) only a part of any of the related items of property,

or both.

(6) Where the court may make a recovery order in respect of any property, this section does not prevent the recovery of any profits which have accrued in respect of the property.

(7) If—

(a) an order is made under section 51 for the forfeiture of property which is later determined is recoverable property; and

(b) the enforcement authority subsequently seeks a recovery order in respect of related property,

the order under section 51 is to be treated for the purposes of this section as if it were a recovery order obtained by the enforcement authority in respect of the forfeited property.

(8) If—

(a) in pursuance of a judgment in civil proceedings (whether in Bermuda or elsewhere), the claimant has obtained property from the defendant ("the judgment property");

(b) the claim was based on the defendant's having obtained the judgment property or related property through unlawful conduct; and

(c) the enforcement authority subsequently seeks a recovery order in respect of property which is related to the judgment property,

the judgment is to be treated for the purposes of this section as if it were a recovery order obtained by the enforcement authority in respect of the judgment property.

(9) If—

(a) property has been taken into account in deciding the amount of a person's benefit from criminal conduct for the purpose of making a confiscation order under section 9[127]; and

(b) the enforcement authority subsequently seeks a recovery order in respect of related property,

the confiscation order is to be treated for the purposes of this section as if it were a recovery order obtained by the enforcement authority in respect of the property referred to in paragraph (a).

[Section 36.1E inserted by 2013:40 s. 6 effective 1 November 2013; amended by 2015:53 s. 2 effective 1 January 2016]

36.1F Section 36.1E: Supplementary[128]

(1) Subsections (2) and (3) give examples of the satisfaction of the enforcement authority's right to recover the original property.

(2) If—

(a) there is a disposal, other than a part disposal, of the original property; and

(b) other property (the representative property) is obtained in its place,

the enforcement authority's right to recover the original property is satisfied by the making of a recovery order in respect of either the original property or the representative property.

(3) If—

(a) there is a part disposal of the original property; and

(b) other property (the representative property) is obtained in place of the property disposed of,

the enforcement authority's right to recover the original property is satisfied by the making of a recovery order in respect of the remainder of the original property together with either the representative property or the property disposed of.

(4) In this section—

(a) a part disposal means a disposal to which section 36E(1) applies,

(b) the original property has the same meaning as in section 36.1E(2).

[Section 36.1F inserted by 2013:40 s. 6 effective 1 November 2013]

36.1G Applying realised proceeds[129]

(1) This section applies to—

(a) sums which represent the realised proceeds of property which was vested in the trustee for civil recovery by a recovery order or which he obtained in pursuance of a recovery order;

(b) sums vested in the trustee by a recovery order or obtained by him in pursuance of a recovery order.

(2) The trustee is to make out of the sums—

(a) first, any payment required to be made by him by virtue of section 36.1C;

(b) next, any payment of legal expenses which, after giving effect to section 36X(9), are payable under this subsection in pursuance of provision under section 36X(8) contained in the recovery order;

(c) then, any payment of expenses incurred by a person acting as a receiver or trustee under this Part, whether or not he has realised or disposed of any property under this Part,

and any sum which remains is to be paid into the Confiscated Assets Fund.

(3) The trustee may apply a sum received by him under subsection (2) in making payment of the remuneration and expenses of—

(a) the trustee; or

(b) any receiver or interim receiver appointed in, or in anticipation of, the proceedings under section 36H or 36O.

(4) Subsection (3)(a) does not apply in relation to the remuneration of the trustee if the trustee is a member of staff of the enforcement authority.

[Section 36.1G inserted by 2013:40 s. 6 effective 1 November 2013]

EXEMPTIONS ETC. [130]

36.1H Victims of theft, etc. [131]

(1) In proceedings for a recovery order, a person who claims that any property alleged to be recoverable property, or any part of the property, belongs to him may apply for a declaration under this section.

(2) If the applicant appears to the court to meet the following condition, the court may make a declaration to that effect.

(3) The condition is that—

(a) the person was deprived of the property he claims, or of property which it represents, by unlawful conduct;

(b) the property he was deprived of was not recoverable property immediately before he was deprived of it; and

(c) the property he claims belongs to him.

(4) Property to which a declaration under this section applies is not recoverable property.

[Section 36.1H inserted by 2013:40 s. 6 effective 1 November 2013]

36.1I Other exemptions [132]

(1) Proceedings for a recovery order may not be taken against any person in circumstances of a prescribed description; and the circumstances may relate to the person himself or to the property or to any other matter.

(2) Proceedings for a recovery order may not be taken in respect of cash seized and detained in accordance with section 50 unless the proceedings are also taken in respect of property other than cash which is property of the same person.

(3) Proceedings for a recovery order may not be taken against any person in respect of any recoverable property which he holds by reason of his acting, or having acted, as a receiver or trustee.

(4) In subsection (1), prescribed means prescribed by an order made by the Minister subject to the negative resolution procedure.

[Section 36.1I inserted by 2013:40 s. 6 effective 1 November 2013]

RECOVERABLE PROPERTY[133]

36.1J Property obtained through unlawful conduct: recoverable property[134]

(1) Property obtained through unlawful conduct is recoverable property.

(2) But if property obtained through unlawful conduct has been disposed of since it was so obtained, it is recoverable property only if it is held by a person into whose hands it may be followed.

(3) Recoverable property obtained through unlawful conduct may be followed into the hands of a person obtaining it on a disposal by—

(a) the person who through the conduct obtained the property; or

(b) a person into whose hands it may (by virtue of this subsection) be followed.

[Section 36.1J inserted by 2013:40 s. 6 effective 1 November 2013]

36.1K Tracing property, etc. [135]

(1) Where property obtained through unlawful conduct ("the original property") is or has been recoverable, property which represents the original property is also recoverable property.

(2) If a person enters into a transaction by which—

(a) he disposes of recoverable property, whether the original property or property which (by virtue of this Part) represents the original property; and

(b) he obtains other property in place of it,

the other property represents the original property.

(3) If a person disposes of recoverable property which represents the original property, the property may be followed into the hands of the person who obtains it (and it continues to represent the original property).

[Section 36.1K inserted by 2013:40 s. 6 effective 1 November 2013]

36.1L Mixing property[136]

(1) Subsection (2) applies if a person's recoverable property is mixed with other property (whether his property or another's).

(2) The portion of the mixed property which is attributable to the recoverable property represents the property obtained through unlawful conduct.

(3) Recoverable property is mixed with other property if it is used—

(a) to increase funds held in a bank account;

(b) in part payment for the acquisition of an asset;

(c) for the restoration or improvement of land;

(d) by a person holding a leasehold interest in the property to acquire the freehold; or

(e) for any other purpose similar to those set out in paragraphs (a) to (d).

[Section 36.1L inserted by 2013:40 s. 6 effective 1 November 2013]

36.1M Recoverable property: accruing profits[137]

(1) This section applies where a person who has recoverable property obtains further property consisting of profits accruing in respect of the recoverable property.

(2) The further property is to be treated as representing the property obtained through unlawful conduct.

[Section 36.1M inserted by 2013:40 s. 6 effective 1 November 2013]

36.1N General exceptions[138]

(1) If—

(a) a person disposes of recoverable property; and

(b) the person who obtains it on the disposal does so in good faith, for value and without notice that it was recoverable property,

the property may not be followed into that person's hands and, accordingly, it ceases to be recoverable.

(2) If recoverable property is vested, or otherwise disposed of in pursuance of powers conferred by virtue of this Act, it ceases to be recoverable.

(3) If—

(a) in pursuance of a judgment in civil proceedings (whether in Bermuda or elsewhere), the defendant makes a payment to the claimant or the claimant otherwise obtains property from the defendant;

(b) the claimant's claim is based on the defendant's unlawful conduct; and

(c) apart from this subsection, the sum received, or the property obtained, by the claimant would be recoverable property,

the property ceases to be recoverable.

(4) If—

(a) a payment is made to a person in pursuance of a compensation order or a restitution order made under any law in force in Bermuda in respect of loss suffered in consequence of unlawful conduct; and

(b) apart from this subsection, the sum received would be recoverable property,

the property ceases to be recoverable.

(5) If—

(a) in pursuance of a requirement under any law in force in Bermuda relating to any financial institution, an amount is paid to or distributed among any persons in pursuance of or in accordance with the court's directions; and

(b) apart from this subsection, the sum received by them would be recoverable property,

the property ceases to be recoverable.

(6) Property is not recoverable while a restraint order applies to it, that is—

(a) an order under section 28; or

(b) an order under Schedule 2 Part 1 paragraph 5 of the Anti-Terrorism (Financial and Other Measures) Act 2004.

(7) Property is not recoverable if it has been taken into account under section 9 in deciding the amount of a person's benefit from criminal conduct for the purpose of making a confiscation order in accordance with the court's directions.

(8) Where—

(a) a person enters into a transaction to which section 36.1K(2) applies; and

(b) the disposal is one to which subsection (1) or (2) applies,

this section does not affect the recoverability (by virtue of section 36.1K(2)) of any property obtained on the transaction in place of the property disposed of.

[Section 36.1N inserted by 2013:40 s. 6 effective 1 November 2013]

36.1O Other exemptions[139]

(1) Subject to subsections (2) and (3), an order may provide that property is not recoverable or (as the case may be) associated property if—

(a) it is prescribed property; or

(b) it is disposed of in pursuance of a prescribed enactment or an enactment of a prescribed description.

(2) An order may provide that if property is disposed of in pursuance of a prescribed enactment or an enactment of a prescribed description, it is to be treated for the purposes of section 36.1E as if it had been disposed of in pursuance of a recovery order.

(3) An order under this section may be made so as to apply to property, or a disposal of property, only in prescribed circumstances; and the circumstances may relate to the property or disposal itself or to a person who holds or has held the property or to any other matter.

(4) In this section, an order means an order made by the Minister, subject to the negative resolution procedure; and prescribed means prescribed by the order.

[Section 36.1O inserted by 2013:40 s. 6 effective 1 November 2013]

36.1P Granting interests[140]

(1) If a person grants an interest in his recoverable property, the question whether the interest is also recoverable is to be determined in the same manner as it is on any other disposal of recoverable property.

(2) Accordingly, on his granting an interest in the property ("the property in question")—

(a) where the property in question is property obtained through unlawful conduct, the interest is also to be treated as obtained through that conduct;

(b) where the property in question represents in his hands property obtained through unlawful conduct, the interest is also to be treated as representing in his hands the property so obtained.

[Section 36.1P inserted by 2013:40 s. 6 effective 1 November 2013]

36.1Q Use of information by enforcement authority[141]

Information obtained by or on behalf of the enforcement authority in connection with the exercise of any of the authority's functions may only be used by the authority in connection with the exercise of its functions under this Part.

[Section 36.1Q inserted by 2013:40 s. 6 effective 1 November 2013]

36.1R Disclosure of information to enforcement authority[142]

(1) Information which is held by or on behalf of a permitted person (whether it was obtained before or after the coming into force of this section) may be disclosed to the enforcement authority for the purpose of the exercise by the enforcement authority of its functions under this Part.

(2) Notwithstanding any restriction otherwise imposed by any law for the time being in force in Bermuda on the disclosure by a permitted person of information obtained in an official capacity by that person relating to any recoverable property, that person may disclose such information relating to recoverable property to the enforcement authority for any of the purposes to which this section applies.

(3) The Minister, after consultation with such persons as may be appropriate, shall produce Guidance for the purposes of this section and such Guidance shall specify the information to be disclosed, the manner in which, and any conditions subject to which, it is to be disclosed.

(4) The information that may be disclosed under this section includes information obtained before the commencement of this section.

(5) The purposes to which this section applies are—

(a) for the purposes of the initiation of any civil recovery investigation or proceedings;

(b) the purpose of facilitating a determination of whether any civil recovery investigation or proceedings should be initiated.

(6) Nothing in this section shall be taken to prejudice any power to disclose information which exists apart from this section, or to prejudice the rights conferred on the Director of Public Prosecutions under any provision of law.

(7) A disclosure under this section is not to be taken to breach any restriction on the disclosure of information (however imposed).

(8) But nothing in this section authorises the making of a disclosure which contravenes any provision of law relating to data protection.

(9) This section does not affect a power to disclose which exists apart from this section.

(10) In this section "permitted person" means—

(a) a police officer;

(b) such other person as may be prescribed by order subject to the negative resolution procedure as a permitted person.

(11) Section 6 of the Statutory Instruments Act 1977 shall not apply to Guidance produced by the Minister under subsection (3).

[Section 36.1R inserted by 2013:40 s. 6 effective 1 November 2013]

36.1S Disclosure of information by enforcement authority[143]

(1) Information obtained by or on behalf of the enforcement authority in connection with the exercise of any of the authority's functions may be disclosed by the authority if the disclosure is for the purposes of any of the following—

(a) any civil recovery investigation which is being or may be carried out, whether in Bermuda or elsewhere;

(b) any civil recovery proceedings which have been or may be started, whether in Bermuda or elsewhere;

(c) the exercise of the enforcement authority's functions under this Act;

(d) the exercise by a police officer of his functions under this Act;

(e) in the interest of safeguarding national security;

(f) investigations or proceedings outside Bermuda which have led or may lead to the making of an external recovery order.

(2) If the enforcement authority makes a disclosure of information for a purpose specified in subsection (1) the authority may make any further disclosure of the information by the person to whom it discloses it subject to such conditions as he thinks fit.

(3) Such a person shall not further disclose the information in contravention of the conditions.

(4) A disclosure under this section is not to be taken to breach any restriction on the disclosure of information (however imposed).

(5) But nothing in this section authorises the making of a disclosure—

(a) which contravenes any law in force in Bermuda relating to data protection;

(b) which is otherwise prohibited under any law in force in Bermuda.

[Section 36.1S inserted by 2013:40 s. 6 effective 1 November 2013]

36.1T Concealing or transferring recoverable property[144]

(1) A person is guilty of an offence if he—

(a) conceals or disguises any property which is, or in whole or in part directly or indirectly represents, recoverable property or associated property; or

(b) converts or transfers that property or removes it from Bermuda,

for the purpose of avoiding, or assisting another person to avoid, civil recovery proceedings or the making or enforcement of a recovery order.

(2) A person is guilty of an offence if, knowing or having reasonable grounds to suspect that any property is, or in whole or in part directly or indirectly represents, recoverable property or associated property, he—

(a) conceals or disguises that property; or

(b) converts or transfers that property or removes it from Bermuda;

for the purpose of assisting any person to avoid prosecution for a drug trafficking or relevant offence or the making or enforcement of a confiscation order.

(3) Section 43, which relates to concealing or transferring proceeds of criminal conduct, applies with the necessary modifications for the purposes of this Part, as it applies for the purposes of Part V (offences relating to money laundering).

[The Proceeds of Crime Amendment (No. 2) Act 2013, other than sections 36.1T, 36.1U and 36.1V, and section 36.1Y in its application to an offence under section 36.1T, 36.1U or 36.1V, the Proceeds of Crime Amendment (No. 2) Act 2013 came into operation on 1 November 2013].[145]

36.1U Assisting another to retain recoverable property[146]

(1) Subject to circumstances where a person discloses in good faith to the FIA a suspicion or belief that any funds or investments are derived from or used in connection with unlawful conduct, or any matter on which such a suspicion or belief is based, a person is guilty of an offence if he enters into or is otherwise concerned in an arrangement whereby—

(a) the retention or control by or on behalf of another person ("A") of A's recoverable property is facilitated (whether by concealment, removal from the jurisdiction, transfer to nominees or otherwise); or

(b) the recoverable property or associated property in question—

(i) is used to secure that funds are placed at A's disposal; or

(ii) is used for A's benefit to acquire property by way of investment

and he knows or suspects that A is a person who is or has been engaged in unlawful conduct and the property in question is recoverable property or associated property.

(2) Section 44, which relates to assisting another to retain proceeds of criminal conduct, applies with the appropriate modifications, for the purposes of this Part, as it applies for the purposes of Part V (offences relating to money laundering), as if references to "criminal conduct" were references to "unlawful conduct".

[The Proceeds of Crime Amendment (No. 2) Act 2013, other than sections 36.1T, 36.1U and 36.1V, and section 36.1Y in its application to an offence under section 36.1T, 36.1U or 36.1V, the Proceeds of Crime Amendment (No. 2) Act 2013 came into operation on 1 November 2013]. [147]

36.1V Acquisition, possession or use of recoverable property[148]

(1) A person is guilty of an offence if, knowing that any property is, or in whole or in part directly or indirectly represents, recoverable property or associated property, he acquires or uses that property or has possession of it.

(2) Section 45, which relates to acquisition, possession or use of proceeds of criminal conduct, applies with the appropriate modifications, including the modifications set out below, for the purposes of this Part, as it applies for the purposes of Part V (offences relating to money laundering) –

(a) as if references to "criminal conduct" were references to "unlawful conduct"; and

(b) as if references to a "confiscation order" were references to a "recovery order".

[The Proceeds of Crime Amendment (No. 2) Act 2013, other than sections 36.1T, 36.1U and 36.1V, and section 36.1Y in its application to an offence under section 36.1T, 36.1U or 36.1V, the Proceeds of Crime Amendment (No. 2) Act 2013 came into operation on 1 November 2013]. [149]

36.1W Disclosure of suspicion of recoverable property[150]

Where a person in good faith discloses to the FIA—

(a) his suspicion or belief that property is recoverable property or associated property; or

(b) any information or other matter on which that suspicion or belief is based,

the disclosure shall not be treated as a breach of any restriction upon the disclosure of information however imposed.

[Section 36.1W inserted by 2013:40 s. 6 effective 1 November 2013]

36.1X Tipping off[151]

(1) A person is guilty of an offence—

(a) if—

(i) he knows, suspects or has reasonable grounds to suspect[152] that a police officer is acting, or is proposing to act, in connection with a civil recovery investigation which is being, or is about to be, conducted; and

(ii) he discloses to any other person information or any other matter which is likely to prejudice that investigation or proposed investigation; or

(b) if—

(i) he knows, suspects or has reasonable grounds to suspect[153] that a disclosure has been made to the FIA or to an appropriate person under section 36.1U, 36.1V or 36.1W; and

(ii) he discloses to any other person information or any other matter which is likely to prejudice any civil recovery investigation which might be conducted following such a disclosure.

(2) Section 47, which relates to tipping off, applies with the necessary modifications including the modifications set out below for the purposes of this Part, as it applies for the purposes of Part V (offences relating to money laundering)-

(a) as if references to "an investigation which is being, or is about to be conducted into money laundering" were references to "a civil recovery investigation which is being, or is about to be conducted"; and

(b) as if references to a "criminal conduct" were references to "unlawful conduct".

[Section 36.1X inserted by 2013:40 s. 6 effective 1 November 2013; subsection (1) amended by 2017 :10 s. 2 effective 24 March 2017]

36.1Y Penalties[154]

Section 48, which relates to penalties for money laundering, applies where a person is guilty of an offence under section 36.1T, 36.1U, 36.1V or 36.1X, as section 48 applies where a person is guilty of an offence set out in that section.

[The Proceeds of Crime Amendment (No. 2) Act 2013, other than sections 36.1T, 36.1U and 36.1V, and section 36.1Y in its application to an offence under section 36.1T, 36.1U or 36.1V, the Proceeds of Crime Amendment (No. 2) Act 2013 came into operation on 1 November 2013]. [155]

[Section 36.1Y inserted by 2013:40 s. 6 effective 1 November 2013 in respect of section 36.1X]

PART IV - INFORMATION GATHERING POWERS

37. Production orders

(1) For the purpose of—[156]

(a) an investigation into—[157]

(i) drug trafficking;

(ii) money laundering;

(iii) whether any person has benefited from criminal conduct;

(iv) the whereabouts of any proceeds of criminal conduct; or

(b) a civil recovery investigation,

a police officer may apply to the Supreme Court for an order under subsection (2) (a "production order") in relation to particular material or material of a particular description.

(2) The court may, if on such an application it is satisfied that the conditions in subsection (4) are fulfilled, make a production order requiring the person who appears to the court to be in possession of the material to which the application relates-

(a) to produce it to a police officer for him to take away; or

(b) to give a police officer access to it,

within such period as the order may specify.

This subsection has effect subject to section 40(10).

(3) The period to be specified in a production order shall be seven days unless it appears to the court that a longer or shorter period would be appropriate in the particular circumstances of the application.

(4) The conditions referred to in subsection (2) are-

(a) that there are reasonable grounds for suspecting that—[158]

(i) a specified person has carried on drug trafficking, or money laundering or has benefited from criminal conduct; or

(ii) in the case of a civil recovery investigation, the property the application for the order specifies as being subject to the investigation is recoverable property or associated property;

(b) that there are reasonable grounds for suspecting that the material to which the application relates-

(i) is likely to be of substantial value (whether by itself or together with other material) to the investigation for the purpose of which the application is made; and

(ii) does not consist of or include items subject to legal privilege; and

(c) that there are reasonable grounds for believing that it is in the public interest, having regard-

(i) to the benefit likely to accrue to the investigation if the material is obtained; and

(ii) to the circumstances under which the person in possession of the material holds it,

that the material should be produced or that access to it should be given.

(5) Where the court makes a production order under subsection (2)(b) in relation to material on any premises, it may, on the same or a subsequent application of a police officer, order any person who appears to him to be entitled to grant entry to the premises to allow a police officer to enter the premises to obtain access to the material.

(6) An application under subsection (1) or (5) may be made ex parte to a judge in Chambers.

(7) Where the material, to which an application under this section relates, consists of information contained in or accessible by means of a computer-

(a) a production order under subsection (2)(a) shall have effect as an order to produce the material in a form in which it can be taken away and in which it is visible and legible; and

(b) a production order under subsection (2)(b) shall have effect as an order to give access to the material in a form in which it is visible and legible.

(8) A production order-

(a) shall not confer any right to production of, or access to, items subject to legal privilege;

(b) shall have effect notwithstanding any obligation as to secrecy or other restriction upon the disclosure of information imposed by statute or otherwise; and

(c) may be made in relation to material in the possession of a Government Department.

(9) A police officer may photograph or make copies of any material produced or to which access is given under this section.

(10) Rules of court may make provision as to-

(a) the discharge and variation of production orders; and

(b) proceedings in relation to such orders.

(11) Where the investigation into whether a person has benefited from criminal conduct or the whereabouts of the proceeds of criminal conduct relates to a relevant offence or a civil recovery investigation relates to unlawful conduct[159] which was not committed in Bermuda, an application under subsection (1) shall not be made unless the provisions of section 6 of the Criminal Justice (International Co-operation) (Bermuda) Act 1994 (Bermudian evidence for use overseas) as modified by subsection (12) have been complied with.

(12) Section 6 of the Criminal Justice (International Co-operation) (Bermuda) Act 1994 shall apply for the purposes of this section and section 39 with the following modifications-

(a) in subsection (1), for the words "criminal proceedings" to the end there shall be substituted "an investigation into whether a person has benefited from a relevant offence or the whereabouts of the proceeds of a relevant offence.";

(b) in subsection (2)(a), for the words "an offence" there shall be substituted "a relevant offence";

(c) for the words "by a notice" to the end of subsection (2) there shall be substituted "authorise a police officer to make an application for a production order under section 37 of the Proceeds of Crime Act 1997 or for a search warrant under section 39 of that Act.";

(d) at the end of subsection (5) there shall be added ", and "relevant offence" has the meaning given in the Proceeds of Crime Act 1997.";

(e) subsection (6) shall be omitted.

[section 37 amended by 2007:25 s.4 effective 15 November 2008; subsections (1), (4) and (11) amended by 2013:40 s. 7 effective 1 November 2013]

38. Failure to comply with production order

(1) Where a person is required by a production order to produce any material to a police officer or give a police officer access to any material, the person shall be guilty of an offence under this section if he-

(a) contravenes the order without reasonable excuse; or

(b) in purported compliance with the order produces or makes available any material known to the person to be false or misleading in a material particular without-

(i) indicating to the police officer to whom the material is produced or made available that the material is false or misleading and the respect in which the material is false or misleading; and

(ii) providing correct information to the police officer if the person is in possession of, or can reasonably acquire, the correct information.

(2) A person guilty of an offence under this section shall be liable on summary conviction to imprisonment for two years or a fine of $10,000 or both.

39. Search warrants

(1) For the purpose of—[160]

(a) an investigation into—[161]

(i) drug trafficking;

(ii) money laundering;

(iii) whether any person has benefited from criminal conduct;

(iv) the whereabouts of any proceeds of criminal conduct; or

(b) a civil recovery investigation,

a police officer may apply to the Supreme Court for a warrant under this section in relation to specified premises.

(2) On such an application, the court may issue a warrant authorising a police officer to enter and search the premises if the court is satisfied-

(a) that a production order made in relation to material on the premises has not been complied with;

(b) that the conditions in subsection (3) are fulfilled;[162]

(c) that the conditions in subsection (4) are fulfilled; or[163]

(d) that the conditions in subsection (4A) are fulfilled.[164]

(3) The conditions referred to in subsection (2)(b) are-

(a) that there are reasonable grounds for suspecting that a specified person has carried on drug trafficking, or money laundering[165] or has benefited from criminal conduct;

(b) that the conditions in section 37(4)(b) and (c) are fulfilled in relation to any material on the premises; and

(c) that it would not be appropriate to make an order under that section in relation to the material because-

(i) it is not practicable to communicate with any person entitled to produce the material;

(ii) it is not practicable to communicate with any person entitled to grant access to the material or entitled to grant entry to the premises on which the material is situated; or

(iii) the investigation for the purposes of which the application is made might be seriously prejudiced unless a police officer could secure immediate access to the material.

(4) The conditions referred to in subsection (2)(c) are-

(a) that there are reasonable grounds for suspecting that a specified person has carried on drug trafficking, money laundering[166] or has benefited from criminal conduct;

(b) that there are reasonable grounds for suspecting that there is on the premises any such material relating-

(i) to the specified person;

(ii) to drug trafficking;

(iia) to money laundering;[167]

(iii) to the question whether that person has benefited from criminal conduct; or

(iv) to any question as to the extent or whereabouts of any proceeds of criminal conduct,

as is likely to be of substantial value (whether by itself or together with other material) to the investigation for the purpose of which the application is made, but that the material cannot at the time of the application be particularised; and

(c) that-

(i) it is not practicable to communicate with any person entitled to grant entry to the premises;

(ii) entry to the premises will not be granted unless a warrant is produced; or

(iii) the investigation for the purposes of which the application is made might be seriously prejudiced unless a police officer arriving at the premises could secure immediate entry to them.

(4A) The conditions referred to in subsection (2)(d) are—[168]

(a) that there are reasonable grounds for believing that the property specified in the application for the warrant is recoverable property or associated property;

(b) that the material cannot be identified at the time of the application but—

(i) it relates to the property specified in the application, the question whether it is recoverable property or associated property, the question as to who holds any such property; and

(ii) any question as to whether the person who appears to hold any such property holds other property which is recoverable property, or any question as to the extent or whereabouts of any property mentioned in this paragraph; and

(c) that the material is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the warrant is made, but that the material cannot at the time of the application be particularised.

(5) Where a police officer has entered premises in the execution of a warrant issued under this section, he may seize and retain any material, other than items subject to legal privilege, which is likely to be of substantial value (whether by itself or together with other material) to the investigation for the purpose of which the warrant was issued.

(6) A police officer may photograph or make copies of any material seized under this section.

(7) A person who hinders or obstructs a police officer in the execution of a warrant issued under this section is guilty of an offence and liable on summary conviction to imprisonment for two years or a fine of $10,000 or both.

(8) Where the investigation into whether a person has benefited from criminal conduct or the whereabouts of the proceeds of criminal conduct relates to a relevant offence which was not committed in Bermuda, an application under subsection (1) shall not be made unless the provisions of section 6 of the Criminal Justice (International Co-operation) (Bermuda) Act 1994 (Bermudian evidence for use overseas) as modified by section 37(12) have been complied with.

[section 39 amended by 2007:25 s.5 effective 15 November 2008; subsections (1) and (2) amended and subsection (4A) inserted by 2013:40 s. 8 effective 1 November 2013]

40. Disclosure of information by Government Departments

(1) Subject to subsection (4), the Supreme Court may, on an application by the Director of Public Prosecutions,[169] or the Attorney-General in the case of a civil recovery investigation[170], order any material mentioned in subsection (3) which is in the possession of a Government Department to be produced to the court within such period as the court may specify.

(2) The power to make an order under subsection (1) is exercisable if-

(a) the powers conferred on the court to make a restraint order or a charging order are exercisable by virtue of section 27(1); or

(b) those powers are exercisable by virtue of section 27(3) and the court has made a restraint or charging order which has not been discharged,

but where the power to make an order under subsection (1) is exercisable by virtue only of paragraph (b), section 27(4) shall apply for the purposes of this section as it applies for the purposes of sections 28 and 29.

(3) The material referred to in subsection (1) is any material which-

(a) has been submitted to an officer of a Government Department by the defendant or by a person who has at any time held property which was realisable property;

(b) has been made by an officer of a Government Department in relation to the defendant or such a person; or

(c) is correspondence which passed between an officer of a Government Department and the defendant or such a person,

and an order under that subsection may require the production of all such material, or of a particular description of such material, in the possession of the body concerned.

(4) An order under subsection (1) shall not require the production of any material unless it appears to the court that the material is likely to contain information that would facilitate the exercise of the powers conferred on the court by section 28, 29 or 31 or on a receiver appointed under section 28 or 31 or in pursuance of a charging order.

(5) The court may by order authorise the disclosure to such a receiver of any material produced under subsection (1) or any part of such material; but the court shall not make an order under this subsection unless a reasonable opportunity has been given for an officer of the Government Department to make representations to the court.

(6) Material disclosed in pursuance of an order under subsection (5) may, subject to any conditions contained in the order, be further disclosed for the purposes of the functions under this Act of the receiver or the court.

(7) The court may by order authorise the disclosure to a police officer of any material produced under subsection (1) or any part of such material; but the court shall not make an order under this subsection unless-

(a) a reasonable opportunity has been given for an officer of the Government Department to make representations to the court; and

(b) it appears to the court that the material is likely to be of substantial value in exercising functions relating to criminal conduct.

(8) Material disclosed in pursuance of an order under subsection (7) may, subject to any conditions contained in the order, be further disclosed for the purposes of functions relating to criminal conduct.

(9) Material may be produced or disclosed in pursuance of this section notwithstanding any obligation as to secrecy or other restriction upon the disclosure of information imposed by statute or otherwise.

(10) An order under subsection (1) and, in the case of material in the possession of a Government Department, a production order, may require any officer of the Government Department (whether named in the order or not) who may for the time being be in possession of the material concerned to comply with it, and such an order shall be served as if the proceedings were civil proceedings against the department.

(11) For the purposes of this section, "Government Department" includes-

(a) the Bermuda Monetary Authority;

(b) such other bodies as the Minister[171] may prescribe for the purposes of this section.

[section 40 amended by 2007:25 s.20 effective15 November 2008; subsection (1) amended by 2013:40 s. 9 effective 1 November 2013]

41. Monitoring orders

(1) A police officer may apply to the Supreme Court for an order ("a monitoring order") directing a banking institution to give to a police officer information obtained by the institution about transactions conducted through an account held by a particular person with the institution.

(2) An application for a monitoring order shall be made ex parte to a judge in Chambers and shall be supported by affidavit.

(3) A monitoring order shall apply in relation to transactions conducted during the period specified in the order, commencing not earlier than the day on which notice of the order is given to the banking institution and ending not later than three months after the day on which the order is made.

(4) A monitoring order shall not be made unless the court is satisfied—[172]

(a) that there are reasonable grounds for suspecting that the person in respect of whom the information is sought—

(i) has committed or is about to commit a drug trafficking offence or a relevant offence;

(ii) was involved in the commission, or is about to be involved in the commission, of such an offence; or

(iii) has benefited directly or indirectly or is about to benefit directly or indirectly from the commission of such an offence;

(b) that the property specified in the application is subject to a civil recovery investigation and there are reasonable grounds for suspecting that—

(i) the property specified in the application for the order is recoverable property or associated property; and

(ii) a person specified in the application appears to hold all or some of the property.

(5) A monitoring order shall specify –

(a) the name or names in which the account is believed to be held;

(b) the nature of the information which the institution is required to give; and

(c) the manner in which the information is to be given.

(6) A person who knowingly –

(a) contravenes a monitoring order; or

(b) provides false or misleading information in purported compliance with the order,

shall be guilty of an offence and liable on summary conviction to imprisonment for two years or a fine of $10,000 or both.

(7) A reference in this section to a transaction conducted through an account includes a reference-

(a) to the making of a fixed term deposit;

(b) to the transfer of an amount so deposited or any part of it at the end of the term; and

(c) to the existence or use of a deposit box held by the institution.

(8) The provision of information to a police officer by virtue of a monitoring order shall not be treated as a breach of any restriction upon the disclosure of information imposed by statute or otherwise and shall not give rise to any civil liability.

(9) In this section "banking institution" includes-

(a) [REPEALED] [173]

(b) [REPEALED] [174]

(c) such other institutions as the Minister[175] may prescribe for the purposes of this section.

[Section 41 subsection (9)(a) amended, (b) repealed, by BR81/1999 effective 1 January 2000; subsection (9)(a) repealed by 2007:25 s.6 effective 15 November 2008; subsection (9)(c) amended by 2007:25 s.20 effective 15 November 2008; subsection (4) repealed and replaced by 2013:40 s. 10 effective 1 November 2013]

41A. Customer information orders[176]

(1) A magistrate may (or the Supreme Court in the case of a civil recovery investigation),[177], on an application made to him by a police officer make a customer information order if he is satisfied that each of the requirements for the making of the order is fulfilled.

(2) The application for a customer information order must state that—[178]

(a) a person specified in the application is subject to a confiscation investigation or a money laundering investigation; or

(b) property specified in the application is subject to a civil recovery investigation and a person specified in the application appears to hold the property.

(3) The application must also state that–

(a) the order is sought for the purposes of the investigation;

(b) the order is sought against the relevant institution or institutions specified in the application.

(4) An application for a customer information order may specify–

(a) all relevant institutions, or

(b) a particular relevant institution.

(5) A customer information order is an order that a relevant institution covered by the application for the order must, on being required to do so by notice in writing given by a police officer, provide any such customer information as it has relating to the person specified in the application as soon as practicable.

(6) A relevant institution which is required to provide information under a customer information order must provide the information to a police officer in such manner as the officer requires.

(7) If a relevant institution on which a requirement is imposed by a notice given under a customer information order requires the production of evidence of authority to give the notice, it is not bound to comply with the requirement unless evidence of the authority has been produced to it.

[section 41A inserted by 2007:25 s.7 effective 15 November 2008; subsection (1) amended and subsection (2) repealed and replaced by 2013:40 s. 11 effective 1 November 2013]

41B. Meaning of customer information[179]

(1) "Customer information", in relation to a person and a relevant institution, is information whether the person holds, or has held, an account or accounts at the relevant institution (whether solely or jointly with another) and (if so) information as to –

(a) the matters specified in subsection (2) if the person is an individual;

(b) the matters specified in subsection (3) if the person is a company or limited liability partnership or a similar body incorporated or otherwise established outside Bermuda, or a partnership.

(2) The matters referred to in subsection (1) (a) are –

(a) the account number or numbers;

(b) the person's full name;

(c) his date of birth;

(d) his most recent address and any previous addresses;

(e) the date or dates on which he began to hold the account or accounts and, if he has ceased to hold the account or any of the accounts, the date or dates on which he did so;

(f) such evidence of his identity as was obtained by the institution under or for the purposes of this Act or any regulations thereunder;

(g) the full name, date of birth and most recent address, and any previous addresses over the most recent 10 years, of any person who holds, or has held, an account at the institution jointly with him;

(h) the account number or numbers of any other account or accounts held at the institution to which he is a signatory and details of the person holding the other account or accounts;

(i) the source of the funds in the account.

(3) The matters referred to in subsection (1) (b) are –

(a) the account number or numbers;

(b) the person's full name;

(c) a description of any business which the person carries on;

(d) the country or territory in which it is incorporated or otherwise established;

(e) its registered office, and any previous registered offices, under the Companies Act 1981 or anything similar under corresponding legislation of any country or territory outside Bermuda;

(f) its registered office, and any previous registered offices, under the Limited Partnerships Act 1883 or anything similar under corresponding legislation of any country or territory outside Bermuda;

(g) the date or dates on which it began to hold the account or accounts and, if it has ceased to hold the account or any of the accounts, the date or dates on which it did so;

(h) such evidence of its identity as was obtained by the institution under or for the purposes of this Act or any regulations thereunder;

(i) the full name, date of birth and most recent address and any previous addresses over the most recent 10 years of any person who is a signatory to the account or any of the accounts;

(j) the source of the funds in the account.

(4) The Minister may by order subject to affirmative resolution procedure provide for information of a description specified in the order —

(a) to be customer information; or

(b) no longer to be customer information.

[section 41B inserted by 2007:25 s.7 effective 15 November 2008]

41C. Requirements for making of customer information order[180]

(1) These are the requirements for the making of a customer information order.

(2) In the case of a confiscation investigation, there must be reasonable grounds for suspecting that the person specified in the application for the order has benefited from his criminal conduct.

(3) In the case of a money laundering investigation, there must be reasonable grounds for suspecting that the person specified in the application for the order has committed a money laundering offence.

(3A) In the case of a civil recovery investigation, there shall be reasonable grounds for suspecting that—[181]

(a) the property specified in the application for the order is recoverable property or associated property;

(b) the person specified in the application holds all or some of the property.

(4) In the case of any investigation, there must be reasonable grounds for believing that –

(a) customer information which may be provided in compliance with the order is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the order is sought; and

(b) there must be reasonable grounds for believing that it is in the public interest for the customer information to be provided, having regard to the benefit likely to accrue to the investigation if the information is obtained.

[section 41C inserted by 2007:25 s.7 effective 15 November 2008; subsection (3A) inserted by 2013:40 s. 12 effective 1 November 2013]

41D. Offences[182]

(1) A relevant institution commits an offence if without reasonable excuse it fails to comply with a requirement imposed on it under a customer information order.

(2) A relevant institution guilty of an offence under subsection (1) is liable on summary conviction to a fine of $50,000.

(3) A relevant institution commits an offence if, in purported compliance with a customer information order, it –

(a) makes a statement which it knows to be false in a material particular; or

(b) recklessly makes a statement which is false or misleading in a material particular.

(4) A relevant institution guilty of an offence under subsection (3) is liable–

(a) on summary conviction, to a fine of $50,000, or

(b) on conviction on indictment, to a fine of $100,000.

[section 41D inserted by 2007:25 s.7 effective 15 November 2008]

41E Statements[183]

(1) A statement made by a relevant institution in response to a customer information order may not be used in evidence against it in criminal proceedings.

(2) But subsection (1) does not apply on a prosecution for -

(a) an offence under section 41D(1) or (3); or

(b) some other offence where, in giving evidence, the relevant institution makes a statement inconsistent with the statement mentioned in subsection (1).

(3) A statement may not be used by virtue of subsection (2)(b) against a relevant institution unless –

(a) evidence relating to it is adduced; or

(b) a question relating to it is asked;

by or on behalf of the relevant institution in the proceedings arising out of the prosecution.

[section 41E inserted by 2007:25 s.7 effective 15 November 2008]

41F. Disclosure of information[184]

A customer information order has effect notwithstanding any restriction on the disclosure of information (however imposed).

[section 41F inserted by 2007:25 s.7 effective 15 November 2008]

41G. Supplementary[185]

(1) An application to discharge or vary a customer information order may be made to the magistrate by –

(a) a police officer;

(b) any person affected by the order.

(2) The magistrate may –

(a) discharge the order;

(b) vary the order.

(3) Magistrates' Court Rules may make provision as to the practice and procedure to be followed in connection with proceedings relating to customer information orders.

[section 41G inserted by 2007:25 s.7 effective 15 November 2008]

42. Offence of prejudicing investigation

(1) This section applies if a person knows or suspects that an investigation into criminal conduct, a civil recovery investigation or a money laundering investigation is being conducted. The person commits an offence if—

(a) he makes a disclosure which is likely to prejudice the investigation; or

(b) he falsifies, conceals, destroys, or otherwise disposes of, or causes or permits the falsification, concealment, destruction or disposal of, documents which are relevant to the investigation.[186] [187] [188]

(2) In proceedings against a person for an offence under this section, it is a defence to prove-

(a) that he did not know or suspect or have reasonable grounds to suspect [189] that the disclosure was likely to prejudice the investigation; or[190]

(b) that he had lawful authority or reasonable excuse for making the disclosure.

(3) Nothing in subsection (1) makes it an offence for a professional legal adviser to disclose any information or other matter-

(a) to, or to a representative of, a client of his in connection with the giving by the legal adviser of legal advice to the client; or

(b) to any person-

(i) in contemplation of, or in connection with, legal proceedings; and

(ii) for the purpose of those proceedings;

but this subsection does not apply in relation to any information or other matter which is disclosed with a view to furthering any criminal purpose.

(4) A person who commits an offence under this section shall be liable-

(a) on summary conviction to imprisonment for two years or a fine of $5,000 or both; and

(b) on conviction on indictment to imprisonment for five years or a fine of $10,000 or both.

[Section 42 subsection (1) amended by 2013:40 s. 13 effective 1 November 2013; subsections (1) and (2) amended by 2017:10 s. 2 effective 24 March 2017; Section 42 subsections (1) and (2) amended by 2018:5 s. 2 effective 21 March 2018]

PART V - MONEY LAUNDERING

OFFENCES

42A. Interpretation[191]

(1) In this Part -[192]

"AML/ATF regulated financial institution" means a person who—

(a) carries on deposit-taking business within the meaning of section 4 of the Banks and Deposit Companies Act 1999;

(b) carries on investment business within the meaning of section 3 of the Investment Business Act 2003;

(c) is an insurer (and not a reinsurer) registered under section 4 of the Insurance Act 1978 who carries on long term business falling within paragraph (a) or (c) of the definition of "long-term business" in section 1(1) of the Insurance Act 1978;

(d) is an insurance manager, or broker or insurance marketplace provider registered under section 10 of the Insurance Act 1978, but in relation to an insurance broker or an insurance marketplace provider, only in so far as they act as a broker or a

provider[193] [194] in connection with long term business (other than reinsurance business) falling within paragraph (a) or (c) of the definition of "long-term business" in section 1(1) of the Insurance Act 1978;

(e) carries on fund administration provider business within the meaning of section 2(2) of the Fund Administration Provider Business Act 2019;[195]

(f) carries on money service business within the meaning of section 2(2) of the Money Service Business Act 2016;[196]

(fa) carries on corporate service provider business within the meaning of section 2(2) of the Corporate Service Provider Business Act 2012;[197]

(g) carries on trust business within the meaning of section 9(3) of the Trusts (Regulation of Trust Business) Act 2001 except for any person which is exempted by or under paragraph 3 of the Trusts (Regulation of Trust Business) Exemption Order 2002 provided that— [198]

(i) such exempted person utilises the services of a corporate service provider business, licensed by the Bermuda Monetary Authority, within the meaning of section 2(1) of the Corporate Service Provider Business Act 2012; or

(ii) such exempted person has in its corporate structure or engages the services of a trust business, licensed by the Bermuda Monetary Authority, within the meaning given in section 9(3) of the Trusts (Regulation of Trust Business) Act 2001;

(h) is the operator of an investment fund within the meaning of section 2 of the Investment Funds Act 2006;

(i) is a licensed undertaking carrying on digital asset business within the meaning of section 4 of the Digital Asset Business Act 2018;[199]

(ia) carries on the business of a credit union within the meaning of section 2 of the Credit Unions Act 2010; [200]

(j) carries on for or on behalf of a customer the business of providing any of the financial activities specified in Schedule 3;[201]

"Bermuda Gaming Commission" has the meaning given in section 6 of the Gaming Act 2014;[202][203]

"business relationship" means a business, professional or commercial relationship between an AML/ATF regulated financial institution and a customer, which is expected by the institution when contact is first made between them to have an element of duration;

"casino" has the meaning given in section 2 of the Gaming Act 2014; [204][205]

"casino operator" has the meaning given in section 2 of the Gaming Act 2014; [206][207]

"country" includes territory;

"criminal property" has the meaning set out in subsection (2); [208]

"dealers in high value goods" shall have the same meaning as in section 2(1) of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008;[209]

"designated person", in relation to a direction, means any of the persons in relation to whom the direction is given;

"direction" means a direction issued by the Minister by order under section 49A;

"financial group" means a group designated as such under section 42B;[210]

"notice" means a notice in writing;

"patron" has the meaning given in section 2 of the Gaming Act 2014; [211][212]

"professional accountant" means a person who is a member of the [213]Chartered Professional Accountants of Bermuda;

"professional legal adviser" means a barrister and attorney who is a member of the Bermuda Bar Association;

"real estate agent" means a person licensed under the Real Estate Brokers' Licensing Act 2017 as an agent;[214] [215]

"real estate broker" means a person licensed under the Real Estate Brokers' Licensing Act 2017 as a broker; [216]

"Registrar" means the Registrar of Companies appointed under section 3 of the Companies Act 1981. [217]

"regulations" means regulations made under section 49(3); [218]

"relevant persons" means a person to whom, in accordance with section 49(3) and (4), regulations apply;

"supervisory authority" means -

(a) the Bermuda Monetary Authority in relation to relevant persons falling within paragraph (a)(i) of section 49(4) being persons who are licensed, registered or otherwise exempted under any enactment regulating the financial services industry;[219]

(aa) the Registrar as a supervisory authority in relation to relevant persons that are dealers in high value goods;[220] [221]

(ab) Superintendent of Real Estate as defined in section 1 of the Real Estate Brokers' Licensing Act 2017[222]; [223]

(b) a professional body designated by the Minister under any enactment in relation to relevant persons regulated by it; or[224]

(c) in the case of a casino operator, the Bermuda Gaming Commission.[225][226]

(2) "Criminal property" is property which— [227]

(a) constitutes a person's benefit from criminal conduct or represents such a benefit (in whole or part and whether directly or indirectly); and

(b) the alleged offender knows or suspects constitutes or represents such benefit.

(3) For the purposes of subsection (2), it is immaterial—

(a) who carried out the conduct;

(b) who benefited from it; or

(c) whether it occurred before or after the passing of this Act.

(4) For the purposes of subsection (2), a person benefits from criminal conduct if he obtains property as a result of or in connection with the conduct.

[Section 42A added by 2008:31 s.3 effective 15 November 2008; Section 42A amended by 2009:50 s. 6 effective 15 January 2010; Section 42A amended by 2014:8 s. 16 effective 11 April 2014; Section 42A amended by 2015:35 s. 18 effective 6 November 2015; Section 42A amended by 2015:53 s. 11 effective 1 January 2016; subsection (1) amended by 2016:45 s. 2 effective 5 August 2016; subsection (1) definition "AML/ATF regulated financial institution" amended by 2016:36 s. 71 effective 31 January 2017; subsection (1) definition "AML/ATF regulated financial institution" amended by 2017:10 s. 2 effective 24 March 2017; subsection (1) definitions "real estate agent" and "supervisory authority" amended, and "real estate broker" inserted by 2017:28 s. 55 & Sch. 3 effective 2 October 2017; subsection (1) definition "AML/ATF regulated financial institution" amended by 2018:5 s. 8 effective 21 March 2018; subsection (1) definition "financial group" inserted by 2018:51 s. 2 effective 10 August 2018; subsection (1) definition "AML/ATF regulated financial institution" amended by 2018:49 s. 2 effective 7 September 2018; subsection (1) definition "AML/ATF regulated financial institution" amended by 2018:28 Sch. 2 para. 4 effective 10 September 2018; subsection (1) definition "AML/ATF regulated financial institution" amended by 2019:33 s. 45 effective 5 August 2019; amended by 2020:36 Sch. effective 1 November 2020]

42B. Designation of group as financial group[228]

(1) The Minister responsible for justice may, upon the advice of relevant competent authorities and supervisory authorities, by order designate a group that consists of—[229]

(a) a parent company, or any other type of legal person, which exercises control and coordinating functions over the rest of the group for the application of group supervision of anti-money laundering and anti-terrorist financing policies and procedures; and

(b) its branches and subsidiaries that are subject to the anti-money laundering and anti-terrorist financing policies and procedures,

as a financial group.

(2) An order made under subsection (1) shall specify the date on which the order is to take effect, being a date not later than 12 months after the date on which the order is made.

(3) An order made under subsection (1) is subject to the negative resolution procedure.

[Section 42B inserted by 2018:51 s. 2 effective 10 August 2018]

43. Concealing or transferring criminal property [230] [231]

(1) A person commits an offence if he—

(a) conceals criminal property;

(b) disguises criminal property;

(c) converts criminal property;

(d) transfers criminal property; or

(e) removes criminal property from Bermuda.

(2) But a person does not commit such an offence if—

(a) he makes a disclosure under section 46 and (if the disclosure is made before he does the act mentioned in subsection (1)) he has the consent of the FIA;

(b) he intended to make such a disclosure but had a reasonable excuse for not doing so; or

(c) the act he does is done in carrying out a function he has relating to the enforcement of any provision of this Act or of any other enactment relating to criminal conduct or benefit from criminal conduct.

(3) A person may be treated as having the consent of the FIA if—

(a) he makes a disclosure to the FIA; and

(b) the condition in subsection (4) or the condition in subsection (5) is satisfied.

(4) The condition is that before the end of the notice period he does not receive notice from the FIA that consent to the doing of the act is refused.

(5) The condition is that—

(a) before the end of the notice period he receives notice from the FIA that the consent to the doing of the act is refused; and

(b) the moratorium period has expired.

(6) The notice period is the period of seven working days commencing on the day after a disclosure is made.

(7) The moratorium period is the period of 45 days and shall commence on the day that the notice is given.

(8) For the purposes of this section—

"a working day" means a day other than a Saturday or a public holiday as prescribed by the Public Holidays Act 1947.

(9) Concealing or disguising criminal property includes concealing or disguising its nature, source, location, disposition, movement or ownership or any rights with respect to it.

[Section 43 repealed and replaced by 2015:53 s. 12 effective 1 January 2016; Section 43 heading amended by 2018:5 s. 2 effective 21 March 2018]

44. Assisting another to retain criminal property [232] [233] [234] [235]

(1) A person commits an offence if he enters into or becomes concerned in an arrangement which he knows or suspects facilitates (by whatever means) the—

(a) acquisition;

(b) retention;

(c) use; or

(d) control,

of criminal property by or on behalf of another person.

(2) But a person does not commit such an offence if—

(a) he makes a disclosure under section 46 and (if the disclosure is made before he does the act mentioned in subsection (1)) he has the consent of the FIA;

(b) he intended to make such a disclosure but had a reasonable excuse for not doing so; or

(c) the act he does is done in carrying out a function he has relating to the enforcement of any provision of this Act or of any other enactment relating to criminal conduct or benefit from criminal conduct.

(3) A person may be treated as having the consent of the FIA if—

(a) he makes a disclosure to the FIA; and

(b) the condition in subsection (4) or the condition in subsection (5) is satisfied.

(4) The condition is that before the end of the notice period he does not receive notice from the FIA that consent to the doing of the act is refused.

(5) The condition is that—

(a) before the end of the notice period he receives notice from the FIA that the consent to the doing of the act is refused; and

(b) the moratorium period has expired.

(6) The notice period is the period of seven working days commencing on the day after a disclosure is made.

(7) The moratorium period is the period of 45 days and shall commence on the day that the notice is given.

(8) For the purposes of this section—

"a working day" means a day other than a Saturday or a public holiday as prescribed by the Public Holidays Act 1947.

(9) Nor does a person commit an offence under subsection (1) if—

(a) he knows, or believes on reasonable grounds, that the relevant criminal conduct occurred in a particular country or territory outside Bermuda; and

(b) the relevant criminal conduct was not at the time it occurred, unlawful under the criminal law then applying in that country or territory.

(10) In subsection (9)—

"the relevant criminal conduct" is the criminal conduct by reference to which the property concerned is criminal property.

[section 44 amended by 2007:25 s.8 effective 15 November 2008; by 2008:31 s.4 effective 15 November 2008; subsections (3A)-(3F) inserted by 2015:53 s. 13 effective 1 January 2016; Section 44 repealed and replaced by 2018:5 s. 2 effective 21 March 2018]

45. Acquisition, possession or use of criminal property[236]

(1) A person commits an offence if he— [237]

(a) acquires criminal property;

(b) uses criminal property; or

(c) has possession of criminal property.

(2) It is a defence to a charge of committing an offence under this section that the person charged acquired or used the property or had possession of it for adequate consideration.

(3) For the purposes of subsection (2)-

(a) a person does not acquire property for adequate consideration if the value of the consideration is significantly less than the value of the property; and

(b) a person does not use or have possession of property for adequate consideration if the value of the consideration is significantly less than the value of his use or possession of the property.

(4) The provision for any person of services or goods which are of assistance to him in criminal conduct shall not be treated as consideration for the purposes of subsection (2).

(5) Where a person discloses in good faith to the FIA a belief that any property is criminal property or any matter on which such a belief is based-[238] [239] [240]

(a) the disclosure shall not be treated as a breach of any restriction upon the disclosure of information however imposed; and [241]

(b) if he does any act in relation to the property in contravention of subsection (1), he does not commit an offence under this section if-

(i) the disclosure is made before he does the act in question and the act is done with the consent of the FIA[242]; or

(ii) the disclosure is made after he does the act, but is made on his initiative and is made promptly after doing the act[243].

(5A) A person may be treated as having the consent of the FIA under subsection (5)(b)(i) if— [244]

(a) he makes a disclosure to the FIA; and

(b) the condition in subsection (5B) or the condition in subsection (5C) is satisfied.

(5B) The condition is that before the end of the notice period he does not receive notice from the FIA that consent to the doing of the act is refused. [245]

(5C) The condition is that— [246]

(a) before the end of the notice period he receives notice from the FIA that consent to the doing of the act is refused; and

(b) the moratorium period has expired.

(5D) The notice period is the period of seven working days commencing on the day after a disclosure is made. [247]

(5E) The moratorium period is the period of 45 days and shall commence on the day that the notice is given. [248]

(5F) For the purposes of this section— [249]

"a working day" means a day other than a Saturday or a public holiday as prescribed by the Public Holidays Act 1947.

(6) For the purposes of this section, having possession of any property shall be taken to be doing an act in relation to it.

(7) In proceedings against a person for an offence under this section, it is a defence to prove that-

(a) he intended to disclose to the FIA[250] such a belief or matter as is mentioned in subsection (5), but

(b) there is reasonable excuse for his failure to make any such disclosure in the manner mentioned in subsection (5)(b).

(8) In the case of a person who was in employment at the time in question, subsections (5) and (7) shall have effect in relation to disclosures, and intended disclosures, to the appropriate person in accordance with any procedure established by his employer as they have effect in relation to disclosures, and intended disclosures, to the FIA[251].

(9) Neither the FIA nor any[252] other person shall be guilty of an offence under this section in respect of anything done by him in the course of acting in connection with the enforcement, or intended enforcement, of any provision of this Act or of any other statutory provision relating to drug trafficking or relevant offences or criminal property.[253]

[Section 45 amended by 2007:25 s.9 effective 15 November 2008; by 2008:31 s.5 effective 15 November 2008; subsection (1) deleted and substituted and subsections (5A) - (5F) inserted by 2015 : 53 s. 14 effective 1 January 2016; Section 45 amended by 2018:5 s. 2 effective 21 March 2018; subsection (5) (b) amended by 2018:51 s. 2 effective 10 August 2018]

45A. Agreement in furtherance of money laundering void[254]

Any agreement entered into for the purposes of facilitating the commission of money laundering is void.

[section 45A inserted by 2007:25 s.10 effective 15 November 2008]

45B. Money laundering: defence when overseas conduct is legal[255]

(1) A person does not commit an offence under section 43, 44 or 45 if –

(a) he knows or believes on reasonable grounds that the relevant criminal conduct occurred in a particular country or territory outside Bermuda; and

(b) the relevant criminal conduct –

(i) was not, at the time it occurred, unlawful under the criminal law then applying in that country or territory, and

(ii) is not of a description prescribed by an order made by the Minister.

(2) The Minister may by order subject to negative resolution procedure, prescribe conduct for the purpose of subsection (1)(b)(ii).

[section 45B inserted by 2007:25 s.10 effective 15 November 2008]

46. Disclosure of knowledge or suspicion of money laundering

(A1) A person shall make a disclosure to the FIA when they know, suspect or have reasonable grounds to suspect[256] that—[257]

(a) any currency, funds or other assets are derived from or used in connection with any criminal conduct; or

(b) a money laundering offence has been committed, is in the course of being committed or has been attempted,

and this information has come to him in the course of his trade, profession, business or employment.

(1) Where a person in good faith discloses to the FIA[258]-

(a) his suspicion or belief that another person is engaged in money laundering, or

(b) any information or other matter on which that suspicion or belief is based,

the disclosure shall not be treated as a breach of any restriction upon the disclosure of information however imposed.[259]

(2) A person is guilty of an offence if-

(a) he knows, suspects or has reasonable grounds to suspect[260] that another person is engaged in money laundering which relates to any proceeds of criminal conduct[261];

(b) the information, or other matter, on which that knowledge or suspicion is based came to his attention in the course of his trade, profession, business or employment; and

(c) he does not promptly disclose this information or other matter to the FIA after it comes to his attention.[262] [263]

(3) Subsection (2) does not make it an offence for a professional legal adviser to fail to disclose any information or other matter which has come to him in privileged circumstances.

(4) It is a defence to a charge of committing an offence under this section that the person charged had a reasonable excuse for not disclosing the information or other matter in question.

(5) Any disclosure made by a person who was in employment at the time in question to the appropriate person in accordance with any procedure established by his employer shall be treated, for the purposes of this section, as a disclosure to the FIA[264].

(6) For the purposes of this section, any information or other matter comes to a professional legal adviser in privileged circumstances if it is communicated or given to him-

(a) by, or by a representative of, a client of his in connection with the giving by the adviser of legal advice to the client;

(b) by, or by a representative of, a person seeking legal advice from the adviser; or

(c) by any person-

(i) in contemplation of, or in connection with, legal proceedings; and

(ii) for the purpose of those proceedings;

but no information or other matter shall be treated as coming to a professional legal adviser in privileged circumstances if it is communicated or given with a view to furthering any criminal purpose.

[Section 46 amended by 2007:25 s.11 effective 15 November 2008; by 2008:31 s.6 effective 15 November 2008; subsection (A1) inserted by 2013:30 s. 2 effective 8 November 2013; subsections (A1) and (2) amended by 2017:10 s. 2 effective 24 March 2017; subsection (2)(c) repealed and substituted by 2018:51 s. 2 effective 10 August 2018]

47. Tipping-off

(1) A person is guilty of an offence if-

(a) he knows or suspects or has reasonable grounds to suspect[265] that a police officer is acting, or is proposing to act, in connection with an investigation which is being, or is about to be, conducted into money laundering; and

(b) he discloses to any other person information or any other matter which is likely to prejudice that investigation or proposed investigation.

(2) A person is guilty of an offence if-

(a) he knows or suspects or has reasonable grounds to suspect[266] that a disclosure is being or has been[267] made to the FIA[268] or to an appropriate person under section 44, 45 or 46; and

(b) he discloses to any other person—[269]

(i) his knowledge or suspicion that a disclosure or related information is being or[270] has been filed with the FIA; or

(ii) information or any other matter which is likely to prejudice any investigation which might be conducted following such a disclosure

(3) Nothing in subsection (1) or (2) makes it an offence for a professional legal adviser to disclose any information or other matter-

(a) to, or to a representative of, a client of his in connection with the giving by the adviser of legal advice to the client; or

(b) to any person-

(i) in contemplation of, or in connection with, legal proceedings; and

(ii) for the purpose of those proceedings;

but this subsection does not apply in relation to any information or other matter which is disclosed with a view to furthering any criminal purpose.

(4) In proceedings against a person for an offence under subsection (1) or (2)(b)(ii)[271] , it is a defence to prove that he did not know or suspect or have reasonable grounds to suspect[272] that the disclosure was likely to be prejudicial in the way there mentioned.

(5) No police officer or other person shall be guilty of an offence under this section in respect of anything done by him in the course of acting in accordance with the enforcement, or intended enforcement, of any provision of this Act or of any other statutory provision relating to criminal conduct or the proceeds of criminal conduct.

(6) No person shall be guilty of an offence under this section where he discloses information to a supervisory authority in the course of it carrying out its statutory duties.[273]

(7) For the purposes of this section supervisory authority shall have the same meaning as under section 2 of the Proceeds of Crime (Anti-Money Laundering and Terrorist Financing Supervision and Enforcement) Act 2008. [274]

[Section 47 amended by 2007:25 s.12 effective 15 November 2008; subsection (2)(b) deleted and substituted, subsection (4) amended and subsections (6) and (7) inserted by 2013:30 s. 3 effective 8 November 2013; subsections (1), (2) and (4) amended by 2017:10 s. 2 effective 24 March 2017; subsection (2) amended by 2018:51 s. 2 effective 10 August 2018]

PENALTIES

48. Penalties for money laundering etc

(1) A person guilty of an offence under section 43, 44 or 45 (money laundering) shall be liable-

(a) on summary conviction, to imprisonment for five years or a fine of $50,000 or both; and

(b) on conviction on indictment, to imprisonment for twenty years or an unlimited fine or both.

(2) A person guilty of an offence under section 46 or 47 (failure to disclose knowledge or suspicion; tipping off) shall be liable-

(a) on summary conviction, to imprisonment for three years or a fine of $15,000 or both; or

(b) on conviction on indictment, to imprisonment for ten years or an unlimited fine or both.

48A. Forfeitures

(1) The court by or before which a person is convicted of a money laundering offence may make a forfeiture order in accordance with the provisions of this section. [275]

(2) Where a person is convicted of a money laundering offence, the court may order the forfeiture of any property which, at the time of the offence, he had in his possession or under his control and which he used or intended to use for the purposes of the offence.

(3) Where a person is convicted of a money laundering offence, the court may order the forfeiture of any property which wholly or partly, and directly or indirectly, is received by any person as a payment or other reward in connection with the commission of the offence.

(4) Where a person other than the convicted person claims to be the owner of or otherwise interested in anything which can be forfeited by an order under this section, the court shall give him an opportunity to be heard before making an order.

[section 48A inserted by 2008:31 s.7 effective15 November 2008]

PREVENTION OF MONEY LAUNDERING

49. Establishment of Committee; regulations etc

(1) There shall be established a committee, to be known as the National Anti-Money Laundering Committee, for the purpose of-

(a) advising the Minister and the Minister of Finance[276] in relation to the detection and prevention of money laundering, terrorist financing and the financing of proliferation[277], and on the development of a national plan of action to include recommendations on effective mechanisms to enable the competent authorities in Bermuda to coordinate with each other concerning the development and implementation of policies and activities to combat money laundering, terrorist financing and the financing of proliferation;[278] [279]

(b) [REPEALED][280]

(c) advising the Minister and the Minister of Finance[281] [282] as to the participation of Bermuda in the international effort against money laundering, terrorist financing and the financing of proliferation;[283] [284] [285]

(d) advising the Minister and the Minister of Finance[286] in the development of policies to combat money laundering, terrorist financing and the financing of proliferation; and[287]

(e) coordinating activities to identify, assess and understand Bermuda's money laundering, terrorist financing, and proliferation financing risks, and taking the necessary steps to ensure that such risk assessments are kept up-to-date,[288] [289]

and the Committee shall meet as often as may be necessary to carry out its duties.[290] [291]

(2) The members of the National Anti-Money Laundering Committee shall be-

(a) the Chairman[292],

(aa) the Solicitor General,[293]

(b) the Financial Secretary[294],

(c) [DELETED], [295]

(d) the Commissioner of Police,

(da) the Director of the FIA,[296] [297]

(e) the Chief Executive Officer[298] of the Bermuda Monetary Authority,

(ea) the Director of Public Prosecutions;[299]

(eb) the Permanent Secretary Ministry of Justice;[300]

(ec) the Collector of Customs;[301]

(ed) the National Coordinator; [302]

(ee) the Registrar General; [303]

(ef) the Registrar of Companies (including when acting in his capacity as Superintendent of Real Estate); [304] [305]

(eg) the Executive Director of the Bermuda Gaming Commission; [306][307]

(eh) the Permanent Secretary of the Ministry of National Security; or[308]

(f) such other persons as the Minister of Finance[309] [310] may from time to time appoint.

(2A) The Minister of Finance[311] shall appoint a person with relevant experience to be the Chairman of the Committee for a term not exceeding three years, which may be renewed.[312]

(2B) A person is disqualified for appointment as Chairman if he is a member of either House of the Legislature.[313]

(2C) A person holding office as Chairman may at any time resign by giving notice in writing to the Minister of Finance[314]. [315]

(2D) The Chairman shall forthwith vacate his office if he becomes disqualified for appointment.[316]

(2E) The Minister of Finance[317] may by notice in writing remove the Chairman from office if satisfied that -

(a) he has without reasonable excuse been absent from three consecutive meetings of the Committee;

(b) he has been convicted (whether before or after his appointment) of a criminal offence;

(c) he is an undischarged bankrupt or his estate has been sequestrated and he has not been discharged;

(d) he has made a composition or arrangement with, or granted a trust deed for, his creditors; or

(e) he is otherwise unable or unfit to carry out his functions as Chairman.[318]

(3) The Minister[319] may, after consulting the National Anti-Money Laundering Committee, make such regulations as he thinks fit for the purposes of detecting and preventing money laundering.

(3a) Regulations made under subsection (3) are subject to affirmative resolution procedure.[320]

(4) Without prejudice to the generality of subsection (3), such regulations may in particular -

(a) require –

(i) such persons or classes of persons conducting businesses in the financial services industry, falling within any one or more activities or operations for or on behalf of a customer as may be prescribed by the Minister; [321]

(ia) such dealers in high value goods who, by way of business, accept a total cash payment (in any currency) that is equivalent to at least BMD $7,500 in any single transaction or series of linked transactions;[322]

(ib) real estate brokers and real estate agents[323], when they carry out transactions for their clients concerning the buying and selling of real estate; [324]

(ii) professional legal advisers and accountants in independent practice, who by way of business provide legal or accountancy services to other persons when participating in financial or real property transactions concerning a class of activity specified in subsection (5); and for this purpose, a person participates in a

transaction by assisting in the planning or execution of the transaction or otherwise acting for or on behalf of a client in the transaction; and

(iii) casino operators, [325]

to establish and maintain procedures relating to the identification of clients, the keeping of records, the making of reports, the vetting of employees, the verification of the effective design and operation of anti-money laundering systems and the training of employees; and[326] [327]

(b) create criminal offences of failing to comply with the regulations.

(c) [REPEALED][328]

(4A) In the application of subsection (4) in relation to casino operators "client" means a patron. [329]

(5) For the purposes of paragraph (a) of subsection (4) the following are specified activities —[330]

(a) buying and selling real property;

(b) managing of client monies, securities and other assets;

(c) management of bank, savings or securities accounts;

(d) organisation of contributions for the creation, operation or management of companies;

(e) creation, operation or management of legal persons or arrangements, and buying and selling business entities.

(5A) In this section "the National Coordinator" means a person appointed as head of the office of the National Anti-Money Laundering Committee. [331]

(6) [REPEALED] [332] [333]

[section 49 amended by 2007:25 s.13 & 20 effective 15 November 2008; amended by 2008:31 s.8 effective 15 November 2008; subsection (1) amended by 2013:30 s. 4 effective 8 November 2013; subsection (4)(a) amended and subsection (4A) inserted by 2015:35 s. 18 effective 6 November 2015;

subsection (2) amended and subsection (5A) inserted by 2015:53 s. 15 effective 1 January 2016; subsection (4)(a) amended by 2016:45 s. 3 effective 5 August 2016; subsection (4)(a)(ib) amended by 2017:28 s. 55 & Sch. 3 effective 2 October 2017; subsection (2) amended by 2017:35 s. 2 effective 3 November 2017; section 49 amended by BR 115/2017 para. 3 effective 7 December 2017; subsection (1) amended by 2018:51 s. 2 effective 10 August 2018]

49AA Prohibition against the import and export of proceeds of criminal conduct[334]

(1) A person shall not without lawful authority import into Bermuda or export from Bermuda proceeds of criminal conduct in any form whatsoever.

(2) Any person who knowingly contravenes subsection (1) commits an offence and shall be liable—

(a) on summary conviction, to imprisonment for five years or a fine of $50,000 or both; or

(b) on conviction on indictment, to imprisonment for twenty years or an unlimited fine or both.

(3) For the avoidance of doubt, the word "goods" in section 100 of the Revenue Act 1898 includes the proceeds of criminal conduct in any form whatsoever.

[Section 49AA inserted by 2015:53 s. 16 effective 1 January 2016]

49A. Directions[335]

(1) The Minister may, by order, issue a direction to a relevant person[336] carrying on business in or from Bermuda if—

(a) the intergovernmental body, known as the Financial Action Task Force or the Caribbean Financial Action Task Force[337], has advised that measures should be taken in relation to a country because of the risk of money laundering activities being carried on—

(i) in the country;

(ii) by the government of the country, or

(iii) by persons resident or incorporated in the country; or

(b) the Minister reasonably believes that there is a risk that money laundering activities are being carried on—

(i) in the country,

(ii) by the government of the country, or

(iii) by persons resident or incorporated in the country,

and that this poses a significant risk to the national interests of Bermuda.

(2) A direction under this section may be given to—

(a) a particular relevant person[338];

(b) any description of relevant persons[339]; or

(c) all relevant persons[340].

(3) The requirements imposed by a direction must be proportionate to the seriousness of the risk, having regard to the advice mentioned in subsection (1)(a) or to the risks mentioned in subsection (1)(b), as the case may be.

[Section 49A inserted by 2009:50 s. 7 effective 15 January 2010; Section 49A amended by 2018:50 s. 2 effective 10 August 2018]

49B. Transactions and persons affected by directions

(1) A direction may impose requirements in relation to transactions or business relationships with—

(a) a person carrying on business in the country;

(b) the government of the country;

(c) a person resident or incorporated in the country.

(2) The direction may impose requirements in relation to—

(a) a particular person within subsection (1),

(b) any description of persons within that subsection, or

(c) all persons within that subsection.

(3) For the purposes of this section, a transaction or business relationship with a person or government includes a transaction or business relationship with any third party that ultimately benefits, or is intended to benefit, that person or government.

(4) A direction may make different provisions—

(a) in relation to different descriptions of persons to whom the direction is given; and

(b) in relation to different descriptions of transaction or business relationship.

[Section 49B inserted by 2009:50 s. 7 effective 15 January 2010]

49C. Requirements that may be imposed by directions

A direction may impose any of the following requirements—

(a) customer due diligence;

(b) ongoing monitoring;

(c) systematic reporting

(d) limiting or ceasing business.

[Section 49C inserted by 2009:50 s. 7 effective 15 January 2010]

49D. Customer due diligence

(1) A direction may require a relevant person[341] or a financial group[342] to undertake enhanced customer due diligence measures—

(a) before entering into a transaction or business relationship with a designated person; and

(b) during a business relationship with such a person.

(2) The direction may do either or both of the following—

(a) impose a general obligation to undertake enhanced customer due diligence measures;

(b) require a relevant person[343] to undertake specific measures identified or described in the direction.

(3) In this section, "customer due diligence measures" means measures to—

(a) establish the identity of the designated person;

(b) obtain information about the designated person; their business, and the source of their funds, and

(c) assess the risk of the designated person being involved in money laundering activities.

[Section 49D inserted by 2009:50 s. 7 effective 15 January 2010; Section 49D amended by 2018:50 s. 3 effective 10 August 2018; Section 49D(1) amended by 2018:51 s. 2 effective 10 August 2018]

49E. Ongoing monitoring

(1) A direction may require a relevant person[344] or a financial group[345] to undertake enhanced ongoing monitoring of any business relationship with a designated person.

(2) The direction may do either or both of the following—

(a) impose a general obligation to undertake enhanced ongoing monitoring;

(b) require a relevant person[346] to undertake specific measures identified or described in the direction.

(3) In this section, “ongoing monitoring” of a business relationship means—

(a) scrutiny of transactions undertaken throughout the course of the relationship (including, where necessary, the source of funds) to ensure that the transactions are consistent with the relevant person’s knowledge of the customer, his business and risk profile; and

(b) so far as practicable keeping the documents, data or information obtained for the purpose of applying customer due diligence measures up to date.

[Section 49E inserted by 2009:50 s. 7 effective 15 January 2010; Section 49E amended by 2018:50 s. 3 effective 10 August 2018; Section 49E(1) amended by 2018:51 s. 2 effective 10 August 2018]

49F. Systematic reporting

(1) A direction may require a relevant person[347] to provide such information and documents as may be specified in the direction relating to transactions or business relationships with designated persons.

(2) A direction imposing such a requirement must specify how the direction is to be complied with, including—

(a) the person to whom the information and documents are to be provided; and

(b) the period within which, or intervals at which, information and documents are to be provided.

(3) The power conferred by this section may not be exercised in relation to information or documents in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

(4) The exercise of the power conferred by this section and the provision of information under it is not otherwise subject to any restriction on the disclosure of information, whether imposed by statute or otherwise.

[Section 49F inserted by 2009:50 s. 7 effective 15 January 2010; Section 49F amended by 2018:50 s. 3 effective 10 August 2018]

49G. Limiting or ceasing business

A direction may require a relevant person[348] or a financial group[349] not to enter into or continue to participate in—

(a) a specified transaction or business relationship with a designated person,

(b) a specified description of transactions or business relationships with a designated person, or

(c) any transaction or business relationship with a designated person.

[Section 49G inserted by 2009:50 s. 7 effective 15 January 2010; Section 49G amended by 2018:50 s. 3 effective 10 August 2018; Section 49G amended by 2018:51 s. 2 effective 10 August 2018]

49H. Making and giving effect to directions

(1) The Minister may vary or revoke a direction at any time.

(2) A direction ceases to have effect one year after the day on which it was made, without prejudice to the making of further directions.

(3) A direction given to a description of relevant persons[350] or a financial group[351] or to all such institutions is a statutory instrument and is subject to the negative resolution procedure.

(4) A direction given to a particular person is not a statutory instrument. The Minister must give notice of the direction to that person as soon as possible after issuing it.

[Section 49H inserted by 2009:50 s. 7 effective 15 January 2010; Section 49H amended by 2018:50 s. 3 effective 10 August 2018; Section 49H amended by 2018:51 s. 2 effective 10 August 2018]

49I. Directions limiting or ceasing business: exemption by license

(1) A relevant person[352] or a financial group[353] that is subject to a direction referred to in section 49G may apply to the Minister in such form as the Minister may specify, to exempt a specific transaction or business relationship or a description of transactions or business relationships from the requirements of the direction.

(2) The applicant shall provide such information and documents as the Minister may require in determining the application.

(3) The Minister may grant a license to the applicant exempting it from the requirements of the direction in relation to the transactions or business relationships specified in the license with the persons designated in it, if the Minister is satisfied that the applicant's participation in the transactions or business relationships with those persons does not pose a risk to the national interests of Bermuda.

(4) The Minister, on his own initiative, may—

(a) grant a license to a particular relevant person[354] or to a group of such institutions exempting them from the requirements of a direction in relation to transactions or business relationships specified in the license with persons designated in it; or

(b) grant a general license exempting all relevant persons[355]from the requirements of the direction in relation to transactions or business relationships specified in the license with persons designated in it,

if the Minister is satisfied that the participation of those institutions in the specified transactions or business relationships with the designated persons does not pose a risk to the national interests of Bermuda.

(5) A license may be subject to such conditions as the Minister sees fit to impose and may be of the same duration as the direction or subject to an earlier expiry date.

(6) The Minister may vary or revoke a license at any time.

(7) On the grant, variation or revocation of a license, the Minister must—

(a) in the case of a license granted to a particular person, give notice of the grant, variation or revocation to that person; or

(b) in the case of a general license or a license granted to a description of persons, take such steps as he considers appropriate to publicize the grant, variation or revocation of the license.

[Section 49I inserted by 2009:50 s. 7 effective 15 January 2010; Section 49I amended by 2018:50 s. 3 effective 10 August 2018; Section 49I amended by 2018:51 s. 2 effective 10 August 2018]

49J. Offences: failure to comply with a direction

(1) A person who fails to comply with a requirement imposed by direction commits an offence.

(2) Notwithstanding subsection (1), no offence is committed if the person took all reasonable steps and exercised all due diligence to ensure that the requirement would be complied with.

(3) A person guilty of an offence under this section is liable—

(a) on summary conviction, to a fine of $50,000; or

(b) on conviction on indictment to a fine of $750,000 or to imprisonment for a term of two years or to both.

(4) Where a person is convicted of an offence under this section, he is not liable to a civil penalty under any statutory provision in relation to the same matter.

[Section 49J inserted by 2009:50 s. 7 effective 15 January 2010]

49K. Offences in connection with licenses

(1) A person commits an offence who for the purpose of obtaining a license under section 49I—

(a) provides information that is false in a material respect or a document that is not what it purports to be; and

(b) knows that, or is reckless as to whether, the information is false or the document is not what it purports to be.

(2) A person guilty of an offence under this section is liable—

(a) on summary conviction, to a fine of $50,000; or

(b) on conviction on indictment to a fine of $750,000 or to imprisonment for a term of two years or to both.

[Section 49K inserted by 2009:50 s. 7 effective 15 January 2010]

49L. Report to Legislature

(1) As soon as reasonably practicable after the end of each calendar year, the Minister must—

(a) prepare a report about the exercise during that year of the Minister's powers and functions in relation to directions and licenses under this Part; and

(b) lay a copy of the report before both Houses of the Legislature.

(2) Subsection (1) does not apply in relation to a year if the Minister has not issued a direction pursuant to those powers and functions at any time in that year.

[Section 49L inserted by 2009:50 s. 7 effective 15 January 2010]

49M. Use of guidance[356]

(1) In determining whether a person has committed an offence under sections 43, 44, 45, 46, 47 and 49J[357], a court shall consider whether a defendant has followed any relevant guidance which was at the time-

(a) issued by a supervisory authority;

(b) approved by the Minister; and

(c) published in a manner approved by the Minister as appropriate in his opinion to bring the guidance to the attention of persons likely to be affected by it.

(2) Guidance issued under this section is not a statutory instrument and the Statutory Instruments Act 1977 shall not apply to it.[358]

[section 49A inserted by 2000:35 s.3 effective 1 June 2001; repealed and replaced by 2008:31 s.9 effective15 November 2008; Section 49A renumbered to Section 49M by 2009:50 s.7 and amended by 2009:50 s.8 effective 15 January 2010]

PART VI - SEIZURE OF PROPERTY[359]

50. Seizure and detention of property[360] [361]

(1) A police officer may seize and detain, in accordance with this Part, any property which is—

(a) being imported into Bermuda;

(b) being exported from Bermuda; or

(c) found in the execution of his duties,

if the officer has reasonable grounds for suspecting that it directly or indirectly represents any person's proceeds of criminal conduct or is intended by any person for use in any criminal conduct. [362] [363]

(1A) A police officer who seizes property[364] under subsection (1)(c) must, as soon as practicable, obtain the written permission of an officer of the rank of inspector or above to detain the property[365] in accordance with this section. [366]

(2) Property[367] seized by virtue of this section shall not be detained for more than forty-eight hours unless its continued detention is authorised by an order made by a magistrate; and no such order shall be made unless the magistrate is satisfied-

(a) that there are reasonable grounds for the suspicion mentioned in subsection (1); and

(b) that continued detention of the property[368] is justified while its origin or derivation is further investigated or consideration is given to the institution (whether in Bermuda or elsewhere) of criminal proceedings against any person for an offence with which the property[369] is connected.

(2A) The period of forty-eight hours mentioned in subsection (2) shall be calculated in accordance with subsection (2B). [370]

(2B) In calculating the period of forty-eight hours in accordance with this subsection no account shall be taken of –[371]

(a) a Saturday; or

(b) a public holiday within the meaning of the Public Holidays Act 1947.

(3) Any order under subsection (2) shall authorise the continued detention of the property[372] to which it relates for such period, not exceeding six months[373] beginning with the date of the order, as may be specified in the order; and a court of summary jurisdiction, if satisfied as to the matters mentioned in that subsection, may thereafter from time to time by order authorise the further detention of the property[374] but so that-

(a) no period of detention specified in such an order shall exceed six months[375] beginning with the date of the order; and

(b) the total period of detention shall not exceed two years from the date of the order under subsection (2).

(4) Any application for an order under subsection (2) or (3) shall be made by a police officer.

(5) At any time while property[376] is detained by virtue of this section-

(a) a court of summary jurisdiction may direct its release if satisfied-

(i) on an application made by the person from whom it was seized or a person by or on whose behalf it was being imported or exported, that there are no, or are no longer, any such grounds for its detention as are mentioned in subsection (2); or

(ii) on an application made by any other person, that detention of the property[377] is not for that or any other reason justified; and

(b) a police officer may release the property[378] if satisfied that its detention is no longer justified but shall first notify the magistrate or court of summary jurisdiction under whose order it is being detained.

(6) If at a time when any property[379] is being detained by virtue of this section-

(a) an application for its forfeiture is made under section 51;[380]

(b) proceedings are instituted (whether in Bermuda or elsewhere) against any person for an offence with which the property[381] is connected; or[382]

(c) civil recovery proceedings are instituted under Part IIIA with respect to recoverable property which includes such property,[383]

the property[384] shall not be released until any proceedings pursuant to the application or, as the case may be, the proceedings for that offence or proceedings for a recovery order[385] have been concluded.

[Section 50 subsections (2A) and (2B) inserted by 2007:25 s. 14 effective 15 November 2008; Section 50 subsection (1) substituted and (1A) inserted by 2011:32 s. 2 effective 10 August 2011; Section 50 amended by 2012:19 s. 3 effective 6 July 2012; Section 50 subsection (6) amended by 2013:40 s. 14 effective 1 November 2013; Section 50 subsection (3) amended by 2018:50 s. 4 effective 10 August 2018]

51. Forfeiture orders and appeals

(1) A court of summary jurisdiction may make an order (a "forfeiture order") ordering the forfeiture of any property[386] which has been seized under section 50 if satisfied, on an application made by a police officer while the property[387] is detained under that section, that the property[388] directly or indirectly represents any person's proceeds of, or benefit from, or is intended by any person for use in, criminal conduct.

(2) An order may be made under subsection (1) whether or not proceedings are brought against any person for an offence with which the property[389] in question is connected.

(3) Any party to the proceedings in which a forfeiture order is made (other than the applicant) may, before the end of the period of thirty days beginning with the date on which it is made, appeal to the Supreme Court.

(4) On an application made by an appellant to a court of summary jurisdiction at any time, that court may order the release of so much of any[390] cash to which the forfeiture order relates as it considers appropriate to enable him to meet his legal expenses in connection with the appeal.

(5) An appeal under this section shall be by way of rehearing, and the Supreme Court may make such order as it considers appropriate and, in particular, may order the release of the property (or, in the case of cash, any remaining cash)[391] together with any accrued interest in the case of cash.[392]

[Section 51 amended by 2012:19 s. 4 effective 6 July 2012]

52. Seizure: supplementary

(1) Cash consisting of coins and bank-notes seized under this Part and detained for more than forty-eight hours shall where practicable, unless required as evidence of an offence, be held in an interest-bearing account, and the interest accruing on any such cash shall be added to that cash on its forfeiture or release.

(2) An order under section 50(2) shall provide for notice to be given to persons affected by the order.

(3) Without prejudice to the generality of any existing power to make rules, provision may be made by rules of court-

(a) with respect to applications to any court under this Part;

(b) for the giving of notice of such applications to persons affected;

(c) for the joinder of persons as parties; and

(d) generally with respect to the procedure under this Part before any court.

(4) In this Part-

"cash" means-

(a) coins and bank-notes in any currency; and

(b) negotiable instruments;

"exported", in relation to any property[393], includes its being brought to any place in Bermuda for the purpose of being exported.

"property" includes cash and all other tangible personal property, but does not include any real property. [394]

[Section 52 subsection (4) definition "exported" amended and "property" inserted by 2012:19 s. 5 effective 6 July 2012]

52A. Freezing of funds[395]

(1) An application for the freezing of funds may be made to a magistrate by a police officer in the course of a confiscation investigation or an investigation into money laundering.

(2) Where the magistrate is satisfied that a person by, for or on behalf of whom any funds are held is suspected of having benefited from criminal conduct or having committed a money laundering offence, the magistrate may make an order requiring the relevant institution that holds those funds not to make them available to any person.

(3) An order made under subsection (2) shall specify a period, not exceeding seven days, for which the order is to have effect.

(4) The period of seven days mentioned in subsection (3) shall be calculated in accordance with subsection (5).

(5) In calculating the period of seven days in accordance with this subsection no account shall be taken of –

(a) a Saturday; or

(b) a public holiday within the meaning of the Public Holidays Act 1947.

(6) In this section "funds" means monies deposited with designated institution.

(7) Magistrates' Court Rules may make provision as to the practice and procedure to be followed in connection with proceedings relating to orders under this section.[396]

[section 52A inserted by 2007:25 s.15 effective 15 November 2008]

PART VII - MISCELLANEOUS & SUPPLEMENTAL

FOREIGN ORDERS ETC

53. Enforcement of external confiscation orders or external recovery orders[397]

(1) The Minister[398] may, by order-

(a) direct in relation to a country or territory outside Bermuda designated by the order (a "designated country") that, subject to such modifications as may be specified, this Act shall apply to external confiscation orders or external recovery orders[399] and to proceedings which have been or are to be instituted in the designated country and may result in an external confiscation order or an external recovery order[400] being made there;

(b) make-

(i) such provision in connection with the taking of action in the designated country with a view to satisfying a confiscation order;

(ii) such provision as to evidence or proof of any matter for the purposes of this section and section 54; and

(iii) such incidental, consequential and transitional provision,

as appears to him to be expedient; and

(c) without prejudice to the generality of this subsection, direct that, in such circumstances as may be specified, proceeds arising out of action taken in the designated country with a view to satisfying a confiscation order and which are retained there shall nevertheless be treated as reducing the amount payable under the order to such extent as may be specified.

(2) An order under this section may make different provision for different cases or classes of cases.

(3) The power to make an order under this section includes power to modify this Act in such a way as to confer power on a person to exercise a discretion.

(4) In this section and section 54-

"external confiscation order" means an order made by a court in a designated country for the purpose-

(a) of recovering property, or the value of such property, obtained as a result of or in connection with-

(i) drug trafficking; or

(ii) any offence which would, if committed in Bermuda, be triable on indictment; or

(b) of depriving a person of a pecuniary advantage so obtained;

"modifications" includes additions, alterations and omissions.

(4A) In this section and section 54, “external recovery order” means an order made by a court in a designated country for the purpose of recovering property the value of such property that has been, or represents, property obtained through unlawful conduct; and “modifications” includes additions, alterations and omissions.[401]

(5) An order under this section is subject to the negative resolution procedure.

[section 53 amended by 2007:25 s.20 effective 15 November 2008; section heading and subsection (1) (a) amended and subsection (4A) inserted by 2013:40 s. 15 effective 1 November 2013]

54. Registration of external confiscation orders or external recovery orders[402]

(1) On an application made by or on behalf of the government of a designated country, the Supreme Court may register an external confiscation order or an external recovery order[403] made there if-

(a) it is satisfied that at the time of registration the order is in force and not subject to appeal;

(b) it is satisfied, where the person affected by the order did not appear in the proceedings, that he received notice of the proceedings in sufficient time to enable him to defend them; and

(c) it is of the opinion that enforcing the order in Bermuda would not be contrary to the interests of justice.

(2) In subsection (1)(a), "appeal" includes-

(a) any proceedings by way of discharging or setting aside a judgment; and

(b) an application for a new trial or a stay of execution.

(3) The court shall cancel the registration of an external confiscation order or external recovery order[404] if it appears to the court that the order has been satisfied by payment of the amount due under it.

[Section 54 section heading and subsections (1) and (3) amended by 2013:40 s. 16 effective 1 November 2013]

54A External confiscation order or external recovery order: retention and transfer of assets[405]

Where an external confiscation order or external recovery order is registered in the Supreme 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 percentage as the Minister considers appropriate, be retained in the Confiscated Assets Fund.

[Section 54A inserted by 2015:34 s. 2 effective 23 July 2015]

55. Evidence of corresponding law

(1) A document purporting to be issued by or on behalf of the Government of a country or territory and purporting to state the terms of a corresponding law in force in that country or territory shall be admitted in evidence, in proceedings under this Act, on its production by the prosecution without further proof, and such document shall be conclusive evidence that-

(a) it is issued by or on behalf of the Government of that country or territory;

(b) the terms of such law are as stated in the document;

(c) any facts stated in the document to constitute an offence under such law do constitute such offence.

(2) "Corresponding law"-

(a) in relation to proceedings relating to drug trafficking has the meaning given in section 40 of the Misuse of Drugs Act 1972;[406]

(aa) in relation to civil recovery proceedings, means a law which corresponds with a provision of Bermuda law which relates to unlawful conduct; and[407]

(b) in any other case, means a law which corresponds with a provision of Bermuda law which creates a relevant offence.

[Section 55 subsection (2) amended by 2013:40 s. 17 effective 1 November 2013]

55A. Confiscated Assets Fund[408] [409]

(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 or a deprivation order;

(aa) property forfeited under section 48A;[410]

(b) cash forfeited under Part VI;

(ba) cash or property forfeited or confiscated under the Anti-Terrorism (Financial and Other Measures) Act 2004; [411]

(bb) property recovered under Part IIIA;[412]

(c) money forfeited under section 37 of the Misuse of Drugs Act 1972;

(ca) money forfeited under section 464B of the Criminal Code Act 1907;

(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;[413]

(e) money to be paid by the Government of Bermuda to a foreign jurisdiction in respect of an external confiscation order or an external recovery order. [414]

(3) The Minister and the Minister of Finance[415] may[416], authorise payments to be made out of the Fund-

(a) for purposes related to-

(i) law enforcement, including in particular the investigation of suspected cases of drug trafficking, terrorist financing[417] and money laundering;

(ii) cover costs associated with the treatment and rehabilitation of drug addicts;[418]

(iii) cover costs associated with the prevention and public education concerning drug abuse;[419]

(iiia) meet the expenses of the Department of National Drug Control;[420] [421]

(iv) training of officials in the effective implementation of the provisions of this Act in relation to money laundering and in relation to terrorist financing within the meaning of sections 5 to 8 of the Anti-Terrorism (Financial and Other Measures) Act 2004; [422] [423]

(v) training of officials in the effective implementation of the provisions of this Act in relation to civil recovery; and[424]

(vi) education and training of officials in the effective implementation of the provisions of Part IIIAA of the Evidence Act 1905 in relation to child witnesses in criminal cases relating to sexual exploitation of children and related measures, and for prevention and assistance programmes.[425]

(b) to satisfy an obligation of the Government of Bermuda to a foreign jurisdiction in respect of confiscated assets, an external confiscation order or an external recovery order,[426] 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;

(ca) towards the expenses of the FIA;[427]

(cb) towards the expenses of the enforcement authority;[428]

(d) to meet the remuneration and expenses of a receiver appointed under this Act or the Anti-Terrorism (Financial and Other Measures) Act 2004[429];

(e) to pay compensation or costs awarded under this Act or the Anti-Terrorism (Financial and Other Measures) Act 2004[430];

(ea) to further the programmes of a community-based organisation or sports club that are related to youth development, sport, area improvement, community improvement or infrastructure improvement;[431]

(f) to cover costs associated with the administration of the Fund.[432]

(4) In this section—

"community-based organisation" means an organisation that is representative of a community or significant segments of a community and which is registered as a charity under the Charities Act 1978;[433]

"sports club" means an organisation dedicated to a particular sporting activity which is regulated by a sport governing body in Bermuda. [434]

[Section 55A inserted by 2000:35 s.5 effective 1 June 2001; subsection (2)(ba) inserted, section (3)paragraphs (a)(i), (d) and (e) amended by 2004:31 s.26 effective 7 March 2005; subsection 3(a)(iv) inserted by 2007:25 s.16 effective 15 November 2008; amended by 2007:25 s.20 effective 15 November 2008; amended by 2008:31 s.10 effective 15 November 2008; amended by 2009:18 s.2 effective 1 April 2009; Section 55A(2)(aa) inserted by 2009:50 s. 9 effective 15 January 2010; Section 55A subsections (2)(bb)and (3)(cb) inserted and subsection (3)(a) amended by 2013:40 s. 18 effective 1 November 2013; Section55A(2)(a) amended by 2013:30 s.5 effective 8 November 2013; Section 55A subsections (3)(ea) and (4)inserted by 2013:17 s. 2 effective 15 September 2014; Section 55A subsection (2)(e) inserted and subsection (3)(b) amended by 2015:34 s. 3 effective 23 July 2015; Section 55A subsections (2)(ca) and(3)(vi) inserted by 2019:36 s. 58 effective 1 November 2019]

55B Administration of the Fund[435]

(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[436] [437] 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 of Finance[438] 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.

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

[Section 55B inserted by 2000:35 s.5 effective 1 June 2001; amended by 2007:25 s.20 effective 15 November 2008; amended by 2008:31 s.11 effective15 November 2008]

OFFENCES AND POLICE POWERS ETC

56. Offences by bodies corporate etc.[439]

(1) If an offence under this Act committed by a body corporate is shown-

(a) to have been committed with the consent or the connivance of an officer of the body corporate; or

(b) to be attributable to any neglect on his part,

the officer as well as the body corporate is guilty of an offence and liable to be proceeded against and punished accordingly.

(2) If an offence under this Act committed by a partnership is shown-

(a) to have been committed with the consent or the connivance of a partner; or

(b) to be attributable to any neglect on his part;

the partner as well as the partnership is guilty of an offence and liable to be proceeded against and punished accordingly.

(3) If an offence under this Act committed by an unincorporated association (other than a partnership) is shown-

(a) to have been committed with the consent or the connivance of an officer of the association; or

(b) to be attributable to any neglect on his part,

that officer as well as the association is guilty of an offence and liable to be proceeded against and punished accordingly.

(4) If the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body.

(5) Proceedings for an offence alleged to have been committed by a partnership or an unincorporated association shall be brought in the name of the partnership or association (and not in that of its members).

(6) A fine imposed on the partnership or association on its conviction of an offence is to be paid out of the funds of the partnership or association.

(7) In this section-

"officer"-

(a) in relation to a body corporate, means a director, manager, secretary, chief executive, member of the committee of management, or a person purporting to act in such a capacity; and

(b) in relation to an unincorporated association, means any officer of the association or any member of its governing body, or a person purporting to act in such capacity; and

"partner" includes a person purporting to act as a partner.

[section 56 repealed and replaced by 2008:31 s.12 effective 15 November 2008]

57. Police powers etc

(1) For the purposes of this Act, "police officer" includes any officer of the Customs Department.

(2) A police officer may arrest without warrant any person whom he reasonably believes has committed an offence under this Act.

(3) An officer of the Customs Department may, in any case relating to the commission of an offence under this Act, exercise all or any of the powers in relation to investigations into an offence which is arrestable without warrant conferred on a police officer by the Criminal Code Act 1907.

58. Duty of confidentiality[440]

(1) Except as provided in this section, no person who under or for the purposes of this Act receives information from any person shall disclose it without the consent of the person to whom it relates (and if different) the person from whom it was received as aforesaid.

(2) This section does not apply to information which at the time of the disclosure is or has already been made available to the public from other sources, or to information in the form of a summary or collection of information so framed as not to enable information relating to any particular person to be ascertained from it.

(3) A person who contravenes subsection (1) shall be guilty of an offence and liable on summary conviction to a fine of $50,000 or to imprisonment for two years or to both.

(4) Subsection (1) does not preclude the disclosure of information in any case in which disclosure is for the purpose of enabling or assisting the Bermuda police service or the FIA to discharge their functions under any statutory provision.

(5) Subsection (1) does not preclude the disclosure of information to the Minister of Finance or to the Bermuda Monetary Authority in any case in which the disclosure is for the purpose of enabling or assisting the Minister of Finance or the Authority to discharge their functions under any statutory provisions.

[section 58 repealed and replaced by 2007:25 s.17 effective 15 November 2008]

PROCEDURE

59. Jurisdiction

Where a defendant is charged with a drug trafficking or relevant offence which may be tried summarily or on indictment-

(a) the power of the Director of Public Prosecutions[441] to issue a certificate under section 450(a)[442] of the Criminal Code Act 1907 requiring an offence to be tried on indictment may be exercised where the Director of Public Prosecutions[443] intends to make an application for a confiscation order if the defendant is convicted; and

(b) the power of a court of summary jurisdiction to send[444] the defendant to the Supreme Court for sentencing under sections 43, 44 or 45 of the Criminal Jurisdiction and Procedure Act 2015[445] may be exercised where the court of summary jurisdiction is of the opinion that the defendant is one against whom the Supreme Court may consider making a confiscation order.

[section 59 amended by 2007:25 s.20 effective 15 November 2008; amended by 2015:38 s. 91 effective 6 November 2015]

60. Compensation

(1) If an investigation is begun against a person for a drug trafficking or relevant offence or offences and any of the following circumstances occur-

(a) no proceedings are instituted against that person;

(b) proceedings are instituted against that person but do not result in his conviction for any drug trafficking or relevant offence; or

(c) proceedings are instituted against that person and he is convicted of one or more drug trafficking or relevant offences, but

(i) the conviction or convictions concerned are quashed; or

(ii) he is granted a pardon in respect of the conviction or convictions concerned,

the Supreme Court may, on application by a person who held property which was realisable property, order compensation to be paid to the applicant if, having regard to all the circumstances, it considers it appropriate to make such an order.

(1A) If a civil recovery investigation is begun with respect to property and any of the following circumstances occur—[446]

(a) no civil recovery proceedings are instituted with respect to that property;

(b) civil recovery proceedings are instituted and in the case of any property to which a property freezing order or an interim receiving order has at any time applied, the court does not in the course of the proceedings decide that the property is recoverable property or associated property;

(c) civil recovery proceedings are instituted with respect to that property—

(i) and a recovery order is made; but

(ii) the recovery order is set aside on appeal,

the court may, on application by a person who held that property or the person whose property it is, order compensation to be paid to the applicant if, having regard to all the circumstances, it considers it appropriate to make such an order.

(2) The court shall not order compensation to be paid unless it is satisfied-

(a) that there has been some serious default on the part of any person concerned in the investigation or prosecution of the offence or offences concerned; and

(b) that the applicant has suffered loss in consequence of anything done in relation to the property by, or in pursuance of a restraint order or a charging order, or property freezing order, and an interim receiving order or a recovery order[447].

(3) The court shall not order compensation to be paid in any case—[448]

(a) where it appears to the court that the investigation would have been continued, or the proceedings would have been instituted or continued, as the case may be, if the serious default had not occurred; or

(b) if the court—

(i) makes an order under section 36.1C(5) or 36.1D;

(ii) has made a declaration in respect of the property by virtue of section 36.1H(2); or

(iii) is satisfied that any of the general exceptions set out in section 36.1N apply.

(4) Without prejudice to subsection (1), where-

(a) a disclosure is made by any person in accordance with section 44(3) or 44(5) in relation to any property;

(b) in consequence of the disclosure and for the purposes of an investigation or prosecution in respect of a drug trafficking offence or offences any act is done or omitted to be done in relation to that property; and

(c) no proceedings are instituted against any person in respect of that offence or offences or no restraint order or charging order is made in relation to that property,

the court may, on application by a person who held the property, order compensation to be paid to the applicant if, having regard to all the circumstances, it considers it appropriate to make such an order.

(5) The court shall not order compensation to be paid under subsection (4) unless it is satisfied-

(a) that there has been some serious default on the part of any person concerned in the investigation or prosecution of the offence or offences concerned and that, but for that default, the act or omission referred to in subsection (4)(b) would not have occurred; and

(b) the applicant has, in consequence of the act or omission referred to in subsection (4)(b), suffered loss in relation to the property.

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

(7) Compensation ordered to be paid under this section and sections 23 and 24 shall be paid out of the Consolidated Fund or the Confiscated Assets Fund[449].

[section 60 amended by 2000:35 s.6(3) effective 1 June 2001; subsection (1A) inserted, subsection 2(b) amended and subsection (3) repealed and replaced by 2013:40 s. 19 effective 1 November 2013]

61. Costs

(1) Where-

(a) a person brings, or appears at, court proceedings under this Act and endeavours-

(i) to prevent a confiscation order or a restraint order or a charging order or a property freezing order, an interim receiving order or a recovery order[450] from being made against property of his; or

(ii) to have property of his excluded from such an order; and

(b) that person is successful in that endeavour; and

(c) the court is satisfied that he was not in any way involved in criminal conduct,

then the court may by order declare that he is entitled to be paid all reasonable costs incurred by him in connection with those proceedings, or such part of those costs as the court determines.

(2) The costs referred to in subsection (1) are not limited to costs of a kind that are normally recoverable by a successful party in civil proceedings.

(3) Costs payable by virtue of a declaration made by the court under subsection (1) shall be paid out of the Consolidated Fund or the Confiscated Assets Fund[451].

[section 61 amended by 2000:35 s.6(4) effective 1 June 2001; subsection (1)(a)(i) amended by 2013:40 s. 20 effective 1 November 2013]

62. Civil standard of proof

Any question of fact to be decided by a court in proceedings under this Act, except any question of fact that is for the prosecution to prove in any proceedings for an offence under this Act, shall be decided on the balance of probabilities.

63. Appeals

Any decision of a court in proceedings under this Act, except proceedings in relation to any offence committed under this Act, is a judgment of a court in a civil cause or matter within section 12(1) and (2) of the Court of Appeal Act 1964 or, as the case may be, section 2 of the Civil Appeals Act 1971.

SUPPLEMENTAL

64. Index of defined expressions

In this Act the expressions listed below are defined by, or otherwise fall to be construed in accordance with, the provisions of this Act listed below-

amount that might be realised	section 4(4)
amount to be recovered	section 15
associated property[452]	section 36D
benefited from-	
drug trafficking	section 9(3)
relevant offence	section 10(3)
chargeable asset	section 29(5)
charging order	section 29
civil recovery investigation[453]	section 7(1)
conclusion of application	section 8(1)
conclusion of proceedings	section 8(1)
confiscation order	section 7
corresponding law	section 55
criminal conduct	section 3
customer information orders	section 41A[454]
defendant	section 7
the court	section 7
drug trafficking	section 3
drug trafficking arrangement	section 3
drug trafficking offence	section 3
enforcement authority[455]	section 36F

external confiscation order	section 53
freezing of funds	section 52A[456]
gift caught by this Act	section 6
held (in relation to property)	section 4(2)
institution of proceedings	section 8(1)
interest (in relation to property)	section 4(1)
interim receiving order[457]	section 36O
items subject to legal privilege	section 7
material	section 7
money laundering	section 7
monitoring order	section 41
police officer	section 57
premises	section 7
prescribed	section 7
proceeds of drug trafficking	section 12(1)(a)
production order	section 37
property	section 4(1), (2)
property freezing order[458]	section 36H
property obtained through unlawful conduct[459]	section 36C
prosecutor's statement	section 13(4)
realisable property	section 4(3)
recoverable property[460]	section 7(1)
recovery order[461]	section 36X
relevant offence	section 3 and Schedule
respondent[462]	section 7(1)
restraint order	section 28
subject to appeal	section 8(2)

transferred (in relation to property)	section 4(2)
unlawful conduct[463]	section 36B
value of gift	section 5(2)
value of proceeds of drug trafficking	section 12(1)(b)
value of property	section 5(1)

[section 64 amended by 2007:25 s.18 effective 15 November 2008; amended by 2013:40 s. 21 effective 1 November 2013]

65. Regulations

(1) The Minister may make regulations prescribing anything which may be prescribed under this Act and generally for carrying out the purposes and provisions of this Act. [464]

(1A) Without prejudice to the generality of subsection (1), the Minister shall by regulations—[465]

(a) make further provisions in relation to the enforcement authority for the purposes of Part IIIA;

(b) make provisions in relation to pensions for the purposes of Part IIIA;

(c) specify the required conditions for the purposes of section 36J(5), 36T(4) or 36X(9), and a required condition may in particular—

(i) restrict who may receive sums released in pursuance of the exclusion (by, for example, requiring released sums to be paid to professional legal advisers); or

(ii) may be made for the purpose of controlling the amount of any sum released in pursuance of the exclusion in respect of an item of expenditure.

(1B) A required condition made for the purpose mentioned in subsection (1A)(c)(ii) may (for example)— [466]

(a) provide for sums to be released only with the agreement of the enforcement authority;

(b) provide for a sum to be released in respect of an item of expenditure only if the court has assessed the amount allowed by regulations under this section in respect of that item and the sum is released for payment of the assessed amount.

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

[section 65 subsection (1) repealed and substituted by 2007:25 s.19 effective 15 November 2008; subsections (1A) and (1B) inserted by 2013:40 s. 22 effective 1 November 2013]

66. Crown application

This Act binds the Crown, but not so as to make the Crown capable of any criminal offence.

67. Repeals

The following enactments (which are superseded by this Act) are repealed-

The Drug Trafficking Suppression Act 1988	The whole Act
The Trust Companies Act 1991	Section 17(2)(a) and (3)

The Criminal Justice (International Co-operation) (Bermuda) Act 1994	Sections 14 and 15 Section 21(2) Sections 22 to 26 Section 28(2) In Schedule 4, the entry relating to the Drug Trafficking Suppression Act 1988.

68. Transitional provision

The repeal by this Act of the enactments mentioned in section 67 shall not affect their continuing operation in relation to orders made thereunder.

69. Consequential amendments

In the Criminal Justice (International Co-operation) (Bermuda) Act 1994-

(a) in section 9(6), for the words "or would be a drug offence as defined by section 6 of the Drug Trafficking Suppression Act 1988" there shall be substituted "or would be a drug trafficking offence as defined by section 3 of the Proceeds of Crime Act 1997";

(b) in section 13(6), for the words "the Drug Trafficking Suppression Act 1988" there shall be substituted "the Proceeds of Crime Act 1997"; and

(c) in section 16, for the words "drug offence" there shall be substituted "drug trafficking offence within the meaning of the Proceeds of Crime Act 1997".

SCHEDULE[467] - (SECTION 3) - [REPEALED]

SCHEDULE 1 - (SECTION 36P)[468]

POWERS OF INTERIM RECEIVER

The interim receiver shall have the powers set out in this Schedule:

1 Seizure

Power to seize property to which the order applies.

2 Information

(1) Power to obtain information or to require a person to answer any question.

(2) A requirement imposed in the exercise of the power has effect notwithstanding any restriction on the disclosure of information (however imposed).

(3) An answer given by a person in pursuance of such a requirement may not be used in evidence against him in criminal proceedings.

(4) Sub-paragraph (3) does not apply—

(a) on a prosecution for an offence under section 119 of the Criminal Code Act 1907 (perjury); or

(b) on a prosecution for some other offence where, in giving evidence, he makes a statement inconsistent with it.

(5) But an answer may not be used by virtue of sub-paragraph (4)(b) against a person unless—

(a) evidence relating to it is adduced; or

(b) a question relating to it is asked,

by him or on his behalf in the proceedings arising out of the prosecution.

3 Entry, search, etc.

(1) Power to—

(a) enter any premises in Bermuda to which the interim order applies; and

(b) take any of the following steps.

(2) Those steps are—

(a) to carry out a search for or inspection of anything described in the order;

(b) to make or obtain a copy, photograph or other record of anything so described;

(c) to remove anything which he is required to take possession of in pursuance of the order or which may be required as evidence in the proceedings under Part 2.

(3) The order may describe anything generally, whether by reference to a class or otherwise.

4 Supplementary

(1) An order making any provision under paragraph 2 or 3 must make provision in respect of legal professional privilege.

(2) An order making any provision under paragraph 3 may require any person—

(a) to give the interim receiver or administrator access to any premises which he may enter in pursuance of paragraph 3;

(b) to give the interim receiver or administrator any assistance he may require for taking the steps mentioned in that paragraph.

5 Management

(1) Power to manage any property to which the order applies.

(2) Managing property includes—

(a) selling or otherwise disposing of assets comprised in the property which are perishable or which ought to be disposed of before their value diminishes;

(b) where the property comprises assets of a trade or business, carrying on, or arranging for another to carry on, the trade or business;

(c) incurring capital expenditure in respect of the property.

[Schedule 1 inserted by 2013:40 s. 23 effective 1 November 2013]

SCHEDULE 2 - (SECTION 36Y) [469]

POWERS OF TRUSTEE FOR CIVIL RECOVERY

The trustee in civil recovery shall have the powers set out in this Schedule:

1 Sale

Power to sell the property or any part of it or any interest in it.

2 Expenditure

Power to incur expenditure for the purpose of—

(a) acquiring any part of the property, or any interest in it, which is not vested in him;

(b) discharging any liabilities, or extinguishing any rights, to which the property is subject.

3 Management

(1) Power to manage property.

(2) Managing property includes doing anything mentioned in paragraph 5(2) of Schedule 1.

4 Legal proceedings

Power to start, carry on or defend any legal proceedings in respect of the property.

5 Compromise

Power to make any compromise or other arrangement in connection with any claim relating to the property.

6 Supplementary

(1) For the purposes of, or in connection with, the exercise of any of his powers—

(a) power by his official name to do any of the things mentioned in subparagraph (2);

(b) power to do any other act which is necessary or expedient.

(2) Those things are—

(a) holding property;

(b) entering into contracts;

(c) suing and being sued;

(d) employing agents; and

(e) executing a power of attorney, deed or other instrument.

[Schedule 2 inserted by 2013:40 s. 23 effective 1 November 2013]

SCHEDULE 3 - (SECTION 42A(1))[470]

SPECIFIED FINANCIAL ACTIVITIES

1. Financial activities

The following financial activities are specified for the purposes of paragraph (j) of the definition of an AML/ATF regulated financial institution in section 42A(1)—

(a) acceptance of deposits and other repayable funds from the public;

(b) lending, including consumer credit; mortgage credit; factoring, with or without recourse; and finance of commercial transactions (including forfeiting);

(c) financial leasing but not including consumer products;

(d) money or value transfer services;

(e) issuing and managing means of payment (including credit and debit cards, cheques, traveller's cheques, money orders and bankers' drafts and electronic money);

(f) financial guarantees and commitments, not including financial guarantee insurance which is insurance business under the Insurance Act 1978;

(g) trading in—

(i) money market instruments (including cheques, bills, certificates of deposit and derivatives);

(ii) foreign exchange;

(iii) exchange, interest rate and index instruments;

(iv) transferable securities; or

(v) commodity futures trading;

(h) participation in securities issues and the provision of financial services related to such issues;

(i) individual and collective portfolio management;

(j) safekeeping and administration of cash or liquid securities;

(k) otherwise investing, administering or managing funds or money;

(l) underwriting and placement of life insurance and other investment related insurance; and

(m) money and currency changing.

2. Exceptions

The following are not “financial activities” for the purposes of paragraph (j) of the definition of an AML/ATF regulated financial institution in section 42A(1)—

(a) the provision of the services of collecting, administering and disbursing service, damage or maintenance charges (however described) in connection with immovable property situated in Bermuda;

(b) the provision of any of the activities set out in paragraph 1 when made intra-group or with or on behalf of an affiliated company by—

(i) a holding company to a subsidiary company of that holding company;

(ii) a subsidiary company of a holding company to the holding company;

(iii) a subsidiary company of a holding company to another subsidiary company of that holding company;

(c) the provision of activities that constitute ancillary business to an insurer's insurance business as permitted under section 19 of the Insurance Act 1978; or

(d) the provision of the services of taking sales and rental deposits by real estate brokers licensed under the Real Estate Brokers' Licensing Act 2017.

3. Interpretation

For the purposes of paragraph 2(b)—

(a) "subsidiary company" has the meaning given in section 86(1) of the Companies Act 1981;

(b) "holding company" has the meaning given in section 86(2) of that Act;

(c) "affiliated", in relation to a company, has the meaning given in section 86(3) of that Act.

[Schedule 3 inserted by 2018:49 s. 2 effective 7 September 2018]

Proceeds of Crime (Miscellaneous) (No. 2) Act 2018 Transitional provision[471]

(1) In this section, the "transitional period" means the period of three months beginning on the commencement date appointed under section 9.[BR 94/2018, effective 7 September 2018]

(2) Any person who, immediately before the commencement date, is carrying on for or on behalf of a customer the business of providing any of the financial activities set out in Schedule 3 to the Proceeds of Crime Act 1997 (as inserted by section 2) may continue to carry on such business during the transitional period, provided that before the end of the transitional period such a person registers as required by section 9 of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008.

SCHEDULE

[Schedule repealed by 2000:35 s.2(2) effective 1 June 2001]

[Assent Date: 19 December 1997]

[Operative Date: 19 January 1998]

[Amended by:

1999:39 (REPEALED)

BR 81/1999

2000:35

2004:31

2007:25

2008:31

2009:18

2009:50

2011:32

2012:19

2013:40

2013:30

2014:8

2013:17

2015:34

2015:35

2015:38

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BERMUDA

PROCEEDS OF CRIME (ANTI-MONEY LAUNDERING AND ANTI-TERRORIST FINANCING) REGULATIONS 2008

BR 77/2008

[Operative Date: 1 January 2009]

In exercise of the powers conferred upon the Minister responsible for Justice by section 49(3) of the Proceeds of Crime Act 1997 and section 12A of the Anti-Terrorism (Financial and Other Measures) Act 2004, the following Regulations are made:

PART 1 - PRELIMINARY

1. Citation and commencement

These Regulations may be cited as the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008 and shall come into operation on such day as the Minister may appoint by notice published in the Gazette and the Minister may appoint different days for different provisions.

2. Interpretation

(1) In these Regulations

"AML" means anti-money laundering; [472]

"AML/ATF regulated financial institution" has the meaning given in section 42A(1) of the Proceeds of Crime Act 1997;[473] [474]

"ATF" means anti-terrorist financing; [475]

"appointed stock exchange" means a stock exchange appointed by the Minister of Finance under section 2 (9) of the Companies Act 1981;

"banking institution" means a person carrying on deposit-taking business within the meaning of section 4 of the Banks and Deposit Companies Act 1999;

"beneficial owner" has the meaning given in regulation 3;

"Bermuda Gaming Commission" has the meaning given in section 6 of the Gaming Act 2014;[476][477]

"betting" has the same meaning as in section 2(1) of the Gaming Act 2014;[478][479]

"business relationship" means a business, professional or commercial relationship between a relevant person and a customer, which is expected by the relevant person when contact is first made between them to have an element of duration;

"casino" has the meaning given in section 2 of the Gaming Act 2014; [480][481]

"casino operator" has the meaning given in section 2 of the Gaming Act 2014; [482][483]

"chief executive" means a person who, either alone or jointly with one or more persons, is responsible under the immediate authority of the directors for the conduct of the business of a legal entity or legal arrangement; [484]

"Compliance Officer" has the meaning given in regulation 18A; [485]

"CPF" means counter-proliferation financing;[486]

"customer due diligence measures" has the meaning given by regulation 5;

"dealers in high value goods" shall have the same meaning as in section 2(1) of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008;[487]

"digital asset" and "digital asset business" have the meanings given in section 2(1) of the Digital Asset Business Act 2018;[488]

"eGaming" has the same meaning as in section 2(1) of the Gaming Act 2014; [489] [490]

"financial group" has the meaning given in section 42A(1) of the Proceeds of Crime Act 1997;[491]

"firm" means any entity, whether or not a legal person, that is not an individual and includes a body corporate and a partnership or other unincorporated association;

"independent professional" means a professional legal adviser or accountant being a firm or sole practitioner in independent practice who by way of business provides legal or accountancy services to other persons when participating in financial or real property transactions concerning

(a) buying and selling real property;

(b) managing of client monies, securities and other assets;

(c) management of bank, savings or securities accounts;

(d) organisation of contributions for the creation, operation or management of companies;

(e) creation, operation or management of legal persons or arrangements, and buying and selling business entities

and, for this purpose, a person participates in a transaction by assisting in the planning or execution of the transaction or otherwise acting for or on behalf of a client in the transaction;

"International Organisation" means an organisation— [492]

(a) that is established by formal political agreement between its member countries, where such agreement has the status of international treaty;

(b) whose existence is recognised by law in its member countries; and

(c) that is not treated as a resident institutional unit of the country in which it is located;

"money laundering" has the meaning given in section 7(1) of the Proceeds of Crime Act 1997;

"occasional transaction" means—

(a) a transaction (carried out other than as part of a business relationship) amounting to $15,000 or more, whether the transaction is carried out in a single operation or several operations which appear to be linked; [493]

(b) in the case of a dealer in high value goods who is registered with the Registrar, a transaction or series of linked transactions where a total cash payment (in any currency) that is equivalent to BMD $7,500 is accepted;[494] [495] [496] [497]

(c) in the case of a casino operator, a transaction or series of linked transactions where a total cash payment is received from or distributed by the operator of a casino to a patron of a casino (in any currency) that is equivalent to—[498]

(i) in the case of gaming, BMD$3,000; or

(ii) in the case of betting, BMD$1,000;

(d) in the case of a digital asset business, a transaction or series of linked transactions, where a transfer (in any form of currency or digital asset) equivalent to BMD $1,000 or more is made, and includes any transaction where no account is used to process the transaction; or [499]

(e) in the case of a transfer of funds, any transfer where no account is used to process the transaction; [500]

"patron" has the meaning given in section 2 of the Gaming Act 2014; [501] [502]

"patron account" has the same meaning as in section 2(1) of the Gaming Act 2014; [503] [504]

"professional accountant" has the meaning given in section 42A of the Proceeds of Crime Act 1997;

"professional legal adviser" has the meaning given in section 42A of the Proceeds of Crime Act 1997;

"proliferation financing" means the provision of funds or financial services for use, in whole or in part, in the manufacture, acquisition, development, export, trans-shipment, brokering, transport, transfer, stockpiling of or otherwise in connection with the possession or use of, chemical, biological, radiological or nuclear ("CBRN") weapons, including the provision of funds or financial services in connection with the means of delivery of such weapons and other CBRN-related goods and technology for non-legitimate purposes in contravention of international sanctions obligations in operation in Bermuda;[505]

"real estate agent" means a person licensed under the Real Estate Brokers' Licensing Act 2017 as an agent; [506] [507]

"real estate broker" means a person licensed under the Real Estate Brokers' Licensing Act 2017 as a broker; [508]

"Registrar" means the Registrar of Companies appointed under section 3 of the Companies Act 1981. [509]

"relevant person" means the person to whom in accordance with regulation 4, these Regulations apply 4;

"Reporting Officer" means a person designated to carry out the functions set out in regulation 17;

"supervisory authority" means—[510] [511] [512]

(a) the Bermuda Monetary Authority in relation to relevant persons that are AML/ATF regulated financial institutions;

(aa) the Registrar as a supervisory authority in relation to relevant persons that are dealers in high value goods; [513] [514]

(ab) the Superintendent of Real Estate in relation to relevant persons that are real estate brokers and real estate agents[515]; [516]

(b) a professional body designated by the Minister under any enactment in relation to relevant persons regulated by it; or

(c) the Bermuda Casino Commission, in relation to relevant persons that are casino operators;[517]

"terrorist financing" means an offence under section 5, 6, 7 or 8 of the Anti-Terrorism (Financial and Other Measures) Act 2004;

(2) [REVOKED by 2018:49 s. 4] [518] [519] [520] [521] [522] [523] [524] [525] [526] [527] [528] [529]

(3) For the purposes of these Regulations, a reference to a customer shall be construed as a reference to a patron in relation to a casino or casino operator. [530]

*[Regulation 2 amended by 2008:49 s.39(4) effective 1 January 2009; Regulation 2(2) amended by 2012:35 s. 67 effective 1 January 2013; paragraph (1) definitions "Bermuda Gaming Commission"[531], "casino", "casino operator" and "patron" inserted, "supervisory authority" revoked and substituted and paragraph (3) inserted by 2015:35 s. 18 effective 6 November 2015; paragraph (1) definitions "AML", "ATF", "chief executive", "Compliance Officer", "International Organisation" and "Reporting Officer" inserted and paragraph (2) amended by 2015:53 s. 27 effective 1 January 2016; "dealers in high value goods" and "real estate agent" inserted and "supervisory authority" amended by 2016:45 s. 13 effective 5 August 2016; "occasional transaction" deleted and substituted by 2016:51 s. 3 effective 1 December 2016; *Regulation 2(2)(f) amended by 2016:36 by deleting "section 20AA of the Bermuda Monetary Authority Act 1969" and replacing with "section 2(2) of the Money Service Business Act 2016" as a result of an amendment that should have been included in Schedule 2 of the Money Service Business Act 2016 effective 31 January 2017; paragraph (2) "AML/ATF regulated financial institution" amended by 2017:10 s. 5 effective 24 March 2017; regulation 2 definitions "real estate agent" and "supervisory authority" amended and "real estate broker" inserted by 2017:28 s. 55 & Sch. 3 effective 2 October 2017; paragraph (1) amended and definitions "betting", "eGaming" and "patron account" inserted by 2017:35 s. 8 effective 3 November 2017; regulation 2(2) paragraph (g) definition "AML/ATF regulated financial institution" amended by 2018:5 s. 12 effective 21 March 2018; regulation 2(1) definition "financial group" inserted by 2018:51 s. 4 effective 10 August 2018; regulation 2(1) definition "AML/ATF regulated financial institution" deleted and substituted, and paragraph (2) revoked by 2018:49 s. 4 effective 7 September 2018; amended by 2020:36 Sch. effective 1 November 2020; regulation 2(1) definition "digital asset" and "digital asset business" inserted and definition "occasional transaction" amended by 2022:2 s. 3 effective 27 February 2022; Regulation 2 paragraph (1) definitions "CPF" and "proliferation financing" inserted by BR 70 / 2026 reg. 2 effective 22 June 2026]*

3. Meaning of beneficial owner

(1) In the case of a body corporate, "beneficial owner" means any individual who-

(a) as respects any body other than a company whose securities are listed on an appointed stock exchange, ultimately owns or controls (whether through direct or indirect ownership or control, including through bearer share holdings) 25% or more of the shares or voting rights in the body; or [532]

(b) as respects any body corporate, otherwise exercises control over the management of the body.

(2) In the case of a partnership, "beneficial owner" means any individual who-

(a) ultimately is entitled to or controls (whether the entitlement or control is direct or indirect) more than a 25% share of the capital or profits of the partnership or 25% or more of the voting rights in the partnership; or [533]

(b) otherwise exercises control over the management of the partnership.

(3) For the purposes of these regulations In the case of a trust, "beneficial owner" means- [534]

(a) any individual who is entitled to a specified interest in the trust property;[535]

(b) as respects any trust other than one which is set up or operates entirely for the benefit of individuals falling within sub-paragraph (a), the class of persons in whose main interest the trust is set up or operates;

(ba) the trustees; [536]

(bb) the protector (if any); [537]

(c) any other individual who has control over the trust; [538]

(d) the settlor of the trust. [539]

(4) In paragraph (3)-

"specified interest" means a vested interest which is-

(a) in possession or in remainder or reversion; and

(b) defeasible or indefeasible;

"control" [540]

(a) dispose of, advance, lend, invest (other than as an investment manager), pay or apply trust property;

(b) direct, make or approve trust distributions;

(c) vary or terminate the trust;

(d) add or remove a person as a beneficiary or to or from a class of beneficiaries;

(e) appoint or remove trustees or give another individual control over the trust; or

(f) direct, withhold consent to or veto the exercise of a power mentioned in the preceding paragraphs.

(5) For the purposes of paragraph (3)-

(a) where an individual is the beneficial owner of a body corporate which is entitled to a specified interest in the[541] trust property or which has control over the trust, the individual is to be regarded as entitled to the interest or having control over the trust; and

(b) an individual does not have control solely as a result of-

(i) his consent being required in accordance with section 24(1) (c) of the Trustee Act 1975 (power of advancement); or

(ii) the power exercisable collectively at common law to vary or extinguish a trust where the beneficiaries under the trust are of full age and capacity and (taken together) absolutely entitled to the property subject to the trust.

(6) In the case of a legal entity or legal arrangement which does not fall within paragraph (1), (2) or (3), "beneficial owner" means-

(a) where the individuals who benefit from the entity or arrangement have been determined, any individual who benefits from at least 25% of the property of the entity or arrangement;

(b) where the individuals who benefit from the entity or arrangement have yet to be determined, the class of persons in whose main interest the entity or arrangement is set up or operates;

(c) any individual who exercises control over at least 25% of the property of the entity or arrangement.

(7) For the purposes of paragraph (6), where an individual is the beneficial owner of a body corporate which benefits from or exercises control over the property of the entity or arrangement, the individual is to be regarded as benefiting from or exercising control over the property of the entity or arrangement.

(8) In the case of an estate of a deceased person in the course of administration, "beneficial owner" means the executor, original or by representation, or administrator for the time being of a deceased person.

(9) In any other case, "beneficial owner" means the individual who ultimately owns or controls the customer or on whose behalf a transaction is being conducted.

(10) In this regulation-

"arrangement", "entity" and "trust" means an arrangement, entity or trust which administers and distributes funds or digital assets. [542]

(11) In the application of this regulation to an AML/ATF regulated financial institution falling within regulation 2(2)(i) (person carrying on corporate service provider business), in each place where "25%" occurs in paragraph (1)(a), (2)(a), (3) (a), (6)(a) and (c), it shall be read as a reference to 10%.[543]

[Regulation 3 paragraph (11) inserted by BR 16/2013 reg. 2 effective 28 March 2013; paragraph (3) amended by 2015:53 s. 28 effective 1 January 2016; Regulation 3 amended by 2018:5 s. 5 effective 21 March 2018; Regulation 3(10) amended by 2022:2 s.3 effective 27 February 2022; regulation 3(1)(a) and 3(2) amended by s.14 BR100/2025 effective 3 November 2025; regulation 3 amended by s. 6 2026:26 effective 14 September 2026]

4. Application of Regulations

These Regulations apply to the following persons acting in the course of business carried on by them in or from Bermuda -

(a) AML/ATF regulated financial institution[544];

(b) independent professionals;[545] [546] [547]

(c) casino operators;[548] [549]

(d) dealers in high value goods, who are registered with the Registrar; [550] [551] [552]

(e) real estate brokers and real estate agents; [553] [554] [555]

(f) as required by regulation 12A, members of financial groups. [556]

[Regulation 4 amended by 2008:49 s.39(5) effective 1 January 2009; Regulation 4(b) effective 15 August 2012 by BR 63/2012; paragraph (c) inserted by 2015:35 s. 18 effective 6 November 2015; paragraph (e) inserted by 2016:45 s. 14 effective 1 September 2016; paragraph (d) inserted by 2016:45 s. 14 effective 1 December 2016; paragraph (d) amended by 2016:51 s. 2 effective 1 December 2016; regulation 4(e) amended by 2017:28 s. 55 & Sch. 3 effective 2 October 2017; regulation 4 amended by 2018:51 s. 4 effective 10 August 2018; amended by 2020:36 Sch. effective 1 November 2020]

PART 2 - CUSTOMER DUE DILIGENCE

5. Meaning of customer due diligence measures

"customer due diligence measures" means -

(a) identifying the customer and verifying the customer's identity on the basis of documents, data or information obtained from a reliable and independent source;

(b) identifying, where there is a beneficial owner who is not the customer, the beneficial owner and taking adequate measures, on a risk-sensitive basis, to verify his identity so that the relevant person is satisfied that he knows who the beneficial owner is, including, in the case of a legal person, trust or similar legal arrangement, measures to understand the ownership and control structure of the person, trust or arrangement;

(c) in the case of a legal entity or legal arrangement, identifying the name and verifying the identity of the relevant natural person having the position of chief executive or a person of equivalent or similar position; [557]

(d) in the case of a legal entity, identifying and verifying the identity of a natural person (either customer, beneficial owner, person of control or ownership) by some means and, where no natural person has been identified, identifying a relevant natural person holding the position of— [558]

(i) a chief executive; or

(ii) a person of equivalent or similar position to the official under subparagraph (i); [559]

(e) obtaining information on and taking steps to understand the purpose and intended nature of the business relationship, and the nature of the customer's business; and [560] [561] [562]

(f) in the case of a person purporting to act on behalf of a customer, verifying that the person is in fact so authorised and identifying and verifying the identity of that person. [563]

[Regulation 5 paragraph (c) deleted and substituted and paragraphs (d) and (e) inserted by 2015:53 s. 29 effective 1 January 2016; Regulation 5(f) inserted by 2017:35 s. 8 effective 3 November 2017; Regulation 5 paragraph (e) revoked and substituted by 2018:50 s. 9 effective 10 August 2018]

6. Application of customer due diligence measures

(1) Subject to regulations 7, 10, 11, 13(4) and 14, a relevant person must apply customer due diligence measures when he -

(a) establishes a business relationship;

(b) carries out an occasional transaction;

(c) suspects money laundering, terrorist financing or proliferation financing; or [564]

(d) doubts the veracity or adequacy of documents, data or information previously obtained for the purpose of identification or verification.

(1A) Subject to paragraph (1), in the case of a trust or life insurance policy, a relevant person shall apply customer due diligence measures on a beneficiary as soon as the beneficiary is designated—[565]

(a) for a beneficiary that is identified as a specifically named natural person, legal entity or legal arrangement, taking the name of the person, entity or arrangement;

(b) for a beneficiary that is designated by characteristics or by class, obtaining sufficient information concerning the beneficiary to satisfy the relevant person that it will be able to establish the identity of the beneficiary at the time of payout.

(1B) The customer due diligence legal requirements for legal persons or legal arrangements shall include—[566]

(a) full name and trade name;

(b) date and place of incorporation, registration or establishment;

(c) registered office address and, if different, mailing address;

(d) address of the principal place of business;

(e) whether and where listed on a stock exchange;

(f) official identification number (where applicable);

(g) name of regulator (where applicable);

(h) legal form, nature and purpose (e.g. discretionary, testamentary, bare);

(i) control and ownership;

(j) nature of business; and[567]

(k) an obligation to collect information about the legal powers that regulate and bind a legal person or legal arrangement. [568]

(2) A relevant person must apply customer due diligence measures at appropriate times to existing customers on a risk-sensitive basis.

(3) A relevant person must-

(a) determine the extent of customer due diligence measures on a risk-sensitive basis depending on the type of customer, business relationship, geographic areas, services, delivery channels, [569] product or transaction; and

(b) be able to demonstrate to its supervisory authority that the extent of customer due diligence measures is appropriate in view of the risks of money laundering, terrorist financing and proliferation financing. [570]

(3A) Where a relevant person is required to apply customer due diligence measures in the case of a trust or life insurance policy, the relevant person must include the beneficiary as a risk factor in determining the extent of customer due diligence measures required in accordance with paragraph (3). [571]

(4) Where-

(a) a relevant person is required to apply customer due diligence measures in the case of a trust, legal entity (other than a body corporate) or a legal arrangement (other than a trust); and

(b) the class of persons in whose main interest the trust, entity or arrangement is set up or operates is identified as a beneficial owner,

the relevant person is not required to identify all the members of the class.

(5) Where a relevant person suspects that a transaction relates to money laundering, terrorist financing or proliferation financing and he believes that performing customer due diligence measures may tip-off the customer or potential customer to that suspicion, he shall not perform the customer due diligence measures.[572] [573] [574]

(6) Where a relevant person is unable to perform customer due diligence in accordance with paragraph (5) he shall, in lieu, file the necessary disclosure with the FIA. [575]

(7) For the purpose of paragraph (1A), “beneficiary” means the person named as beneficiary in a life insurance policy or a trust instrument. [576]

[Regulation 6 paragraph (1A) inserted, paragraph (3)(a) amended and paragraphs (5) - (7) inserted by 2015:53 s. 30 effective 1 January 2016; Regulation 6 paragraph (1B) inserted and paragraph (5) amended by 2017:35 s. 8 effective 3 November 2017; Regulation 6 paragraph (1B) amended by 2018:5 s. 5 effective 21 March 2018; Regulation 6 paragraph (1A) inserted, paragraph (3)(a) amended and paragraphs (5) - (7) inserted by 2015:53 s. 30 effective 1 January 2016; Regulation 6 paragraph (1B) inserted and paragraph (5) amended by 2017:35 s. 8 effective 3 November 2017; Regulation 6 paragraph (1B) amended by 2018:5 s. 5 effective 21 March 2018; Regulation 6 paragraph (3A) inserted by 2018:51 s. 4 effective 10 August 2018; Regulation 6 amended by BR 70 / 2026 reg. 3effective 22 June 2026]

7. Ongoing monitoring

(1) A relevant person must conduct ongoing monitoring of a business relationship.

(2) "Ongoing monitoring" of a business relationship means-[577]

(a) an investigation of transactions undertaken throughout the course of the relationship (including, where necessary, the source of funds or digital assets[578]) to ensure that the transactions are consistent with the relevant person's knowledge of the customer, his business and risk profile;[579] [580]

(b) an investigation into the background and purpose of all complex, unusually large transactions, or unusual patters of transactions which have no apparent economic or lawful purpose and record the findings in writing; and[581]

(c) so far as practicable keeping the documents, data, and information obtained (including the findings of paragraph (b) of this paragraph), for the purpose of applying customer due diligence measures up-to-date. [582]

(3) Regulation 6(3) applies to the duty to conduct ongoing monitoring under paragraph (1) as it applies to customer due diligence measures.

[Regulation 7 amended by 2013:30 s.19 effective 8 November 2013; paragraph (2) deleted and substituted by BR 61/2014 reg. 2 effective 30 July 2014; paragraph (2) amended by 2022:2 s. 3 effective 27 February 2022]

8. Timing of verification

(1) This regulation applies in respect of the duty under regulations 6(1)(a) and (b) and regulation 6(1A) [583] to apply the customer due diligence measures referred to in regulation 5[584].

(2) Subject to paragraphs (3) to (5), a relevant person must verify the identity of the customer (and any beneficial owner) before the establishment of a business relationship or the carrying out of an occasional transaction.

(3) Such verification may be completed during the establishment of a business relationship or after the establishment of a business relationship or an account has been opened as provided under paragraphs (4) and (5) [585] if-

(a) this is necessary not to interrupt the normal conduct of business; and

(b) there is little risk of money laundering, terrorist financing or proliferation financing occurring, provided that the verification is completed as soon as practicable after contact is first established; and [586]

(c) any money laundering, terrorist financing or proliferation financing risks that may arise are effectively managed. [587] [588]

(4) The verification of the identity of the beneficiary under a life insurance policy or a trust[589] may, subject to paragraph (3),[590] take place after the business relationship has been established provided that

it takes place at or before the time of payout or at or before the time the beneficiary exercises a right vested under the policy or trust[591].

(5) The verification of the identity of an[592] account holder may, subject to paragraph (3), [593] take place after the [594] account has been opened provided that there are adequate safeguards in place to ensure that -

(a) the account is not closed; and

(b) transactions are not carried out by or on behalf of the account holder (including any payment from the account to the account holder), before verification has been completed.

[Regulation 8 paragraphs (1), (3) and (4) amended by 2015:53 s. 31 effective 1 January 2016; Regulation 8 amended by 2018:50 s. 10 effective 10 August 2018; Regulation 8 paragraph (3) amended by BR 70 / 2026 reg. 4 effective 22 June 2026;]

8A. Casinos: timing of verification of identity of patrons[595]

(1) This regulation applies in respect of the duty under regulation 6(1)(a) and (b) to apply the customer due diligence measures referred to in regulation 5(a) and (b).

(2) A casino operator shall establish and verify the identity of—

(a) all patrons to whom the casino operator makes facilities for, eGaming is available[596]; and

(b) all patrons who, in the course of any period of 24 hours—[597]

(i) purchase from, or exchange with, the casino operator, chips with a total value of $3,000 or more; or[598]

(ii) pay the casino operator $3,000 or more for the use of gaming machines. [599]

(3) [REVOKED by 2017:35 s. 8] [600]

(4) In this regulation—

"casino premises" has the meaning given in section 2 of the Gaming Act 2014;[601]

"gaming machine" has the meaning given in section 2 of the Gaming Act 2014.[602]

[Regulation 8A inserted by 2015 : 35 s. 18 effective 6 November 2015; Regulation 8A amended by 2017:35 s. 8 effective 3 November 2017]

8B. Casinos: patron accounts[603]

(1) A casino operator shall not open or maintain any anonymous patron account or any patron account in the name of a person other than the patron (whether such name is of a person living or dead or of a fictitious person).

(1A) A patron account may only be opened by and in the name of a natural person.[604]

(2) A casino operator shall establish and verify using reliable and independent sources[605] the identity of each patron who opens a patron account with the casino operator, in accordance with this regulation and its system of internal controls.

(3) Paragraphs (4), (5) and (6) apply in respect of the duty under regulation 6(1)(a) and (b) to apply the customer due diligence measures referred to in regulation 5(a) and (b).

(4) Before opening a patron account, a special employee authorised by the casino operator to do so, shall obtain and record, at the minimum, all of the following information-

(a) the patron's identifying information and signature;

(b) the date the patron account is opened;

(c) the amount of the initial deposit into the patron account (including the type of foreign currency and conversion rate, if applicable);

(d) the type and purpose of the patron account;

(e) the name and signature of the special employee who approved the opening of the patron account.

(5) A casino operator shall not permit any person other than the patron to deposit funds into his patron account and shall verify the identity of any person making such a deposit to ensure compliance with this paragraph. [606]

(6) [REVOKED by 2017:35 s. 8]

(7) The casino operator shall, in addition, keep the following records in respect of every deposit referred to in paragraph (5)—

(a) the date of the deposit;

(b) the amount of the deposit;

(c) the details of the patron account into which the deposit was made;

(d) the identifying information of the patron;

(e) the type of instrument by which the deposit is made, or whether the deposit is made in cash or chips;

(f) the name of the issuer of the instrument, if any;

(g) all reference numbers (including the number of any cheque, bank draft, money order or other instrument); and

(h) the name and special employee licence number of the authorised employee who carried out the transaction.

[Regulation 8B inserted by 2015:35 s. 18 effective 6 November 2015; Regulation 8B amended by 2017:35 s. 8 effective 3 November 2017]

8C. Casinos: prohibited transactions[607]

(1) For the purpose of preventing any transaction which may be connected with or may facilitate money laundering, the financing of terrorism or the financing of proliferation of weapons of mass destruction, the following transactions shall be prohibited—

(a) any transaction by a casino operator with a patron involving the conversion of money from one form to another without being used for gaming, including—

(i) the receipt of cash for transmittal of all or part of that sum through telegraphic transfer for or on behalf of a patron;

(ii) cash payments made to or on behalf of a patron of funds received through electronic transfers; [608]

(iii) the cashing of cheques or other negotiable instruments;

(iv) the offer of foreign currency exchange services; and[609]

(v) the exchange of small denomination notes for larger denominations including, to the greatest extent possible, preventing self-service kiosks being used for such a purpose. [610]

(b) any receipt or payment by a casino operator of funds from or to an account otherwise than in the name of the patron; [611]

(ba) any issuance of a receipt of a cheque or other negotiable instrument other than in the name of the patron; [612]

(c) any transaction, including the opening of a patron account, which the casino operator has reasonable grounds to suspect—

(i) is for the purpose of dealing in the proceeds of any relevant offence;

(ii) is a cash transaction that uses the proceeds of any relevant offence; or

(iii) involves the custody or control of any funds or other assets that are the proceeds of any relevant offence; [613]

(d) the placing of a bet, whether by way of gaming, eGaming or betting, on behalf of a third party; [614]

(e) the placing of a bet, whether by way of gaming, eGaming or betting, by a patron where that patron has failed within a reasonable time to provide proof of identity;[615]

(f) the placing of a bet or a series of bets with the bookmaker in cash in a sum greater than $1,000; [616]

(g) the structuring of transactions in order to avoid any of the requirements or prohibitions set out in these Regulations; [617]

(h) the use of cash in any game in which the operator does not have a stake in the outcome of the game; [618]

(i) the use of safety deposit facilities or credit facilities by any patron who does not have a valid patron account; [619]

(j) the acceptance by a slot machine or kiosk of more than one currency in any single transaction; [620]

(k) the payment by a slot machine or kiosk in a currency other than the single currency used during the transaction; [621]

(l) the exchange of casino chips for currency other than Bermuda dollars, unless the patron provides a valid passport and proof of residential address satisfactory to the casino operator to establish that the patron is resident in a jurisdiction other than Bermuda. [622]

(2) In this regulation, “relevant offence” has the meaning given in section 3 of the Proceeds of Crime Act 1997.

(3) Paragraphs (1)(b) and (1)(ba) shall not apply where the Commission has provided a written waiver of the prohibition in accordance with approved casino marketing agent agreements. [623]

[Regulation 8C inserted by 2015:35 s. 18 effective 6 November 2015; Regulation 8C amended by 2017:35 s. 8 effective 3 November 2017]

9. Requirement to cease transactions, etc.

(1) Where in relation to any customer, a relevant person is unable to apply customer due diligence measures in accordance with the provisions of these Regulations he -

(a) shall not open an account or carry out a transaction for the customer; [624]

(b) shall not establish a business relationship or carry out an occasional transaction with the customer;

(c) shall terminate any existing business relationship with the customer; and

(ca) in the case of a patron in a casino, shall not permit that patron to place any bet, or to undertake any further transactions of any nature, until such time as he has been able to apply the customer due diligence measures; [625]

(d) shall consider whether he is required to make a disclosure by section 46(2) of the Proceeds of Crime Act 1997 or paragraph 1 of Part I of Schedule I of the Anti-Terrorism (Financial and Other Measures) Act 2004 or pursuant to the International Sanctions Act 2003 or any regulations made thereunder. [626]

(2) Paragraph (1) does not apply where a professional legal adviser is in the course of ascertaining the legal position for his client or performing his task of defending or representing that client in, or concerning, legal proceedings, including advice on instituting or avoiding proceedings.

[Regulation 9 paragraph (1)(ca) inserted by 2017:35 s. 8 effective 3 November 2017; Regulation 9 paragraph (1)(a) revoked and replaced by 2018:5 s. 5 effective 21 March 2018; Regulation 9 paragraph (1)(d) amended by BR 70 / 2026 reg. 5 effective 22 June 2026]

10. Simplified due diligence

(1) Subject to paragraph (1A), a relevant person is not required to apply the full customer due diligence measures[627] referred to in regulation 5[628] in the circumstances mentioned in regulation 6(1)(a) or (b) , or regulation 6(1A) [629] where he has reasonable grounds for believing that the customer, product or transaction related to such product, falls within paragraph (2), (3), (4), (5), (6) or (7) [630].

(1A) Paragraph (1) applies only if—[631]

(a) after assessing the risk, the relevant person has reasonable grounds for believing that there is a low risk of money laundering, terrorist financing and proliferation financing; and[632]

(b) the relevant person has no suspicion of money laundering, terrorist financing or proliferation financing, [633]

and the relevant person shall record its assessment.

(2) The customer is -

(a) an AML/ATF regulated financial institution[634] which is subject to the requirements of these Regulations; or

(b) an AML/ATF regulated financial institution[635] (or equivalent institution) which -

(i) is situated in a country or territory other than Bermuda which imposes requirements equivalent to those laid down in these Regulations; [636]

(ii) has effectively implemented those requirements; and[637]

(iii) is supervised for compliance with those requirements.[638]

(3) The customer is a company whose securities are listed on an appointed stock exchange.

(4) The customer is an independent professional (or similar professional) and the product is an account into which monies are pooled, provided that -

(a) where the pooled account is held in a country or territory other than Bermuda -

(i) that country or territory imposes requirements to combat money laundering, terrorist financing and proliferation financing which are equivalent to those laid down in these Regulations; [639] [640]

(ii) the independent professional has effectively implemented those requirements; and[641]

(iii) the independent professional is supervised in that country or territory for compliance with those requirements; and [642]

(b) information on the identity of the persons on whose behalf monies are held in the pooled account is available, on request, to the institution which acts as a custodian for the account.

(5) The customer is a public authority in Bermuda.

(6) The product is -

(a) a life insurance contract where the annual premium is no more than $1,000 or where a single premium of no more than $2,500 is paid for a single policy;

(b) an insurance contract for the purpose of a pension scheme where the contract contains no surrender clause and cannot be used as collateral; or

(c) a pension, superannuation or similar scheme which provides retirement benefits to employees, where contributions are made by an employer or by way of deduction from an employee's wages and the scheme rules do not permit the assignment of a member's interest under the scheme.

(7) The product and any transaction related to such product fulfils all the conditions set out in paragraph 1 of the Schedule.

[Regulation 10 amended by 2008:49 s.39(6) effective 1 January 2009; paragraphs (1), (2)(b) and (4)(a) amended by 2015:53 s. 32 effective 1 January 2016; Regulation 10 paragraph (1) amended, and paragraph (1A) inserted by 2018:51 s. 4 effective 10 August 2018; Regulation 10 amended by BR 70 / 2026 reg. 6 effective 22 June 2026]

11. Enhanced due diligence[643]

(1) A relevant person must apply on a risk-sensitive basis enhanced customer due diligence measures to business relationships with customers—[644] [645] [646] [647] [648] [649]

(a) in accordance with paragraphs (2) to (4);

(aa) in instances where a person or a transaction is from or in a country that has been identified as having a higher risk by the Financial Action Task Force or the Caribbean Financial Action Task Force[650];

(ab) in instances where a person or a transaction is from or in a country which represents a higher risk of money laundering, corruption, terrorist financing, proliferation financing or being subject to international sanctions; [651]

(b) in any other situation which by its nature may present a higher risk of money laundering, terrorist financing or proliferation financing. [652]

(2) Where the customer has not been physically present for identification purposes, a relevant person must take specific and adequate measures to compensate for the higher risk, for example by applying one or more of the following measures -

(a) ensuring that the customer's identity is established by additional documents, data or information;

(b) supplementary measures to verify or certify the documents supplied, or requiring confirmatory certification by an AML/ATF regulated financial institution[653] (or equivalent institution) which is subject to equivalent Regulations;

(c) ensuring that the first payment is carried out through an account opened in the customer's name with a banking institution.

(3) An AML/ATF regulated financial institution (the "correspondent") which has or proposes to have a correspondent relationship with a respondent institution (the "respondent") [654]must - [655] [656]

(a) gather sufficient information about the respondent to understand fully the nature of its business;

(b) determine from publicly-available information the reputation of the respondent and the quality of its supervision;

(c) assess the respondent's controls relating to anti-money laundering control, anti-terrorism financing control and counter-proliferation financing control; [657]

(d) obtain approval from senior management before establishing a new correspondent relationship; [658]

(e) document the respective responsibilities of the respondent and correspondent;

(f) be satisfied that, in respect of those of the respondent's customers who have direct access to accounts of the correspondent, the respondent -

(i) has verified the identity of, and performs ongoing due diligence on, such customers; and

(ii) is able upon request to provide relevant customer due diligence data to the correspondent.

(3A) Where a casino operator knows or has reason to suspect that the patron—[659]

(a) has fiduciary obligations that may create a risk of the misappropriation of funds;

(b) is associated with individuals or entities known to be connected to the illicit generation of funds or the laundering of such funds;

(c) has sources of wealth or income incommensurate with his gaming activity;

(d) has been bankrupt; or

(e) has a prior history of criminal or dishonest conduct,

the casino operator must apply on a risk-sensitive basis enhanced customer due diligence measures as set out in paragraph (3B).

(3AA) For the purposes of regulation 11(3), a "correspondent relationship" shall mean a business arrangement between two institutions, wherein one entity (the correspondent) provides financial or similar services to or facilitates such transactions on behalf of the other entity (the respondent) that allows the respondent to access financial markets, payment systems, or services that it cannot directly provide or access on its own.[660]

(3B) Enhanced customer due diligence required under paragraph (3A) must compensate for the higher risk posed on a case by case basis, and such measures may include, but not be limited to, one or more of the following—[661]

(a) assessing whether the patron is the beneficial owner of all funds proposed for use in gaming;

(b) establishing the source of funds proposed for use in gaming;

(c) ensuring that the patron has no prior history associated with AML/ATF offences or breaches of international sanctions obligations; [662]

(d) increasing the frequency of the monitoring of the patron's gaming activity.

(4) Subject to paragraph (6B), a[663] relevant person who proposes and continues[664] to have a business relationship or carry out an occasional transaction with a politically exposed person must -

(a) have approval from senior management for establishing and continuing[665] a business relationship with that person;

(b) take adequate measures to establish the source of wealth and source of funds or digital assets[666] which are involved in the business relationship or occasional transaction;

(c) conduct enhanced ongoing monitoring of the business relationship; and[667]

(d) inform senior management of a pending payout to a politically exposed person of a long-term insurance or other investment-related insurance policy, before proceeding to pay out the policy. [668]

(5) In paragraph (4), "a politically exposed person" means a person to whom paragraphs (6) and (6A) applies. [669]

(6) This paragraph applies to a person who is in or from[670] any country or territory outside Bermuda-

(a) an individual who is or has, at any time in the preceding year, been entrusted with prominent public functions or a prominent function by an international organisation[671];

(b) a person who falls in any of the categories listed in paragraph 2(1)(a) of the Schedule;

(c) an immediate family member of a person referred to in sub-paragraph (a) including a person who falls in any of the categories listed in paragraph 2(1)(d) of the Schedule; or

(d) a known close associate of a person referred to in sub-paragraph (a) including a person who falls in either of the categories listed in paragraph 2(1)(e) of the Schedule.

(6A) This paragraph applies to any of the following persons who are in or from Bermuda—[672]

(a) an individual who is or has, at any time in the preceding year, been entrusted with prominent public functions or a prominent function by an international organisation;

(b) a person who falls into any of the categories listed in paragraph 2(3)(a)[673] of the Schedule;

(c) an immediate family member of a person referred to in subparagraph (a), including a person who falls into any of the categories listed in paragraph 2(3)(d) [674] of the Schedule; or

(d) a known close associate of a person referred to in subparagraph (a), including a person who falls into either of the categories listed in paragraph 2(3)(e) [675] of the Schedule.

(6B) In relation to a person described in paragraph (6A), where a relevant person determines that the business relationship or occasional transaction with that person is a higher risk, then the relevant person must carry out the enhanced due diligence measures set out in paragraph (4). [676]

(7) For the purpose of deciding whether a person is a known close associate of a person referred to in paragraph (6) (a), a relevant person need only have regard to information which is in his possession or is publicly known.

[Regulation 11 headnote and paragraph (1) amended by 2013:30 s. 20 effective 8 November 2013; paragraphs (1), (4), (5) and (6) amended and paragraphs (6A) and (6B) inserted by 2015:53 s. 33

effective 1 January 2016; Regulation 11 amended by 2017:35 effective 3 November 2017; Regulation 11 amended by 2018:5 s. 5 effective 21 March 2018; Regulation 11 paragraph (3) amended by 2018:51 s.4 effective 10 August 2018; Regulation 11 paragraph (1) amended by 2018:49 s. 4 effective 7 September 2018; Regulation 11 paragraph (4) amended by 2022:2 s. 3 effective 27 February 2022; amended by 2025:20 s. 4 effective 20 October 2025; Regulation 11 amended by BR 70 / 2026 reg. 7 effective 22 June 2026]

12. Branches and subsidiaries

(1) A relevant person [677] [678] must require its branches and subsidiary undertakings which are located in a country or territory other than Bermuda -[679]

(a) to adopt group-wide policies and procedures that—

(i) facilitate the sharing of customer due diligence and transaction information; and

(ii) ensure adequate safeguards on the confidentiality and use of information exchanged,

in order to manage the risk of money laundering, terrorist financing and proliferation financing through the application of AML/ATF/CPF compliance functions; and [680]

(b) to apply, to the extent permitted by the law of that country or territory, measures at least equivalent to those set out in these Regulations with regard to customer due diligence measures, ongoing monitoring and record-keeping. [681]

(2) Where the law of such a country or territory does not permit the application of such equivalent measures by the branch or subsidiary undertaking located in that country or territory, the relevant person[682] [683] shall-

(a) inform the Bermuda Monetary Authority accordingly; and

(b) take additional measures to handle effectively the risk of money laundering, terrorist financing and proliferation financing. [684]

(3) In this regulation “subsidiary undertaking” except in relation to an incorporated friendly society, has the meaning given by section 86 of the Companies Act (‘parent and subsidiary undertakings’) and, in relation to a body corporate in or formed under the law of a country or territory other than Bermuda, includes an undertaking which is a subsidiary undertaking within the meaning of any rule of law in force in that country or territory.

(4) For the avoidance of doubt, the provisions of this regulation apply to branches and subsidiaries located inside and outside of Bermuda. [685]

[Regulation 12 amended by 2008:49 s.39(6) effective 1 January 2009; paragraph (1) amended by 2015:53 s. 34 effective 1 January 2016; Regulation 12 amended by 2017:35 s. 8 effective 3 November 2017; Regulation 12 amended by BR 70 / 2026 reg. 8 effective 22 June 2026]

12A. Financial groups[686]

A financial group shall implement group-wide policies and procedures against money laundering , terrorist financing and proliferation financing which are applicable and appropriate to all members of the financial group, and these policies and procedures shall include—[687]

(a) procedures and requirements set out in Part 2 (Customer Due Diligence), Part 3 (Record-keeping, Systems, Training etc.) and Part 4 (Transfer of Funds[688]), as applicable, of these Regulations;

(b) policies and procedures for sharing information required for the purposes of customer due diligence, money laundering, terrorist financing and proliferation financing risk

management, including information on transactions which appear unusual and have generated a suspicious transaction report; [689]

(c) the provision at group level of compliance, audit and anti-money laundering, anti-terrorist financing and counter-proliferation financing functions, of customer, transaction and account information from branches and subsidiaries when necessary for anti-money laundering, anti-terrorist financing or counter-proliferation financing; and[690]

(d) adequate safeguards on the confidentiality and use of information exchanged.

[Regulation 12A inserted by 2018:51 s. 4 effective 10 August 2018; Regulation 12A amended by 2022:2 s. 3 effective 27 February 2022; Regulation 12A amended by BR 70 / 2026 reg. 9 effective 22 June 2026]

13. Shell banks, anonymous accounts etc.

(1) An AML/ATF regulated financial institution shall not enter into, or continue, a correspondent banking relationship with a shell bank. [691]

(2) An AML/ATF regulated financial institution must take appropriate measures to ensure that it does not enter into, or continue, a correspondent banking relationship with a bank which is known to permit its accounts to be used by a shell bank. [692]

(3) An AML/ATF regulated financial institution[693] must not set up an anonymous account, an anonymous pass book or an account obviously in a fictitious name[694] for any new or existing customer.

(4) As soon as possible after the commencement of these Regulations all AML/ATF regulated financial institutions[695] must apply customer due diligence measures to, and conduct ongoing monitoring of, all anonymous accounts and passbooks in existence on that date and in any event before such accounts or passbooks are used in any way.

(5) A "shell bank" means a banking institution, or an institution engaged in equivalent activities, incorporated in a jurisdiction in which it has no physical presence involving meaningful decision making and management, and which is unaffiliated with a regulated financial group.

[Regulation 13 amended by 2008:49 s.39(6) effective 1 January 2009; Regulation 13 paragraph (3) amended by 2018:5 s. 5 effective 21 March 2018; paragraphs (1) and (2) amended by 2025:20 s. 5 effective 20 October 2025]

14. Reliance on third parties

(1) A relevant person may rely on a person who falls within paragraph (2) [or who the relevant person has reasonable grounds to believe falls within paragraph (2)] to apply any customer due diligence measures provided that -

(a) the other person consents to being relied on; and

(b) notwithstanding the relevant person's reliance on the other person, the relevant person— [696]

(i) must immediately[697] obtain information sufficient to identify customers;

(ii) must satisfy itself that reliance is appropriate given the level of risk for the jurisdiction in which the party to be relied upon is usually resident; and[698]

(iii) will remain liable for any failure to apply such measures.

(1A) A real estate broker licensed under the Real Estate Brokers' Licensing Act 2017 may rely on the customer due diligence measures undertaken by another real estate broker licensed in Bermuda under that Act, if the relevant conditions set forth in paragraph (1)(a) and (b) are complied with. [699]

(2) The persons are -

(a) an AML/ATF regulated financial institution[700];

(b) a relevant person who is-

(i) an independent professional; and

(ii) supervised for the purposes of these Regulations by a designated professional body in accordance with section 4 of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008;

(c) a person who carries on business in a country or territory other than Bermuda who is -

(i) an institution that carries on business corresponding to the business of AML/ATF regulated financial institution[701] or independent professional;

(ii) in the case of an independent professional, subject to mandatory professional registration recognised by law;

(iii) subject to requirements equivalent to those laid down in these Regulations; and

(iv) supervised for compliance with requirements equivalent to supervision by his supervisory authority.

(3) Nothing in this regulation prevents a relevant person applying customer due diligence measures by means of an outsourcing service provider or agent provided that the relevant person remains liable for any failure to apply such measures.

[Regulation 14 paragraph (1)(b) deleted and substituted by 2013:30 s. 21 effective 8 November 2013; amended by 2014:8 s. 16 effective 11 April 2014; paragraph (1) amended by 2015:53 s. 35 effective 1 January 2016; paragraph (2)(b)(ii) revoked and substituted by 2017:35 s. 8 effective 3 November 2017; paragraph (1A) inserted by 2018:50 s. 11 effective 10 August 2018]

14A Outsourcing[702]

(1) Where a relevant person delegates its AML/ATF/CPF compliance function to another entity (outsourcing), the relevant person shall retain ultimate responsibility for the AML/ATF/CPF compliance function. [703]

(2) In this regulation, ultimate responsibility includes the obligation to—

(a) ensure that the provider of the outsourced AML/ATF/CPF compliance function has in place—

(i) AML/ATF/CPF systems;

(ii) AML/ATF/CPF controls; and

(iii) AML/ATF/CPF procedures,

that are in compliance with the Bermuda AML/ATF/CPF requirements;

(b) consider the effect that outsourcing compliance functions has on the money laundering, terrorist financing and proliferation financing risk;

(c) assess the money laundering, terrorist financing and proliferation financing risk associated with outsourced functions and record its assessment; and

(d) monitor any perceived risk on an ongoing basis and, where the compliance functions (Compliance Officer or Reporting Officer) are involved to—

(i) ensure that the roles, responsibilities and respective duties are clearly defined and documented; and

(ii) ensure that the Compliance Officer or Reporting Officer and all employees understand the roles, responsibilities and the respective duties of all parties.

(3) Where a relevant person delegates its compliance function to another entity (outsourcing), the relevant person shall adopt policies and procedures to monitor and manage the service provider carrying out those compliance functions.

(4) In this regulation, "outsourcing" and "outsourced" means—

(a) AML/ATF/CPF systems;

(b) AML/ATF/CPF controls; and

(c) AML/ATF/CPF procedures,

obtained outside of a relevant person.

[Regulation 14A inserted by 2015:53 s. 36 effective 1 January 2016; Regulation 14A amended by BR 70 / 2026 reg. 10 effective 22 June 2026]

PART 3 RECORD-KEEPING, SYSTEMS, TRAINING ETC.

15. Record-keeping [704]

(1) A relevant person must keep the records specified in paragraph (2) for at least the period specified in paragraph (3).

(2) In respect of a business relationship or an occasional transaction, the records are— [705]

(a) a copy of, or the references to the evidence of the customer's identity obtained pursuant to regulation 6, 8B(7), 11, 13(4), or 14, together with account files, business correspondence and the results of any analysis undertaken in relation to that customer; and

(b) the supporting evidence and records of transactions (consisting of the original documents or copies admissible in court proceedings), provided that such records must be sufficient to permit the reconstruction of individual transactions.

(3) In this regulation, the period is— [706]

(a) in the case of records in paragraph 2(a), for the duration of the business relationship and five years beginning on the date on which the business relationship ends or five years beginning on the date the occasional transaction is completed;

(b) in the case of records in paragraph 2(b), five years beginning on the date the transaction is completed.

(4) A relevant person who is relied on by another person must keep the records specified in paragraph (2)(a) for five years beginning on the date on which he is relied on for the purposes of regulation 6, 8B(7) [707],11 or 13(4) in relation to any business relationship or occasional transaction.

(5) But in any case where a police officer has notified a relevant person in writing that particular records are or may be relevant to an investigation which is being carried out, the relevant person must keep the records pending the outcome of the investigation.

(5A) For the avoidance of doubt, all documents and findings[708] related to the investigations of—[709]

(a) complex transactions;

(b) unusually large transactions; or

(c) unusual patterns of transactions,

in relation to regulation 7, must be recorded and kept for a minimum period of five years to be available for competent authorities and auditors[710].

(6) A person referred to in regulation 14(2) (a) or (b) who is relied on by a relevant person must, if requested by the person relying on him within the period referred to in paragraph (4)-

(a) immediately[711] make available to the person who is relying on him any information about the customer (and any beneficial owner) which he obtained when applying customer due diligence measures; and

(b) without delay[712] forward to the person who is relying on him copies of any identification and verification data and other relevant documents on the identity of the customer (and any beneficial owner) which he obtained when applying those measures.

(7) A relevant person who relies on a person referred to in regulation 14(2)(c) (a "third party") to apply customer due diligence measures must take steps to ensure that the third party will, if requested by the relevant person within the period referred to in paragraph (4)-

(a) as soon as reasonably practicable make available to him any information about the customer (and any beneficial owner) which the third party obtained when applying customer due diligence measures; and

(b) as soon as reasonably practicable forward to him copies of any identification and verification data and other relevant documents on the identity of the customer (and any beneficial owner) which the third party obtained when applying those measures.

(7A) A relevant person must not rely on a person referred to in regulation 14(2)(c) (a third party) or enter into outsourcing arrangements, referred to in regulation 14A, where access to records specified under this regulation in paragraphs (2) and (5A) without delay is likely to be impeded by confidentiality or data protection restrictions. [713]

(8) Subparagraphs (6) and (7) do not apply where a relevant person applies customer due diligence measures by means of an outsourcing service provider or agent.

(9) For the purposes of this regulation, a person relies on another person where he does so in accordance with regulation 14(1).

[Regulation 15 paragraph (5A) inserted by 2013:30 s. 22 effective 8 November 2013; paragraph (5A) amended by BR 61/2014 reg. 3 effective 30 July 2014; paragraphs (2)(a) and (4) amended by 2015:35 s. 18 effective 6 November 2015; paragraph (7A) inserted by 2015:53 s. 37 effective 1 January 2016; Regulation 15 paragraph (6) amended by 2018:5 s. 5 effective 21 March 2018]

16. Systems

(1) A relevant person must establish and maintain appropriate and risk-sensitive policies and procedures approved by its governing body,[714] relating to-

(a) customer due diligence measures and ongoing monitoring;

(b) reporting;

(c) record-keeping;

(d) internal control;

(e) the performance and documentation of any products or services (prior to launch) and the continual documentation of risk assessment and management of such products and services, in a form available to share with the supervisory authority; [715]

(ea) risk mitigation mechanisms which include— [716]

(i) consideration of the national or of the relevant person's risk assessment results or conclusions;

(ii) the ability to effectively supply information to the supervisory authority; and

(iii) the application of enhanced measures where the relevant person's risk assessments identify a higher risk;[717]

(f) the monitoring and management of compliance with and the internal communication of such policies and procedures in order to prevent activities related to money laundering, terrorist financing and proliferation financing. [718]

(1A) Where a relevant person intends to introduce a new product, practice or technology, the relevant person must perform and document a risk assessment prior to the launch of such product, practice or technology. [719]

(2) The policies and procedures referred to in paragraph (1) include policies and procedures-

(a) which provide for the identification and scrutiny of-

(i) complex or unusually large transactions;

(ii) unusual patterns of transactions which have no apparent economic or visible lawful purpose; and

(iii) any other activity which the relevant person regards as particularly likely by its nature to be related to money laundering, terrorist financing or proliferation financing; [720]

(b) which specify the taking of additional measures, where appropriate, to prevent the use for money laundering, terrorist financing or proliferation financing of products and transactions which might favour anonymity; [721]

(c) to determine whether a new or existing[722] customer is a politically exposed person;

(d) under which -

(i) anyone in the organisation to whom information or other matter comes in the course of the business as a result of which he knows or suspects or has reasonable grounds to suspect[723] that a person is engaged in money laundering , terrorist financing or proliferation financing is required to comply with sections 46(5) of the Proceeds of Crime Act 1997 or, as the case may be, section 9 or paragraph 1 of Part 1 of Schedule 1 to the Anti-Terrorism (Financial and Other Measures) Act 2004; and [724]

(ii) where a disclosure is made to the nominated officer, he must consider it in the light of any relevant information which is available to the relevant person and determine whether it gives rise to knowledge or suspicion that a person is engaged in money laundering, terrorist financing or proliferation financing. [725]

(3) A relevant person[726] [727] must communicate where relevant the policies and procedures which it establishes and maintains in accordance with this regulation to its branches and subsidiaries which are located outside Bermuda.

(4) A relevant person[728] [729] must have systems in place enabling it to respond promptly to enquiries from a supervisory authority (in respect of a relevant person under the authority's supervision), [730] the Financial Intelligence Agency or a police officer -

(a) whether it maintains, or has maintained during the previous five years, a business relationship with any person; and

(b) the nature of that relationship.

(5) A relevant person shall take appropriate steps (including the use of risk mitigation mechanisms referred to in paragraph (1)(ea)) to identify, assess and understand its money laundering, terrorist financing and proliferation financing risks (depending on the type of customers, business relationships, countries or geographic areas, services, delivery channels, products or transactions), and shall document the risk assessments and keep them updated. [731] [732]

[Regulation 16 amended by 2008:49 s.39(6) effective 1 January 2009; paragraph (1) amended and paragraph (1A) inserted by 2015:53 s. 38 effective 1 January 2016; paragraph (2) amended by 2017:10 s. 5 effective 24 March 2017; Regulation 16 paragraphs (3) and (4) amended by 2017:35 s. 8 effective 3 November 2017; Regulation 16 paragraph (2)(c) amended by 2018:5 s. 5 effective 21 March 2018; Regulation 16 paragraph (4) amended, and paragraph (5) inserted by 2018:51 s. 4 effective 10 August 2018; Regulation 16 amended by BR 70 / 2026 reg. 11 effective 22 June 2026]

17. Internal reporting procedures

(1) A relevant person must appoint a Reporting Officer and[733] maintain internal reporting procedures which require that -

(a) a report is to be made to the Reporting Officer[734] of any information or other matter which comes to the attention of an employee and which in the opinion of that employee gives rise to a knowledge or suspicion that another person is engaged in money laundering, terrorist financing or proliferation financing; [735]

(b) any such report be considered by the Reporting Officer[736] in the light of all other relevant information for the purpose of determining whether or not the information or other matter contained in the report does give rise to such a knowledge or suspicion;

(c) the Reporting Officer[737] be given access to any other information which may be of assistance to him in considering the report; and

(d) the Reporting Officer[738] disclose to the Financial Intelligence Agency the information or other matter contained in a report, where the reporting officer knows or suspects or has reasonable ground to suspect[739] that a person is engaged in money laundering , terrorist financing or proliferation financing. [740]

(2) Paragraph (1) does not apply where the relevant person is an individual who neither employs nor acts in association with any other person.

(3) The relevant person shall be responsible for ensuring its Reporting Officer is adequately trained to carry out the role. [741]

[Regulation 17 paragraph (1) amended and paragraph (3) inserted by 2015:53 s. 39 effective 1 January 2016; paragraph (1) amended by 2017:10 s. 5 effective 24 March 2017; Regulation 17 amended by BR 70 / 2026 reg. 12 effective 22 June 2026]

17A. Independent audit function[742]

(1) A relevant person must maintain an independent audit function to be conducted by a qualified independent third party or internally by persons independent of any other function, the lines of business over which the function has audit responsibilities, and financial operations.

(2) An independent audit function must provide and document an independent and objective evaluation of the robustness of the AML/ATF/CPF framework, and the reliability, integrity and

completeness of the design and effectiveness of the AML/ATF/CPF risk management function and AML/ATF/CPF internal controls framework, and the AML/ATF/CPF compliance.[743]

[Regulation 17A inserted by 2015:53 s. 40 effective 1 January 2016; Regulation 17A paragraph (2) amended by BR 70 / 2026 reg. 13 effective 22 June 2026]

18. Training etc.

(1) A relevant person must take appropriate measures so that all relevant employees of his are -

(a) made aware of the law relating to money laundering , terrorist financing and proliferation financing; [744] [745]

(b) regularly given training in how to recognise and deal with transactions which may be related to money laundering, terrorist financing or proliferation financing; and[746]

(c) screened prior to hiring to ensure high standards.[747]

(2) For the purposes of this paragraph, an employee is a relevant employee if—[748]

(a) at any time in the course of his duties, he has, or may have, access to any information which may be relevant in determining whether any person is engaged in money laundering terrorist financing or proliferation financing; [749]

(b) at any time plays a role in implementing and monitoring compliance with anti-money laundering, anti-terrorist financing or counter-proliferation financing requirements. [750]

(3) For the purposes of paragraph (1), the relevant employee includes an individual working on a temporary basis whether under a contract of employment, contract for services or otherwise. [751]

[Regulation 18 paragraph (1)(c) inserted and paragraph (2) deleted and substituted by 2013:30 s. 23 effective 8 November 2013; paragraph (3) inserted by 2015:53 s. 41 effective 1 January 2016; Regulation 18 amended by BR 70 / 2026 reg. 14 effective 22 June 2026]

18A. Compliance officer[752]

(1) A relevant person shall designate a person employed at managerial level as the Compliance Officer of that relevant person[753].

(2) The relevant person shall be responsible for ensuring its Compliance Officer is adequately trained to carry out the role.

(3) The Compliance Officer shall—

(a) ensure that the necessary compliance programme procedures and controls required by these Regulations are in place; and

(b) coordinate and monitor the compliance programme to ensure continuous compliance with these Regulations.

(4) A Compliance Officer may also be appointed as a Reporting Officer.

[Regulation 18A inserted by 2015:53 s. 42 effective 1 January 2016; Regulation 18A amended by 2018:50 s. 12 effective 10 August 2018]

19. Offences

(1) A person who fails to comply with any requirement in regulations 6(1), (2) and (3), 7(1) and (3), 8(2), 9(1)(a), (b) and (c), 11(1), 12(1) and (2), 13(1), (2), (3) and (4)[754], 14(1)[755], 15(1), (4), (5), (6) and (7), 16(1), (3) and (4) 17(1) and 18(1)[756] is guilty of an offence and liable -

(a) on summary conviction, to a fine of $50,000;

(b) on conviction on indictment to a fine of $750, 000 or to imprisonment for a term of two years or to both.

(2) In deciding whether a person has committed an offence under paragraph (1), the court must consider whether he followed any relevant guidance which was at the time-

(a) issued by a supervisory authority;

(b) approved by the Minister; and

(c) published in a manner approved by the Minister as appropriate in his opinion to bring the guidance to the attention of persons likely to be affected by it.

(3) A person is not guilty of an offence under this regulation if he took all reasonable steps and exercised all due diligence to avoid committing the offence.

(4) Where a person is convicted of an offence under this regulation, he shall not also be liable to a civil fine imposed by or under any statutory provision in relation to the same matter.

[Regulation 19 paragraph (1) amended by 2013:30 s. 24 effective 8 November 2013]

20. BR 9/1998 REVOKED

The Proceeds of Crime (Money Laundering) Regulations 1998 are revoked.

PART 4 [757] - TRANSFER OF FUNDS (INCLUDING WIRE TRANSFERS)[758]

[Part 4 inserted by BR 2/2010 reg. 2 effective 13 January 2010; Part 4 heading amended by 2022:2 s 3 effective 27 February 2022]

INTRODUCTION AND APPLICATION

21. Interpretation of Part 4

In this Part -

"batch file transfer" means several individual transfers of funds that are bundled together for transmission, being transferred to the same PSP, but may or may not be ultimately intended for different payees[759];

“complete information on the payee” means information consisting of the payee’s name and account number, but where the payee does not have an account number, the payee’s PSP shall substitute it with a unique identifier that allows the transaction to be traced to the payee; [760]

"complete information on the payer" means information consisting of the payer's name, address and account number, but-

(a) in the case of a natural person, the address may be substituted with the date and place of birth of the payer, his customer identification number or national identity number; and

(b) where the payer does not have an account number, the payer's PSP shall substitute it with a unique identifier that allows the transaction to be traced back to the payer;

"intermediary PSP" means a PSP, neither of the payer nor of the payee, who participates in the execution of transfers of funds;

"money laundering" has the meaning given in section 7(1) of the Proceeds of Crime Act 1997;

"payee" means a person who is the intended final recipient of transferred funds;

"payer" means either-

(a) a person who holds an account and allows a transfer of funds from that account, or

(b) where there is no account, a person who places an order for a transfer of funds;

"payee's PSP" means the PSP of the payee;

"payer's PSP" means the PSP of the payer;

"PSP" (payment service provider) means a person whose business includes the provision of services for the transfer of funds;

"transfer of funds" means any transaction carried out on behalf of a payer through a PSP by electronic means, with a view to making funds available to a payee through a PSP, irrespective of whether the payer and the payee are the same person; and includes the transfer of digital assets;

"unique identifier" means a combination of letters, numbers or symbols, determined by the PSP, in accordance with the protocols of the payment and settlement system or messaging system used to effect the transfer of funds.

[Regulation 21 inserted by BR 2/2010 reg. 2 effective 13 January 2010; definition "complete information on the payee" inserted by 2015:53 s. 43 effective 1 January 2016; Regulation 21 definition "batch file transfer" amended by 2018:51 s. 4 effective 10 August 2018; regulation 21 definition "transfer of funds" amended by 2022:2 s. 3 effective 27 February 2022]

22. Application of Part 4

(1) This Part applies to transfers of funds, in any currency, that are sent or received by a PSP in Bermuda.

(2) This Part does not apply to transfers of funds carried out using a credit card, debit card or pre-paid card[761], if -

(a) the payee has an agreement with the PSP permitting payment for the provision of goods and services; and

(b) a unique identifier, allowing the transaction to be traced back to the payer, accompanies such transfer of funds, [762]

unless the card is used as a payment system to effect a person-to-person transfer of funds. [763]

(3) This Part does not apply to transfers of funds carried out by means of a mobile telephone or any other digital or information technology ("IT") device, when such transfers are pre-paid and do not exceed $150.

(4) This Part does not apply to transfers of funds carried out by means of a mobile telephone or any other digital or IT device, when such transfers are post-paid and meet all of the following conditions -

(a) the payee has an agreement with the PSP permitting payment for the provision of goods and services;

(b) a unique identifier, allowing the transaction to be traced back to the payer, accompanies the transfer of funds; and

(c) the payee's PSP is an AML/ATF regulated financial institution.

(5) This Part does not apply to transfers of funds

(a) where the payer withdraws cash from his own account;

(b) where there is a debit transfer authorisation between the payer and the payee permitting payments between them through accounts, provided that a unique identifier accompanies the transfer of funds, enabling the payer to be traced back;

(c) where truncated cheques are used;

(d) to public authorities for taxes, fines or other levies within Bermuda; or

(e) where both the payer and the payee are PSPs acting on their own behalf.

[Regulation 22 inserted by BR 2/2010 reg. 2 effective 13 January 2010; Regulation 22 paragraph (2) amended by 2018:51 s. 4 effective 10 August 2018]

OBLIGATIONS ON THE PAYMENT SERVICE PROVIDER OF THE PAYER

23. Information accompanying transfers of funds and record keeping

(1) The payer's PSP shall ensure that transfers of funds are accompanied by complete information on the payer and payee. [764]

(2) The payer's PSP shall, before transferring the funds, verify the complete information on the payer on the basis of documents, data or information obtained from a reliable and independent source.

(3) In the case of transfers of funds from an account, the complete information on a payer shall be deemed to have been verified if the payer's PSP has complied with the requirements of customer due diligence under Part 2.

(4) In the case of transfers of funds not made from an account, the payer's PSP shall verify the information on the payer only where the amount exceeds $1000, unless the transaction is carried out in several operations that appear to be linked and together exceed $1000.

(5) A payer's PSP shall not allow the transfer of funds in accordance with this regulation if the required information for doing so is not available. [765]

(6) The payer's PSP shall for five years keep records of complete information on the payer and payee that accompanies transfers of funds. [766]

[Regulation 23 inserted by BR 2/2010 reg. 2 effective 13 January 2010; paragraph (1) amended and paragraphs (5) and (6) inserted by 2015:53 s. 44 effective 1 January 2016]

24. Transfers of funds within Bermuda

(1) Notwithstanding regulation 23(1), where both the payer's PSP and the payee's PSP are situated in Bermuda, it shall suffice if transfers of funds are accompanied by the account number of the payer or a unique identifier allowing the transaction to be traced back to the payer.

(2) But if the payee's PSP or a competent authority so requests, the payer's PSP shall make available to the payee's PSP, or the competent authority, complete information on the payer, within three working days of receiving that request from—[767]

(a) the payee's PSP; or

(b) the competent authority.

(3) Where a police officer is investigating criminal conduct or the proceeds of criminal conduct, the police officer may compel the payer's PSP to immediately produce the information referred to in paragraph (2) by way of search warrant or production order. [768]

(4) For the purposes of this regulation—[769]

(a) "competent authority", shall have the same meaning as under section 2 of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008; and

(b) "criminal conduct", shall have the same meaning as under section 3 of the Proceeds of Crime Act 1997.

[Regulation 24 inserted by BR 2/2010 reg. 2 effective 13 January 2010; paragraph (2) deleted and substituted and paragraphs (3) and (4) inserted by 2017:10 s. 5 effective 24 March 2017]

25. Batch file transfers[770]

In the case of a batch file transfer from a single payer where the payees' PSP is situated outside Bermuda, regulation 23(1) does not apply to the individual transfers bundled together in the batch file transfer if—

(a) the batch file transfer contains complete information on the payer and on each of the payees for each individual transfer;

(b) the individual transfers of funds carry the account number of the payer or a unique identifier where an account number is not available; and

(c) the complete information provided on all payees is fully traceable within the beneficiary country.[771] [772] [773] [774]

[Regulation 25 inserted by BR 2/2010 reg. 2 effective 13 January 2010; paragraphs (a) and (b) amended by 2015:53 s. 45 effective 1 January 2016; Regulation 25 revoked and substituted by 2018:51 s. 4 effective 10 August 2018]

OBLIGATIONS ON THE PAYMENT SERVICE PROVIDER OF THE PAYEE

26. Detection of missing or incomplete information on the payer or payee[775]

(1) The payee's PSP shall detect whether, in the messaging or payment and settlement system used to effect a transfer of funds, the fields relating to the information on the payer or payee[776] have been completed using the characters or inputs admissible within the conventions of that messaging or payment and settlement system.

(2) The payee's PSP shall have effective procedures in place, which includes post-event monitoring or real-time monitoring where feasible, [777] in order to detect whether the following information on the payer or payee[778] is missing

(a) for transfers of funds where the payer's PSP is situated in Bermuda, the information required under regulation 24;

(b) for transfers of funds where the payer's PSP is situated outside Bermuda, complete information on the payer and payee[779] or, where applicable, the information required under regulation 31; and

(c) for batch file transfers where the payer's PSP is situated outside Bermuda, complete information on the payer and payee[780] in the batch file transfer only, but not in the individual transfers bundled together in the batch transfer.

[Regulation 26 inserted by BR 2/2010 reg. 2 effective 13 January 2010; headnote and paragraphs (1) and (2) amended by 2015:53 s. 46 effective 1 January 2016; Regulation 26 paragraph (2) amended by 2018:51 s. 4 effective 10 August 2018]

27. Transfers with missing or incomplete information on the payer or payee[781]

(1) If the payee's PSP becomes aware, when receiving transfers of funds, that information on the payer or payee [782] required under this Part is missing or incomplete, the payee's PSP shall-

(a) reject the transfer; or

(b) ask for complete information on the payer.

(2) But a person is not required to comply with paragraph (1) if to do so would contravene any other provision of an enactment.

(3) If the payer's PSP regularly fails to supply the information on the payer required by this Part, the payee's PSP shall report that fact to the Bermuda Monetary Authority.

(4) If the payer's PSP regularly fails to supply the information on the payer required by this Part, the payee's PSP shall take steps to attempt to ensure that the payer's PSP complies with the requirements as to the supply of information set out in this Part, which steps may include -

(a) issuing warnings to the payer's PSP; and

(b) setting deadlines for the payer's PSP to comply with the requirements as to the supply of information set out in this Part.

(5) If after the payee's PSP has taken steps under paragraph (4) in relation to a payer's PSP and the requirements as to the supply of information set out in this Part are still not regularly complied with by the payer's PSP, the payee's PSP shall either -

(a) reject any future transfers of funds from that PSP; or

(b) decide whether or not to restrict or terminate its business relationship with that provider, either with respect to services for the transfer of funds or with respect to any mutual supply of other services.

[Regulation 27 inserted by BR 2/2010 reg. 2 effective 13 January 2010; headnote and paragraph (1) amended by 2015:53 s. 47 effective 1 January 2016]

28. Requirement to report where missing or incomplete information makes transaction suspicious

The payee's PSP shall consider missing or incomplete information on the payer as a factor in assessing whether the transfer of funds, or any related transaction, is suspicious, and whether it must be reported, in accordance with the requirements of section 46 of the Proceeds of Crime Act 1997 or paragraph 1 of Part 1 of Schedule 1 of the Anti-Terrorism (Financial and Other Measures) Act 2004.

[Regulation 28 inserted by BR 2/2010 reg. 2 effective 13 January 2010]

29 Timing of verification and record keeping[783]

(1) The payee's PSP shall, before transferring funds, verify the complete information on the payee on the basis of documents, data or information obtained from a reliable and independent source.

(2) In the case of transfers of funds from an account, the complete information on a payee shall be deemed to have been verified if the payee's PSP has complied with the requirements of customer due diligence under Part 2.

(3) In the case of transfers of funds not made from an account, the payee's PSP shall verify the information on the payee only where the amount exceeds $1,000, unless the transaction is carried out in several operations that appear to be linked and together exceed $1,000.

(4) The payee's PSP shall keep for five years records of any information received on the payer and payee.

[Regulation 29 inserted by BR 2/2010 reg. 2 effective 13 January 2010; deleted and substituted by 2015:53 s. 48 effective 1 January 2016]

OBLIGATIONS ON INTERMEDIARY PAYMENT SERVICE PROVIDERS

30. Keeping information on the payer and payee with the transfer[784]

(1) Intermediary PSPs shall ensure that all information received on the payer and payee[785] that accompanies a transfer of funds is kept with the transfer. [786]

(2) Intermediary PSPs shall take reasonable measures commensurate with their risk-based policies, procedures and controls and consistent with straight-through processing, to identify transfers of funds that lack complete information for the payer or payee. [787]

(3) Where an intermediary PSP becomes aware, when receiving a transfer of funds, that information on the payer or payee is incomplete or missing, regulation 27 shall apply as if references in that regulation to "the payee's PSP" were references to the intermediary PSP. [788]

(4) In paragraph (2), "straight-through processing" means payment transactions that are conducted electronically without the need for manual intervention. [789]

[Regulation 30 inserted by BR 2/2010 reg. 2 effective 13 January 2010; amended by 2015:53 s. 49 effective 1 January 2016; Regulation 30 amended by 2018:51 s. 4 effective 10 August 2018]

31. Duties of intermediary PSP in case of technical limitations[790] [791] [792] [793] [794]

(1) This regulation applies where the payer's PSP is situated outside Bermuda and the intermediary PSP is situated within Bermuda.

(2) Where technical limitations prevent the intermediary PSP from including all required payer or payee information accompanying the cross-border funds transfer in a related domestic funds transfer, the intermediary PSP shall keep a record, for at least five years, of all the information received from the payer's PSP or another intermediary PSP. [795]

(3) In any such case, the intermediary PSP shall, within three working days of receiving a request from the payee's PSP to do so, make available to the payee's PSP all the information on the payer or payee that it has received. [796]

(4) [REVOKED by 2018:51 s. 4]

(5) [REVOKED by 2018:51 s. 4]

[Regulation 31 inserted by BR 2/2010 reg. 2 effective 13 January 2010; paragraphs (2) - (4) amended by 2015:53 s. 50 effective 1 January 2016; Regulation 31 amended by 2018:51 s. 4 effective 10 August 2018]

31A Obligations where a PSP controls both payee and payer side of a cross-border transfer of funds[797]

In the case where the PSP controls both the payee and the payer side of a transfer of funds, the PSP shall—

(a) take into account all the information from both the payee's and payer's sides in order to determine whether to make a disclosure to the Financial Intelligence Agency in accordance with section 46 of the Proceeds of Crime Act 1997 or Schedule 1 to the Anti-Terrorism (Financial and Other Measures) Act 2004; and

(b) where a determination is made that a disclosure should be made to the Financial Intelligence Agency about a transfer of funds, also make a disclosure to the relevant financial intelligence unit in any country affected by that transfer of funds, and make relevant transaction information available to the Financial Intelligence Agency.

[Regulation 31A inserted by 2018:51 s. 4 effective 10 August 2018]

OFFENCES AND PENALTIES

32. Offences

(1) A payer's PSP is guilty of an offence if he fails to comply with any requirements of -

(a) regulation 23(1) (read with regulations 24(1), 24(2) and 25 as the case requires);

(b) regulation 23(2) (read with regulations 23(3) or 23(4), as the case requires);

(c) regulation 23(5); or

(d) regulation 24(2).

(2) A payee's PSP is guilty of an offence if he fails to comply with any requirements of -

(a) regulation 26(1) (read with regulation 26(2));

(b) regulation 27(1) (read with regulation 27(2));

(c) regulation 27(3); or

(d) regulation 29.

(3) An intermediary PSP is guilty of an offence if he fails to comply with any requirements of -

(a) regulation 30;

(b) regulation 31(3);

(c) regulation 31(4); or

(d) regulation 31(5).

(4) A person guilty of an offence under paragraph (1), (2), or (3) is liable-

(a) on summary conviction, to a fine of $50,000;

(b) on conviction on indictment to a fine of $750,000 or to imprisonment for a term of two years or to both.

(5) In deciding whether a person has committed an offence under paragraph (1), (2) or (3), the court must consider whether he followed any relevant guidance that was at the time -

(a) issued by the Bermuda Monetary Authority;

(b) approved by the Minister; and

(c) published in a manner approved by the Minister as appropriate in his opinion to bring the guidance to the attention of persons likely to be affected by it.

(6) A person is not guilty of an offence under this regulation if he took all reasonable steps and exercised all due diligence to avoid committing the offence.

(7) Where a person is convicted of an offence under this regulation, he shall not also be liable to a civil fine imposed by or under any statutory provision in relation to the same matter.

[Regulation 32 inserted by BR 2/2010 reg. 2 effective 13 January 2010]

SCHEDULE (REGULATION 10(7))

SIMPLIFIED DUE DILIGENCE AND POLITICALLY EXPOSED PERSONS

1. Simplified due diligence

For the purposes of regulation 10(7), the conditions are-

(a) the product has a written contractual base;

(b) any related transaction is carried out through an account of the customer with a banking institution which is subject to these Regulations or a banking institution situated in a country or territory other than Bermuda which imposes requirements equivalent to those laid down in these Regulations;

(c) the product or related transaction is not anonymous and its nature is such that it allows for the timely application of customer due diligence measures where there is a suspicion of money laundering, terrorist financing or proliferation financing; [798]

(d) the product is within the following maximum threshold-

(i) in the case of insurance policies or savings products of a similar nature, the annual premium is no more than $1,000 or there is a single premium of no more than $ 2,500;

(ii) in the case of products which are related to the financing of physical assets where the legal and beneficial title of the assets is not transferred to the customer until the termination of the contractual relationship (whether the transaction is carried out in a single operation or in several operations which appear to be linked), the annual payments do not exceed $15,000;

(iii) in all other cases, the maximum threshold is $15,000.

(e) the benefits of the product or related transaction cannot be realised for the benefit of third parties, except in the case of death, disablement, survival to a predetermined advanced age, or similar events;

(f) in the case of products or related transactions allowing for the investment of funds in financial assets or digital assets[799] or claims, including insurance or other kinds of contingent claims-

(i) the benefits of the product or related transaction are only realisable in the long term;

(ii) the product or related transaction cannot be used as collateral; and

(iii) during the contractual relationship, no accelerated payments are made, surrender clauses used or early termination takes place.

2. Politically exposed persons

(1) For the purposes of regulation 11(6)-

(a) individuals who are or have been entrusted with prominent public functions include the following-

(i) heads of state, heads of government, ministers and deputy or assistant ministers;

(ii) members of parliaments;

(iii) members of supreme courts, of constitutional courts or of other high-level judicial bodies whose decisions are not generally subject to further appeal, except in exceptional circumstances;

(iv) members of courts of auditors or of the boards of central banks;

(v) ambassadors, chargés d'affaires and high-ranking officers in the armed forces; and

(vi) members of the administrative, management or supervisory bodies of State-owned enterprises;

(b) the categories set out in sub-paragraphs (i) to (vi) of paragraph (a) do not include middle-ranking or more junior officials;

(c) the categories set out in sub-paragraphs (i) to (v) of paragraph (a) include, where applicable, positions at domestic and international level;

(d) immediate family members include the following-

(i) a spouse;

(ii) a partner;

(iii) children and their spouses or partners; and

(iv) parents;

(e) persons known to be close associates include the following-

(i) any individual who is known to have joint beneficial ownership of a legal entity or legal arrangement, or any other close business relations, with a person referred to in regulation11(6)(a); and

(ii) any individual who has sole beneficial ownership of a legal entity or legal arrangement which is known to have been set up for the benefit of a person referred to in regulation 11(6)(a).

(2) In paragraph (1) (d), “partner” means a person who is considered by his national law as equivalent.

(3) For the purposes of regulation 11(6A)— [800]

(a) individuals who are or have been entrusted with prominent public functions include the following—

(i) the Governor, Premier, Ministers and Junior Ministers;

(ii) Members of the Legislature;

(iii) Permanent Secretaries;

(iv) Judges of the Supreme Court and Court of Appeal and Magistrates;

(v) members of the Board or senior management of the Bermuda Monetary Authority and the Bermuda Regulatory Authority;

(vi) commissioned officers in the Royal Bermuda Regiment and senior officers above the rank of Sergeant (which includes the Commissioner of Police) of the Bermuda Police Service; and

(vii) members of the Board of Directors and the Chief Executive Officer (by whatever name called) of the Bermuda Government owned or controlled enterprises or

authorities, including but not limited to— West End Development Corporation; Bermuda Land Development Corporation; Bermuda Development Agency; Bermuda Tourism Authority; Bermuda Deposit Insurance Corporation; Bermuda Gaming Commission;[801]

(b) the categories set out in subparagraphs (i) to (vi) of paragraph (a) do not include middle-ranking or more junior officials;

(c) the categories set out in subparagraphs (i) to (v) of paragraph (a) include, where applicable, positions at domestic and international levels;

(d) immediate family members include the following—

(i) a spouse;

(ii) children and their spouses; and

(iii) parents;

(e) persons known to be close associates include the following—

(i) any individual who is known to have joint beneficial ownership of a legal entity or legal arrangement, or any other close business relations, with a person referred to in regulation 11(6A)(a); and

(ii) any individual who has sole beneficial ownership of a legal entity or legal arrangement which is known to have been set up for the benefit of a person referred to in regulation 11(6A)(a).

[Schedule paragraph 2(3) inserted by 2015:53 s. 51 effective 1 January 2016; schedule paragraph 1(f) amended by 2022:2 s. 3 effective 27 February 2022; Schedule paragraph 1(c) amended by BR 70 / 2026 reg. 15 effective 22 June 2026]

Made this 24th day of November, 2008

Minister of Justice

BERMUDA

PROCEEDS OF CRIME (ANTI-MONEY LAUNDERING AND ANTI-TERRORIST FINANCING SUPERVISION AND ENFORCEMENT) ACT 2008

2008:49

[Date of Assent: 23 December 2008]

[Operative Date: 1 January 2009]

WHEREAS it is expedient to make provision for the purpose of requiring supervisory authorities to monitor certain persons and take measures to secure compliance by such persons with regulations made under the Proceeds of Crime Act 1997 and the Anti-Terrorism (Financial and Other Measures) Act 2004; to provide powers for the Bermuda Monetary Authority to discharge effectively its functions as supervisory authority for certain financial institutions, including power to impose civil penalties; to establish an appeal tribunal; to correct errors in the Anti-Terrorism (Financial and Other Measures) Act 2004 and the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008, and for connected matters:

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:

PART I- PRELIMINARY

1. Short title

This Act may be cited as the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008[802].

[Section 1 amended by 2010 : 50 s. 2 effective 25 August 2010]

2. Interpretation

(1) In this Act, unless the context otherwise requires,-

"AML/ATF regulated financial institution" has the meaning given in section 42A(1) of the Proceeds of Crime Act 1997;[803] [804] [805] [806] [807] [808] [809] [810] [811]

"AML/ATF Regulations" means the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008, and any subsequent regulations made under section 49(3) of the Proceeds of Crime Act 1997 or section 12A of the Anti-Terrorism (Financial and other Measures) Act 2004;

"appeal tribunal" means the tribunal established under section 25;

"Bermuda Gaming Commission " has the meaning given in section 6 of the Gaming Act 2014;[812] [813]

"BMA" means the Bermuda Monetary Authority established under the Bermuda Monetary Authority Act 1969;

"casino" has the meaning given in section 2 of the Gaming Act 2014;[814] [815]

"casino operator" has the meaning given in section 2 of the Gaming Act 2014;[816] [817]

"competent authority" means the BMA,[818] the Registrar, the Bermuda Gaming Commission or the Superintendent of Real Estate; [819] [820] [821] [822][823]

"dealers in high value goods" means jewellery dealers; car, boat and motorcycle dealers; precious metal and stone dealers; antique dealers and auctioneers.[824]

"designated professional body" means a professional body designated by the Minister under section 4;

"direction" means a direction issued by the Minister by order under section 49A of the Proceeds of Crime Act 1997 or section 12B of the Anti-Terrorism (Financial and Other Measures) Act 2004;[825]

"FIA" means the Financial Intelligence Agency established by section 3 of the Financial Intelligence Agency Act 2007;[826]

"financial group" has the meaning given in section 42A(1) of the Proceeds of Crime Act 1997;[827]

"firm" means a professional company, association or partnership of—

(a) barristers in independent practice and the employees, servants and agents of such company, association or partnership of barristers, including a barrister in independent practice operating as a sole proprietor and his employees, servants and agents; or

(b) accountants in independent practice who are members of the [828]Chartered Professional Accountants of Bermuda and the employees, servants and agents of such company, association or partnership of accountants, including an accountant in independent practice who is a member of the [829]Chartered Professional Accountants of Bermuda operating as a sole proprietor and his employees, servants and agents;[830]

"insurer" means a person, other than an insurer referred to in paragraph (c) of the definition "AML/ATF regulated financial institution", that is carrying on insurance business in Bermuda, as defined in section 1 of the Insurance Act 1978;[831]

"international sanctions" has the meaning given in section 5(1B); [832]

"license condition" means the condition attached to a license issued by the Minister under section 49I of the Proceeds of Crime Act 1997 or section 12K of the Anti-Terrorism (Financial and Other Measures) Act 2004;[833]

"licensed or registered AML/ATF regulated financial institution" means an AML/ ATF regulated financial institution that is for the time being licensed or registered under any of the regulatory Acts;[834] [835]

"Minister" means the minister responsible for justice;

"non-licensed AML/ATF regulated financial institution" means an AML/ATF regulated financial institution which is not a licensed AML/ATF regulated financial institution;[836]

"officer", except in sections 16(9) and 19(3), means —

(a) a duly authorised officer of a competent authority, and includes a member of its staff and an agent of a competent authority; or

(b) the supervisor or other member of the staff of a designated professional body;[837]

"professional body" means any body which regulates any trade, profession, business or description of employment or which carries out the duties in section 5 in relation to that trade, profession, business or description of employment;[838]

“real estate agent” means a person licensed under the Real Estate Brokers’ Licensing Act 2017 as an agent; [839] [840]

“real estate broker” means a person licensed under the Real Estate Brokers’ Licensing Act 2017 as a broker; [841]

“Registrar” means the Registrar of Companies appointed under section 3 of the Companies Act 1981; [842]

“regulated non-financial business or profession” means a non-financial business or profession specified in Schedule 2;[843]

“regulated professional firm” means a firm that, by way of business, provides legal or accountancy services to other persons when participating in financial or real property transactions concerning specified activities, and for the purposes of this definition, a firm participates in a transaction by assisting in the planning or execution of the transaction or otherwise acting for or on behalf of a client in the transaction;[844]

"regulatory Acts" means-

(a) Insurance Act 1978;

(b) Credit Unions Act 2010[845];

(c) Banks and Deposit Companies Act 1999;

(d) Trusts (Regulation of Trust Business) Act 2001;

(e) Investment Business Act 2003;

(f) Investment Funds Act 2006;[846]

(g) Money Service Business Act 2016[847]; and[848]

(h) Corporate Service Provider Business Act 2012;[849]

(i) Digital Asset Business Act 2018;[850] [851]

(j) Fund Administration Provider Business Act 2019;[852]

"relevant person" means a person to whom the AML/ATF Regulations or a direction or license condition applies;[853]

“specified activities” means activities specified in section 49(5) of the Proceeds of Crime Act 1997.[854]

“Superintendent of Real Estate” shall have the same meaning as in section 1 of the Real Estate Brokers’ Licensing Act 2017; [855] [856]

"supervisory authority" in relation to any relevant person, means the supervisory authority specified for such a person by section 3.

“terrorist financing” means an offence under section 5, 6, 7 or 8 of the Anti-Terrorism (Financial and Other Measures) Act 2004;[857]

(2) The Minister may, after consulting the National Anti-Money Laundering Committee, by order amend the definitions of AML/ATF regulated financial institution and financial group[858].

[Section 2 subsection (1) amended by 2009:50 s. 10 effective 15 January 2010; subsection (1) amended by 2010:50 s. 3 effective 25 August 2010; subsection (1) amended by 2010:43 s. 47 effective 1 January 2011; subsection (1) definitions "AML/ATF regulated financial institution" and "regulatory Acts" amended by 2012:35 s. 67 effective 1 January 2013; subsection (1) amended by 2014:8 s. 16 effective 11 April 2014; subsection (1) definitions "Bermuda Gaming Commission"[859], "casino" and "casino operator" inserted and "competent authority" amended by 2015:35 s. 18 effective 6 November 2015; subsection (1) "competent authority" amended and "dealers in high value goods", "real estate agent" and "Superintendent of Real Estate" inserted by 2016:45 s. 9 effective 5 August 2016; subsection (1) "AML/ATF regulated financial institution" and "regulatory Acts" amended by 2016:36 s. 71 effective 31 January 2017; subsection (1) "terrorist financing" inserted and "AML/ATF regulated financial institution" amended by 2017:10 s. 4 effective 24 March 2017; subsection (1) "real estate agent" and "Superintendent of Real Estate" amended and "real estate broker" inserted by 2017:28 s. 55 & Sch. 3 effective 2 October 2017; subsection (1) definition "AML/ATF regulated financial institution" amended by 2018:5 s. 11 effective 21 March 2018; subsection (1) definition "regulatory Acts" amended, and "international sanctions" inserted by 2018:48 s. 2 effective 10 August 2018; subsection (1) definition "financial group" inserted, and subsection (2) amended by 2018:51 s. 3 effective 10 August 2018; subsection (1) definition "AML/ATF regulated financial institution" deleted and substituted by 2018:49 s. 3 effective 7 September 2018; "regulatory Acts" inserted subsection 2(1)(j) by 2019:32 Sch. 2 effective 31 December 2019; amended by 2020:36 Sch. effective 1 November 2020]

PART 2 - SUPERVISION

3. Supervisory authorities

(1) The following bodies are supervisory authorities for the purposes of this Act-

(a) the BMA for AML/ATF regulated financial institutions, financial groups[860] and insurers[861] that carry on business in or from Bermuda;

(aa) the Superintendent of Real Estate for real estate brokers and real estate agents; [862] [863]

(b) a designated professional body for the relevant persons regulated by it;[864] [865]

(c) the Registrar for dealers in high value goods;[866] [867] [868]

(d) the Bermuda Gaming Commission for casino operators. [869][870]

(2) Where there is more than one supervisory authority for a regulated person, financial group[871] or entity, the supervisory authorities may agree that one of them will act as the supervisory authority for that person or entity.[872]

(3) Where an agreement has been made under subsection (2), the authority which has agreed to act as the supervisory authority must notify the regulated person, financial group[873] or entity or publish the agreement in such manner as it considers appropriate.[874]

(4) Where no agreement has been made under subsection (2), the supervisory authorities for a regulated person, financial groups[875] or entity must cooperate in the performance of their functions under the Act.[876]

(5) Where individual persons or entities within a group structure are subject to supervision under this Act by different supervisory authorities, the supervisory authorities may cooperate with each other in the performance of their functions under the Act and shall at least consider any directives or recommendations of other authorities, made in relation to other persons or entities in the group, in carrying out their supervisory responsibilities.[877]

(6) Notwithstanding subsection (5), supervisory authorities may cooperate and coordinate with each other to achieve consistency in supervisory practice and to generally enhance the effectiveness of their performance of their functions under this Act.[878]

[Section 3(a) amended by 2009:50 s. 11 effective 15 January 2010; Section 3 amended by 2010:50 s. 4 effective 25 August 2010; subsection (1) amended by 2015:35 s. 18 effective 6 November 2015; Section 3 subsection (1)(aa) inserted by 2016:45 s. 9A effective 5 August 2016; Section 3(a) amended by 2009:50 s. 11 effective 15 January 2010; Section 3 amended by 2010:50 s. 4 effective 25 August 2010; subsection (1) amended by 2015:35 s. 18 effective 6 November 2015; subsection (1)(aa) inserted by 2016:45 s. 9A effective 5 August 2016; subsection (1)(aa) amended by 2017:28 s. 55 & Sch. 3 effective 2 October 2017; subsection (6) inserted by 2018:5 s. 4 effective 21 March 2018; Section 3 amended by 2018:51 s. 3 effective 10 August 2018; amended by 2020:36 Sch. effective 1 November 2020]

3A. Amendment of Schedule 2[879]

The Minister may, by Order subject to the affirmative resolution procedure, amend Schedule 2 by—

(a) adding or deleting, in column 1 of the Schedule, a non-financial business or profession or class of non-financial business or profession; and

(b) stating, in column 2 of the Schedule, whether the fit and proper test in section 11A must be met in respect of the regulated non-financial business or profession or class of non-financial business or profession designated in column 1.

[Section 3A inserted by 2010 : 50 s. 5 effective 25 August 2010]

4. Designated professional bodies

(1) The Minister may by order designate a professional body as a supervisory authority for the purposes of section 3(1)(b).[880]

(2) The Minister must not designate a professional body unless satisfied that it is able to discharge effectively the duties specified under section 5.

[Section 4 amended by 2010 : 50 s. 6 effective 25 August 2010]

5. Duties of supervisory authorities

(1) A supervisory authority must effectively monitor, on a risk-sensitive basis, [881] the relevant persons and financial groups[882] for whom it is the supervisory authority and take necessary measures for the purpose of securing compliance by such persons with the AML/ATF Regulations[883], directions or license conditions[884].

(1A) A supervisory authority must effectively monitor, on a risk-sensitive basis, [885] the relevant persons and financial groups[886] for whom it is the supervisory authority, and take effective measures for the purpose of securing their compliance with their international sanctions obligations. [887]

(1B) In this section—[888]

"international sanctions" means those sanctions imposed by every Order (made by the Privy Council as a United Kingdom Order in Council) that is—

(a) listed in Schedule 1 to the International Sanctions Regulations 2013, whether or not it has been extended to Bermuda; or

(b) extended to Bermuda, enabling effect to be given to any international obligation of the United Kingdom relating to economic or other sanctions imposed on any country, organisation, person or group of persons,

and any amendments made from time to time to such Order.

(2) A supervisory authority must issue from time to time guidance as to compliance with-

(a) the AML/ATF Regulations;

(b) Part V of the Proceeds of Crime Act 1997;

(c) paragraph 1 of Schedule 1 to the Anti-Terrorism (Financial and Other Measures) Act 2004; [889]

(d) directions; and[890] [891] [892]

(e) international sanctions, [893]

and a supervisory authority must update the guidance to take account of any amendments to the AML/ATF Regulations and other relevant legislation, as well as developments in best practice in compliance matters. [894]

(2A) Notwithstanding subsection (2), a supervisory authority may also issue from time to time rules, codes of conduct or statements of principles as to compliance with the matters referred to in paragraphs (a) to (e) of subsection (2). [895]

(3) A supervisory authority must, as soon as practicable after the end of each of its financial years,-

(a) make a report on its activities under this Act in that year to the Minister; and

(b) publish the report in such manner as it thinks appropriate.

(4) A supervisory authority which, in the course of carrying out any of its functions, knows, suspects or has reasonable grounds to suspect[896] that a person is engaging, or has engaged, in money laundering or terrorist financing must as soon as practicable inform the Financial Intelligence Agency.

(5) A disclosure made under subsection (4) is not to be taken to breach any restriction, however imposed, on the disclosure of information.

[Section 5 subsection (1) amended by 2009:50 s. 12 effective 15 January 2010; Section 5 subsection (2) amended by 2009:50 s. 12 effective 15 January 2010; subsection (4) amended by 2017:10 s. 4 effective 24 March 2017; Section 5 subsections (1A) and (1B) inserted by 2018:5 s. 4 effective 21 March 2018; Section 5 amended by 2018:48 s. 3 effective 10 August 2018; Section 5 amended by 2018:51 s. 3 effective 10 August 2018; Section 5 amended by 2025:20 s. 3 effective 20 October 2025]

PART 3 - SUPERVISION BY COMPETENT AUTHORITIES[897]

CHAPTER 1 - FUNCTIONS OF COMPETENT AUTHORITIES

6. Functions of BMA

(1) The BMA has the functions conferred on it by section 5 in relation to AML/ATF regulated financial institutions, financial groups[898] and insurers[899].

(2) For the avoidance of doubt, nothing in this Act precludes the BMA from exercising its supervisory powers under the Bermuda Monetary Authority Act 1969 and the regulatory Acts[900] over AML/ATF regulated financial institutions which are licensed under the regulatory Acts, and financial groups, [901] in relation to a failure to comply with the AML/ATF Regulations or with a direction or license condition.[902]

[Section 6 amended by 2009:50 s. 13 effective 15 January 2010; subsection (2) amended by 2010:50 s. 9 effective 25 August 2010; Section 6 amended by 2018:51 s. 3 effective 10 August 2018]

6A. Functions of Other Competent Authorities[903] [904] [905] [906]

(1) The Bermuda Gaming Commission has the functions conferred on it by section 5, and under the Gaming Act 2014, in relation to casino operators. [907]

(2) The Registrar has the functions conferred on him by section 5 in relation to dealers in high value goods.[908]

(3) The Superintendent of Real Estate has the functions conferred upon him by section 5, in relation to real estate brokers and real estate agents[909], and under the Real Estate Brokers' Licensing Act 2017. [910] [911]

[Section 6A inserted by 2010:50 s. 10 effective 25 August 2010; repealed and substituted by 2015:35 s. 18 effective 6 November 2015; head-note amended and subsection (3) inserted by 2016:45 s. 9A effective 5 August 2016; subsection (3) amended by 2017:28 s. 55 & Sch. 3 effective 2 October 2017; amended by 2020:36 Sch. effective 1 November 2020]

7. Statement of principles

(1) A competent authority must, as soon as practicable after the coming into force of this Act, publish in such manner as it thinks fit a statement of principles in accordance with which it is acting or proposing to act-

(a) in exercising its power to cancel the registration of a person under section 12;

(b) in exercising its powers in relation to persons or entities over which it has supervisory duties under section 6 or 6A [912] [913] to obtain information, to require the attendance of persons and to require production of documents under sections 16 to 18;

(c) in exercising its powers-

(i) to impose penalties under section 20 or take other disciplinary measures set forth in Chapter 4 of Part 3[914] against persons or entities over which it has supervisory duties under section 6 or 6A[915]; and

(ii) to publish decisions to do so under section 21; and

(d) in applying any amounts paid to it by way of penalties under Chapter 4 in accordance with the duty in section 24(3).

(1A) The statement of principles published by a competent authority under subsection (1) in relation to the exercise of the competent authority's powers under that subsection shall apply to a financial group. [916]

(2) If a competent authority makes a material change to the principles it must publish a statement of the change or the revised statement of principles in the same manner as it published the statement under subsection (1).

[Section 7 subsection (1) amended by 2009:50 s. 14 effective 15 January 2010; subsection (1) amended by 2010:50 s. 8 effective 25 August 2010; Section 7 amended by 2010:50 s. 11 effective 25 August 2010; Section 7 subsection (1)(c) amended by 2018:48 s. 4 effective 10 August 2018; Section 7 subsection (1A) inserted by 2018:51 s. 3 effective 10 August 2018]

8. Duty to maintain register

(1) For the purpose of discharging its duties under section 5, a competent authority must establish and maintain in such form as it may determine a register of the persons and entities over which it has supervisory duties under section 6 or 6A, comprising—

(a) in the case of the BMA—

(i) all licensed AML/ATF regulated financial institutions;

(ii) all insurers;

(iii) all non-licensed AML/ATF regulated financial institutions which are currently registered under Chapter 2; [917]

(iv) all financial groups; and[918]

(b) in the case of—[919] [920] [921]

(i) the Bermuda Gaming Commission, casino operators; [922]

(ia) the Superintendent of Real Estate, real estate brokers, real estate agents[923]; [924]

(ii) the Registrar, registered dealers in high value goods.[925]

(2) A competent authority must, from time to time, publish the register in such manner as it considers appropriate.

[Section 8 subsection (1) amended by 2009:50 s. 15 effective 15 January 2010; subsection (2) amended by 2010:50 s. 8 effective 25 August 2010; subsection (1) amended by 2010:50 s. 12 effective 25 August 2010; subsection (1)(b) repealed and substituted by 2015:35 s. 18 effective 6 November 2015; subsection (1)(b) amended by 2016:45 s. 9A effective 5 August 2016; subsection (1)(b)(ia) amended by 2017:28 s. 55 & Sch. 3 effective 2 October 2017; subsection (1)(a)(iv) inserted by 2018:51 s. 3 effective 10 August 2018; amended by 2020:36 Sch. effective 1 November 2020]

CHAPTER 2 - REGISTRATION OF NON-LICENSED AML/ATF REGULATED FINANCIAL INSTITUTIONS AND REGULATED NON-FINANCIAL BUSINESSES OR PROFESSIONS[926]

9. Requirement for Registration[927]

(1) No non-licensed AML/ATF regulated financial institution or regulated non-financial business or profession shall carry on business unless the person or entity has applied to the competent authority that has supervisory duties over it and has been included in the register.

(2) Notwithstanding subsection (1) a regulated non-financial business or profession may carry on business without being registered as required by that subsection for a period of 6 months from the day that it is added to Schedule 2 by an Order of the Minister issued under section 3A.

(3) Any dealer in high value goods registered under this section who accepts cash payments equal to or in excess of BMD $7,500 must make a disclosure to the FIA.[928]

(4) A person who carries on business contrary to subsection (1) commits an offence and shall be liable—[929]

(a) on summary conviction, to a fine of $100,000 or imprisonment for two years or to both;

(b) on conviction on indictment, to a fine of $250,000 or imprisonment for five years or to both.

[Section 9 repealed and replaced by 2010:50 s. 14 effective 25 August 2010; subsection (3) inserted by 2016:45 s. 10 effective 5 August 2016; subsection (4) inserted by 2018:48 s. 5 effective 10 August 2018]

10. Application for registration

(1) An application to a competent authority for registration must be made in accordance with this section.

(2) An application must be in such form and provide such information as the competent authority may specify.

(3) The information which a competent authority may specify shall include-

(a) the applicant's name and (if different) the name of the business;

(b) the applicant's address;

(c) the nature of the business;

(d) the name of the reporting officer[930] appointed for the purposes of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008; and

(e) in the case of a person or entity designated in Schedule 2 as subject to the fit and proper test or non licensed AML/ATF regulated financial institutions[931], information as to whether persons associated with the person or entity are fit and proper persons under section 11A.[932]

(4) At any time after receiving an application and before determining it, a competent authority may require the applicant to provide, within 28 days beginning with the date of being requested to do so, such further information as it reasonably considers necessary to enable it to determine the application.

(5) If at any time after the applicant has provided the competent authority with any information under subsection (2) or (4)-

(a) there is a material change affecting any matter contained in that information; or

(b) it becomes apparent to that person that the information contains a significant inaccuracy,

it must provide the competent authority with details of the change or, as the case may be, a correction of the inaccuracy within 28 days beginning with the date of the occurrence of the change (or the discovery of the inaccuracy) or within such later time as may be agreed with the competent authority.

(6) The obligation in subsection (5) applies also to material changes or significant inaccuracies affecting any matter contained in any supplementary information provided pursuant to that subsection.

(7) Any information to be provided to a competent authority under this section shall be in such form or verified in such manner as it may specify.

[Section 10 amended by 2010:50 s. 8 effective 25 August 2010; subsection (3) amended by 2010:50 s. 15 effective 25 August 2010; subsection (3)(d) amended by 2015:53 s. 17 effective 1 January 2016; subsection (3)(e) amended by 2018:48 s. 6 effective 10 August 2018]

11. Determination of application

(1) A competent authority[933] may refuse to register an applicant only if-

(a) any requirement of, or imposed under, section 10 has not been complied with;

(b) it appears to the competent authority[934] that any information provided pursuant to section 10 is false or misleading in a material particular;

(c) the applicant has failed to pay the application fee imposed under section 14; or

(d) in the case of an applicant designated in Schedule 2 as subject to the fit and proper test that is a non-licensed AML/ATF regulated financial institution[935], a person associated with the applicant is not a fit and proper person under section 11A.[936]

(2) A competent authority must, within three months beginning either with the date on which it receives the application or, where applicable, with the date on which it receives any further information required under section 10(4), give the applicant notice of-

(a) its decision to register the applicant; or

(b) the following matters-

(i) its decision not to register the applicant;

(ii) its reasons for its decision; and

(iii) the right to appeal to the appeal tribunal.

(3) A competent authority must include the applicant in the register as soon as practicable after notifying him of its decision to do so.

(4) A person or entity whose name is included in the register must not, solely by virtue of such inclusion, represent to the public at large that it is authorised, licensed, registered or otherwise regulated by a competent authority.

[Section 11 amended by 2010:50 s. 8 effective 25 August 2010; amended by 2010:50 s. 16 effective 25 August 2010; subsection (1)(d) amended by 2018:48 s. 7 effective 10 August 2018]

11A. Fit and proper test [937]

(1) The following persons associated with a regulated non-financial business or profession, that is designated in Schedule 2 as subject to the fit and proper test or a non-licensed AML/ATF regulated financial institution[938], must be fit and proper persons—

(a) a person who effectively directs or controls the business of the applicant, including a director, controller or senior executive;

(aa) compliance officers designated in accordance with regulation 18A of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008; and[939]

(b) a person carrying out, in relation to the business or profession or financial institution[940], the functions of a reporting officer described in regulation 17 of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008.

(2) In determining whether a person is a fit and proper person to hold any particular position, regard shall be had to his probity, to his competence and soundness of judgement for fulfilling the responsibilities of that position, to the diligence with which he is fulfilling or likely to fulfil those responsibilities and to whether the interests of the non-licensed AML/ATF regulated financial institution or[941] regulated non-financial business or profession are, or are likely to be, in any way threatened by his holding that position.

(3) Without prejudice to the generality of the foregoing provisions, regard may be had to the previous conduct and activities in business or financial matters of the person in question and, in particular, to any evidence that he has—

(a) committed an offence involving fraud or other dishonesty or violence;

(b) contravened any provision made by or under any enactment appearing to the competent authority[942] to be designed for protecting members of the public against financial loss due to—

(i) dishonesty, incompetence or malpractice by persons concerned in the provision of services by the non-financial business or profession or the management of companies; or

(ii) the conduct of discharged or undischarged bankrupts;

(c) engaged in any business practices appearing to the competent authority[943] to be deceitful or oppressive or otherwise improper (whether lawful or not) or which otherwise reflect discredit on his method of conducting business; and

(d) engaged in or has been associated with any other business practices or otherwise conducted himself in such a way as to cast doubt on his competence and soundness of judgement.

[Section 11A inserted by 2010:50 s. 17 effective 25 August 2010; Section 11A amended by 2018:5 s. 4 effective 21 March 2018; Section 11A amended by 2018:48 s. 8 effective 10 August 2018]

11B. Meaning of "director", "controller" and "senior executive"[944]

(1) In section 11A, "director", "controller" and "senior executive" shall be construed in accordance with the provisions of this section.

(2) "Director" in relation to a non-licensed AML/ATF regulated financial institution or a[945] regulated non-financial business or profession, includes any person who occupies the position of director, by whatever name called.

(3) "Controller" in relation to a non-licensed AML/ATF regulated financial institution or a[946] regulated non-financial business or profession, means—

(a) in the case of a non-licensed AML/ATF regulated financial institution or a[947] regulated non-financial business or profession which is a company, a managing director of the company, or of its parent entity;

(b) in the case of a non-licensed AML/ATF regulated financial institution or a[948] regulated non-financial business or profession which is a firm—

(i) if a partnership, the managing partner; or

(ii) if an unincorporated association, a member of the firm;

(c) in the case of a non-licensed AML/ATF regulated financial institution or a[949] regulated non-financial business or profession which is neither a company nor a firm, a sole proprietor;

(d) a chief executive of the non-licensed AML/ATF regulated financial institution or[950] regulated non-financial business or profession or of its parent entity; and

(e) a person who—

(i) holds ten percent or more of the shares in the non-licensed AML/ATF regulated financial institution or[951] regulated non-financial business or profession which is a company, or in its parent entity;

(ii) is entitled to exercise or control the exercise of ten percent or more of the voting power in the non-licensed AML/ATF regulated financial institution or[952] regulated non-financial business or profession or in the parent entity; or

(iii) is able to exercise a significant influence over the management of the non-licensed AML/ATF regulated financial institution or[953]regulated non-financial business or profession or the parent entity by virtue of the voting power in the regulated non-financial business or profession or the parent entity; and

(f) a person in accordance with whose directions or instructions the following persons are accustomed to act—

(i) the directors of the non-licensed AML/ATF regulated financial institution or[954] regulated non-financial business or profession;

(ii) the directors of the parent entity of the non-licensed AML/ATF regulated financial institution or[955] regulated non-financial business or profession; and

(iii) persons who are controllers by virtue of paragraph (e).

(4) "Senior executive", in relation to a non-licensed AML/ATF regulated financial institution or a[956] regulated non-financial business or profession, means a person who, under the immediate authority of a director or chief executive of the non-licensed AML/ATF regulated financial institution or[957] regulated non-financial business or profession—

(a) exercises managerial functions; or

(b) is responsible for maintaining accounts or other records of the non-licensed AML/ATF regulated financial institution or[958] regulated non-financial business or profession.

[Section 11B inserted by 2010:50 s. 17 effective 25 August 2010; Section 11B amended by 2018:48 s. 9 effective 10 August 2018]

12. Cancellation of registration

A competent authority may cancel the registration of a non-licensed AML/ATF regulated financial institution or regulated non-financial business or profession registered by the authority under section 11[959] if-

(a) at any time after registration, it appears to the competent authority that it would have had grounds to refuse registration under section 11(1)(b) or (d)[960];

(b) the person or entity[961] is in breach of a material provision of the AML/ATF regulations, directions or licence conditions[962];

(c) the person or entity[963] has failed to comply with any obligation imposed by or under this Act; or

(d) the competent authority[964] is satisfied that the person or entity has ceased to carry on business.

[Section 12 amended by 2010:50 s. 18 effective 25 August 2010; amended by 2018:48 s. 10 effective 10 August 2018]

13. Procedure for cancelling registration

(1) Subject to subsection (4), where a competent authority proposes to cancel the registration of a non-licensed AML/ATF regulated financial institution or regulated non-financial business or profession[965] it must give notice to the registered person or entity[966] (a "warning notice") indicating-

(a) the proposed date from which the cancellation is to take effect;

(b) the reasons for its decision; and

(c) the right to make representations within a specified period (which must not be less than 28 days).

(2) After considering any representations made by the registered person or entity, a competent authority must decide within three months of the end of the period specified in subsection (1)(c) whether to cancel the registered person's or entity's[967] registration.

(3) The competent authority must give the registered person or entity[968] notice (a "decision notice")-

(a) of the decision not to cancel its registration; or

(b) of the following matters-

(i) the decision to cancel its registration;

(ii) the reasons for that decision; and

(iii) the right to appeal to the appeal tribunal.

(4) Subsections (1) to (3) and section 15 do not apply if the cancellation is under section 12(d) and either-

(a) the registered person or entity confirms, in such manner as the competent authority[969] may determine, that it-

(i) has ceased to carry on business; and

(ii) has no objection to the cancellation; or

(b) the registered person or entity[970] is a company which has been struck off the register of companies by the Registrar of Companies under section 261 of the Companies Act 1981 (Registrar may strike defunct company off register).

(5) The competent authority shall publish in the Gazette, in such form as it thinks fit, notice of every cancellation of a registration of a non-licensed AML/ATF regulated financial institution or regulated non-financial business or profession under this Act.[971]

[Section 13 amended by 2010:50 s. 8 effective 25 August 2010; amended by 2010:50 s. 19 effective 25 August 2010; amended by 2025:20 s. 3 effective 20 October 2025]

13A. Power to issue directives - Repealed[972][973]

[REPEALED by 2018:48 s. 11]

[Section 13A repealed by 2018:48 s. 11 effective 10 August 2018]

14. Fees

(1) An application for registration under section 10 must be accompanied by the application fee.

(2) An applicant for registration must pay to the competent authority to which it applies[974] an annual fee-

(a) on registration; and

(b) on or before 31 March[975] in every year following the year of registration.

(2A) Where a registered person fails to pay the annual prescribed fee, as provided in subsection (4)(a), it shall pay in addition to such fee a late penalty fee of an amount equal to ten per cent of the fee due for every month or part thereof during which the fee remains unpaid.[976]

(3) [REPEALED by 2011:48 s. 3][977]

(4) The application fee and annual fee shall be— [978]

(a) in relation to non-licensed AML/ATF regulated financial institutions, of such amounts as may be prescribed under section 20B of, and the Fourth Schedule to, the Bermuda Monetary Authority Act 1969; and

(b) in relation to dealers in high value goods, of such amounts as may be prescribed pursuant to section 6 of the Registrar of Companies (Supervision and Regulation) Act 2020.[979]

(5) A competent authority may recover any fee payable under this Act as a debt owing to it in any court of competent jurisdiction.

[Section 14 subsection (5) amended by 2010:50 s. 8 effective 25 August 2010; Section 14 amended by 2010:50 s. 21 effective 25 August 2010; Section 14 amended by 2011:48 s. 3 effective 31 December 2011; Section 14 subsection (2A) inserted by 2018:48 s. 12 effective 10 August 2018; amended by 2020:36 Sch. effective 1 November 2020]

15. Appeals: registration

(1) A person or entity[980] may appeal a decision by a competent authority-

(a) not to register an applicant in the register maintained under section 8;

(b) to cancel the registration of a non-licensed AML/ATF regulated financial institution or regulated non-financial business or profession[981] under section 12.

(2) An appeal from a decision by a competent authority shall lie to the appeal tribunal.

(3) A decision to cancel the registration of a non-licensed AML/ATF regulated financial institution or regulated non-financial business or profession shall not have effect—

(a) until the end of the period within which the appeal can be brought; and

(b) if such an appeal is brought, until it is determined or withdrawn.

[Section 15 amended by 2010:50 s. 8 effective 25 August 2010; amended by 2010:50 s. 22 effective 25 August 2010]

CHAPTER 3 - POWERS OF COMPETENT AUTHORITIES[982]

16. Power to require information and documents

(1) An officer of a competent authority may, by notice in writing to a person, financial group, or entity[983] over which the competent authority has supervisory duties under section 6 or 6A or to a person connected with that person, financial group, or entity[984], require the person, financial group, or entity[985] or connected person, as the case may be[986]—

(a) to provide such information as may be specified in the notice;

(b) to produce such recorded information as may be so specified; or

(c) to attend before an officer at a time and place specified in the notice and answer questions.

(2) For the purposes of subsection (1), a person is connected with a person, financial group, or entity[987] [988] [989] if he is, or has at any time been, in relation to the person, financial group, or entity,[990] [991] a person specified in subsection (9).

(3) An officer may exercise powers under this section only if the information sought to be obtained as a result is reasonably required in connection with the exercise by the competent authority of its functions under this Act.

(4) Where an officer requires information to be provided or produced pursuant to subsection (1)(a) or (b)-

(a) the notice must set out the reasons why the officer requires the information to be provided or produced; and

(b) such information must be provided or produced-

(i) before the end of such reasonable period as may be specified in the notice; and

(ii) at such place as may be so specified.

(5) In relation to information recorded otherwise than in legible form, the power to require production of it includes a power to require the production of a copy of it in legible form or in a form from which it can readily be produced in visible and legible form.

(6) The production of a document does not affect any lien which a person has on the document.

(7) A person, financial group, or entity[992] [993] shall not be required under this section to provide or produce information or to answer questions which the person, financial group, or entity[994] [995] would be entitled to refuse to provide, produce or answer on grounds of legal professional privilege in proceedings in the Supreme Court, except that an attorney may be required to provide the name and address of his client.

(8) Section 41E of the Proceeds of Crime Act 1997 (statements made in response to customer information orders may not be used in criminal proceedings except in certain circumstances) applies with appropriate modifications to statements made by a person, financial group, or entity[996] in compliance with a requirement imposed on him under subsection (1) (c) as it applies to statements made by a relevant institution in response to a customer information order.

(9) For the purposes of subsection (2), the following are connected persons-

(a) if the person [997] [998] is a body corporate, a person who is-

(i) an officer or manager of the body corporate or of a holding company of the body corporate;

(ii) an employee of the body corporate;

(iii) an agent of the body corporate or of a holding company of the body corporate;

(b) if the entity[999] is a partnership, a person who is a member, manager, employee or agent of the partnership;

(c) if the entity[1000] is an unincorporated association of persons which is not a partnership, a person who is an officer, manager, employee or agent of the unincorporated association.

(d) if the person[1001] is an individual, a person who is an employee or agent of that individual.

(10) In subsection (9)-

"holding company" has the meaning given in section 86 of the Companies Act 1981;

"officer" includes a director, secretary or senior executive of the body corporate partnership [1002] or unincorporated body, regardless of job title.

[Section 16 amended by 2009:50 s. 16 effective 15 January 2010; amended by 2010:50 s. 8 effective 25 August 2010; amended by 2010:50 s. 24 effective 25 August 2010; amended by 2018:51 s. 3 effective 10 August 2018]

17. Site visits

(1) Subsection (2) applies where an officer has reasonable cause to believe that any premises is being used in connection with the business of a person, financial group, or entity[1003] that is supervised under section 6 or 6A by the competent authority by which that officer is employed.[1004].

(2) The officer may at any reasonable time, on producing evidence of his authority,-

(a) enter the premises;

(b) inspect the premises;

(c) observe the carrying on of business;

(d) inspect any recorded information found on the premises and take copies of, or make extracts from, any such information;

(e) require any person on the premises to provide an explanation of any recorded information or to state where it may be found.

(3) An officer may exercise powers under this section only if the information sought to be obtained as a result is reasonably required in connection with the exercise by the competent authority of its functions under this Act.

[Section 17 subsection (1) amended by 2009:50 s. 17 effective 15 January 2010; subsection (3) amended by 2010:50 s. 8 effective 25 August 2010; subsection (1) amended by 2010:50 s. 25 effective 25 August 2010; Section 17 amended by 2018:51 s. 3 effective 10 August 2018]

18. Entry to premises under warrant

(1) A magistrate may issue a warrant under this subsection if satisfied on information on oath given by an officer that there are reasonable grounds for believing that condition A, B or C is satisfied.

(2) Condition A is-

(a) that there is on the premises specified in the warrant recorded information in relation to which a requirement could be imposed under section 16(1) (b); and

(b) that if such a requirement were to be imposed -

(i) it would not be complied with; or

(ii) the recorded information to which it relates would be removed, tampered with or destroyed.

(3) Condition B is-

(a) that a person on whom a requirement has been imposed under section 16(1)(b) has failed to comply with it (whether wholly or in part); and

(b) that there is on the premises specified in the warrant recorded information which has been required to be produced.

(4) Condition C is-

(a) that an officer has been obstructed in the exercise of a power under section 17(2); and

(b) that there is on the premises specified in the warrant recorded information which could be inspected under section 17(2)(d).

(5) A magistrate may issue a warrant under this subsection if satisfied on information on oath given by an officer that there are reasonable grounds for suspecting that-

(a) an offence under this Act has been, is being, or is about to be, committed by a person, financial group, or entity[1005] that is supervised under section 6 or 6A by the competent authority by which the officer is employed[1006] [1007]; and

(b) there is on the premises specified in the warrant recorded information relevant to whether that offence has been, is being, or is about to be, committed.

(6) A warrant issued under subsection (1) or (5) shall authorise any police officer not below the rank of inspector together with one or more officers of the competent authority and such other persons as the circumstances may require-

(a) to enter the premises specified in the warrant;

(b) to search the premises and take possession of any recorded information or anything appearing to be recorded information specified in the warrant or to take, in relation to any such recorded information, any other steps which may appear to be necessary for preserving it or preventing interference with it;

(c) to take copies of, or extracts from, any recorded information specified in the warrant;

(d) to require any person on the premises to provide an explanation of any recorded information appearing to be of the kind specified in the warrant or to state where it may be found;

(e) to use such force as may reasonably be necessary.

[Section 18 subsection (5)(a) amended by 2009:50 s. 18 effective 15 January 2010; subsection (6) amended by 2010:50 s. 8 effective 25 August 2010; subsection (5)(a) amended by 2010:50 s. 26 effective 25 August 2010; Section 18 amended by 2018:51 s. 3 effective 10 August 2018]

18A. Part 3 Powers[1008][1009]

The powers provided in Part 3, Chapter 3 may be exercised by the competent authority to enable it to establish whether a regulated non-financial business or profession, specified in Schedule 2, is carrying on business contrary to section 9.

[Section 18A inserted by 2016:45 s. 11 effective 5 August 2016; Section 18A repealed and replaced by 2017:35 s. 5 effective 3 November 2017]

19. Failure to comply with information requirement

(1) If, on an application made by a competent authority it appears to the Supreme Court that a person, financial group, or entity[1010] [1011] (the "information defaulter") has failed to do something that the person, financial group, or entity[1012] [1013] was required to do under section 16(1), the Court may make an order under this section.

(2) An order under this section may require the information defaulter-

(a) to do the thing that he failed to do within such period as may be specified in the order;

(b) otherwise to take such steps to remedy the consequences of the failure as may be so specified.

(3) If the information defaulter is a body corporate, a partnership or an unincorporated body of persons which is not a partnership, the order may require any officer of the body corporate, partnership or unincorporated body, who is (wholly or partly) responsible for the failure to meet such costs of the application as are specified in the order.

(4) In subsection (3), "officer" includes a director, secretary or senior executive of the body corporate, partnership or unincorporated body, regardless of job title.

[Section 19 subsection (1) amended by 2010:50 s. 8 effective 25 August 2010; subsection (1) amended by 2010:50 s. 27 effective 25 August 2010; Section 19 amended by 2018:51 s. 3 effective 10 August 2018]

CHAPTER 4 - DISCIPLINARY MEASURES[1014]

20. Power to impose civil penalties[1015] [1016] [1017]

(1) A competent authority may impose a penalty—

(a) on an AML/ATF regulated financial institution, financial group, [1018] a real estate broker, real estate agent[1019] [1020] or a regulated non-financial business or profession supervised by the authority[1021] [1022] which fails to comply with any requirement of the AML/ATF Regulations; [1023] [1024]

(b) on an AML/ATF regulated financial institution, financial group[1025] or insurer, a real estate broker, real estate agent[1026] [1027] or[1028] a regulated non-financial business or profession

supervised by the authority[1029], which fails to comply with a direction, directive or license condition; or[1030] [1031] [1032]

(c) on an AML/ATF regulated financial institution, financial group or insurer, a real estate broker, real estate agent or a regulated non-financial business or profession supervised by the authority, which fails to comply with its international sanctions obligations.[1033]

(1A) The maximum amount of the civil penalty that may be imposed under subsection (1) is—

(a) in the case of a person or entity supervised by the BMA, such amount not exceeding $10,000,000[1034] as the BMA considers appropriate; [1035]

(b) in the case of a person or entity supervised by the Registrar, such amount not exceeding $250,000 as the Registrar considers appropriate; and[1036] [1037]

(c) in the case of a person or entity supervised by the Superintendent of Real Estate, such amount not exceeding $250,000 as the Superintendent of Real Estate considers appropriate. [1038]

(2) For the purposes of subsection (1A), "appropriate" means effective, proportionate and dissuasive.

(3) [REPEALED] [1039] [1040] [1041] [1042] [1043]

(4) The Minister may by order amend subsection (3) to add to, or remove from, the list any provisions of the AML/ATF regulations.

(5) A competent authority must not impose a penalty where there are reasonable grounds for it to be satisfied that the person, financial group, or entity[1044] over which it has supervisory duties under section 6 or 6A [1045] [1046] took all reasonable steps and exercised all due diligence to ensure that the requirement would be complied with.

(6) In deciding whether a person, financial group, or entity[1047] over which it has supervisory duties under section 6 or 6A[1048] has failed to comply with a requirement of the regulations, a direction or a license condition, the competent authority must consider whether the person, financial group, or entity[1049] [1050] followed any relevant guidance which was at the time-[1051]

(a) issued by the competent authority;

(b) approved by the Minister; and

(c) published in the Gazette.

(7) In this Chapter, "penalty" means a penalty imposed under subsection (1).

[Section 20 subsection (3) amended by BR 1/2010 s. 2 effective 13 January 2010; Section 20 amended by 2009:50 s. 19 effective 15 January 2010; Section 20 subsections (1), (5) and (6) amended by 2010:50 s. 8 effective 25 August 2010; Section 20 amended by 2010:50 s. 28 effective 25 August 2010; Section 20 amended by 2016:45 s. 11A effective 5 August 2016; Section 20 subsections (1) and (3) amended by 2017:28 s. 55 & Sch. 3 effective 2 October 2017; Section 20 amended by 2018:48 s. 14 effective 10 August 2018; Section 20 amended by 2018:51 s. 3 effective 10 August 2018; Section 20 subsection (1) amended and subsection (1)(c) inserted by 2019:2 s. 2 effective 19 March 2019; amended by 2020:36 Sch. effective 1 November 2020;subsection 3 repealed by 2025:20 s.3 effective 20 October 2025]

20A Power to issue directives[1052]

(1) A competent authority may issue a directive to an AML/ATF regulated financial institution or regulated non-financial business or profession if —

(a) it fails to comply with international sanctions obligations, or it fails to comply with a requirement of the AML/ATF Regulations, directions or licence conditions; or

(b) the fit and proper test applies in respect of the AML/ATF regulated financial institution or business or profession by virtue of section 11A, and the test is not met.

(2) A directive under this section may be of unlimited duration or of a duration specified in the notice of the directive.

(3) A notice of a directive under this section shall—

(a) specify the reasons for the giving of the directive;

(b) specify when the directive is to have effect;

(c) give particulars of the provisions of subsections (4) and (5); and

(d) give particulars of the rights of appeal conferred by subsection (6).

(4) An AML/ATF regulated financial institution or regulated non-financial business or profession to which a directive is issued under subsection (1) may apply to the competent authority to have it withdrawn or varied and the competent authority shall withdraw or vary the directive in whole or in part if it considers that there are no longer any grounds under subsection (1) which justify the directive or part of the directive concerned.

(5) If the competent authority refuses an application under subsection (4), or grants such an application only in part, it shall give notice in writing of that fact to the applicant.

(6) An AML/ATF regulated financial institution or regulated non-financial business or profession aggrieved by a directive issued under subsection (1), or a refusal to grant an application under subsection (5), or the granting of such an application only in part may, within one month after the day on which notice was served of the directive, refusal or grant, appeal to the appeal tribunal.

[Section 20A inserted by 2018:48 s. 15 effective 10 August 2018]

20B Restriction of licence[1053]

(1) Subject to section 20D, a competent authority may restrict a licence—

(a) if it is satisfied of the matters specified in section 20C but it appears to it that the circumstances are not such as to justify revocation;

(b) in connection with the revocation of a licence—

(i) when giving the person notice that it proposes to revoke its licence;

(ii) at any time after such notice has been given to the person; or

(iii) at any time after the person has served a notice surrendering its licence with effect from a later date.

(2) A competent authority may restrict a licence by imposing such conditions as it thinks desirable for the protection of the person's clients or potential clients, and may in particular—

(a) require the person to take certain steps or to refrain from adopting or pursuing a particular course of action or to restrict the scope of its business in a particular way;

(b) prohibit the person from soliciting business either generally or from persons who are not already its clients;

(c) prohibit the person from entering into any other transactions or class of transactions;

(d) require the removal of any controller or officer;

(e) specify requirements to be fulfilled otherwise than by action taken by the person.

(3) Any condition imposed under this section may be varied or withdrawn by the competent authority.

(4) A competent authority may on the application of a person vary any condition imposed on its licence or its registration.

(5) The fact that a condition imposed under this section has not been complied with shall, where the restriction has been imposed pursuant to paragraph (a) or (b) of subsection (1), be a ground for the revocation of the licence in question.

(6) For the purposes of this section, "controller", "officer" and "senior executive" each have the meaning given to the term in the applicable regulatory Act.

[Section 20B inserted by 2018:48 s. 15 effective 10 August 2018]

20C Revocation of licence[1054]

(1) Subject to section 20D, a competent authority may revoke the licence of a person if the competent authority is satisfied that—

(a) any of the minimum criteria in respect of a licence is not or has not been fulfilled, or may not be or may not have been fulfilled, in respect of the person;

(b) the licensed person is no longer a fit and proper person;

(c) the person has failed to comply with international sanctions obligations, or with[1055] any obligation imposed on it by or under the AML/ATF Regulations;

(d) it has been provided with false, misleading or inaccurate information by or on behalf of the person.

(2) Where the competent authority revokes a licence, the competent authority may issue such directives under section 20A as it considers appropriate in the circumstance.

[Section 20C inserted by 2018:48 s. 15 effective 10 August 2018; Section 20C subsection (1) amended by 2019:2 s. 2 effective 19 March 2019]

20D Notice of restriction of licence[1056]

(1) Where a competent authority proposes to—

(a) restrict a licence under section 20B;

(b) vary a restriction imposed on a licence otherwise than with the agreement of the person concerned; or

(c) revoke a licence under section 20C,

the competent authority shall give to the person concerned a warning notice under section 24A.

(2) Where—

(a) the ground for a proposal to impose, vary a restriction or for a proposed revocation is that it appears to a competent authority that the criterion of the minimum criteria is not or has not been fulfilled, or may not be or may not have been fulfilled, in the case of any person; or

(b) a proposed restriction consists of or includes a condition requiring the removal of any person as a controller or an officer,

the competent authority shall give that person a copy of the warning notice but the competent authority may omit from such copy any matter which does not relate to him.

(3) After giving a notice under subsection (1) and taking into account any representations made under section 24A(3), the competent authority shall decide—

(a) whether to proceed with the action proposed in the notice;

(b) whether to take no further action;

(c) if the proposed action was to revoke the person's licence, whether to restrict its licence instead;

(d) if the proposed action was to restrict the person's licence or to vary the restrictions on a licence, whether to restrict it or to vary the restrictions in a different manner.

(4) Once the competent authority has made a decision under subsection (3), it shall forthwith give either a decision notice under section 24B or a notice of discontinuance under section 24C, as the case may be.

(5) The competent authority shall publish in the Gazette, in such form as it thinks fit, notice of every revocation of a licence under this Act.

[Section 20D inserted by 2018:48 s. 15 effective 10 August 2018]

20E Public censure[1057]

(1) Subject to this section, if a competent authority considers that a person has contravened a requirement imposed on it by or under AML/ATF Regulations or has failed to comply with international sanctions obligations[1058], the competent authority may publish a statement to that effect.

(2) After a statement under this section is published, the competent authority shall send a copy of it to the person.

(3) If a competent authority proposes to publish a statement in respect of a person, it shall give the person a warning notice.

(4) A warning notice about a proposal to publish a statement shall set out the terms of the statement.

(5) If a competent authority decides to publish a statement (whether or not in the terms proposed), it shall without delay give the person concerned a decision notice.

(6) The decision notice shall set out the terms of the statement.

[Section 20E inserted by 2018:48 s. 15 effective 10 August 2018; Section 20E subsection (1) amended by 2019:2 s. 2 effective 19 March 2019]

20F Prohibition orders[1059]

(1) A competent authority may make a prohibition order if it appears to the competent authority that an individual is not a fit and proper person to perform functions in relation to an AML/ATF regulated activity carried on by a person who is licensed or registered by the competent authority (a "regulated person").

(2) In exercising its discretion to make a prohibition order under subsection (1), the competent authority must have regard (among other things) to such factors, including assessment criteria, as the competent authority may establish in a statement of principles.

(3) A person must ensure that no function of his, in relation to the carrying on of an AML/ATF regulated activity, is performed by an individual who is prohibited from performing that function by a prohibition order.

(4) The competent authority may, on the application of the individual named in a prohibition order, vary or revoke the prohibition order.

(5) The competent authority must publish a prohibition order that is in effect, and every variation of such order, in such manner as it considers appropriate to bring the order to the attention of the public.

(6) Any person who fails to comply with the terms of a prohibition order commits an offence and is liable—

(a) on summary conviction, to a fine of $50,000 or to imprisonment for two years or to both;

(b) on conviction on indictment, to a fine of $200,000 or to imprisonment for four years or to both.

[Section 20F inserted by 2018:48 s. 15 effective 10 August 2018]

20G Prohibition orders: procedures[1060]

(1) If a competent authority proposes to make a prohibition order, it must give the individual concerned a warning notice.

(2) If a competent authority decides to make a prohibition order, it must give the individual concerned a decision notice.

[Section 20G inserted by 2018:48 s. 15 effective 10 August 2018]

20H Injunctions[1061]

(1) If, on the application of a competent authority, the court is satisfied—

(a) that there is a reasonable likelihood that any person will contravene a relevant requirement in the AML/ATF Regulations, international sanctions obligations, directions or licence conditions;

(b) that there is a reasonable likelihood that a relevant person will contravene an AML/ATF requirement, directions or licence conditions, or that such contravention has taken place and that there is a reasonable likelihood that the contravention will continue or be repeated; or

(c) that any person has contravened a relevant requirement and that there is a reasonable likelihood that the contravention will continue or be repeated,

the court may make an order restraining the contravention.

(2) If on the application of the competent authority the court is satisfied—

(a) that any person has contravened a relevant requirement; and

(b) that there are steps which could be taken for remedying the contravention,

the court may make an order requiring that person, and any other person who appears to have been knowingly concerned in the contravention, to take such steps as the court may direct to remedy it.

(3) In subsection (2), references to remedying a contravention include references to mitigating its effect.

(4) "Relevant requirement" in relation to an application by the competent authority means a requirement which is imposed by or under the AML/ATF Regulations, directions or licence conditions.

[Section 20H inserted by 2018:48 s. 15 effective 10 August 2018]

20I Winding up or dissolution on petition from the competent authority[1062]

(1) A competent authority may present a petition to the court for the winding up of a company or the dissolution of a firm which—

(a) is or has been a licensed or registered person; or

(b) is carrying on, or has carried on, business in contravention of the provisions of the AML/ATF Regulations or has failed to comply with international sanctions obligations[1063].

(2) On such a petition, the court may wind up the company or dissolve the firm if it is of the opinion that it is just and equitable that the company be wound up or the firm dissolved.

(3) Part XIII (Winding Up) of the Companies Act 1981 shall apply to the winding up of a company under this section.

[Section 20I inserted by 2018:48 s. 15 effective 10 August 2018; Section 20I subsection (1)(b) amended by 2019:2 s. 2 effective 19 March 2019]

21. Power to publish decision to impose penalty

(1) A competent authority may publish a decision to impose a penalty or other disciplinary measure specified in section 20A, 20B, 20C, 20E or 20F[1064] on an AML/ATF regulated financial institution, financial group, a real estate broker, real estate agent [1065] [1066] or a regulated non-financial business or profession[1067] in such manner as it considers appropriate.

(2) But the competent authority[1068] must not publish such a decision-

(a) before notifying the person, financial group[1069] or entity[1070] in question; or

(b) pending an appeal under section 23.

[Section 21 subsection (1) and (2) amended by 2010:50 s. 8 effective 25 August 2010; Section 21 amended by 2010:50 s. 29 effective 25 August 2010; Section 21 amended by 2018:51 s. 3 effective 10 August 2018; Section 21 subsection (1) amended by 2019:2 s. 2 effective 19 March 2019]

22. Procedure for imposing civil penalties [REPEALED] [1071] [1072] [1073] [1074] [1075] [1076] [1077] [1078]

[Section 22 amended by 2009:50 s. 20 effective 15 January 2010; amended by 2010:50 s. 8 effective 25 August 2010; amended by 2010:50 s. 30 effective 25 August 2010; amended by 2018:51 s. 3 effective 10 August 2018; repealed by 2025:20 s.3 effective 20 October 2025]

23. Appeals: penalties

(1) A person, financial group, or entity[1079] [1080] may appeal a decision by a competent authority to impose a penalty or other disciplinary measure[1081].

(2) An appeal from a decision by a competent authority shall lie to the appeal tribunal.

(3) A decision appealed against under this section shall not have effect—

(a) until the end of the period within which the appeal can be brought; and

(b) if such an appeal is brought, until it is determined or withdrawn.

[Section 23 amended by 2010:50 s. 8 effective 25 August 2010; amended by 2010:50 s. 31 effective 25 August 2010; subsection (1) amended by 2018:48 s. 16 effective 10 August 2018; Section 23 amended by 2018:51 s. 3 effective 10 August 2018]

24. Payment of penalties towards costs of competent authority [1082]

(1) A penalty is payable to the competent authority which is the supervisory authority over the person who pays the penalty [1083].

(2) A competent authority may recover any penalty as a debt owing to it in any court of competent jurisdiction.

(3) A competent authority must apply amounts paid to it by way of penalties towards the costs of carrying out its functions of monitoring persons, financial groups or entities[1084] over which it has supervisory duties under section 6 or 6A[1085] and securing their compliance with the AML/AFT Regulations, directions and license conditions[1086].

(4) But when deciding-

(a) whether to impose a penalty; and

(b) the amount of any penalty,

the competent authority must not take account of the costs which it incurs, or expects to incur, in carrying out those functions.

(5) A competent authority's annual report under section 5(3) must-

(a) state the total amount of any penalties paid to it; and

(b) indicate how that amount was, or will be, applied in accordance with the duty imposed by subsection (3).

[Section 24 subsection (3) amended by 2009:50 s. 21 effective 15 January 2010; Section 24 amended by 2010:50 s. 8 effective 25 August 2010; amended by 2010:50 s. 32 effective 25 August 2010; Section 24 subsection (3) amended by 2018:51 s. 3 effective 10 August 2018]

24A Warning notices[1087]

(1) Where a competent authority proposes to impose a penalty or take other disciplinary measures specified in section 20E, 20F or 20G, the competent authority shall issue a warning notice.

(2) A warning notice must—

(a) state the penalty or other disciplinary measure which the competent authority proposes to impose or take;

(b) be in writing; and

(c) give reasons for the fine or other disciplinary measure to be imposed or taken.

(3) The warning notice must specify a reasonable period (which may not be less than 28 days) within which the person to whom it is given may make representations to the competent authority.

(4) Where representations are made under subsection (3) to the competent authority, it shall take them into account in deciding whether to give a decision notice.

(5) The competent authority may extend the period specified in the notice.

[Section 24A inserted by 2018:48 s. 17 effective 10 August 2018]

24B Decision notices[1088]

(1) A decision notice must—

(a) be in writing;

(b) give reasons for the competent authority's decision to impose the penalty or other disciplinary measure to which the notice relates;

(c) give its decision; and

(d) give an indication of the right to appeal the decision to the appeal tribunal.

(2) A decision notice shall be given within 90 days beginning with the day on which a warning notice under section 24A was given; and if no decision notice under subsection (1) is given within that period,

the competent authority shall be treated as having at the end of that period given a notice of discontinuance under section 24C.

(3) A decision notice on the imposition of a penalty must state the date of payment.

(4) A decision notice shall state the day on which it is to take effect.

[Section 24B inserted by 2018:48 s. 17 effective 10 August 2018]

24C Notices of discontinuance[1089]

(1) If the competent authority decides not to impose a penalty or other disciplinary measure proposed in a warning notice, it must give a notice of discontinuance to the person to whom the warning notice was given.

(2) A notice of discontinuance must identify the default alleged to have been committed and the penalty or other disciplinary measure which is being discontinued.

[Section 24C inserted by 2018:48 s. 17 effective 10 August 2018]

24D Contravention by body corporate[1090]

(1) Where a body corporate is in breach of AML/ATF requirements, direction or licence condition and that breach was committed with the consent or the connivance of an officer of the body corporate, the competent authority may impose a civil penalty against both the body corporate and the officer.

(2) "Officer" means a director, manager, chief executive, member of the committee of management, or a person purporting to act in such capacity.

[Section 24D inserted by 2018:48 s. 17 effective 10 August 2018]

CHAPTER 5 - APPEAL TRIBUNAL[1091]

25. Appeal tribunal

(1) There shall be an appeal tribunal for the purposes of this Part[1092].

(2) Schedule 1 has effect as to the appointment of the appeal tribunal and other matters relating to the appeal tribunal.

[Section 25 amended by 2010:50 s. 34 effective 25 August 2010]

26. Powers of tribunal

The appeal tribunal has the power-

(a) to quash or vary a decision of a competent authority not to register, or to cancel the registration of, a non-licensed AML/ATF regulated financial institution or regulated non-financial business or profession;[1093]

(aa) to quash or vary a directive issued by the Registrar FIA under section 20A(1);[1094] [1095]

(ab) to quash or vary a decision of a competent authority under section 20A, 20B, 20C, 20E, 20F or 20G; [1096]

(b) to quash or vary a decision of a competent authority to impose a penalty under section 20, including the power to reduce any penalty to such amount (including nil) as the tribunal think proper; and

(c) to substitute their own decision for any decision quashed on appeal.

[Section 26 amended by 2010:50 s. 8 effective 25 August 2010; amended by 2010:50 s. 35 effective 25 August 2010; Section 26(ab) inserted by 2018:48 s. 18 effective 10 August 2018; amended by 2020:36 Sch. effective 1 November 2020]

27. Procedure and evidence

The Minister may make regulations with respect to appeals and those regulations may in particular make provision-

(a) as to the period within which and the manner in which such appeals are to be brought;

(b) as to the manner in which such appeals are to be conducted, including provision for any hearing to be held in private and as to the persons entitled to appear on behalf of the parties;

(c) for requiring an appellant or a competent authority to disclose or allow the inspection of documents in his or its custody or under his or its control;

(d) for requiring any person, on tender of the necessary expenses of his attendance, to attend and give evidence or produce documents in his custody or under his control and for authorising the administration of oaths to witnesses;

(e) for enabling an appellant to withdraw an appeal or a competent authority to withdraw its opposition to an appeal and for the consequences of any such withdrawal;

(f) for taxing or otherwise settling any costs or expenses which the tribunal directs to be paid and for the enforcement of any such direction;

(g) for enabling any preliminary or incidental functions in relation to an appeal to be discharged by the chairman of the tribunal; and

(h) as to any other matter connected with such appeals.

[Section 27 amended by 2010:50 s. 8 effective 25 August 2010]

28. Decisions of tribunal

(1) A decision of the tribunal may be taken by a majority.

(2) The decision must-

(a) state whether it was unanimous or taken by a majority;

(b) be recorded in a document which-

(i) contains a statement of the reasons for the decision; and

(ii) is signed and dated by the chairman or deputy chairman as the case may be.

(3) The tribunal must-

(a) inform each party of its decision; and

(b) as soon as reasonably practicable, send to each party a copy of its decision.

29. Costs of appeal

(1) Subject to subsections (2) and (3), a tribunal may give such directions as it thinks fit for the payment of costs or expenses by any party to the appeal.

(2) If the tribunal considers that a party to any proceedings on an appeal has acted vexatiously, frivolously or unreasonably it may order that party to pay to another party to the proceedings the whole or part of the costs or expenses incurred by the other party in connection with the proceedings.

(3) If, in any proceedings on an appeal, the tribunal considers that a decision of a competent authority[1097] which is the subject of the appeal was unreasonable it may order the competent authority[1098] to pay to another party to the proceedings the whole or part of the costs or expenses incurred by the other party in connection with the proceedings.

[Section 29 subsection (3) amended by 2010:50 s. 36 effective 25 August 2010]

30. Appeal to Supreme Court

(1) Any party, including a competent authority, may appeal to the Supreme Court on any question of law arising from the decision of the appeal tribunal.

(2) If the Supreme Court is of the opinion that the decision was erroneous in point of law it shall remit the matter to the tribunal for re-hearing and determination.

(3) No appeal to the Court of Appeal shall be brought from a decision of the Supreme Court on an appeal brought under this section, except with leave of the Court of Appeal.

[Section 30 subsection (1) amended by 2010:50 s. 8 effective 25 August 2010]

PART 4A - SUPERVISION BY DESIGNATED PROFESSIONAL BODIES[1099]

30A. Functions of designated professional bodies

(1) A designated professional body has the functions, duties and powers, in relation to regulated professional firms, conferred on it by section 5 and this Part.

(2) The Minister may from time to time, by notice published in the Gazette, give to a designated professional body such general policy directives as appear to the Minister to be necessary in the public interest.

(3) A designated professional body shall act in accordance with any policy directive issued by the Minister under subsection (2).

[Section 30A inserted by 2010:50 s. 37 effective 25 August 2010]

30B. Duty to establish and maintain register

(1) A designated professional body shall establish and maintain, in such form as it may determine, a register of firms.[1100]

(2) The designated professional body shall make the register available for public inspection in its offices at all reasonable times.

[Section 30B inserted by 2010:50 s. 37 effective 25 August 2010; Section 30B subsection (1) amended by 2018:53 s. 20 effective 25 September 2018]

30C. Registration of firms[1101]

(1) Every [1102] firm shall register with the designated professional body annually[1103], in such manner and form as the body may specify, by providing their name, address and such information about the nature of their business and activities as the professional body may require.

(2) If at any time after registration there is a material change affecting any matter contained in the information provided under subsection (1) or if it becomes apparent that the information contains a significant inaccuracy, the [1104] firm shall provide to the designated professional body, without delay, updated information respecting the change or a correction of the inaccuracy.

(3) The designated professional body shall make a determination from the information provided to it under subsections (1) and (2), whether or not a firm is a regulated professional firm for the purposes of section 5 and this Part. [1105]

(4) If after registration it becomes apparent to the designated professional body that a person who is not a fit and proper person is or has become a shareholder, director, controller or senior executive exercising control of the firm, then the body shall require the firm to exclude such person as a shareholder, director, controller or senior executive of that firm. [1106]

(5) A designated professional body may cancel the registration of a firm in the manner provided for in section 13, with appropriate modifications, where—[1107]

(a) a firm has failed to exclude a shareholder, director, controller or senior executive who is not a fit and proper person as required under subsection (4); or

(b) any of the matters mentioned in section 12, with appropriate modifications, apply to a firm.

[Section 30C inserted by 2010:50 s. 37 effective 25 August 2010; Section 30C subsections (1) and (2) amended, and subsections (3), (4) and (5) inserted by 2018:53 s. 20 effective 25 September 2018]

30CA. Information to determine status of firm [1108]

(1) Where a designated professional body has reasonable grounds to suspect that a firm is providing the services of a regulated professional firm without being registered as such, the body may require the firm to provide such information or records or to attend before an officer of the designated professional body as the body reasonably requires for the purpose of determining whether the firm has been carrying out the services of a regulated professional firm.

(2) The firm shall comply with a requirement under subsection (1) provided in a notice under section 30D.

(3) Where the designated professional body has received the information and records under subsection (1), section 30C(3) of this Act applies.

[Section 30CA inserted by 2026:30 s. 2 effective 25 September 2026]

30D. Power to require information and documents

(1) An officer of a designated professional body may, by notice in writing to a regulated professional firm or to a person connected with a regulated professional firm, require that professional firm or connected person, as the case may be—

(a) to provide such information as may be specified in the notice;

(b) to produce such recorded information as may be so specified; or

(c) to attend before an officer at a time and place specified in the notice and answer questions.

(2) An officer of a designated professional body may exercise powers under this section only if the information sought to be obtained is reasonably required in connection with the exercise by the designated professional body of its functions under this Act.

(3) Where an officer of a designated professional body requires information to be provided or produced pursuant to subsection (1)(a) or (b)—

(a) the notice must set out the reasons why the officer requires the information; and

(b) the information must be provided or produced—

(i) before the end of such reasonable period as may be specified in the notice; and

(ii) at such place as may be so specified.

(4) The power to require information recorded otherwise than in legible form includes a power to require the production of a copy of the information in legible form or in a form from which it can readily be produced in visible and legible form.

(5) The production of a document does not affect any lien which a person has on the document.

(6) A person shall not be required under this section to provide or produce information or to answer questions which he would be entitled to refuse to provide, produce or answer on grounds of legal professional privilege in proceedings in the Supreme Court, except that an attorney may be required to provide the name and address of his client.

(7) For the purposes of subsection (1), the following are connected persons—

(a) if the regulated professional firm is a body corporate, a person who is—

(i) an officer or manager of the body corporate or of a holding company of the body corporate;

(ii) an employee of the body corporate; and

(iii) an agent of the body corporate or of a holding company of the body corporate;

(b) if the regulated professional firm is a partnership, a person who is a partner, manager, employee or agent of the partnership;

(c) if the regulated professional firm is a sole proprietor, a person who is an employee or agent of that sole proprietor; or

(d) if the regulated professional firm is an unincorporated association or[1109] person which is not a partnership, a person who is an officer, manager, employee or agent of the unincorporated association.

(8) In subsection (7) —

"holding company" has the meaning given in section 86 of the Companies Act 1981;

"officer" includes a director, secretary or senior executive of the body corporate, partnership or unincorporated body, regardless of job title.

[Section 30D inserted by 2010:50 s. 37 effective 25 August 2010]

30E. Site visits

(1) Subsection (2) applies where an officer of a designated professional body has reasonable cause to believe that any premises are being used by a regulated professional firm or used by a firm who is suspected of providing the services of a regulated professional firm without being registered as such in connection with their business. [1110]

(2) The officer may at any reasonable time, on producing evidence of his authority—

(a) enter the premises;

(b) inspect the premises;

(c) observe the carrying on of business;

(d) inspect any recorded information found on the premises and take copies of, or make extracts from, any such information;

(e) require any person on the premises to provide an explanation of any recorded information or to state where it may be found.

(3) An officer may exercise powers under this section only if the information sought to be obtained is reasonably required in connection with the exercise by the designated professional body of its functions under this Act.

(4) Subsection (2)(d) and subsection (2)(e) shall not apply to recorded information which a person would be entitled to refuse to disclose on grounds of legal professional privilege in proceedings in the Supreme Court, except that an attorney may be required to provide the name and address of his client.

[Section 30E inserted by 2010:50 s. 37 effective 25 August 2010; amended by 2026:30 s. 1 effective 25 September 2026]

30F. Entry to premises under ex parte order

(1) A judge of the Supreme Court may issue an ex parte order under this subsection if satisfied on information on oath given by an officer of a designated professional body that there are reasonable grounds for believing that condition A, B or C is satisfied.

(2) Condition A is—

(a) that there is on the premises specified in the ex parte order recorded information in relation to which a requirement could be imposed under section 30D(1)(b); and

(b) that if such a requirement were to be imposed—

(i) it would not be complied with; or

(ii) the recorded information to which it relates would be removed, tampered with or destroyed.

(3) Condition B is—

(a) that a person on whom a requirement has been imposed under section 30D(1)(b) has failed to comply with it (whether wholly or in part); and

(b) that there is on the premises specified in the ex parte order recorded information which has been required to be produced.

(4) Condition C is—

(a) that an officer of the designated professional body has been obstructed in the exercise of a power under section 30E(2); and

(b) that there is on the premises specified in the ex parte order recorded information which could be inspected under section 30E(2)(d).

(5) A judge of the Supreme Court may issue an ex parte order under this subsection if satisfied on information on oath given by an officer of a designated professional body that there are reasonable grounds for suspecting that—

(a) an offence under this Act has been, is being, or is about to be, committed by a regulated professional firm; and

(b) there is on the premises specified in the ex parte order recorded information relevant to whether that offence has been, is being, or is about to be, committed.

(6) An ex parte order issued under subsection (1) or (5) shall authorise any police officer not below the rank of inspector together with one or more officers of a designated professional body and such other persons as the circumstances may require—

(a) to enter the premises specified in the ex parte order;

(b) to search the premises and take possession of any recorded information or anything appearing to be recorded information specified in the ex parte order or to take, in relation to any such recorded information, any other steps which may appear to be necessary for preserving it or preventing interference with it;

(c) to take copies of, or extracts from, any recorded information specified in the ex parte order;

(d) to require any person on the premises to provide an explanation of any recorded information appearing to be of the kind specified in the ex parte order or to state where it may be found; and

(e) to use such force as may reasonably be necessary.

[Section 30F inserted by 2010:50 s. 37 effective 25 August 2010]

30G. Failure to comply with information requirement

(1) If, on an application made by a designated professional body, it appears to the Supreme Court that a person (the "information defaulter") has failed to do something that he was required to do under section 30D(1), the Court may make an order under this section.

(2) An order under this section may require the information defaulter—

(a) to do the thing that he failed to do within such period as may be specified in the order; and

(b) otherwise to take such steps to remedy the consequences of the failure as may be so specified.

(3) If the information defaulter is a body corporate, a partnership or an unincorporated body of persons which is not a partnership, the order may require any officer of the body corporate, partnership or unincorporated body who is (wholly or partly) responsible for the failure to meet such costs of the application as are specified in the order.

(4) In subsection (3), "officer" includes a director, secretary or senior executive of the body corporate, partnership or unincorporated body, regardless of job title.

[Section 30G inserted by 2010:50 s. 37 effective 25 August 2010]

30H. Power to issue directives

(1) A designated professional body may issue a directive to any regulated professional firm or any firm who is suspected of providing the services of a regulated professional firm without being registered as such that fails to comply with a requirement of the AML/ATF Regulations, directions or licence conditions[1111] in the provision of legal or accountancy services to other persons, when participating in financial or real property transactions concerning specified activities, requiring the firm, when carrying out any of those activities— [1112]

(a) to carry out or not to carry out any transaction or other act concerning any specified activity, or to carry it out subject to restrictions imposed by the directive;

(b) to prevent any person carrying on business on its behalf, from carrying out any function or employment or occupying any position concerning any specified activity; or

(c) to cease participation in financial or real property transactions concerning any specified activity.

(2) A directive under this section may be of unlimited duration or of a duration specified in the notice of the directive.

(3) A notice of a directive under this section shall—

(a) specify the reasons for the giving of the directive;

(b) specify when the directive is to have effect;

(c) give particulars of the provisions of subsections (4) and (5); and

(d) give particulars of the rights of appeal conferred by subsection (6).

(4) Any regulated professional firm or that firm[1113] to whom a directive is given under subsection (1) may apply to the designated professional body that issued the directive to have it withdrawn or varied and that body shall withdraw or vary the directive in whole or in part if it considers that there are no longer any grounds under subsection (1) which justify the directive or part of the directive concerned.

(5) If the designated professional body refuses an application under subsection (4), or grants such an application only in part, it shall give notice in writing of that fact to the applicant.

(6) Any regulated professional firm aggrieved by a directive given under subsection (1), or a refusal to grant an application under subsection (5), or the granting of such an application only in part may, within one month after the day on which notice was served of the directive, refusal or grant, appeal to the Supreme Court.

[Section 30H inserted by 2010:50 s. 37 effective 25 August 2010; Section 30H subsection (1) amended by 2018:48 s. 19 effective 10 August 2018; amended by 2026:30 s. 1 effective 25 September 2026]

30I. Power to impose civil penalties on regulated professional firms and firms[1114]

(1) A designated professional body may impose a penalty of such amount not exceeding $250,000 as it considers appropriate on a regulated professional firm that fails to comply with a directive issued under section 30H or a firm that fails to notify of a material change of services under section 30C(2) or with any requirement of the AML/ATF Regulations specified in subsection (3), directions or licence conditions[1115]. [1116]

(2) For the purposes of subsection (1), “appropriate” means effective, proportionate and dissuasive.

(3) The following provisions of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008 are specified for the purposes of subsection (1)—

regulation 6(1), (2) and (3) (customer due diligence measures);

regulation 7(1) and (3) (ongoing monitoring);

regulation 8(2) (timing of verification);

regulation 9(1)(a), (b) and (c) (requirement to cease transactions etc);

regulation 11(1) (enhanced customer due diligence);

regulation 15(1), (4), (5), (6) and (7) (record-keeping);

regulation 16(1), (3) and (4) (systems);

regulation 17(1) (internal reporting procedures);

regulation 18(1) (training etc).

(4) The Minister may by order amend subsection (3) to add to, or remove from, the list any provisions of the AML/ATF Regulations.

(5) A designated professional body shall not impose a penalty where there are reasonable grounds for it to be satisfied that the regulated professional firm took all reasonable steps and exercised all due diligence to ensure that the requirement would be complied with.

(6) In deciding whether a regulated professional firm has failed to comply with a requirement of the regulations, the designated professional body must consider whether the firm followed any relevant guidance which was at the time—

(a) issued by designated professional body;

(b) approved by the Minister; and

(c) published in the Gazette.

(7) In this section and in sections 30J and 30K, "penalty" means a penalty imposed under subsection (1).

[Section 30I inserted by 2010:50 s. 37 effective 25 August 2010; Section 30I subsection (1) amended by 2018:48 s. 20 effective 10 August 2018; amended by 2026:30 s. 1 effective 25 September 2026]

30J. Procedure for imposing civil penalties

(1) Where a designated professional body proposes to impose a penalty it must give the regulated professional firm notice or the firm who is suspected of providing the services of a regulated professional firm without being registered as such (a "warning notice") of— [1117]

(a) its proposal to impose the penalty and the proposed amount;

(b) the reasons for imposing the penalty; and

(c) the right to make representations to the designated professional body within a specified period (which may not be less than 28 days).

(2) After considering any representations made by the regulated professional firm or that firm, the designated professional body must decide, within three months from the end of the period specified in subsection (1)(c) whether to impose a penalty. [1118]

(3) The designated professional body must give the regulated professional firm notice (a "decision notice") of—

(a) its decision not to impose a penalty; or

(b) its decision to impose a penalty and—

(i) the amount of the penalty;

(ii) the reasons for its decision; and

(iii) the right to appeal under section 30L.

[Section 30J inserted by 2010:50 s. 37 effective 25 August 2010; amended by 2026:30 s. 1 effective 25 September 2026]

30K. Power to publish decision to impose penalty

(1) A designated professional body may publish a decision to impose a penalty on a regulated professional firm or a firm who is suspected of providing the services of a regulated professional firm without being registered as such in such manner as it considers appropriate. [1119]

(2) A designated professional body must not publish a decision under subsection (1)—

(a) before notifying the professional firm in question; or

(b) pending an appeal under section 30L.

[Section 30K inserted by 2010:50 s. 37 effective 25 August 2010; amended by 2026:30 s. 1 effective 25 September 2026]

30L Appeals: penalties

(1) A person may appeal to the Supreme Court against a decision by a designated professional body to impose a penalty under this Part.

(2) A decision appealed against under this section shall not have effect—

(a) until the end of the period within which the appeal can be brought; and

(b) if such an appeal is brought, until it is determined or withdrawn.

[Section 30L inserted by 2010:50 s. 37 effective 25 August 2010]

30M. Payment of penalties towards costs of professional designated body

(1) A penalty is payable to a designated professional body to defray the costs of carrying out its functions under this Act.

(2) But when deciding—

(a) whether to impose a penalty; and

(b) the amount of any penalty,

a designated professional body must not take account of the costs which it incurs, or expects to incur, in carrying out those functions.

(3) A designated professional body may recover any penalty as a debt owing to it in any court of competent jurisdiction.

(4) A designated professional body's annual report under section 5(3) must—

(a) state the total amount of any penalties paid to it; and

(b) indicate how that amount was, or will be, applied in accordance with the duty imposed by subsection (3).

[Section 30M inserted by 2010:50 s. 37 effective 25 August 2010]

30N Immunity from suit

(1) No action, suit, prosecution or other proceeding shall be brought or instituted personally against any director, officer, servant or agent of a designated professional body, in respect of any act done bona fide in pursuance or execution or intended execution of their functions under this Act or any other Act and regulations made thereunder.

(2) Where any director or officer is exempt from liability by reason only of subsection (1), the designated professional body shall be liable to the extent that it would be if that director or officer were a servant or agent of the designated professional body.

(3) Neither the designated professional body, nor any director, officer, servant or agent of the body, is liable in damages for anything done or omitted to be done in the discharge or purported discharge of the designated professional body's functions under this Act or any other Act and regulations made thereunder, unless it is shown that the person acted, or omitted to act, in bad faith.

(4) For the purposes of this section, "agent" includes an auditor, accountant or other person who by or under any statutory provision is under a duty to give notice of, or report on, any fact or matter to the designated professional body for the purposes of its functions.[1120]

[Section 30N inserted by 2010:50 s. 37 effective 25 August 2010]

PART 5 – SUPPLEMENTARY

RESTRICTED INFORMATION

31. Restricted information

(1) Except as provided by section 32—

(a) no person who under, or for the purposes of, this Act receives Information relating to the business or other affairs of any person; and

(b) no person who obtains such information directly or indirectly from a person who has received it as mentioned in paragraph (a), shall disclose the information without the consent of the person to whom it relates and (if different) the person from whom it was received.

(2) This section does not apply to information which at the time of the disclosure is, or has already been made, available to the public from other sources, or to information in the form of a summary or collection of information so framed as not to enable information relating to any particular person to be ascertained from it.

32. Permitted disclosure

(1) Section 31 does not preclude the disclosure of information if the disclosure is for the purpose of enabling or assisting-

(a) the BMA to discharge its functions under this Act or any other statutory provision;

(aa) the Superintendent of Real Estate to discharge his functions under this Act or any other statutory provision;[1121]

(ab) the Registrar to discharge his functions under this Act or any other statutory provision;[1122]

(b) the Financial Intelligence Agency to discharge its functions under any statutory provision;

(ba) the Bermuda Bar Council, the [1123]Chartered Professional Accountants of Bermuda or other professional body to discharge its statutory responsibility for maintenance of professional and ethical standards by its members and for discipline for breach of those standards;[1124]

(c) the Minister of Justice or the Minister of Finance to discharge any of their functions;

(d) the Registrar General to discharge his functions under the Charities Act 2014 and the associated regulations.[1125]

(2) Section 31 does not preclude the disclosure of information to a police officer not below the rank of inspector, or to the Director of Public Prosecutions, in relation to any criminal proceedings.

(3) Section 31 does not preclude the disclosure of information for the purpose of enabling or assisting an authority in a country or territory outside Bermuda (a "foreign authority") to exercise functions corresponding to a competent authority's functions under this Act.

(4) But subsection (3) does not apply in relation to disclosures unless the competent authority is satisfied that the foreign authority is subject to restrictions on further disclosure at least equivalent to section 31 and this section.

[Section 32 subsection (4) amended by 2010:50 s. 8 effective 25 August 2010; Section 32 amended by 2010:50 s. 38 effective 25 August 2010; Section 32 amended by 2014:8 s. 16 effective 11 April 2014; Section 32 subsection (1)(aa) inserted by 2016:45 s. 11B effective 5 August 2016; Section 32 subsection

(1) amended by 2018:5 s. 4 effective 21 March 2018; amended by 2020:36 Sch. effective 1 November 2020]

CRIMINAL OFFENCES

33. Offences relating to registration or breach of a directive[1126]

(1) A person, financial group, or entity[1127] is guilty of an offence if the person, financial group, or entity[1128] [1129] fails to comply with any requirement imposed under the following sections-

section 9 (carrying on business when not registered);

section 10(5) (failing to correct inaccuracy in application etc);

section 11(4) (false representation that authorised etc by competent authority[1130]);

section 30C(1) or (2) (registration of regulated professional firms).[1131]

(1A) A person, financial group, or entity[1132] is guilty of an offence if the person, financial group, or entity[1133] breaches a directive issued by the Registrar under section 20A(1) or by a designated professional body under section 30H(1). [1134] [1135]

(2) A person, financial group, or entity[1136] [1137] guilty of an offence under this section is liable-

(a) on summary conviction, to a fine of $25,000 or imprisonment for a term of 12 months or to both;

(b) on conviction on indictment, to a fine of $100,000 or to imprisonment for a term of five years or to both.

(3) A person, financial group, or entity[1138] is not guilty of an offence under this section if the person, financial group, or entity[1139] [1140] took all reasonable steps and exercised all due diligence to avoid committing the offence.

[Section 33 amended by 2010:50 s. 39 effective 25 August 2010; Section 33 amended by 2018 : 51 s. 3 effective 10 August 2018; amended by 2020:36 Sch. effective 1 November 2020]

34. Offences relating to appeal tribunal

(1) A person who, having been required in accordance with regulations made under section 27 to attend the appeal tribunal and give evidence, fails without reasonable excuse to attend or give evidence, shall be guilty of an offence and liable on summary conviction to a fine of $10,000.

(2) A person who without reasonable excuse alters, suppresses, conceals, destroys or refuses to produce any document which he has been required to produce in accordance with regulations under section 27, or which he is liable to be so required to produce, shall be guilty of an offence and liable -

(a) on summary conviction to a fine of $25,000 or to imprisonment for six months or to both;

(b) on conviction on indictment to a fine of $50,000 or to imprisonment for two years or to both.

35. Offence of disclosing restricted information

A person who discloses information in contravention of section 31 is guilty of an offence and is liable on summary conviction to a fine of $50,000 or to imprisonment for two years or to both.

FINAL PROVISIONS

36. Notices

(1) Subject to subsection (3), any notice or other document required or authorised by or under this Act to be given to or served on any person may be given to or served on the person in question-

(a) by delivering it to him;

(b) by leaving it at his principal place of business; or

(c) by sending it to him at that address by facsimile, electronic mail or other similar means which produce a document containing the text of the communication.

(2) Any such notice or document may in the case of a company be given or served-

(a) by delivering it to the company's principal place of business or registered office in Bermuda; or

(b) by sending it by registered post addressed to the company's principal place of business or registered office in Bermuda.

(3) No notice or document required by this Act to be given or served on a competent authority shall be regarded as given or served until it is received; but such notice or document may be given by facsimile, electronic mail or other similar means which produce a document containing the text of the communication.

[Section 36 subsection (3) amended by 2010:50 s. 8 effective 25 August 2010]

37. Regulations and orders

(1) The Minister may make such regulations as the Minister considers necessary or expedient for the implementation of this Act, and regulations may make different provision for different cases.

(2) Regulations made under this section and orders made under section 2(2) (definition of AML/ATF regulated financial institution and financial group[1141]) and sections 20(4) and 30I(4)[1142] (breach of certain regulations may attract civil penalty) are subject to the affirmative resolution procedure.

(3) Orders made under section 4(1) (designation of professional bodies as supervisory authorities) and regulations made under section 27 (appeals) are subject to the negative resolution procedure.

[Section 37 subsection (2) amended by 2010:50 s. 40 effective 25 August 2010; Section 37 subsection (2) amended by 2018:51 s. 3 effective 10 August 2018]

38. Transitional

(1) A non-licensed AML/ATF regulated financial institution[1143] that on the day of commencement of this Act is carrying on business may continue to carry on business without being included in the register (as required by section 8)-

(a) for a period not exceeding six months beginning with that date; and

(b) if within that period application is made for registration, until that application is disposed of or withdrawn.

(2) Criminal proceedings shall not be instituted in respect of a contravention of section 30C committed during the six month period beginning on the day of commencement of Part 4A.[1144]

[Section 38 amended by 2010:50 s. 41 effective 25 August 2010]

39. Consequential amendments

(1) The Government Authorities (Fees) Act 1971 is amended in Part B of the First Schedule by inserting in the proper place in alphabetical order the following-

"Appeal Tribunal constituted under section 25 of, and the Schedule to, the Proceeds of Crime Regulations (Supervision and Enforcement) Act 2008".

(2) Section 3(1)(be) of the Bermuda Monetary Authority Act 1969 (power to supervise institutions in relation to money laundering regulations) is repealed and replaced with the following-

"(be) to perform the duties conferred on it by section 5 of the Proceeds of Crime Regulations (Supervision and Enforcement) Act 2008;".

(3) In the Fourth Schedule to the Bermuda Monetary Authority Act 1969 (fees) there shall be added at the end the following-

"PROCEEDS OF CRIME REGULATIONS (SUPERVISION AND ENFORCEMENT) ACT 2008

Application fee under section 14(1) $100"

(4) In regulation 2 (interpretation) of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008-

(a) in paragraph (1) in the definition of "financial institution" for "financial institution" substitute "AML/ATF regulated financial institution", and put the definition in the appropriate place in alphabetical order;

(b) in paragraph (1) in the definition of "supervisory authority" for "financial institution" substitute "AML/ATF regulated financial institution";

(c) in paragraph (2) for " "financial institution" means" substitute " "AML/ATF regulated financial institution" means".

(5) In regulation 4 of those Regulations (application), in paragraph (a) for "financial institution" substitute "AML/ATF regulated financial institution".

(6) In regulations 10(2)(a), 10(2)(b), 11(2)(b), 12(1) and (2), 13(3) and (4), 14(2)(a), 14(2)(c)(i), 16(3) and 16(4) of those Regulations, for "financial institution" in each place substitute "AML/ATF regulated financial institution".

40. Correction of errors relating to offences

(1) The Anti-Terrorism (Financial and Other Measures) Act 2004 is amended in section 13 (penalties) by renumbering the section as subsection (1) and inserting after it the following-

"(2) A person guilty of an offence under section 10A (tipping off) shall be liable-

(a) on summary conviction, to a fine of $15,000 or imprisonment for three years or to both;

(b) on conviction on indictment, to an unlimited fine or to imprisonment for ten years, or to both."

(2) In regulation 19(1) of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008 (offences)-

(a) for "section 13(1), (2), (4) and (5)" substitute "section 13(1), (2), (3) and (4)"; and

(b) for "and 18(1)" substitute "17(1) and 18(1)".

41. Commencement

This Act shall come into operation on such day as the Minister may appoint by notice published in the Gazette; and the Minister may appoint different days for different provisions.

SCHEDULE 1[1145]

APPEAL TRIBUNAL - (SECTION 25)

1 Constitution of Tribunal

(1) The tribunal shall consist of a chairman, a deputy chairman and a panel of not less than five members, appointed by the Minister by notice published in the Gazette.

(2) For the purpose of hearing an appeal under this Act, the tribunal shall be composed of-

(a) the chairman or deputy chairman; and

(b) two members selected by the chairman or, in his absence, the deputy chairman.

(3) There shall be paid to the members of the tribunal such remuneration and such allowances as the Minister in consultation with the Minister of Finance may determine.[1146]

2 Appointments

(1) The chairman and deputy chairman shall hold office for a period of three years, and may be reappointed from time to time for a like period.

(2) The members of the panel shall hold office for a period of two years, and may be reappointed from time to time for a like period.

(3) During any period of time when the chairman or deputy chairman is absent from Bermuda or for any other reason unable to act the Minister may, by notice published in the Gazette, appoint a person to act in his place for that period of time, but shall not appoint a person unless that person is himself qualified under paragraph 3.

(4) The chairman, deputy chairman or any member of the panel may at any time, except during the course of proceedings before them under this Act, resign his appointment by notice in writing addressed to the Minister.

3 Eligibility for appointment

(1) No person shall be qualified to be the chairman or deputy chairman unless he is a barrister and attorney of at least ten years' standing. No person shall be qualified to be a member of the panel unless he has relevant experience or knowledge of the financial services industry.

(2) A person shall not be eligible for appointment as chairman, deputy chairman or a member of the tribunal if he is or has at any time during the period of two years ending with his appointment been an officer, servant or agent of the BMA.

4 Vacancies

Where, during any proceedings, a vacancy occurs in the membership of the tribunal it may, with the consent of all parties, continue to act notwithstanding the vacancy; and no act, proceeding or determination of a tribunal shall be called in question or invalidated by reason of the vacancy.

5 Tribunal autonomous

In the exercise of the powers conferred on it by this Act, the tribunal shall not be subject to the direction or control of any other person or authority.

6 Proceedings

Parties to any proceedings before the tribunal may appear personally or be represented, by counsel or otherwise.

7 The tribunal may impose reporting restrictions where it considers it necessary or desirable to protect the privacy of parties to a hearing.

8 Save as otherwise provided by this Act or in regulations made by the Minister regulating the procedure to be followed by the tribunal, the tribunal shall regulate its own proceedings as it thinks fit.

[Schedule Heading amended by 2010:50 s. 42 effective 25 August 2010; Schedule 1 paragraph 1 amended by 2017:38 s. 10 effective 30 October 2017]

SCHEDULE 2 - (SECTIONS 3 AND 11A)[1147] [1148] [1149]

REGULATED NON-FINANCIAL BUSINESSES AND PROFESSIONS

Column 1: Non-financial business or profession	Column 2: Required to meet the fit and proper test in section 11A
1. Casino operators	Yes
2. Dealers in high value goods. These are persons in the business of dealing in high value goods who, in a transaction or series of linked transactions, accept a total cash payment (in any currency) that is equivalent to at least BMD $7,500.	Yes

[Schedule 2 inserted by 2010:50 s. 42 effective 25 August 2010; amended by 2015:35 s. 18 effective 6 November 2015; amended by 2016:45 s. 12 effective 1 December 2016]

[Assent Date: 23 December 2008]

[Operative Date: 1 January 2009]

[Amended by:

BR 1/2010

2009:50

2010:50

2010:43

2011:48

2012:35

2014:8

2015:35

2015:53

2016:45

2016:36

2017:10

2017:28

2017:38

2017:35

2018:5

2018:48

2018:51

2018:49

2018:53

2019:2]

BERMUDA

PROCEEDS OF CRIME (ANTI-MONEY LAUNDERING AND ANTI-TERRORIST FINANCING SUPERVISION AND ENFORCEMENT) DESIGNATION ORDER 2012

BR 64/2012

The Minister of Justice, in exercise of the power conferred by section 4 of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008, makes the following Order:

1. Citation

This Order may be cited as the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Designation Order 2012.

2. Designation of Barristers and Accountants AML/ATF Board

The Barristers and Accountants AML/ATF Board is hereby designated as a supervisory authority in relation to independent professionals as defined in regulation 2 of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008.

Made this 10th day of August 2012

Minister of Justice

BERMUDA

ANTI-TERRORISM (FINANCIAL AND OTHER MEASURES) ACT 2004

2004:31

[Date of Assent: 17 December 2004]

[Operative Date: 7 March 2005]

WHEREAS it is expedient to make provision for cutting off the financing of terrorism; and for connected purposes:

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:—

CHAPTER I - INTRODUCTORY

1. Short title and commencement

This Act may be cited as the Anti-Terrorism (Financial and Other Measures) Act 2004 and shall come into operation on such day as the Minister may appoint by notice published in the Gazette.

2. Interpretation: general

In this Act, unless the contrary intention appears —

"act" and "action" include omission;

“AML/ATF regulated financial institution” has the meaning given in section 42A(1) of the Proceeds of Crime Act 1997;[1150] [1151] [1152] [1153] [1154] [1155] [1156] [1157] [1158]

"article" includes substance and any other thing;

“Bermuda Gaming Commission” has the meaning given in section 6 of the Gaming Act 2014; [1159][1160]

"biological weapon" means[1161]

(a) any biological agent or toxin of a type and in a quantity that has no justification for prophylactic, protective or other peaceful purposes; or

(b) any weapon, equipment or means of delivery designed to use biological agents or toxins for hostile purposes or in armed conflict;

“business relationship” means a business, professional or commercial relationship between an AML/ATF regulated financial institution or an insurer and a customer, which is expected by the institution or insurer, when contact is first made between them, to have an element of duration;[1162]

“casino” has the meaning given in section 2 of the Gaming Act 2014; [1163][1164]

“casino operator” has the meaning given in section 2 of the Gaming Act 2014; [1165][1166]

"chemical weapon" means a weapon, other than one whose intended use is only for peaceful purposes, purposes related to protection against toxic chemicals, legitimate military purposes or purposes of enforcing the law, consisting of— [1167]

(a) toxic chemicals and their precursors;

(b) munitions and other devices designed to cause death or harm through the toxic properties of toxic chemicals released by them; or

(c) equipment designed for use in connection with munitions and devices falling within paragraph (b);

"Confiscated Assets Fund" means the Fund established under section 55A of the Proceeds of Crime Act 1997;

"country" includes territory;

“dealers in high value goods” shall have the same meaning as in section 2(1) of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008;[1168]

"designated person", in relation to a direction, means any of the persons in relation to whom the direction is given;[1169]

“direction” means a direction issued by the Minister by order under section 12B;

“FIA” means the Financial Intelligence Agency established under section 3 of the Financial Intelligence Agency Act 2007; [1170]

“financial group” has the meaning given in section 42A(1) of the Proceeds of Crime Act 1997;[1171]

“insurer” means a person, other than an insurer referred to in paragraph (c) of the definition “AML/ATF regulated financial institution”, in section 42A(1) of the Proceeds of Crime Act 1997[1172], that is carrying on insurance business in Bermuda, as defined in section 1 of the Insurance Act 1978;[1173]

“international organisation” means an organisation of which two or more sovereign powers, or the governments of two or more sovereign powers, are members;[1174]

"Minister" means the Minister responsible for justice;

“National Anti-Money Laundering Committee” means National Anti-Money Laundering Committee established under section 49 of the Proceeds of Crime Act 1997;[1175]

"notice" means a notice in writing;[1176]

"nuclear weapon" includes a nuclear explosive device that is not intended for use as a weapon;[1177]

“patron” has the meaning given in section 2 of the Gaming Act 2014; [1178][1179]

"premises" includes any place, and in particular includes a vehicle and a tent or moveable structure;

“professional accountant” means an accountant who is a member of the [1180]Chartered Professional Accountants of Bermuda;[1181]

“professional legal adviser” means a barrister and attorney who is a member of the Bermuda Bar Association.[1182]

"property" includes property wherever situated and whether real or personal, heritable or moveable, and things in action and other intangible or incorporeal property;

"radiological weapon" means a device designed to cause destruction, damage or injury by means of the radiation produced by the decay of radioactive material; and[1183]

“real estate agent” means a person licensed under the Real Estate Brokers’ Licensing Act 2017 as an agent;[1184] [1185]

"real estate broker" means a person licensed under the Real Estate Brokers' Licensing Act 2017 as a broker; [1186]

"Registrar" means the Registrar of Companies appointed under section 3 of the Companies Act 1981;[1187]

"relevant person" means a person to whom, in accordance with section 12A, regulations apply;[1188]

"terrorist financing" means an offence under section 5, 6, 7 or 8 or an act that would constitute such an offence if carried out in Bermuda;[1189]

"terrorist investigation" means an investigation of -

(a) the commission, preparation or instigation of acts of terrorism;

(b) an act which appears to have been done for the purposes of terrorism; or

(c) the commission, preparation or instigation of an offence under this Act;

"vehicle" includes an aircraft, hovercraft, train or vessel.

[section 2 amended by 2008:36 s. 2 effective 15 November 2008; section 2 amended by 2009:50 s. 2 effective 15 January 2010; section 2 definition "AML/ATF regulated financial institution" amended by 2012:35 s. 67 effective 1 January 2013; amended by 2014:8 s. 16 effective 11 April 2014; "Bermuda Gaming Commission"[1190], "casino", "casino operator" and "patron" inserted by 2015:35 s. 18 effective 6 November 2015; "dealers in high value goods" and "real estate agent" inserted by 2016:45 s. 4 effective 5 August 2016; "AML/ATF regulated financial institution" amended by 2016:36 s. 71 effective 31 January 2017; "AML/ATF regulated financial institution" amended by 2017:10 s. 3 effective 24 March 2017; "real estate agent" amended and "real estate broker" inserted by 2017:28 effective 2 October 2017; section 2 definition "AML/ATF regulated financial institution" amended by 2018:5 s. 10 effective 21 March 2018; section 2 definition "relevant person" inserted by 2018:50 s. 6 effective 10 August 2018; section 2 definition "financial group" inserted by 2018:51 s. 6 effective 10 August 2018; section 2 definition "AML/ATF regulated financial institution" deleted and substituted, and definition "insurer" amended by 2018:49 s. 5 effective 7 September 2018; amended by 2020:36 Sch. effective 1 November 2020]

3. Terrorism: interpretation

(1) In this Act "terrorism" means the use or threat of action where -

(a) the action falls within subsection (2);

(b) the use or threat is designed to influence the government or an international organisation or intimidate the public or a section of the public; and[1191]

(c) the use or threat is made for the purpose of advancing a political, religious, racial, ethnic or philosophical, or ideological cause;[1192]

(2) Action falls within this section if it -

(a) involves serious violence against persons, including internationally protected persons (including diplomats);[1193]

(b) involves serious damage to property;

(c) endangers a person's life, other than that of the person committing the action;

(d) creates a serious risk to the health or safety of the public or a section of the public;[1194]

(e) is designed seriously to interfere with or seriously to disrupt an electronic system;

(f) involves the unlawful seizure of aircraft in flight; or [1195]

(g) involves unlawful violence against the safety of maritime navigation.[1196]

(h) involves unlawful acts against the safety of civil aviation;[1197]

(i) involves the seizure or detention of another person ("the hostage") and threatens to kill, to injure or to continue to detain the hostage; [1198]

(j) involves nuclear material such that it—[1199]

(i) involves serious interference with the physical protection of nuclear material; or

(ii) involves an act that without lawful authority constitutes the receipt, possession, use, transfer, alteration, disposal or dispersal of nuclear material,

and which causes or is likely to cause death or serious injury to any person or substantial damage to property;

(k) involves unlawful violence at airports serving international civil aviation; [1200]

(l) involves unlawful violence against the safety of fixed platforms located on the continental shelf; or[1201]

(m) involves terrorist bombings, the unlawful and intentional delivery, placement, discharge or detonation of an explosive or other lethal device in, into or against a place of public use, a government facility, a public transportation system or an infrastructure facility. [1202]

(3) The use or threat of action falling within subsection (2) which involves the use of firearms or explosives is terrorism whether or not subsection (l)(b) is satisfied.

(4) In this section -

(a) "action" includes action outside Bermuda;

(b) a reference to any person or to property is a reference to any person, or to property, wherever situated;

(c) a reference to the public includes a reference to the public of a country other than Bermuda;

(d) "explosive" means -

(i) an article or substance manufactured for the purpose of producing a practical effect by explosion;

(ii) materials for making an article or substance within subparagraph (i);

(iii) anything used or intended to be used for causing or assisting in causing an explosion; and

(iv) a part of anything within subparagraph (i) or (iii);

(e) "firearm" includes an air gun or air pistol; and

(f) "the government" means the government of Bermuda or of a country (or a part of a country) other than Bermuda.

[section 3 amended by 2008:36 s.3 effective 15 November 2008; Section 3 subsection (1)(c) deleted and substituted by 2013 : 30 s. 6 effective 8 November 2013; Section 3 subsections (2)(h)-(m) inserted by 2013:30 s. 7 effective 8 November 2013]

4. Terrorist property: interpretation

(1) In this Act "terrorist property" means -

(a) money or other property which is likely to be used for the purposes of terrorism;

(b) proceeds of the commission of acts of terrorism; and

(c) proceeds of acts carried out for the purposes of terrorism.

(2) In subsection (1) a reference to proceeds of an act includes a reference to any property which wholly or partly, and directly or indirectly, represents the proceeds of the act (including payments or other rewards in connection with its commission).

CHAPTER II - OFFENCES

5. Fund-raising

(1) A person commits an offence if he -

(a) invites another to provide money or other property; and

(b) intends that it should be used, or suspects that it may be used, for the purposes of—[1203]

(i) terrorism;

(ii) financing of terrorist organisations;[1204]

(iii) financing of a person or persons participating in terrorist activity, [1205] whether or not the money or other property is likely to be used or is in fact used for that activity or for any other purpose; or [1206]

(iv) financing of a person's or persons' travel to a country, other than that person's or persons country of nationality or residence, for the purpose of—[1207]

(A) the perpetration of;

(B) the planning or preparation of; or

(C) the participation in,

acts of terrorism or the providing or receiving of training for the purpose of terrorism.

(2) A person commits an offence if he -

(a) receives money or other property; and

(b) intends that it should be used, or suspects that it may be used, for the purposes of—[1208]

(i) terrorism;

(ii) financing of terrorist organisations;[1209]

(iii) financing of a person or persons participating in terrorist activity, [1210] whether or not the money or other property is likely to be used or is in fact used for that activity or for any other purpose; or [1211]

(iv) financing of a person's or persons' travel to a country, other than that person's or persons country of nationality or residence, for the purpose of—[1212]

(A) the perpetration of;

(B) the planning or preparation of; or

(C) the participation in,

acts of terrorism or the providing or receiving of training for the purpose of terrorism.

(3) A person commits an offence if he -

(a) provides money or other property; and

(b) intends that it should be used, or suspects that it may be used, for the purposes of—[1213]

(i) terrorism;

(ii) financing of terrorist organisations; [1214]

(iii) financing of a person or persons participating in terrorist activity, [1215] whether or not the money or other property is likely to be used or is in fact used for that activity or for any other purpose; or[1216]

(iv) financing of a person's or persons' travel to a country, other than that person's or persons country of nationality or residence, for the purpose of—[1217]

(A) the perpetration of;

(B) the planning or preparation of; or

(C) the participation in,

acts of terrorism or the providing or receiving of training for the purpose of terrorism.

(4) In this section a reference to the provision of money or other property is a reference to its being given, lent or otherwise made available, whether or not for consideration.

[Section 5 subsections (1)(b), (2)(b) and (3)(b) deleted and substituted by 2013:30 s. 8 effective 8 November 2013; subsections (1)(b), (2)(b) and (3)(b) amended by 2016:45 s. 5 effective 5 August 2016]

5A. Organising or directing others to commit offences[1218]

It is an offence for a person to organise or direct another person to commit an offence specified in section 5.

[section 5A inserted by 2008:36 s.4 effective15 November 2008]

5B. Offences by bodies corporate etc.[1219]

(1) If an offence under this Act committed by a body corporate is shown-

(a) to have been committed with the consent or the connivance of an officer of the body corporate; or

(b) to be attributable to any neglect on his part,

the officer as well as the body corporate is guilty of an offence and liable to be proceeded against and punished accordingly.

(2) If an offence under this Act committed by a partnership is shown-

(a) to have been committed with the consent or the connivance of a partner; or

(b) to be attributable to any neglect on his part

the partner as well as the partnership is guilty of an offence and liable to be proceeded against and punished accordingly.

(3) If an offence under this Act committed by an unincorporated association (other than a partnership) is shown-

(a) to have been committed with the consent or the connivance of an officer of the association; or

(b) to be attributable to any neglect on his part

that officer as well as the association is guilty of an offence and liable to be proceeded against and punished accordingly.

(4) If the affairs of a body corporate are managed by its members, subsection (1) applies in relation to acts and defaults of a member in connection with his functions of management as if he were a director of the body.

(5) Proceedings for an offence alleged to have been committed by a partnership or an unincorporated association shall be brought in the name of the partnership or association (and not in that of its members).

(6) A fine imposed on a partnership or association on its conviction of an offence is to be paid out of the funds of the partnership or association.

(7) In this section-

"officer"-

(a) in relation to a body corporate, means a director, manager, secretary, chief executive, member of the committee of management, or a person purporting to act in such capacity; and

(b) in relation to an unincorporated association, means any officer of the association or any member of its governing body, or a person purporting to act in such capacity; and

"partner" includes a person purporting to act as a partner.

[section 5B inserted by 2008:36 s.4 effective 15 November 2008]

6. Use and possession

(1) A person commits an offence if he uses money or other property for the purposes of terrorism.

(2) A person commits an offence if he -

(a) possesses money or other property; and

(b) intends that it should be used, or suspects that it may be used, for the purposes of terrorism.

7. Funding arrangements

A person commits an offence if -

(a) he enters into or becomes concerned in an arrangement as a result of which money or other property is made available or is to be made available to another; and

(b) he knows or suspects that it will or may be used for the purposes of terrorism.

8. Money laundering

(1) A person commits an offence if he enters into or becomes concerned in an arrangement which facilitates the retention or control by or on behalf of another person of terrorist property -

(a) by concealment;

(b) by removal from the jurisdiction;

(c) by transfer to nominees; or

(d) in any other way.

(2) It is a defence for a person charged with an offence under subsection (1) to prove that he did not know or suspect that the arrangement related to terrorist property.

9. Disclosure of information: duty

(1) This section applies where a person -

(a) believes, suspects or has reasonable grounds to suspect[1220] that another person is committing or attempting to commit, or has committed, an offence[1221] under any of sections 5 to 8; and

(b) bases his belief or suspicion on information which comes to his attention in the course of a trade, profession, business or employment.

(2) But this section does not apply if the information came to the person in the course of a business in the regulated sector (as defined in paragraph 1(12) of Schedule 1 for the purposes of that paragraph).

(3) The person commits an offence if he does not disclose promptly[1222] to a the FIA[1223] [1224] -

(a) his belief, suspicion or reasonable grounds for suspicion[1225]; and

(b) the information on which it is based.

(4) It is a defence for a person charged with an offence under subsection (3) to prove that he had a reasonable excuse for not making the disclosure.

(5) Where -

(a) a person is in employment;

(b) his employer has established a procedure for the making of disclosures of the matters specified in subsection (3); and

(c) he is charged with an offence under that subsection;

it is a defence for him to prove that he disclosed the matters specified in that section in accordance with the procedure.

(6) Subsection (3) does not require disclosure by a professional legal adviser of -

(a) information which he obtains in privileged circumstances; or

(b) a belief or suspicion based on information which he obtains in privileged circumstances.

(7) For the purposes of subsection (6) information is obtained by an adviser in privileged circumstances if it comes to him, otherwise than with a view to furthering a criminal purpose -

(a) from a client or a client's representative, in connection with the provision of legal advice by the adviser to the client;

(b) from a person seeking legal advice from the adviser, or from the person's representative; or

(c) from any person, for the purpose of actual or contemplated legal proceedings.

(8) For the purposes of subsection (l)(a) a person shall be treated as having committed an offence under one of sections 5 to 8 if -

(a) he has taken an action or been in possession of a thing; and

(b) he would have committed an offence under one of those sections if he had been in Bermuda at the time when he took the action or was in possession of the thing.

(9) A person guilty of an offence under this section shall be liable -

(a) on summary conviction, to a fine of $15,000 or imprisonment for three years or both; and[1226]

(b) on conviction on indictment, to an unlimited fine or imprisonment for ten years or both.[1227]

[section 9 subsection (3) amended by 2007:22 s. 22 effective 15 November 2008; subsection (9) amended by 2013:30 s. 9 effective 8 November 2013; subsections (1) and (3) amended by 2017:10 s. 3 effective 24 March 2017; section 9 amended by 2018:51 s. 6 effective 10 August 2018]

10. Disclosure of information: permission

(1) A person may disclose to the FIA[1228] -

(a) a suspicion or belief that any money or other property is terrorist property or is derived from terrorist property;

(b) any matter on which the suspicion or belief is based.

(2) A person may make a disclosure to the FIA[1229] in the circumstances mentioned in sections 9 (1) and (3).

(3) Subsections (1) and (2) shall have effect notwithstanding any restriction on the disclosure of information imposed by statute or otherwise.

(4) Where -

(a) a person is in employment; and

(b) his employer has established a procedure for the making of disclosures of the kinds mentioned in subsection (1) and section 9(3);

subsections (1) and (2) shall have effect in relation to that person as if any reference to disclosure to the FIA[1230] included a reference to disclosure in accordance with the procedure.

[section 10 subsections (1), (2), and (4) amended by 2007:22 s. 22 effective 15 November 2008]

10A. Tipping-off[1231]

(1) A person is guilty of an offence if-

(a) he knows, suspects or has reasonable grounds to suspect[1232] that a police officer is acting, or is proposing to act, in connection with an investigation which is being, or is about to be, conducted into terrorist financing; and

(b) he discloses to any other person information or any other matter which is likely to prejudice that investigation or proposed investigation.

(2) A person is guilty of an offence if-

(a) he knows, suspects or has reasonable grounds to suspect[1233] that a disclosure has been made to the FIA under sections 9, 10 or paragraph 1 of Part 1 of Schedule 1; and

(b) he discloses to any other person—[1234]

(i) his knowledge or suspicion that a disclosure or related information has been filed with the FIA; or

(ii) information or any other matter which is likely to prejudice any investigation which might be conducted following such a disclosure.

(3) Nothing in subsection (1) or (2) makes it an offence for a professional legal adviser to disclose any information or other matter-

(a) to, or to a representative of, a client of his in connection with the giving by the adviser of legal advice to the client; or

(b) to any person-

(i) in contemplation of, or in connection with, legal proceedings; and

(ii) for the purpose of those proceedings;

but this subsection does not apply in relation to any information or other matter which is disclosed with a view to furthering any criminal purpose.

(4) In proceedings against a person for an offence under subsection (1) or (2)(b)(ii)[1235], it is a defence that the person did not know or suspect or have reasonable grounds to suspect[1236] that the disclosure was likely to be prejudicial in the way there mentioned.

(5) No police officer or other person shall be guilty of an offence under this section in respect of anything done by him in the course of acting in accordance with the enforcement, or intended enforcement, of any provision of this Act or of any other statutory provision relating to terrorism, terrorist property or the financing of terrorist organisations, individuals or activities. [1237]

(6) No person shall be guilty of an offence under this section where he discloses information to a supervisory authority in the course of it carrying out its statutory duties. [1238]

(7) For the purposes of this section, supervisory authority, shall have the same meaning as under section 2 of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008. [1239]

[section 10A inserted by 2008:36 s.5 effective 15 November 2008; subsection (2)(b) deleted and substituted and subsection (4) amended by 2013:30 s. 10 effective 8 November 2013; subsections (1), (2) and (4) amended and subsections (5) - (7) inserted by 2017:10 s. 3 effective 24 March 2017]

11. Disclosure of information: regulated and public sectors

Schedule 1, which makes special provision for the disclosure of information by persons in the regulated and public sectors, shall have effect.

12. Cooperation with the FIA

(1) A person does not commit an offence under any of sections 5 to 8 if he is acting with the express consent of the FIA[1240].

(2) Subject to subsections (3) and (4), a person does not commit an offence under any of sections 5 to 8 by involvement in a transaction or arrangement relating to money or other property if he discloses to the FIA[1241] -

(a) his suspicion or belief that the money or other property is terrorist property; and

(b) the information on which his suspicion or belief is based.

(3) Subsection (2) applies only where a person makes a disclosure -

(a) after he becomes involved in the transaction or arrangement concerned;

(b) on his own initiative; and

(c) promptly. [1242]

(4) Subsection (2) does not apply to a person if -

(a) the FIA[1243] forbids him to continue his involvement in the transaction or arrangement to which the disclosure relates; and

(b) he continues his involvement.

(5) It is a defence for a person charged with an offence under any of sections 5(2) and (3) and 6 to 8 to prove that -

(a) he intended to make a disclosure of the kind mentioned in subsections (2) and (3); and

(b) there is reasonable excuse for his failure to do so.

(6) Where -

(a) a person is in employment; and

(b) his employer has established a procedure for the making of disclosures of the same kind as may be made to the FIA[1244] under subsection (2);

this section shall have effect in relation to that person as if any reference to disclosure to the FIA[1245] included a reference to disclosure in accordance with the procedure.

(7) A reference in this section to a transaction or arrangement relating to money or other property includes a reference to use or possession.

[section 12 amended by 2007:22 s.22 effective 15 November 2008; section 12 heading changed by deleting "police" and replacing with "the FIA" under the authority of the Computerization and Revision of Laws Act 1989 s.11(m); Section 12 subsection (3)(c) amended by 2018:51 s. 6 effective 10 August 2018]

12A. Regulations[1246]

(1) The Minister may, after consulting the National Anti-Money Laundering Committee, make such regulations as he thinks fit for the purposes of— [1247]

(a) detecting and preventing the financing of terrorism; or

(b) detecting and preventing the financing of proliferation of weapons of mass destruction.

(2) Without prejudice to the generality of subsection (1), such regulations may in particular-

(a) require-

(i) such persons or classes of persons conducting businesses in the financial services industry, falling within any one or more activities or operations for or on behalf of a customer as may be prescribed by the Minister; [1248]

(ia) such dealers in high value goods who, by way of business, accept a total cash payment (in any currency) that is equivalent to at least BMD $7,500 in any single transaction or series of linked transactions;[1249]

(ib) real estate agents, when they carry out transactions for their clients concerning the buying and selling of real estate; [1250]

(ii) professional legal advisers and accountants in independent practice, who by way of business provide legal or accountancy services to other persons when participating in financial or real property transactions concerning a class of activity specified in subsection (3); and for this purpose, a person participates in a transaction by assisting in the planning or execution of the transaction or otherwise acting for or on behalf of a client in the transaction;

(iii) casino operators, [1251]

and to establish and maintain procedures relating to the identification of clients, the keeping of records, the making of records, the vetting of employees, the

verification of the effective design and operation of anti-money laundering systems and the training of employees; and[1252]

(b) create criminal offences of failing to comply with the regulations.

(2A) In the application of subsection (2) in relation to casino operators "client" means a patron. [1253]

(3) For the purposes of subsection (2) (a) (ii), the following are specified activities-

(a) buying and selling real property;

(b) managing of client monies, securities and other assets;

(c) management of bank, savings or securities accounts;

(d) organisation of contributions for the creation or management of companies;

(e) creation, operation or management of legal persons or arrangements, and buying and selling business entities.

(4) Regulations made under this section are subject to the affirmative resolution procedure.

[section 12A inserted by 2008:36 s.6 effective 15 November 2008; subsection (2)(a) amended and subsection (2A) inserted by 2015:35 s. 18 effective 6 November 2015; subsection (1) repealed and replaced by 2015:53 s. 24 effective 1 January 2016; subsection (2)(a) amended by 2016:45 s. 6 effective 5 August 2016]

12B. Directions[1254] [1255]

(1) The Minister may, by order, issue a direction to a relevant person[1256] or a financial group[1257] if—

(a) the Financial Action Task Force or the Caribbean Financial Action Task Force, [1258] has advised that measures should be taken in relation to a country because of the risk of terrorist financing being carried on—

(i) in the country;

(ii) by the government of the country; or

(iii) by persons resident or incorporated in the country; or

(b) the Minister reasonably believes that there is a risk that terrorist financing is being carried on—

(i) in a country;

(ii) by the government of a country; or

(iii) by persons resident or incorporated in the country, and that this poses a significant risk to the national interests of Bermuda.

(2) The Minister may, by order, issue a direction to an AML/ATF regulated financial institution, to a financial group[1259] or to an insurer, if the Minister reasonably believes that—

(a) the development or production in a country of nuclear, radiological, biological or chemical weapons or systems of delivery for such weapons; or

(b) the doing in a country of anything that facilitates the development or production of such weapons or systems of delivery,

poses a significant risk to the national interests of Bermuda.

(3) A direction may be issued to—

(a) a particular AML/ATF regulated financial institution, financial group[1260] or insurer;

(b) any description of AML/ATF regulated financial institutions, financial groups[1261] or insurers; or

(c) all AML/ATF regulated financial institutions, financial groups[1262] and insurers.

(4) The requirements imposed by a direction must be proportionate to the seriousness of the risk, having regard to the advice mentioned in subsection (1)(a) or the risk mentioned in subsection (1)(b) or (2), as the case may be.

[Section 12B inserted by 2009:50 s. 3 effective 15 January 2010; Section 12B amended by 2018:50 s. 7 effective 10 August 2018; Section 12B amended by 2018:51 s. 6 effective 10 August 2018]

12C. Transactions and persons affected by directions

(1) A direction may impose requirements in relation to transactions or business relationships with—

(a) a person carrying on business in the country;

(b) the government of the country;

(c) a person resident or incorporated in the country.

(2) The direction may impose requirements in relation to—

(a) a particular person within subsection (1);

(b) any description of persons within that subsection; or

(c) all persons within that subsection.

(3) For the purposes of this section, a transaction or business relationship with a person or government includes a transaction or business relationship with a third party that ultimately benefits, or is intended to benefit, that person or government.

(4) A direction may make different provisions—

(a) in relation to different descriptions of persons to whom the direction is given; and

(b) in relation to different descriptions of transaction or business relationship.

[Section 12C inserted by 2009:50 s. 3 effective 15 January 2010]

12D. Requirements that may be imposed on financial institutions and financial groups[1263]

A direction issued to a relevant person[1264] or a financial group[1265] under section 12B may impose any of the following requirements—

(a) customer due diligence;

(b) ongoing monitoring;

(c) systematic reporting;

(d) limiting or ceasing business.

[Section 12D inserted by 2009:50 s. 3 effective 15 January 2010; Section 12D amended by 2018:50 s. 8 effective 10 August 2018; Section 12D amended by 2018:51 s. 6 effective 10 August 2018]

12E. Requirements that may be imposed on insurers

A direction issued to an insurer under section 12B(2) may impose either or both of the following requirements—

(a) systematic reporting;

(b) limiting or ceasing business.

[Section 12E inserted by 2009:50 s. 3 effective 15 January 2010]

12F. Customer due diligence

(1) A direction may require a relevant person[1266] or a financial group[1267] to undertake enhanced customer due diligence measures—

(a) before entering into a transaction or business relationship with a designated person; and

(b) during a business relationship with such a person.

(2) The direction may do either or both of the following—

(a) impose a general obligation to undertake enhanced customer due diligence measures;

(b) require a relevant person[1268] or a financial group[1269] to undertake specific measures identified or described in the direction.

(3) In this section, "customer due diligence measures" means measures to—

(a) establish the identity of the designated person,

(b) obtain information about the designated person, their business, and the source of their funds; and

(c) assess the risk of the designated person being involved in terrorist financing.

[Section 12F inserted by 2009:50 s. 3 effective 15 January 2010; Section 12F amended by 2018:50 s. 8 effective 10 August 2018; Section 12F amended by 2018:51 s. 6 effective 10 August 2018]

12G. Ongoing monitoring

(1) A direction may require a relevant person[1270] or a financial group[1271] to undertake enhanced ongoing monitoring of any business relationship with a designated person.

(2) The direction may do either or both of the following—

(a) impose a general obligation to undertake enhanced ongoing monitoring;

(b) require a relevant person[1272] or a financial group[1273] to undertake specific measures identified or described in the direction.

(3) In this section, “ongoing monitoring” of a business relationship means—

(a) scrutiny of transactions undertaken throughout the course of the relationship (including, where necessary, the source of funds) to ensure that the transactions are consistent with the knowledge of the relevant person[1274] and financial group[1275] of the customer, his business and risk profile; and

(b) so far as practicable keeping the documents, data or information obtained for the purpose of applying customer due diligence measures up-to-date.

[Section 12G inserted by 2009:50 s. 3 effective 15 January 2010; Section 12G amended by 2018:50 s. 8 effective 10 August 2018; Section 12G amended by 2018:51 s. 6 effective 10 August 2018]

12H. Systematic reporting

(1) A direction may require a relevant person[1276], a financial group[1277] or an insurer to provide such information and documents as may be specified in the direction relating to transactions or business relationships with designated persons.

(2) A direction imposing such a requirement must specify how the direction is to be complied with, including—

(a) the person to whom the information and documents are to be provided; and

(b) the period within which, or intervals at which, information and documents are to be provided.

(3) The power conferred by this section may not be exercised in relation to information or documents in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

(4) The exercise of the power conferred by this section and the provision of information under it is not otherwise subject to any restriction on the disclosure of information, whether imposed by statute or otherwise.

[Section 12H inserted by 2009:50 s. 3 effective 15 January 2010; Section 12H amended by 2018:50 s. 8 effective 10 August 2018; Section 12H(1) amended by 2018:51 s. 6 effective 10 August 2018]

12I. Limiting or ceasing business

A direction may require a relevant person[1278], a financial group[1279] or an insurer not to enter into or continue to participate in—

(a) a specified transaction or business relationship with a designated person;

(b) a specified description of transactions or business relationships with a designated person; or

(c) any transaction or business relationship with a designated person.

[Section 12I inserted by 2009:50 s. 3 effective 15 January 2010; Section 12I amended by 2018:50 s. 8 effective 10 August 2018; Section 12I amended by 2018:51 s. 6 effective 10 August 2018]

12J. Making and giving effect to directions

(1) The Minister may vary or revoke a direction at any time.

(2) A direction ceases to have effect one year after the day on which it was made, without prejudice to the making of further directions.

(3) A direction given to a description of AML/ATF regulated financial institutions, financial groups[1280] or insurers or to all such institutions and insurers is a statutory instrument and subject to the negative resolution procedure.

(4) A direction given to a particular person is not a statutory instrument. The Minister must give notice of the direction to that person as soon as possible after issuing it.

[Section 12J inserted by 2009:50 s. 3 effective 15 January 2010; Section 12J amended by 2018:51 s. 6 effective 10 August 2018]

12K. Directions limiting or ceasing business: exemption by license

(1) An AML/ATF regulated financial institution, financial group[1281] or insurer that is subject to a direction referred to in section 12I may apply to the Minister, in such form as the Minister may specify, to exempt a specific transaction or business relationship or a description of transactions or business relationships from the requirements of the direction.

(2) The applicant shall provide such information and documents as the Minister may require in determining the application.

(3) The Minister may grant a license to the applicant exempting it from the requirements of the direction in relation to the transactions or business relationships specified in the license with the persons

designated in it, if the Minister is satisfied that the applicant's participation in the transactions or business relationships with those persons does not pose a risk to the national interests of Bermuda.

(4) The Minister, on his own initiative, may—

(a) grant a license to a particular AML/ATF regulated financial institution, financial group[1282] or insurer or to a group of such institutions or insurers exempting them from the requirements of a direction in relation to transactions or business relationships specified in the license with persons designated in it; or

(b) grant a general license exempting all AML/ATF regulated financial institutions, financial groups[1283] and insurers from the requirements of the direction in relation to transactions or business relationships specified in the license with persons designated in it,

if the Minister is satisfied that the participation of those institutions or insurers in the specified transactions or business relationships with the designated persons does not pose a risk to the national interests of Bermuda.

(5) A license may be subject to such conditions as the Minister sees fit to impose and may be of the same duration as the direction or subject to an earlier expiry date.

(6) The Minister may vary or revoke a license at any time.

(7) On the grant, variation or revocation of a license, the Minister must—

(a) in the case of a license granted to a particular person, give notice of the grant, variation or revocation to that person; or

(b) in the case of a general license or a license granted to a description of persons, take such steps as he considers appropriate to publicize the grant, variation or revocation of the license.

[Section 12K inserted by 2009:50 s. 3 effective 15 January 2010; Section 12K amended by 2018:51 s. 6 effective 10 August 2018]

12L. Offence: failure to comply with a direction

(1) A person or financial group[1284] who fails to comply with a requirement imposed by direction commits an offence.

(2) Notwithstanding subsection (1), no offence is committed if the person or financial group[1285] took all reasonable steps and exercised all due diligence to ensure that the requirement would be complied with.

(3) A person or financial group[1286] guilty of an offence under this section is liable—

(a) on summary conviction, to a fine of $50,000; or

(b) on conviction on indictment to a fine of $750,000 or to imprisonment for a term of two years or to both.

(4) Where a person or financial group[1287] is convicted of an offence under this section, he is not liable to a civil penalty under any statutory provision in relation to the same matter.

[Section 12L inserted by 2009:50 s. 3 effective 15 January 2010; Section 12L amended by 2018:51 s. 6 effective 10 August 2018]

12M. Offences in connection with licenses

(1) A person commits an offence who for the purpose of obtaining a license under section 12K—

(a) provides information that is false in a material respect or a document that is not what it purports to be; and

(b) knows that, or is reckless as to whether, the information is false or the document is not what it purports to be.

(2) A person guilty of an offence under this section is liable—

(a) on summary conviction, to a fine of $50,000; or

(b) on conviction on indictment to a fine of $750, 000 or to imprisonment for a term of two years or to both.

[Section 12M inserted by 2009:50 s. 3 effective 15 January 2010]

12N. Report to Legislature

(1) As soon as reasonably practicable after the end of each calendar year, the Minister must—

(a) prepare a report about the exercise during that year of the Minister's powers and functions in relation to directions and licenses under this Act; and

(b) lay a copy of the report before both Houses of the Legislature.

(2) Subsection (1) does not apply in relation to a year if the Minister has not issued a direction pursuant to those powers and functions at any time in that year.

[Section 12N inserted by 2009:50 s. 3 effective 15 January 2010]

12O. Use of guidance[1288]

(1) In determining whether a person or a financial group[1289] has committed an offence under sections 5 to 9[1290], or 12L[1291], a court shall consider whether a defendant has followed any relevant guidance which was at the time-

(a) issued by a supervisory authority;

(b) approved by the Minister; and[1292]

(c) published in a manner approved by the Minister as appropriate in his opinion to bring the guidance to the attention of persons or financial groups[1293] likely to be affected by it. [1294]

(2) In this section "supervisory authority" means—[1295]

(a) the Bermuda Monetary Authority in relation to persons falling within section 12A(2)(a)(i), being persons who are licensed, registered or otherwise exempted under any enactment regulating the financial services industry;

(b) a professional body designated by the Minister under any enactment in relation to relevant persons regulated by it;

(c) the Bermuda Gaming Commission in relation to casino operators;[1296]

(d) the Registrar as a supervisory authority in relation to relevant persons that are dealers in high value goods; and[1297] [1298]

(e) the Superintendent of Real Estate in relation to real estate brokers. [1299] [1300]

[section 12B inserted by 2008:36 s.6 effective 15 November 2008; Section 12B renumbered to Section 12O by 2009:50 s. 3 and amended by 2009:50 s. 4 effective 15 January 2010; Section 12O subsection (1) amended by 2013:30 s. 11 effective 8 November 2013; Section 12O(2) repealed and substituted by 2015:35 s. 18 effective 6 November 2015; Section 12O subsection (2) amended by 2016:45 s. 7 effective 5 August 2016; Section 12O subsection (2)(e) amended by 2017:28 effective 2 October 2017; Section

12O amended by 2018:51 s. 6 effective 10 August 2018; amended by 2020:36 Sch. effective 1 November 2020]

13. Penalties

(1) A person guilty of an offence under any of sections 5 to 8 shall be liable -

(a) on summary conviction, to a fine of $50,000 or to imprisonment for five years, or to both; [1301]

(b) on conviction on indictment, to an unlimited fine or to imprisonment for twenty years, or to both. [1302]

(2) A person guilty of an offence under section 10A (tipping off) shall be liable -

(a) on summary conviction, to a fine of $15,000 or imprisonment for three years or to both;

(b) on conviction on indictment, to an unlimited fine or to imprisonment for ten years, or to both.[1303]

[section 13 amended by 2008:49 s.40(1) effective 1 January 2009; Section 13 subsection (1) amended by 2018:51 s. 6 effective 10 August 2018]

14. Forfeitures

(1) The court by or before which a person is convicted of an offence under any of sections 5 to 8 may make a forfeiture order in accordance with the provisions of this section.

(2) Where a person is convicted of an offence under section 5(1) or (2) or 6, the court may order the forfeiture of any money or other property -

(a) which, at the time of the offence, he had in his possession or under his control; and

(b) which, at that time, he intended should be used, or suspected might be used, for the purposes of terrorism.

(3) Where a person is convicted of an offence under section 5(3) the court may order the forfeiture of any money or other property -

(a) which, at the time of the offence, he had in his possession or under his control; and

(b) which, at that time, he knew suspected would or might be used for the purposes of terrorism.

(4) Where a person is convicted of an offence under section 7 the court may order the forfeiture of the money or other property -

(a) to which the arrangement in question related; and

(b) which, at the time of the offence, he knew or suspected would or might be used for the purposes of terrorism.

(5) Where a person is convicted of an offence under section 8 the court may order the forfeiture of the money or other property to which the arrangement in question related.

(6) Where a person is convicted of an offence under any of sections 5 to 8, the court may order the forfeiture of any money or other property which wholly or partly, and directly or indirectly, is received by any person as a payment or other reward in connection with the commission of the offence.

(7) Where a person other than the convicted person claims to be the owner of or otherwise interested in anything which can be forfeited by an order under this section, the court shall give him an opportunity to be heard before making an order.

(8) Schedule 2 (which makes further provision in relation to forfeiture orders under this section) shall have effect.

15. Forfeiture of terrorist cash

(1) Schedule 3 (which makes provision for enabling cash which -

(a) is intended to be used for the purposes of terrorism; or

(b) is, or represents, property obtained through terrorism,

to be forfeited in civil proceedings before a magistrate's court) shall have effect.

(2) The powers conferred by Schedule 3 are exercisable in relation to any cash whether or not proceedings have been brought for an offence in connection with the cash.

(3) Expressions used in this section have the same meanings as in Schedule 3.

15A. Prohibition of double jeopardy[1304]

No person shall be tried for an offence under this Act if the person has been charged with an offence under the Terrorist-Asset Freezing etc. Act 2010 (Overseas Territories) Order 2011[1305].

[section 15A inserted by 2008:36 s.7 effective 15 November 2008; amended by 2013:30 s. 12 effective 8 November 2013]

CHAPTER III - ACCOUNT MONITORING ORDERS

16. Account monitoring orders

Schedule 4 (account monitoring orders) shall have effect.

CHAPTER IV - TERRORIST FINANCE OFFENCES: JURISDICTION

17. Terrorist finance: things done outside Bermuda

(1) If -

(a) a person does anything outside Bermuda; and

(b) his action would have constituted the commission of an offence under any of sections 5 to 8 if it had been done in Bermuda, he shall be guilty of the offence.

(2) For the purposes of subsection (l)(b), section 8(1)(b) shall be read as if for "the jurisdiction" there were substituted "a jurisdiction".

CHAPTER V - GENERAL

18. Police powers

(1) A power conferred by virtue of this Act on a police officer -

(a) is additional to powers which he has at common law or by virtue of any other law in force in Bermuda; and

(b) shall not be taken to affect those powers.

(2) A police officer may if necessary use reasonable force for the purposes of exercising a power conferred on him by virtue of this Act.

(3) Where anything is seized by a police officer under a power conferred by virtue of this Act, it may (unless the contrary intention appears) be retained for so long as is necessary in all the circumstances for the purposes of this Act.

(4) An offence under this Act is an offence for which a person may be arrested without warrant; and the provisions of section 454 of the Criminal Code Act 1907 shall apply to offences under this Act as they apply to offences under that Act.

19. Production orders

(1) Section 37 of the Proceeds of Crime Act 1997 (production orders) applies (with appropriate modification) for the purposes of an investigation into offences under sections 5 to 8 of this Act as it applies for the purposes of investigations into the matters specified in paragraphs (a) to (c) of section 37(1) of that Act.

(2) Section 38 of the Proceeds of Crime Act 1997 (failure to comply with production orders) applies (with appropriate modification) to production orders made pursuant to subsection (1) of this section as it applies to production orders made pursuant to section 37 of that Act.

20. Search warrants

Section 39 of the Proceeds of Crime Act 1997 (search warrants) applies (with appropriate modification) for the purposes of investigations into offences under sections 5 to 8 of this Act as it applies for the purposes of investigations into the matters specified in paragraphs (a) to (c) of section 39(1) of that Act.

21. Offences of prejudicing investigation

Section 42 of the Proceeds of Crime Act 1997 (offence of prejudicing investigation) applies (with appropriate modification) in relation to investigations into offences under sections 5 to 8 of this Act as it applies in relation to investigations into criminal conduct under that Act.

22. Consent to prosecution

Proceedings for an offence under this Act shall not be instituted without the consent of the Director of Public Prosecutions.

23. Disapplication of section 9 with respect to regulators etc.

(1) Section 9 shall not apply to the Bermuda Monetary Authority.

(2) The Minister may by order provide for section 9 not to apply to persons who are in his opinion performing or connected with the performance of regulatory, supervisory, investigative or registration functions of a public nature.

(3) An order made under this section -

(a) may make different provision for different purposes;

(b) may make provision which is to apply only in specified circumstances; and

(c) may make provision which applies only to particular persons or persons of a particular description.

24. Evidence

(1) A document which purports to be -

(a) an order made by the Minister for the purposes of paragraph 19 of Schedule 2 or paragraph 19 of Schedule 3; and

(b) signed by him or on his behalf;

shall be received in evidence and shall, until the contrary is proved, be deemed to have been made by the Minister.

(2) A document bearing a certificate which -

(a) purports to be signed by or on behalf of the Minister; and

(b) states that the document is a true copy of an order made by the Minister for the purposes of a provision mentioned in subsection (l)(a);

shall be evidence of the document in legal proceedings.

(3) No person shall be guilty of an offence, or be liable to any penalty, by reason of an order made by the Minister in respect of anything done or omitted before the coming into operation of that order.

25. Orders and directions

(1) The Minister may make any order or direction authorised to be made under this Act.

(2) An order made or a direction given under this Act may be varied or revoked by a further such order or direction, as the case may be.

(3) An statutory instrument made under this Act is subject to negative resolution procedure.

26. Section 55A of Proceeds of Crime Act 1997 amended

Section 55A of the Proceeds of Crime Act 1997 (confiscated assets fund) is amended —

(a) by inserting the following paragraph after paragraph (b) of subsection (2) —

"(ba) cash or property forfeited or confiscated under the Anti-Terrorism (Financial and Other Measures) Act 2004";

(b) by inserting "terrorist financing" after "drug trafficking" in paragraph (a)(i) of subsection (3); and

(c) by inserting "or the Anti-Terrorism (Financial and Other Measures) Act 2004" at the end of paragraphs (d) and (e) of subsection (3).

SCHEDULE 1 (SECTION 11)

DISCLOSURE OF INFORMATION: REGULATED AND PUBLIC SECTORS

PART 1 - REGULATED SECTOR

1. Failure to disclose

(1) A person commits an offence if each of the following conditions is satisfied.

(2) The first condition is that he knows, suspects or has reasonable grounds to suspect[1306] that another person is committing or attempting to commit, or has committed, an offence[1307] under any of sections 5 to 8.

(3) The second condition is that the information or other matter on which his knowledge or suspicion is based came to him in the course of a business in the regulated sector.

(4) The third condition is that he does not promptly disclose the information or other matter to the FIA or a nominated officer after the information or other matter comes to him[1308] [1309].

(5) But a person does not commit an offence under this paragraph if -

(a) he has a reasonable excuse for not disclosing the information or other matter; or

(b) he is a professional legal adviser and the information or other matter came to him in privileged circumstances.

(6) In deciding whether a person committed an offence under this paragraph the court must consider whether he followed any relevant guidance which was at the time concerned -

(a) issued by a supervisory authority or any other appropriate authority;

(b) approved by the Minister; and

(c) published in a manner approved by the Minister as appropriate in his opinion to bring the guidance to the attention of persons likely to be affected by it.

(7) A certificate signed by or behalf of the Minister (or a true copy of such a certificate) that a matter was, or was not, approved by the Minister at any material time for the purposes of subparagraph (6) shall be conclusive evidence of that fact in any legal proceedings, and a document which purports to be such a certificate (or to be a true copy of such a certificate) shall be received in evidence in any legal proceedings and shall, until the contrary is proved, be deemed to be such a certificate (or such a copy).

(8) A disclosure to a nominated officer is a disclosure which -

(a) is made to a person nominated by the alleged offender's employer to receive disclosures under this paragraph; and

(b) is made in the course of the alleged offender's employment and in accordance with the procedure established by the employer for the purpose

(9) Information or other matter comes to a professional legal adviser in privileged circumstances if it is communicated or given to him -

(a) by (or by a representative of) a client of his in connection with the giving by the adviser of legal advice to the client;

(b) by (or by a representative of) a person seeking legal advice from the adviser; or

(c) by a person in connection with legal proceedings or contemplated legal proceedings.

(10) But subparagraph (9) does not apply to information or other matter which is communicated or given with a view to furthering a criminal purpose.

(11) For the purposes of subparagraph (2) the other person is taken to have committed an offence there mentioned if -

(a) he has taken an action or been in possession of a thing; and

(b) he would have committed an offence if he had been in Bermuda at the time when he took the action or was in possession of the thing.

(12) For the purposes of this paragraph a business is in the regulated sector if it is for the time being specified as being in the regulated sector, or if it belongs to a class of businesses that is for the time being specified as being in the regulated sector, by order made by the Minister.

(13) For the purposes of this paragraph a supervisory authority, in relation to a business or a class of businesses within the regulated sector, is any authority that is for the time being specified in that behalf by order made by the Minister, and any such order may specify an authority as a supervisory authority in relation to a particular business within that sector or in relation to a particular class or particular classes of businesses within that sector or in relation to businesses within that sector in general

(14) For the purposes of this paragraph an appropriate body is any body which regulates or is representative of any trade, profession, business or employment carried on by the alleged offender.

(15) A person guilty of an offence under this paragraph is liable -

(a) on summary conviction, to a fine of $10,000 or to imprisonment for six months, or to both, or

(b) on conviction on indictment, to a fine of $100,000 or to imprisonment for five years, or to both.

2. Protected disclosures

(1) A disclosure which satisfies the following three conditions is not to be taken to breach any restriction on the disclosure of information (however imposed).

(2) The first condition is that the information or other matter disclosed came to the person making the disclosure (the discloser) in the course of a business in the regulated sector.

(3) The second condition is that the information or other matter causes the discloser to know or suspect that another person has committed an offence under any of sections 5 to 8.

(4) The third condition is that the disclosure is made to the FIA or a nominated officer[1310] promptly[1311] after the information or other matter comes to the discloser.

(5) A disclosure to a nominated officer is a disclosure which -

(a) is made to a person nominated by the discloser's employer to receive disclosures under this paragraph; and

(b) is made in the course of the discloser's employment and in accordance with the procedure established by the employer for that purpose.

(6) A business is within the regulated sector for the purposes of this paragraph if it is such a business, in accordance with sub-paragraph (12) of paragraph 1, for the purposes of that paragraph.

[Part I of Schedule 1 amended in paragraph 1(4) and 2(4) by 2007:22 s. 22 effective 15 November 2008; Part 1 paragraph 1(2) amended by 2017:10 s. 3 effective 24 March 2017; Part 1 of Schedule 1 amended in paragraphs 1(2), 1(4) and 2(4) by 2018:51 s. 6 effective 10 August 2018]

PART 2 - PUBLIC SECTOR

3. Authorised or required disclosures

(1) Notwithstanding any restriction otherwise imposed by any law for the time being in force in Bermuda on the disclosure by a specified public officer or a specified public authority of information obtained in an official capacity by that officer or authority, that officer or authority may, and shall if so directed by the Minister under this paragraph, disclose such information for any of the purposes to which this paragraph applies.

(2) A direction given by the Minister under this paragraph may specify the information to be disclosed, the person or authority to whom it is to be disclosed and the manner in which, and any conditions subject to which, it is to be disclosed.

(3) The information that may, or may be directed to be, disclosed under this paragraph includes information obtained before the commencement of this paragraph.

(4) It is an offence to fail to comply with a direction given by the Minister under this paragraph, and any person guilty of such an offence shall be liable -

(a) on summary conviction, to a fine of $10,000 or to imprisonment for six months, or to both; or

(b) on conviction on indictment, to a fine of $100,000 or to imprisonment for five years, or to both.

(5) The purposes to which this paragraph applies are -

(a) the purposes of any terrorist finance criminal investigation which is being or may be carried out, whether in Bermuda or elsewhere;

(b) the purposes of any terrorist finance criminal proceedings which have been or may be initiated, whether in Bermuda or elsewhere;

(c) the purposes of the initiation or bringing to an end of any such investigation or proceedings;

(d) the purpose of facilitating a determination of whether any such investigation or proceedings should be initiated or brought to an end.

(6) Nothing in this paragraph shall be taken to prejudice any power to disclose information which exists apart from this paragraph.

(7) In this paragraph -

"conduct" includes acts, omissions and statements;

"information" includes documents;

"specified public authority" means an authority that is for the time being specified for the purposes of this paragraph by an order made by the Minister;

"specified public officer" means any person holding or acting in any office that is for the time being specified for the purposes of this paragraph by an order made by the Minister;

"terrorist finance criminal investigation" means an investigation of any conduct which -

(a) constitutes one or more terrorist finance offences; or

(b) is, or corresponds to, conduct which, if it all took place in Bermuda, would constitute such an offence or such offences;

and includes an investigation of any alleged or suspected such conduct and an investigation of whether any such conduct has taken place;

"terrorist finance criminal proceedings" means proceedings for a terrorist finance offence or, if they are proceedings outside Bermuda, for an offence or offences substantially corresponding to a terrorist finance offence; and

"terrorist finance offence" means an offence under any of sections 5 to 8.

4. Restriction on disclosure of information for overseas purposes

(1) The Minister may give a direction which -

(a) specifies any overseas proceedings or overseas investigation or any description of such proceedings or investigations; and

(b) prohibits, either absolutely or in such cases, or subject to such conditions as to consent or otherwise, as may be specified in the direction, the making of any relevant disclosures for the purposes of those proceedings or that investigation or, as the case may be, proceedings or investigations of that description.

(2) In subparagraph (1) the reference, in relation to a direction, to a relevant disclosure is a reference to a disclosure which -

(a) is authorised by paragraph 3 or by or under any other law for the time being in force in Bermuda; and

(b) is a disclosure of such information as is described in the direction.

(3) A person who discloses any information in contravention of a direction under this paragraph shall be guilty of an offence and shall be liable -

(a) on summary conviction, to a fine of $5,000 or to imprisonment for three months, or to both;

(b) on conviction on indictment, to a fine of $50,000 or imprisonment for two years, or to both;

(4) In this paragraph —

"information" includes documents;

"overseas investigation" means a terrorist finance criminal investigation (as defined in paragraph 3(7)) which is being, or will or may be, conducted by an authority of a country outside Bermuda;

"overseas proceedings" means terrorist finance criminal proceedings (as defined in paragraph 3(7)) which are taking place, or will or may take place, in a country outside Bermuda.

SCHEDULE 2 - (SECTION 14)
FORFEITURE ORDERS

PART 1 - BERMUDA ORDERS

1. Interpretation

In this Schedule -

"forfeiture order" means an order made by a court under section 14; and

"forfeited property" means the money or other property to which a forfeiture order applies.

2. Implementation of forfeiture orders

(1) Where a court makes a forfeiture order it may make such other provision as appears to it to be necessary for giving effect to the order, and in particular it may -

(a) require any of the forfeited property to be paid or handed over to the proper officer or to a police officer ;

(b) direct any of the forfeited property other than money or land to be sold or otherwise disposed of in such manner as the court may direct and the proceeds (if any) to be paid to the proper officer;

(c) appoint a receiver to take possession, subject to such conditions and exceptions as may be specified by the court, of any of the forfeited property, to realise it in such manner as the court may direct and to pay the proceeds to the proper officer;

(d) direct a specified part of any forfeited money, or of the proceeds of the sale, disposal or realisation of any forfeited property, to be paid by the proper officer to a specified person falling within section 14(7).

(2) A forfeiture order shall not come into force until there is no further possibility of it being varied or set aside on appeal (disregarding any power of a court to grant leave to appeal out of time).

(3) In subparagraphs (1)(b) and (d) a reference to the proceeds of the sale, disposal or realisation of property is a reference to the proceeds after deduction of the costs of sale, disposal or realisation.

3. Remuneration of receiver

(1) A receiver appointed under paragraph 2 shall be entitled to be paid his remuneration and expenses out of the proceeds of the property realised by the receiver and paid to the proper officer under paragraph 2(1)(c).

(2) If and so far as those proceeds are insufficient, the receiver shall be entitled to be paid his remuneration and expenses out of the Confiscated Assets Fund.

(3) A receiver appointed under paragraph 2 shall not be liable to any person in respect of any loss or damage resulting from action -

(a) which he takes in relation to property which is not forfeited property, but which he reasonably believes to be forfeited property;

(b) which he would be entitled to take if the property were forfeited property; and

(c) which he reasonably believes that he is entitled to take because of his belief that the property is forfeited property.

(4) Subparagraph (3) does not apply in so far as the loss or damage is caused by the receiver's negligence.

4. Meaning of "proper officer"

(1) In paragraphs 2 and 3 "the proper officer" means the person holding or acting in the office (however styled) of clerk to the court by which the forfeiture order was made.

(2) The proper officer shall issue a certificate in respect of a forfeiture order if an application is made by -

(a) the prosecutor in the proceedings in which the forfeiture order was made;

(b) the defendant in those proceedings; or

(c) a person whom the court heard under section 14(7) before making the order.

(3) The certificate shall state the extent (if any) to which, at the date of the certificate, effect has been given to the forfeiture order.

5. Restraint orders

(1) The Supreme Court may make a restraint order under this paragraph where -

(a) proceedings have been instituted for an offence under any of sections 5 to 8;

(b) the proceedings have not been concluded;

(c) an application for a restraint order is made to the Supreme Court by the prosecutor; and

(d) a forfeiture order has been made, or it appears to the Supreme Court that a forfeiture order may be made, in the proceedings for the offence.

(2) The Supreme Court may also make a restraint order under this paragraph where -

(a) a criminal investigation has been started with regard to an offence under any of sections 5 to 8;

(b) an application for a restraint order is made to the Supreme Court by a person who the Supreme Court is satisfied will have the conduct of any proceedings for the offence; and

(c) it appears to the Supreme Court that a forfeiture order may be made in any proceedings for the offence.

(3) A restraint order prohibits a person to whom notice of it is given, subject to any conditions and exceptions specified in the order, from dealing with property in respect of which a forfeiture order has been or could be made in any proceedings referred to in subparagraph (1) or (2).

(4) An application for a restraint order may be made ex parte to a judge in Chambers.

(5) In this paragraph a reference to dealing with property includes a reference to removing the property from Bermuda.

(6) In this paragraph "criminal investigation" means an investigation which police officers or others have a duty to conduct with a view to it being ascertained whether a person should be charged with an offence.

6. Restraint orders: discharge of order

(1) A restraint order shall provide for notice of it to be given to any person affected by the order.

(2) A restraint order may be discharged or varied by the Supreme Court on the application of a person affected by it.

(3) A restraint order made under paragraph 5(1) shall in particular be discharged on an application under subparagraph (2) if the proceedings for the offence have been concluded.

(4) A restraint order made under paragraph 5(2) shall in particular be discharged on an application under subparagraph (2) -

(a) if no proceedings in respect of offences under any of sections 5 to 8 are instituted within such time as the Supreme Court considers reasonable; or

(b) if all proceedings in respect of offences under any of sections 5 to 8 have been concluded.

7. Restrain orders: power to seize property

(1) A police officer may seize any property subject to a restraint order for the purpose of preventing it from being removed from Bermuda.

(2) Property seized under this paragraph shall be dealt with in accordance with the Supreme Court's directions.

8. Restraint orders: land charges and registration

(1) Any provision of any law in force in Bermuda with respect to land charges -

(a) shall apply in relation to restraint orders as they apply in relation to orders affecting land made by the court for the purpose of enforcing judgments or recognizances; and

(b) shall apply in relation to applications for restraint orders as they apply in relation to other pending land actions.

(2) Where a restraint order is made under paragraph 5(l) or an application for such an order is made, the prosecutor in the proceedings for the offence shall be treated for the purposes of any provision relating to inhibitions contained in any law in force in Bermuda with respect to land as a person interested in respect of any land to which the restraint order or the application for the restraint order relates.

(3) Where a restraint order is made under paragraph 5(2) or an application for such an order is made, the person who the Supreme Court is satisfied will have the conduct of any proceedings for an offence under any of sections 5 to 8 shall be treated for the purposes of any such provision as is referred to in subparagraph (2) as a person interested in respect of any land to which the restraint order or the application for a restraint order relates.

9. Compensation

(1) This paragraph applies where a restraint order is discharged under paragraph 6(4)(a).

(2) This paragraph also applies where a forfeiture order or a restraint order is made in or in relation to proceedings for an offence under any of sections 5 to 8 which -

(a) do not result in conviction for an offence under any of those sections;

(b) result in conviction for an offence under any of those sections in respect of which the person convicted is subsequently pardoned by Her Majesty; or

(c) result in conviction for an offence under any of those sections which is subsequently quashed.

(3) A person who has an interest in any property which was subject to the order may apply to the Supreme Court for compensation.

(4) The Supreme Court may order compensation to be paid to the applicant if satisfied -

(a) that there was a serious default on the part of a person concerned in the investigation or prosecution of the offence;

(b) that the person concerned was or was acting as a member of the police service or was or was acting under the authority of the Attorney General or the Director of Public Prosecutions;

(c) that the applicant has suffered loss in consequence of anything done in relation to the property by or in pursuance of the forfeiture order or restraint order; and

(d) that, having regard to all the circumstances, it is appropriate to order compensation to be paid.

(5) The Supreme Court shall not order compensation to be paid where it appears to it that proceedings for the offence would have been instituted even if the serious default had not occurred.

(6) Compensation payable under this paragraph shall be paid out of the Confiscated Assets Fund.

10 Proceedings for an offence: timing

(1) For the purpose of this Part of this Schedule, proceedings for an offence are instituted -

(a) when a summons or warrant is issued, or a complaint is laid, in respect of the offence;

(b) when a person is charged with the offence after being taken into custody without a warrant; or

(c) when a bill of indictment charging a person with the offence is preferred.

(2) Where the application of subparagraph (1) would result in there being more than one time for the institution of proceedings they shall be taken to be instituted at the earliest of those times.

(3) For the purposes of this Part of this Schedule proceedings are concluded -

(a) when a forfeiture order has been made in those proceedings and effect has been given to it in respect of all the forfeited property; or

(b) when no forfeiture order has been made in those proceedings and there is no further possibility of one being made as a result of an appeal (disregarding any power of a court to grant leave to appeal out of time).

PART 2 - EXTERNAL ORDERS

11. Enforcement of orders made in designated countries

(1) The Minister may by order make provision for the purpose of enabling the enforcement in Bermuda of external orders.

(2) An "external order" means an order -

(a) which is made in a country that is designated for the purposes of this paragraph by the order made by the Minister; and

(b) which makes relevant provision.

(3) "Relevant provision" means -

(a) provision for the forfeiture of terrorist property ("an external forfeiture order"); or

(b) provision prohibiting dealing with property which is subject to an external forfeiture order or in respect of which such an order could be made in proceedings which have been or are to be instituted in the designated country ("an external restraint order").

(4) An order made by the Minister under this paragraph may, in particular, include provision -

(a) which, for the purpose of facilitating the enforcement of an external order that may be made, has effect at times before there is an external order to be enforced;

(b) which disapplies, or qualifies or modifies the application of, any of the provisions of subparagraphs (6)(b) and (7) to (14) of this paragraph to or in relation to any specified external order (or any specified class of such orders) made in a specified designated country;

(c) for the proof of any matter relevant for the purposes of anything falling to be done in pursuance of the order made by the Minister.

(5) An order made by the Minister under this paragraph may also make provision with respect to anything falling to be done on behalf of Bermuda in a designated country in relation to proceedings in that country for or in connection with the making of an external order.

(6) An external order shall be enforced in Bermuda only in accordance with -

(a) the provisions of, or any provisions made under, this paragraph, and

(b) any provisions made by rules of court as to the manner in which, and the conditions subject to which, such orders are to be enforced there.

(7) On an application made to it in accordance with rules of court for registration of an external order made in a designated country, the Supreme Court shall direct that the order shall, in accordance with such rules, be registered in that Court.

(8) Rules of court shall also make provision -

(a) for cancelling or varying the registration of an external forfeiture order when effect has been given to it, whether in Bermuda or elsewhere, in respect of all or, as the case may be, part of the money or other property to which the order applies; and

(b) for cancelling or varying the registration of an external restraint order which has been discharged or varied by the court by which it was made.

(9) If an external forfeiture order is registered under this paragraph, the Supreme Court shall have, in relation to that order, the same powers as a court has under paragraph 2(1) to give effect to a forfeiture order made by it; and -

(a) paragraphs 3 and 4 shall apply accordingly; and

(b) after making any payments required by virtue of paragraph 2(1)(d) or (3), the balance of any sums received by the proper officer (as defined by paragraph 4(1)) by virtue of an order made under this subparagraph shall be paid by him to the Minister.

(10) If an external restraint order is registered under this paragraph -

(a) paragraphs 7 and 8 shall apply as they apply to a restraint order under paragraph 5; and

(b) the Supreme Court shall have the like power, in relation to proceedings brought or likely to be brought for that order, to make an order for inspection of property or for related matters as it would have, under any law for the time being in force in Bermuda, if those proceedings had been brought or were likely to be brought in the Supreme Court.

(11) In addition, if an external order is registered under this paragraph -

(a) the Supreme Court shall have, in relation to its enforcement, the same power as if the order had originally been made in the Supreme Court;

(b) proceedings for or with respect to its enforcement may be taken as if the order had originally been made in the Supreme Court; and

(c) proceedings for or with respect to contravention of such an order, whether before or after such registration, may be taken as if the order had originally been made in the Supreme Court.

(12) The Supreme Court may also make such orders or do otherwise as seems to it appropriate for the purpose of -

(a) assisting the achievement in Bermuda of the purposes of an external order that has been registered under this paragraph; or

(b) assisting a receiver or other person directed by such an external order to sell or otherwise dispose of property.

(13) The following documents shall be received in evidence in Bermuda without further proof —

(a) a document purporting to be a copy of an external order and to be certified as such by a proper officer of the court by which it was made; and

(b) a document purporting to be a certificate for purposes corresponding to those of paragraphs 4(2) and (3) and to be certified by a proper officer of the court concerned.

(14) Where, under any of the provisions of this paragraph, a thing is to be done in accordance with rules of court, it may, if there are for the time being no rules of court in force in Bermuda governing that matter, be done in accordance with such directions in that behalf as may be given by a judge of the Supreme Court on application made ex parte to him in Chambers.

(15) An order made by the Minister under this paragraph may make different provision for different cases.

PART 3 - INSOLVENCY

12. General

In this Part of this Schedule -

"ancillary order" means an order made in connection with a forfeiture, other than the forfeiture order;

"forfeiture order" means an order made in Bermuda under section 14 or an external forfeiture order which is enforceable in Bermuda by virtue of an order made by the Minister under paragraph 11;

"forfeited property" means the money or other property to which a forfeiture order applies; and

"restraint order" means an order made under paragraph 5 or an external restraint order which is enforceable in Bermuda by virtue of an order made by the Minister under paragraph 11.

13. Protection of creditors against forfeiture

(1) During the period of six months beginning with the making of a forfeiture order, the following shall not be finally disposed of under this Schedule -

(a) the money to which the order applies; and

(b) the money which represents any property to which the order applies.

(2) For the purposes of this paragraph money is finally disposed of under this Schedule when -

(a) in the case of a forfeiture order made in Bermuda, it is paid to the person or authority authorised by law to receive the proceeds of fines; or

(b) in the case of an external forfeiture order, it is paid to the Minister under paragraph 11(9)(b).

14. Insolvency

(1) This paragraph applies where -

(a) before or after a forfeiture order is made, the commencement of qualifying insolvency proceedings occurs;

(b) an insolvency officer would, but for the forfeiture order, exercise a function in those proceedings in relation to property to which the forfeiture order applies; and

(c) he gives written notice to the relevant officer of the matters referred to in subparagraphs (a) and (b) before the end of the period of six months beginning with the making of the forfeiture order.

(2) Subparagraph (3) shall apply to -

(a) the property in relation to which the insolvency officer would, but for the forfeiture order, exercise a function as described in subparagraph (l)(b); and

(b) the proceeds of sale of that property.

(3) The property -

(a) shall cease to be subject to the forfeiture order and any ancillary order; and

(b) shall be dealt with in the qualifying insolvency proceedings as if the forfeiture order had never been made.

(4) But -

(a) the property to which subparagraph (3) applies is the balance remaining after the relevant officer has exercised his powers under paragraph 17(1); and

(b) subparagraph (3) shall not take effect in respect of property in relation to which the relevant officer, or any person acting in pursuance of an ancillary order, has incurred obligations until those obligations have been discharged.

(5) In this paragraph "the commencement of qualifying insolvency proceedings" means -

(a) the making of a receiving order in bankruptcy proceedings;

(b) in the case of the insolvent estate of a deceased person, the making of a bankruptcy administration order; or

(c) in the case of a company, the passing of a resolution for its winding up or, where no such resolution has been passed, the making of an order by a court for its winding up.

15. Minister's debt

(1) Where by virtue of paragraph 14(3) property falls to be dealt with in qualifying insolvency proceedings, the Minister shall be taken to be a creditor in those proceedings for a debt to the amount or value of the property.

(2) The Minister's debt -

(a) shall rank after the debts of all other creditors; and

(b) shall not be paid until they have been paid in full with interest under the relevant provision.

(3) In subparagraph (2)(b) the "relevant provision" means -

(a) in relation to the winding up of a company, the provisions of the Companies Act 1981 relating to such winding up on insolvency that provides for the payment, from any surplus remaining after the payment of debts proved on the winding up, of interest on those debts in respect of the periods during which they have been outstanding since the commencement of the liquidation to which they would have been entitled but for the existence of the Minister's debt; and

(b) in relation to a bankruptcy, the provisions of the Bankruptcy Act 1989 that provide for the payment, from any surplus remaining after the payment of debts proved in the bankruptcy, of interest on those debts in respect of the periods during which they have been outstanding since the commencement of the bankruptcy.

(4) Subparagraphs (2) and (3) apply notwithstanding any other law for the time being in force in Bermuda.

16. Property subject to forfeiture where bankruptcy order annulled

(1) This paragraph applies to any property which ceased to be subject to a forfeiture order by virtue of paragraph 14(3) in consequence of the making of a bankruptcy order.

(2) The property shall again become subject to the forfeiture order and, if applicable, any ancillary order if the bankruptcy order is annulled.

(3) Where the property is money or has been converted into money -

(a) the court which ordered the annulment of the bankruptcy shall make an order specifying property comprised in the estate of the bankrupt or debtor to the amount or value of the property; and

(b) the specified property shall become subject to the forfeiture order, and any applicable ancillary order, in place of the property.

17. Allowable forfeiture expenses

(1) Where money or other property falls to be dealt with in accordance with paragraph 14(3), the relevant officer may -

(a) deduct allowable forfeiture expenses from that money;

(b) retain so much of that property as he considers necessary for the purpose of realising it and deducting allowable forfeiture expenses from the proceeds of realisation.

(2) Where property is delivered up in pursuance of paragraph 14(3) and the relevant officer has not made provision under sub-paragraph (1) for all the allowable forfeiture expenses, then -

(a) a person who has incurred allowable forfeiture expenses for which provision has not been made shall have a claim to their value in qualifying insolvency proceedings; and

(b) the expenses in question shall be treated for the purposes of the qualifying insolvency proceedings as if they were expenses of those proceedings.

18. Protection of insolvency officers

(1) This paragraph applies where an insolvency officer seizes or disposes of property which is subject to a forfeiture order or a restraint order and -

(a) he reasonably believes that he is entitled to do so in the exercise of his functions; and

(b) he would be so entitled if the property were not subject to a forfeiture order or a restraint order

(2) The insolvency officer shall not be liable to any person in respect of any loss or damage resulting from the seizure or disposal except in so far as the loss or damage is caused by his negligence.

(3) The insolvency officer shall have a lien on the property seized or the proceeds of its sale -

(a) for such of his expenses as were incurred in connection with the qualifying insolvency proceedings in relation to which the seizure or disposal purported to take place; and

(b) for so much of his remuneration as may be reasonably assigned for his acting in connection with those proceedings.

(4) Subparagraphs (1) to (3) are without prejudice to the generality of any provision contained in any law relating to insolvency for the time being in force in Bermuda.

(5) In this paragraph "insolvency officer" means a person acting as such and, for the purposes of this paragraph, the question whether any person is acting as such shall be determined in accordance with subparagraphs (6), (7) and (8) except that the expression shall also include an Official Receiver (however styled) acting as receiver or manager of property.

(6) For the purposes of this paragraph a person acts as an insolvency officer in relation to a company by acting as its liquidator, provisional liquidator or administrator.

(7) For the purposes of this paragraph a person acts as an insolvency officer in relation to an individual by acting -

(a) as his trustee in bankruptcy or interim receiver of his property; or

(b) as trustee under a deed which is a deed of arrangement made for the benefit of his creditors; or

(c) as supervisor of a voluntary arrangement proposed by him and approved under the law for the time being in force in Bermuda relating to the insolvency of individuals; or

(d) in the case of a deceased individual to whose estate the provisions of the law for the time being in force in Bermuda relating to the administration of the insolvent estates of deceased persons apply, as administrator of that estate.

(8) References in subparagraph (7) to an individual include, except in so far as the context otherwise requires, references to a partnership.

19. Application of this part to external insolvency officer

(1) The Minister may make an order under this paragraph to secure that an external insolvency officer has the same rights under this Part of this Schedule in relation to property situated in Bermuda as he would have if he were an insolvency officer in Bermuda.

(2) An order made under this paragraph may, in particular, include -

(a) provision which modifies the rights under this Part of this Schedule which are to be conferred under the order;

(b) provision as to the manner in which the rights conferred under the order are to be exercised;

(c) provision as to the conditions subject to which those rights are to be exercised, including the obtaining of leave from a court;

(d) provision empowering a court granting such leave to impose such conditions as it thinks fit.

(3) In this paragraph -

(a) "external insolvency officer" means a person exercising under the insolvency law of a designated country (that is to say, a country designated as mentioned in paragraph 11), functions corresponding to those exercised by insolvency officers under the insolvency law of Bermuda;

(b) "the insolvency law of Bermuda" means the provisions of the law for the time being in force in Bermuda relating to insolvency;

(c) "the insolvency law of a designated country" means so much of the law for the time being in force in that country as corresponds to provisions falling within sub-paragraph (b).

20. Interpretation

(1) In this Part of this Schedule (other than in paragraph 18) "insolvency officer" means a person acting in any qualifying insolvency proceedings in Bermuda as -

(a) a liquidator of a company ;

(b) a trustee in bankruptcy;

(c) an administrator of the insolvent estate of a deceased person;

(d) a receiver or manager of any property; or

(e) the Official Receiver when acting in any capacity move subparagraphs (a) to (d)

(2) In this Part of this Schedule "qualifying insolvency proceedings" means -

(a) any proceedings for the winding up of a company and includes any voluntary winding up of a company;

(b) any proceedings under the Bankruptcy Act 1989.

(3) In this Part of this Schedule "the relevant officer" means the proper officer within the meaning given in paragraph 4.

(4) In this Part of this Schedule references to the proceeds of sale or realisation of property are references to the proceeds after deduction of the costs of sale or realisation.

SCHEDULE 3 - (SECTION 15)
FORFEITURE OF TERRORIST CASH

PART 1 - INTRODUCTORY

1. Terrorist cash

(1) This Schedule applies to cash ("terrorist cash") which -

(a) is within section 15(1)(a); or

(b) is property earmarked as terrorist property.

(2) "Cash" means -

(a) coins and notes in any currency;

(b) postal orders;

(c) cheques of any kind, including travellers' cheques;

(d) bankers' drafts;

(e) bearer bonds and bearer shares, found at any place in Bermuda.

(3) Cash also includes any kind of monetary instrument found at any place in Bermuda if the instrument is specified by order made under subparagraph (4).

(4) The Minister may, by order specify a monetary instrument for the purposes of this paragraph.

PART 2 - SEIZURE AND DETENTION

2. Seizure of cash

(1) An authorised officer may seize any cash if he has reasonable grounds for suspecting that it is terrorist cash.

(2) An authorised officer may also seize cash part of which he has reasonable grounds for suspecting to be terrorist cash if it is not reasonably practicable to seize only that part.

3. Detention of seized cash

(1) While the authorised officer continues to have reasonable grounds for his suspicion, cash seized under this Schedule may be detained initially for a period of 48 hours.

(2) The period for which the cash or any part of it may be detained may be extended by an order made by a magistrates' court; but the order may not authorise the detention of any of the cash -

(a) beyond the end of the period of three months beginning with the date of the order; and

(b) in the case of any further order under this paragraph, beyond the end of the period of two years beginning with the date of the first order.

(3) A justice of the peace or magistrate may also exercise the power of a magistrates' court to make the first order under sub-paragraph (2) extending the period.

(4) An order under subparagraph (2) must provide for notice to be given to persons affected by it.

(5) An application for an order under subparagraph (2) may be made by an authorised officer, and the court or justice or magistrate may make the order if satisfied, in relation to any cash to be further detained, that one of the following conditions is met.

(6) The first condition is that there are reasonable grounds for suspecting that the cash is intended to be used for the purposes of terrorism and that either -

(a) its continued detention is justified while its intended use is further investigated or consideration is given to bringing (in Bermuda or elsewhere) proceedings against a person for an offence with which the cash is connected; or

(b) proceedings against any person for an offence with which the cash is connected have been started (in Bermuda or elsewhere) and have not been concluded.

(7) The second condition is that there are reasonable grounds for suspecting that the cash is property earmarked as terrorist property and that either -

(a) its continued detention is justified while its derivation is further investigated or consideration is given to bringing (in Bermuda or elsewhere) proceedings against any person for an offence with which the cash is connected; or

(b) proceedings against any person for an offence with which the cash is connected have been started (in Bermuda or elsewhere) and have not been concluded.

4. Payment of detained cash into an account

(1) If cash is detained under this Schedule for more than 48 hours, it is to be held in an interest-bearing account and the interest accruing on it is to be added to it on its forfeiture or release.

(2) In the case of cash seized under paragraph 2(2) of this Part, the authorised officer must, on paying it into the account, release so much of it as is not attributable to terrorist cash.

(3) Subparagraph (1) does not apply if the cash is required as evidence of an offence or evidence in proceedings under this Schedule.

5. Release of detained cash

(1) This paragraph applies while any cash is detained under this Schedule.

(2) A magistrates' court may direct the release of the whole or any part of the cash if satisfied, on an application by the person from whom it was seized, that the conditions in paragraph 3 for the detention of cash are no longer met in relation to the cash to be released.

(3) An authorised officer may, after notifying the magistrates' court or justice or magistrate under whose order cash is being detained, release the whole or any part of it if satisfied that the detention of the cash to be released is no longer justified.

(4) But cash is not to be released -

(a) if an application for its forfeiture under paragraph 6, or for its release under paragraph 9, is made, until any proceedings in pursuance of the application (including any proceedings on appeal) are concluded;

(b) if (in Bermuda or elsewhere) proceedings are started against any person for an offence with which the cash is connected, until the proceedings are concluded.

PART 3 - FORFEITURE

6. Forfeiture

(1) While cash is detained under this Schedule, an application for the forfeiture of the whole or any part of it may be made to a magistrates' court by an authorised officer.

(2) The court may order the forfeiture of the cash or any part of it if satisfied that the cash or part is terrorist cash.

(3) In the case of property earmarked as terrorist property which belongs to joint tenants one of whom is an excepted joint owner, the order may not apply to so much of it as the court thinks is attributable to the excepted joint owner's share.

(4) An excepted joint owner is a joint tenant who obtained the property in circumstances in which it would not (as against him) be earmarked; and references to his share of the earmarked property are references to so much of the property as would have been his if the joint tenancy had been severed.

7. Appeal against forfeiture

(1) Any party to proceedings in which an order is made under paragraph 6 ("a forfeiture order") who is aggrieved by the order may appeal to the Supreme Court.

(2) An appeal under subparagraph (1) must be made within the period of 30 days beginning with the date on which the order is made.

(3) The Court may make any order it thinks appropriate.

(4) If the Court upholds the appeal, it may order the release of the cash.

8. Application of forfeited cash

(1) Cash forfeited under this Schedule, and any accrued interest on it, is to be paid into the Confiscated Assets Fund.

(2) But it is not to be paid in -

(a) before the end of the period within which an appeal under paragraph 7 may be made; or

(b) if a person appeals under that paragraph, before the appeal is determined or otherwise disposed of.

PART 4 - MISCELLANEOUS

9. Victims

(1) A person who claims (including a person who asserts an interest in any property) that any cash detained under this Schedule, or any part of it, belongs to him may apply to a magistrates' court for the cash or part to be released to him under this paragraph.

(2) The application may be made in the course of proceedings under paragraph 3 or 6 or at any other time.

(3) If it appears to the court that -

(a) the applicant was deprived of the cash claimed, or of property which it represents, by criminal conduct;

(b) the property he was deprived of was not, immediately before he was deprived of it, property obtained by or in return for criminal conduct and nor did it then represent such property; and

(c) the cash claimed belongs to him,

the court may order the cash to be released to the applicant.

10. Compensation

(1) If no forfeiture order is made in respect of any cash detained under this Schedule, the person to whom the cash belongs or from whom it was seized may make an application to the magistrates' court for compensation.

(2) If, for any period after the initial detention of the cash for 48 hours, the cash was not held in an interest-bearing account while detained, the court may order an amount of compensation to be paid to the applicant.

(3) The amount of compensation to be paid under sub-paragraph (2) is the amount the court thinks would have been earned in interest in the period in question if the cash had been held in an interest-bearing account.

(4) If the court is satisfied that, taking account of any interest to be paid under this Schedule or any amount to be paid under subparagraph (2), the applicant has suffered loss as a result of the detention of the cash and that the circumstances are exceptional, the court may order compensation (or additional compensation) to be paid to him.

(5) The amount of compensation to be paid under sub-paragraph (4) is the amount the court thinks reasonable, having regard to the loss suffered and any other relevant circumstances.

(6) Any compensation ordered to be paid under this paragraph is to be paid out of the Confiscated Assets Fund

(7) If a forfeiture order is made in respect only of a part of any cash detained under this Schedule, this paragraph has effect in relation to the other part.

(8) This paragraph does not apply if the court makes an order under paragraph 9.

PART 5 - PROPERTY EARMARKED AS TERRORIST PROPERTY

11. Property obtained through terrorism

(1) A person obtains property through terrorism if he obtains property by or in return for acts of terrorism, or acts carried out for the purposes of terrorism.

(2) In deciding whether any property was obtained through terrorism -

(a) it is immaterial whether or not any money, goods or services were provided in order to put the person in question in a position to carry out the acts; and

(b) it is not necessary to show that the acts were of a particular kind if it is shown that the property was obtained though acts of one of a number of kinds, each of which would have been an act of terrorism, or an act carried out for the purposes of terrorism.

12. Property earmarked as terrorist property

(1) Property obtained through terrorism is earmarked as terrorist property.

(2) But if property obtained through terrorism has been disposed of (since it was so obtained), it is earmarked as terrorist property only if it is held by a person into whose hands it may be followed.

(3) Property may be followed into the hands of a person obtaining it on a disposal by -

(a) the person who obtained the property through terrorism; or

(b) a person into whose hands it may (by virtue of this subparagraph) be followed.

13. Tracing property

(1) Where property obtained through terrorism ("the original property") is or has been earmarked as terrorist property, property which represents the original property is also earmarked.

(2) If a person enters into a transaction by which -

(a) he disposes of the original property or of property which (by virtue of this Part) represents the original property; and

(b) he obtains other property in place of it;

the other property represents the original property.

(3) If a person disposes of property which represents the original property, the property may be followed into the hands of a person who obtains it (and it continues to represent the original property).

14. Mixing property

(1) Subparagraph (2) applies if a person's property which is earmarked as terrorist property is mixed with other property (whether his property or another's).

(2) The portion of the mixed property which is attributable to the property earmarked as terrorist property represents the property obtained through terrorism.

(3) Property earmarked as terrorist property is mixed with other property if (for example) it is used -

(a) to increase funds held in a bank account;

(b) in part payment for the acquisition of an asset;

(c) for the restoration or improvement of land;

(d) by a person holding a leasehold interest in the property to acquire the freehold.

15. Accruing profits

(1) This paragraph applies where a person who has property earmarked as terrorist property obtains further property consisting of profits accruing in respect of the earmarked property.

(2) The further property is to be treated as representing the property obtained through terrorism.

16. General exceptions

(1) If -

(a) a person disposes of property earmarked as terrorist property; and

(b) the person who obtains it on the disposal does so in good faith, for value and without notice that it was earmarked;

the property may not be followed into that person's hands and, accordingly, it ceases to be earmarked.

(2) If -

(a) in pursuance of a judgment in civil proceedings (whether in Bermuda or elsewhere), the defendant makes a payment to the plaintiff or the plaintiff otherwise obtains property from the defendant;

(b) the plaintiff's claim is based on the defendant's criminal conduct; and

(c) apart from this subparagraph, the sum received, or the property obtained, by the plaintiff would be earmarked as terrorist property;

the property ceases to be earmarked.

(3) If -

(a) under any law in force in Bermuda, a payment is made to any person, or a person otherwise obtains property, in pursuance of a compensation order or a restitution order made in respect of loss or injury suffered in consequence of criminal conduct or other misconduct; and

(b) apart from this subparagraph, the sum received, or the property obtained, would be earmarked as terrorist property;

the property ceases to be earmarked.

(4) Where -

(a) a person enters into a transaction to which paragraph 13(2) applies; and

(b) the disposal is one to which subparagraph (1) applies;

this paragraph does not affect the question whether (by virtue of paragraph 13(2)) any property obtained on the transaction in place of the property disposed of is earmarked.

PART 6 - EXERCISE OF OFFICERS' POWERS

17. General

An authorised officer may enter any premises for the purposes of exercising any of the functions conferred on him by virtue of this Schedule.

18. An authorised officer may if necessary use reasonable force for the purpose of exercising a power conferred on him by virtue of this Schedule.

19. Information

(1) Information acquired by an authorised officer may be supplied -

(a) to a customs officer;

(b) to a police officer;

(c) to a person specified by order of the Minister for use of a kind specified in the order.

PART 7 - INTERPRETATION

20. Property

(1) Property is all property wherever situated and includes -

(a) money;

(b) all forms of property, real or personal, heritable or moveable;

(c) things in action and other intangible or incorporeal property.

(2) Any reference to a person's property (whether expressed as a reference to the property he holds or otherwise) is to be read as follows.

(3) In relation to land, it is a reference to any interest which he holds in the land.

(4) In relation to property other than land, it is a reference -

(a) to the property (if it belongs to him); or

(b) to any other interest which he holds in the property.

21. Obtaining and disposing of property

(1) References to a person disposing of his property include a reference -

(a) to his disposing of a part of it; or

(b) to his granting an interest in it;

(or to both); and references to the property disposed of are references to any property obtained on the disposal.

(2) If a person grants an interest in property of his which is earmarked as terrorist property, the question whether the interest is also earmarked is to be determined in the same manner as it is on any other disposal of earmarked property.

(3) A person who makes a payment to another is to be treated as making a disposal of his property to the other, whatever form the payment takes.

(4) Where a person's property passes to another under a will or intestacy or by operation of law, it is to be treated as disposed of by him to the other.

(5) A person is only to be treated as having obtained his property for value in a case where he gave unexecuted consideration if the consideration has become executed consideration.

22. General interpretation

(1) In this Schedule -

"authorised officer" means a police officer, a customs officer or an immigration officer;

"cash" has the meaning given by paragraph 1;

"criminal conduct" means conduct which constitutes an offence in Bermuda, or would constitute an offence in Bermuda if it occurred there;

"forfeiture order" has the meaning given by paragraph 7;

"interest" means -

(a) in relation to land, any legal estate and any equitable interest or power; and

(b) in relation to property other than land, includes any right (including a right to possession of the property);

"part", in relation to property, includes a portion;

"property earmarked as terrorist property" is to be read in accordance with Part 5;

"property obtained through terrorism" has the meaning given by paragraph 11;

"terrorist cash" has the meaning given by paragraph 1;

"value" means market value.

(2) Paragraphs 20 and 21 and the following provisions apply for the purposes of this Schedule.

(3) For the purpose of deciding whether or not property was earmarked as terrorist property at any time (including times before the commencement of this Act), it is to be assumed that this Schedule was in force at that and any other relevant time.

(4) Proceedings against any person for an offence are concluded when -

(a) the person is convicted or acquitted;

(b) the prosecution is discontinued; or

(c) the jury is discharged without a finding.

[Schedule 3 paragraph 9(1) amended by 2013:30 s. 13 effective 8 November 2013]

SCHEDULE 4 - (SECTION 16)

ACCOUNT MONITORING ORDERS

1. Interpretation

(1) In this Schedule, "financial institution" means -

(a) a bank or a deposit company licensed under the Banks and Deposit Companies Act 1999;

(b) a credit union authorised to operate as such under the Credit Unions Act 1982;

(c) a person who is licensed to carry on an investment business under the Investment Business Act 2001 or is exempt therefrom;

(d) a person who is licensed to carry on an insurance or reinsurance business under the Insurance Act 1978.

(2) The Minister may by order provide for a class of person -

(a) to be a financial institution for the purposes of this Schedule; or

(b) to cease to be a financial institution for the purposes of this Schedule.

(3) An institution which ceases to be a financial institution for the purposes of this Schedule (whether by virtue of subparagraph (2)(b) or otherwise) shall continue to be treated as a financial institution for the purposes of any requirement under this Schedule to provide information which relates to a time when the institution was a financial institution.

(4) In this Schedule "the court" means the Supreme Court and "judge" means a judge of that Court.

2. Account monitoring orders

(1) A judge may, on application made to him by a police officer, make an account monitoring order if he is satisfied that -

(a) the order is sought for the purposes of a terrorist investigation;

(b) the tracing of terrorist property is desirable for the purposes of the investigation; and

(c) the order will enhance the effectiveness of the investigation.

(2) The application for an account monitoring order must state that the order is sought against the financial institution specified in the application in relation to information which -

(a) relates to an account or accounts held at the institution by the person specified in the application (whether solely or jointly with another); and

(b) is of the description so specified.

(3) The application for an account monitoring order may specify information relating to -

(a) all accounts held by the person specified in the application for the order at the financial institution so specified;

(b) a particular description, or particular descriptions, of accounts so held; or

(c) a particular account, or particular accounts, so held.

(4) An account monitoring order is an order that the financial institution specified in the application for the order must -

(a) for the period specified in the order;

(b) in the manner so specified;

(c) at or by the time or times so specified; and

(d) at the place or places so specified;

provide information of the description specified in the application to a police officer.

(5) The period stated in an account monitoring order must not exceed the period of 90 days beginning with the day on which the order is made.

3. Applications

(1) An application for an account monitoring order may be made ex parte to a judge in Chambers.

(2) The description of information specified in an application for an account monitoring order may be varied by the police officer who made the application or by any other police officer.

4. Discharge or variation

(1) An application to discharge or vary an account monitoring order may be made to the court by -

(a) the police officer who applied for the order or any other police officer;

(b) any person affected by the order.

(2) The court -

(a) may discharge the order;

(b) may vary the order.

5. Rules of court

Rules of court may make provision as to the practice and procedure to be followed in connection with proceedings relating to account monitoring orders.

6. Effect of orders

(1) An account monitoring order has effect as if it were an order of the court.

(2) An account monitoring order has effect in spite of any restriction on the disclosure of information (however imposed).

7. Statements

(1) A statement made by a financial institution in response to an account monitoring order may not be used in evidence against it in criminal proceedings.

(2) But subparagraph (1) does not apply -

(a) in the case of proceedings for contempt of court;

(b) in the case of proceedings under section 14 where the financial institution has been convicted of an offence under any of sections 5 to 8;

(c) on a prosecution for an offence where, in giving evidence, the financial institution makes a statement inconsistent with the statement mentioned in sub-paragraph (1).

(3) A statement may not be used by virtue of subparagraph (2)(c) against a financial institution unless -

(a) evidence relating to it is adduced; or

(b) a question relating to it is asked;

by or on behalf of the financial institution in the proceedings arising out of the prosecution.

[Assent Date: 17 December 2004]

[Operative Date: 7 March 2005]

[Amended by:

2007:22

2008:36

2008:49

2009:50

2012:35

2013:30

2014:8

2015:35

2015:53

2016:45

2016:36

2017:10

2017:28

2018:5

2018:50

2018:51

2018:49]

BERMUDA

ANTI-TERRORISM (FINANCIAL AND OTHER MEASURES) ACT 2004

2004 : 31

ANTI-TERRORISM (FINANCIAL AND OTHER MEASURES) (BUSINESSES IN REGULATED SECTOR) ORDER 2008

BR 74/2008

PART 1 - PRELIMINARY

In exercise of the powers conferred by section 25(1) and paragraphs 1(12) and 1(13) of Part 1 of Schedule 1 to the Anti-Terrorism (Financial and Other Measures) Act 2004, the Minister of Justice makes the following Order:

1. Citation and commencement

This Order may be cited as the Anti-Terrorism (Financial and Other Measures) (Businesses in Regulated Sector) Order 2008 and shall come into operation on the 15th day of November 2008.

2. Interpretation

In this Order, "Act" means the Anti-Terrorism (Financial and Other Measures) Act 2004.

3. Regulated sector: specified businesses

For the purpose of paragraph 1(12) of Part 1 of Schedule 1 to the Act, a business is in the regulated sector if it belongs to any of the following classes of business -

(a) deposit-taking business within the meaning of section 4 of the Banks and Deposit Companies Act 1999;

(b) investment business within the meaning of section 3 of the Investment Business Act 2003;

(c) insurer (and not a reinsurer) registered under section 4 of the Insurance Act 1978 who carries on long term business falling within paragraph (a) or (c) of the definition of “long-term business” in section 1(1) of the Insurance Act 1978;

(d) insurance manager or broker registered under section 10 of the Insurance Act 1978 in so far as he acts as a manager or broker in connection with long term business (other than reinsurance business) falling within paragraph (a) or (c) of the definition of “long-term business” in section 1(1) of the Insurance Act 1978;

(e) fund administrator within the meaning of section 2(2) of the Investment Funds Act 2006;

(f) money service business within the meaning of section 20AA of the Bermuda Monetary Authority Act 1969;

(g) trust business within the meaning of section 9(3) of the Trusts (Regulation of Trust Business) Act 2001 and is not otherwise exempted by or under paragraph 3 of the Trusts (Regulation of Trust Business) Exemption Order 2003; and

(h) operator of an investment fund within the meaning of section 3 of the Investment Funds Act 2006.

4. Regulated sector: supervisory authority

For the purposes of paragraph 1(13) of Part 1 of Schedule 1 to the Act, the Bermuda Monetary Authority is the supervisory authority in relation to the classes of business specified in paragraph 3.

Made this 6th day of November, 2008

Attorney-General and Minister of Justice

BERMUDA

FINANCIAL INTELLIGENCE AGENCY ACT 2007

2007:22

[Date of Assent: 26 June 2007]

[Operative Date: 15 November 2008]

WHEREAS it is expedient to establish an independent agency to receive reports of suspicious transactions from financial institutions and other persons, to analyse information and to disseminate it to law enforcement authorities, and for connected purposes:

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:

PRELIMINARY

1. Short title and commencement

This Act may be cited as the Financial Intelligence Agency Act 2007 and shall come into operation on such date as the Minister may appoint by notice published in the Gazette.

2. Interpretation

(1) In this Act, unless the context otherwise requires -

"ancillary offence" means an offence of attempting, conspiring, aiding, abetting or procuring the commission of an offence; [1312]

"banking institution" means an institution licensed under the Banks and Deposit Companies Act 1999;

"Board" means the Board of Directors of FIA established under section 4;

"criminal conduct" means conduct which constitutes an offence under the laws of Bermuda or conduct occurring outside Bermuda which would constitute an offence if it occurred in Bermuda;[1313] [1314]

"Director" means the Director of FIA appointed under section 7;

"FIA" means the Financial Intelligence Agency established under section 3;

"financial crime" means— [1315]

(a) a money laundering offence;

(b) a terrorist financing offence;

(c) a proliferation financing offence;

(d) conduct giving rise to proceeds of criminal conduct;

(e) sanctions-related financial activity; or

(f) any other offence or class of offences prescribed for the purposes of this definition;

"foreign financial intelligence authority" means a competent authority which, in a country or territory outside Bermuda exercises functions corresponding to the functions of FIA under this Act;

"Minister" means the Minister responsible for justice;

“money laundering offence” means— [1316]

(a) an offence under the Proceeds of Crime Act 1997;

(b) any ancillary offence relating to paragraph (a); or

(c) an act occurring outside Bermuda which would constitute conduct referred to in paragraph (a) or (b);

“non-executive members of the Board” means the members of the Board other than the Director;

“prescribed” means prescribed by regulations made by the Minister subject to the negative resolution procedure; [1317]

“proceeds of criminal conduct” [DELETED][1318] [1319]

“proliferation financing offence” means— [1320]

(a) an offence under any enactment relating to proliferation financing;

(b) any ancillary offence relating to paragraph (a); or

(c) an act occurring outside Bermuda which would constitute conduct referred to in paragraph (a) or (b);

“relevant institution” means— [1321]

(a) an offence under any enactment relating to proliferation financing;

(b) any ancillary offence relating to paragraph (a); or

(c) an act occurring outside Bermuda which would constitute conduct referred to in paragraph (a) or (b);

“terrorist finance offence” [DELETED] [1322]

“terrorist financing offence” means— [1323]

(a) an offence under the Anti-Terrorism (Financial and Other Measures) Act 2004 relating to the provision, collection, management, transfer or use of funds, or other assets, for terrorist purposes;

(b) any ancillary offence relating to paragraph (a); or

(c) an act occurring outside Bermuda which would constitute conduct referred to in paragraph (a) or (b).

(2) [DELETED] [1324]

(3) [DELETED] [1325]

[Section 2 subsection (1) "criminal conduct" and "proceeds of criminal conduct" inserted by 2010:50 s. 51 effective 25 August 2010; amended by 2026:34 s. 2 effective 14 September 2026]

ESTABLISHMENT OF THE FIA

3. Establishment of the FIA

There shall be established a body corporate to be known as the Financial Intelligence Agency (‘FIA’) with perpetual succession and a common seal.

THE BOARD OF THE FIA

4. The Board and operational independence of FIA[1326]

(1) There shall be a Board of Directors of FIA comprised of the following persons -

(a) a chairman;

(b) a minimum of three and a maximum of six[1327] other non-executive members; and

(c) the Director.

(2) The Director shall be an ex-officio member of the Board.

(3) The Minister shall appoint the chairman and other non-executive members of the Board.

(4) In appointing the non-executive members of the Board, the Minister shall ensure that the Board shall have persons who in the Minister's opinion have broad experience and expertise in law enforcement, the law, financial services or financial regulation.

(5) The functions of the Board shall be to manage the affairs and business of FIA.

(6) The FIA shall be operationally independent and have the authority and capacity to carry out its functions freely, including the autonomous authority to—[1328]

(a) analyse;

(b) request; and

(c) disseminate,

information in accordance with the provisions of this Act.

[section 4 amended by 2008:27 s.2 effective15 November 2008; headnote amended and subsection (6) deleted and substituted by 2015:53 s. 18 effective 1 January 2016]

4A. Directions to Board[1329]

(1) The Minister may from time to time, by notice in the Gazette, give to the Board such general policy directions as appear to the Minister to be necessary in the public interest and the Board shall act in accordance with such directions.

(1A) In exercising any power or performing any duty under subsection (1), the Minister or the Board shall not give a direction to the FIA in respect of— [1330]

(a) any particular investigation, analysis, assessment or dissemination of financial intelligence;

(b) whether or not particular information is obtained, analyzed or disseminated by the FIA; or

(c) any operational decision made by the FIA in the exercise or performance of its functions.

(1B) A direction shall not be given under subsection (1) if compliance with the direction would compromise the operational independence or autonomy of the FIA. [1331]

(1C) For the avoidance of doubt, the Minister or Board may exercise policy oversight in relation to the FIA but shall not, in exercising that oversight, direct or otherwise interfere with the operational decisions of the FIA. [1332]

(2) A notice issued under subsection (1) is not a statutory instrument for the purposes of the Statutory Instruments Act 1977.

[section 4A inserted by 2008:27 s.3 effective15 November 2008; amended by 2026:34 s. 3 effective 14 September 2026]

5. Tenure of office of members; procedures for meetings of the Board

(1) Part 1 of the Schedule ("Tenure and qualifications of non-executive members of the Board") has effect.

(2) Part 2 of the Schedule ("Procedure for meetings of the Board") has effect.

DIRECTOR AND STAFF OF THE FIA

6. Employment of officers, servants and agents[1333]

(1) The FIA shall, subject to such terms and conditions as it thinks fit and subject to subsection (2), employ such officers, servants and agents as it considers necessary for the due performance of its functions, and shall ensure that amongst their number is a barrister and attorney.

(2) The FIA shall ensure that all—

(a) officers;

(b) servants; and

(c) agents,

have the necessary security clearances and an understanding of their responsibilities in handling and disseminating sensitive or confidential information.

(3) The FIA shall, subject to the provisions of this Act, have the independent operational authority to acquire and to deploy the necessary human resources needed to carry out its functions—

(a) on a singular basis; or

(b) on an ongoing basis,

free from any undue influence (including political, governmental, or industry-specific undue influence) of a nature that may compromise the operational independence of the FIA.

[Section 6 repealed and replaced by 2015:53 s. 19 effective 1 January 2016]

7. Director of the FIA

(1) There shall be a Director of the FIA who shall be appointed by the FIA from persons with relevant experience.

(1A) [REPEALED] [1334] [1335]

(2) A person is disqualified for appointment as Director of FIA if he is a member of either House of the Legislature.

(3) An appointment made pursuant to subsection (1) shall be for a term of not less than three years but not more than five years, and may be renewed.

(4) The FIA may terminate the appointment of the Director if it is satisfied -

(a) that he has become bankrupt, that his estate has been sequestered or that he has made an arrangement with or granted a trust deed for his creditors; or

(b) that he is unable or unfit to discharge his functions as Director of the FIA.

(5) The Director of the FIA shall, subject to the authority of the Board, administer the affairs and business of the FIA, and shall have such other functions as the Board may assign to him.

[section 7 subsection (1A) inserted by 2008:27 s.4 effective 15 November 2008; subsection (1A) repealed by 2026:34 s.4 effective 14 September 2026]

7A. Immunity from suit[1336]

(1) No action, suit, prosecution or other proceeding shall be brought or instituted personally against the Director or an officer, servant or agent of the FIA, or any member of the Board, in respect of any act done bona fide in pursuance or execution or intended execution of their functions under this Act or any other Act and regulations made thereunder.

(2) Where any member of the Board is exempt from liability by reason only of subsection (1), the FIA shall be liable to the extent that it would be if that member were a servant or agent of the FIA.

(3) Neither the FIA nor any person who is, or is acting as, the Director or an officer, servant or agent of the FIA, or a member of the Board, is liable in damages for anything done or omitted to be done in the discharge or purported discharge of the FIA's functions under this Act or any other Act and regulations made thereunder, unless it is shown that the person acted, or omitted to act, in bad faith.

[section 7A inserted by 2008:27 s.5 effective 15 November 2008]

FINANCIAL PROVISIONS

8. Funds of the FIA [1337]

The funds and resources of the FIA shall consist of— [1338] [1339] [1340]

(a) sums paid out of the Confiscated Assets Fund established under section 55A of the Proceeds of Crime Act 1997;

(b) sums appropriated by the Legislature for the purposes of the FIA;

(c) other sums received by the FIA in connection with the exercise or performance of its functions.

[Section 8 amended by 2009:18 s.3 effective 1 April 2009; amended by 2010:50 s. 52 effective 25 August 2010; amended by 2020:36 Sch. effective 1 November 2020; replaced by 2026:34 s. 8 effective 14 September 2026]

9. Financial year

The financial year of the FIA shall end on the thirty-first day of March

10. Expenditure budget

(1) the FIA shall, not later than three months (or such shorter period as the Minister may allow) before the commencement of each financial year, submit to the Minister for his approval estimates in such form and in such detail as the Minister may require in respect of FIA's expenditure on operations in that financial year.

(2) the FIA shall submit as soon as practicable to the Minister for his approval any proposed amendments to any such estimates.

(3) Any such estimates and any such amendments, when approved by the Minister for any financial year, shall constitute the FIA's expenditure budget for that financial year.

(4) The FIA shall not without the Minister's approval spend in total in any financial year more than the total amount of expenditure approved by the Minister for that financial year.

(5) The Minister may lay down in writing guidelines to be observed by the FIA in the management of its expenditure budget ("Ministerial guidelines"), and the FIA shall comply with any such guidelines.

(6) The FIA may reallocate funds between expenditure items within its approved expenditure budget as the Director considers necessary for the efficient and effective performance of the FIA's functions.[1341]

(7) The FIA shall notify the Board of any material reallocation of funds. [1342]

[Section 10 amended by 2026:34 s.6 effective 14 September 2026]

11. Accounts of the FIA

(1) The FIA shall cause proper statements of its financial affairs to be maintained and shall prepare in respect of each financial year a statement of its accounts in such form as the Auditor-General may direct.

(2) The statement of accounts must present fairly and accurately -

(a) the financial transactions of the FIA during the financial year to which they relate; and

(b) the financial position of the FIA at the end of the financial year.

(3) the FIA shall within six months after the end of its financial year cause to be submitted to the Auditor General the statement of its accounts.

(4) Upon completion of the audit, the Auditor General shall present the audited statements to the Board.

12. Publication of annual reports[1343]

(1) The FIA shall, as soon as practicable after the end of each financial year—

(a) prepare an annual report on the exercise and performance of its functions during that year; and

(b) transmit a copy of the annual report to the Minister.

(2) The Minister shall, as soon as possible after receiving a copy of the annual report, lay it before both Houses of the Legislature.

[Section 12 amended by 2026:34 s.7 effective 14 September 2026]

13. Publication of accounts [1344]

(1) The FIA shall, as soon as practicable after the end of each financial year, prepare and transmit to the Minister a copy of the audited annual statement of accounts of the FIA certified by the Auditor General.

(2) The Minister shall, as soon as possible after receiving a copy of the annual statement of accounts, lay it before both Houses of the Legislature.

[Section 12 amended by 2026:34 s.8 effective 14 September 2026]

FUNCTION AND POWERS OF THE FIA

14. Functions of the FIA

(1) The FIA has the functions[1345]—

(a) of receiving, gathering, storing, analyzing, including operational and strategic analysis, and disseminating information in and outside Bermuda relating to— [1346]

(i) financial crime;

(ii) suspected proceeds of criminal conduct;

(iii) potential money laundering offences;

(iv) potential terrorist financing offences; and

(v) potential proliferation financing offences;

(aa) of receiving, gathering, storing, analysing and disseminating information relating to currency transaction reports filed with them pursuant to section 9 of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008 and section 132A of the Gaming Act 2014;[1347][1348]

(ab) of maintaining secure and restricted access to its information holdings and information systems; [1349]

(ac) of issuing guidance, advisories, alerts, other publications and other information as the FIA considers necessary for the performance of its functions under this Act; [1350]

(aaa) of maintaining secure and restricted access to its facilities and to the information referred to in paragraph (a), including its information technology systems; and[1351] [1352]

(aab) of making periodic reviews of this Act for the purpose of advising the Minister on its operation and on amendments the FIA considers necessary or desirable. [1353]

(b) [REPEALED][1354]

(2) The FIA may disseminate the information referred to in subsection (1) [1355] [1356] to -

(a) the Bermuda Police Service; and

(b) a foreign financial intelligence authority.

(3) This subsection applies where the FIA receives from a foreign financial intelligence authority a request for information relating to suspected proceeds of criminal conduct and financial crimes. The FIA may— [1357]

(a) conduct enquires in relation to such request, in accordance with its functions and powers under this Act; and

(b) subject to subsection (4), disseminate to the requesting foreign financial intelligence authority any information obtained by the FIA in connection with the exercise of its functions. 1358

(4) Where a foreign financial intelligence authority makes a request for information to the FIA, the FIA may refuse to provide information to that authority if, in the opinion of the FIA, that authority cannot effectively protect the information to be disseminated in accordance with subsection (3). [1359]

[Section 14 subsection (1) repealed and replaced, and subsection (2) amended by 2010:50 s. 53 effective 25 August 2010; subsection (1) amended and subsections (3) and (4) inserted by 2015:53 s. 20 effective 1 January 2016; subsection (1)amended by 2017:35 s. 4 effective 3 November 2017; subsection (2) amended by 2018:50 s. 5 effective 10 August 2018; amended by 2020:36 Sch. effective 1 November 2020; amended by 2026:34 s.9 effective 14 September 2026]

15. Freezing of funds

(1) Where, in the course of an enquiry into a suspicious transaction or suspicious activity relating to suspected proceeds of criminal conduct or financial crime, the FIA has reasonable grounds to suspect that funds held by or through a relevant institution are connected with that transaction, activity or financial crime, the FIA may serve a notice on the relevant institution directing it not to make those funds available to a person specified in the notice.[1360] [1361]

(1A) The FIA may withdraw a notice in subsection (1) at any time by written notice to the relevant institution. [1362]

(2) Such a notice shall be in writing and may require the relevant institution to freeze funds for a period not exceeding 14 days. [1363]

(3) The period of 14 days shall be calculated in accordance with subsection (4). [1364]

(4) In calculating the period of 14 days no account shall be taken of - [1365]

(a) any Saturday; or

(b) any day which is a public holiday within the meaning of the Public Holidays Act 1947.

(5) A relevant institution commits an offence if without reasonable excuse it fails to comply with a notice served on it under subsection (1).

(6) A relevant institution guilty of an offence under subsection (5) is liable on conviction on indictment to a fine of $250,000 or to imprisonment for five years, or both. [1366]

(7) In this section— [1367]

"funds" means monies, securities, investments, electronic money, virtual assets or other economic resources held by or through a relevant institution.

[Section 15 subsection (1) amended by 2010:50 s. 54 effective 25 August 2010; amended by 2026:34 s.10 effective 14 September 2026]

16. Obtaining information [1368] [1369]

(1) Where reasonably required for the purposes of an enquiry into a suspicious transaction or suspicious activity relating to suspected proceeds of criminal conduct or financial crime, the FIA may serve a notice in writing ("an information notice") on any person requiring that person to provide information, records, documents, data or explanations specified in the notice.

(2) Without limiting subsection (1), an information notice may require—

(a) beneficial ownership information;

(b) information relating to ownership or control;

(c) source of funds information;

(d) account information;

(e) transaction records; and

(f) any other information reasonably required by the FIA for the performance of its functions under this Act.

(3) Information may be required whether located in or outside Bermuda, where it is within the possession, custody or control of the person upon whom the notice is served.

(4) An information notice may be served on an entity where the FIA reasonably believes that the entity is in possession of, or has access to, information relevant to the exercise of the FIA's functions under this Act.

(5) An information notice shall specify the period within which the information is to be provided.

(6) For the avoidance of doubt, a requirement imposed under subsection (1) applies to information, records, documents, data and explanations located in or outside Bermuda, where they are within the possession, custody or control of the person upon whom the notice is served.

(7) Nothing in this section requires disclosure of information subject to legal professional privilege.

[Section 16 subsection (1) amended by 2018:51 s. 7 effective 10 August 2018; replaced by 2026:34 s.11 effective 14 September 2026]

FEES[1370]

16A. Regulations imposing fees - [REPEALED][1371]

[Section 16A inserted by 2010:50 s. 55 effective 25 August 2010, Repealed by 2020:36 Sch effective 1 November 2020]

16B. Access to information [1372]

(1) Notwithstanding any provision to the contrary in any enactment, the FIA shall have timely access, directly through secure electronic read-only access, to information contained in registries and databases maintained by public authorities, where such information is reasonably required for the performance of its functions under this Act, and such access shall be provided on a real-time basis where technologically available.

(2) Every public authority shall provide the FIA with such connectivity, technical support and access credentials as may be required for the purposes of subsection (1).

(3) The FIA may access information electronically through automated systems, shared databases or secure data-sharing arrangements approved by the Director.

(4) Information obtained, received, generated or held by the FIA in the exercise of its functions shall not be accessed, used or disclosed except by a person authorised to do so for the purposes of this Act.

(5) The FIA shall establish and maintain appropriate policies and procedures for the security, storage, retention, access, use and dissemination of information held by the FIA.

[Section 16B inserted by 2026:34 s.12 effective 14 September 2026]

16C. Duty to use information only for statutory purposes[1373]

(1) Information obtained by the FIA pursuant to this Act shall be accessed, used and disclosed only to the extent reasonably necessary for the exercise of the FIA's functions under this Act.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction on indictment to a fine not exceeding $250,000 or imprisonment for a term not exceeding five years, or both.

[Section 16C inserted by 2026:34 s.12 effective 14 September 2026]

OFFENCES [1374]

16D. Failure to comply with an information notice [1375]

(1) A person who, without reasonable excuse, fails to comply with a requirement imposed under section 16 commits an offence.

(2) A person guilty of an offence under subsection (1) is liable—

(a) on summary conviction to a fine of $50,000 or to imprisonment for two years, or to both;

(b) on conviction on indictment to a fine of $250,000 or to imprisonment for five years, or to both.

[Section 16D inserted by 2026:34 s.13 effective 14 September 2026]

16E. False or misleading information [1376]

(1) A person who knowingly or recklessly provides information to the FIA which is false or misleading in a material particular commits an offence.

(2) A person guilty of an offence under subsection (1) is liable—

(a) on summary conviction to a fine of $50,000 or to imprisonment for two years, or to both;

(b) on conviction on indictment to a fine of $250,000 or to imprisonment for five years, or to both.

[Section 16E inserted by 2026:34 s.13 effective 14 September 2026]

16F. Tipping off [1377]

(1) A person commits an offence if he discloses information knowing or suspecting that—

(a) the FIA is conducting an enquiry; or

(b) information has been disclosed to the FIA,

and the disclosure is likely to prejudice the enquiry.

(2) A person guilty of an offence under subsection (1) is liable—

(a) on summary conviction to a fine of $50,000 or to imprisonment for two years, or to both;

(b) on conviction on indictment to a fine of $250,000 or to imprisonment of five years, or to both.

[Section 16F inserted by 2026:34 s.13 effective 14 September 2026]

16G. Obstruction of the FIA [1378]

(1) A person who wilfully obstructs, impedes or interferes with the FIA, or any officer, employee or person acting on behalf of the FIA, in the exercise of any function or power under this Act commits an offence.

(2) Without limiting subsection (1), a person obstructs or impedes the FIA if the person—

(a) refuses or fails to provide access to information, records, documents, data or other material to which the FIA is entitled under this Act;

(b) conceals, destroys, falsifies or removes any information, record, document or data relevant to an enquiry conducted by the FIA;

(c) prevents or attempts to prevent another person from complying with a requirement imposed under this Act; or

(d) otherwise engages in conduct that has the effect of hindering, delaying or frustrating the exercise of the FIA's functions or powers.

(3) A person guilty of an offence under subsection (1) is liable—

(a) on summary conviction to a fine of $50,000 or to imprisonment for two years, or to both; or

(b) on conviction on indictment to a fine of $250,000 or to imprisonment for five years, or to both.

[Section 16G inserted by 2026:34 s.13 effective 14 September 2026]

17. Restricted information

(1) Except as provided by section 18

(a) no person who under or for the purposes of this Act receives information relating to the business or other affairs of any person; and

(b) no person who obtains such information directly or indirectly from a person who has received it as aforesaid,

shall disclose the information without the consent of the person to whom it relates and (if different) the person from whom it was received as aforesaid.

(2) This section does not apply to information which at the time of the disclosure is or has already been made available to the public from other sources, or to information in the form of a summary or collection of information so framed as not to enable information relating to any particular person to be ascertained from it.

(3) Any person who discloses information in contravention of this section is guilty of an offence and is liable on conviction on indictment to a fine of $250,000 or to imprisonment for five years, or to both. [1379]

[Section 17 amended by 2026:34 s.14 effective 14 September 2026]

DISCLOSURE OF INFORMATION BY AND TO THE FIA

18. Permitted disclosure and limitations[1380]

(1) Information obtained by the FIA in connection with the exercise of its functions may be disclosed by the FIA, of its own volition or upon request, if the disclosure is for the purpose of enabling or assisting ("permitted purpose")—[1381]

(a) the FIA to discharge its functions under section 14;

(aa) the Governor, or the person to whom he has delegated authority,[1382] to discharge his statutory functions in relation to international sanctions; [1383]

(b) the Minister of Finance, the Minister responsible for justice and the Minister responsible for defence to discharge their functions under any statutory provision;

(c) the Collector of Customs, or a customs officer designated by him, to discharge his functions under any statutory provision;

(d) the Registrar of Companies to discharge his functions under any statutory provision;

(da) the Land Title Registrar to discharge his functions under any statutory provision;[1384]

(e) the Registrar-General to discharge his functions under any statutory provision; [1385] [1386]

(f) the Bermuda Monetary Authority to discharge its functions under any statutory provision; or[1387] [1388]

(g) the Bermuda Gaming Commission to discharge its functions under any statutory provision; or[1389][1390]

(h) the professional body designated by the Minister in accordance with section 4 of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008, to discharge its functions under any statutory provision [1391] [1392]

(i) any person, body, agency, department, authority or organisation in Bermuda or elsewhere whose functions are relevant to the exercise of the FIA's functions under this Act.[1393]

(2) In this section—[1394]

"international sanctions" means those sanctions imposed by every Order (made by the Privy Council as a United Kingdom Order in Council) that is—

(a) listed in Schedule 1 to the International Sanctions Regulations 2013, whether or not it has been extended to Bermuda; or

(b) extended to Bermuda, enabling effect to be given to any international obligation of the United Kingdom relating to economic or other sanctions imposed on any country, organisation, person or group of persons,

and any amendments made from time to time to such Order.

[Section 18 paragraphs (a) and (b) repealed and replaced by 2008:27 s.6 effective 15 November 2008; paragraph (b) amended by 2010:50 s. 56 effective 25 August 2010; paragraph (b) amended by BR 5/2011 para. 5 effective 25 February 2011; paragraph (d) inserted by 2014:2 s. 53 effective 31 December 2014; repealed and replaced by 2015:53 s. 21 effective 1 January 2016; subsections (1)(aa) and (2) inserted by 2016:45 s. 8 effective 5 August 2016; subsection (1) amended by 2017:31 s. 3 effective 6 October 2017; Section 18 paragraphs (a) and (b) repealed and replaced by 2008:27 s.6 effective 15 November 2008; paragraph (b) amended by 2010:50 s. 56 effective 25 August 2010; paragraph (b) amended by BR 5/2011 para. 5 effective 25 February 2011; paragraph (d) inserted by 2014:2 s. 53 effective 31 December 2014; repealed and replaced by 2015:53 s. 21 effective 1 January 2016; subsections (1)(aa) and (2) inserted by 2016:45 s. 8 effective 5 August 2016; subsection (1) amended by 2017:31 s. 3 effective 6 October 2017; subsection (1) amended by 2017:35 s. 4 effective 3 November 2017; Section 18 subsection (1)(da) inserted by 2017:47 s. 20 effective 2 July 2018; Section 18 subsection (1)(aa) amended by 2019:2 s. 3 effective 19 March 2019; amended by 2026:34 s.15 effective 14 September 2026]

19. National and international cooperation

The FIA may, in connection with the exercise of its functions under this Act, enter into arrangements for cooperation with bodies or persons (in Bermuda or elsewhere) which it considers appropriate.

20. Disclosure of information to the FIA

(1) Any person may disclose information to the FIA if the disclosure is made for the purpose of assisting the FIA in the discharge of its functions relating to— [1395]

(a) suspected proceeds of criminal conduct;

(b) financial crime;

(c) suspicious transactions; or

(d) suspicious activity.

(2) A disclosure under this section does not breach-

(a) any obligation of confidence owed by the person making the disclosure; or

(b) any other restriction on the disclosure of information (however imposed).

(3) But nothing in this section authorises disclosure of information which is subject to legal professional privilege.

[Section 20 amended by 2026:34 s.16 effective 14 September 2026]

20A. Protection for disclosures to the FIA [1396]

(1) A person who, in good faith, discloses information to the FIA under this Act shall not be liable in any civil, criminal or disciplinary proceedings for making the disclosure.

(2) A disclosure made in good faith to the FIA under this Act shall not be treated as a breach of—

(a) any duty of confidence;

(b) any contractual restriction upon the disclosure of information; or

(c) any other obligation, however imposed, restricting the disclosure of information.

(3) No action, claim or demand shall lie against any person for making a disclosure to the FIA in good faith under this Act.

(4) For the purposes of this section, a disclosure is made in good faith where the person making the disclosure reasonably believes that the information disclosed is relevant to the FIA's functions under this Act.

[Section 20A inserted by 2026:34 s.17 effective 14 September 2026]

21. Restrictions on further disclosure

(1) Information disclosed by the FIA under section 18 to any person or body must not be further disclosed except -

(a) for a purpose connected with any function of that person or body for the purposes of which the information was disclosed by the FIA; and

(b) with the consent of the FIA.

(2) Consent under subsection (1) may be given-

(a) in relation to a particular disclosure; or

(b) in relation to disclosures made in circumstances specified or described in the consent.

21A information received, etc[1397]

All information -

(a) received;

(b) processed;

(c) held; or

(d) disseminated,

by the FIA, shall be securely protected and disseminated or disclosed or used only in accordance with agreed procedures, policies and applicable laws and regulations.

[Section 21A inserted by 2015:53 s. 22 effective 1 January 2016; section heading inserted under the powers of the Computerization and Revision of Laws Act 1989 s. 11(m)]

22. Consequential Amendments

Not reproduced

SCHEDULE (SECTION 5) - BOARD OF DIRECTORS

PART 1 - TENURE AND QUALIFICATIONS OF NON-EXECUTIVE MEMBERS OF THE BOARD

TERMS OF OFFICE

1. Appointment as non-executive member of the Board shall be for a period of not less than three years and not more than five years, except that initially some appointments may be for shorter and different periods so as to secure that appointments expire at different times.

2. A person appointed as member in place of a person who ceased to hold office before the end of the term for which he was appointed shall be appointed for the remainder of that person's term of office.

3. A person holding office as non-executive member may at any time resign by giving notice in writing to the Minister.

4. The Minister may by notice in writing remove the chairman or non-executive member from office if satisfied that -

(a) he has without reasonable excuse been absent from three consecutive meetings of the board of the FIA;

(b) he has been convicted (whether before or after his appointment) of a criminal offence;

(c) he is an undischarged bankrupt or his estate has been sequestrated and he has not been discharged; or

(d) he has made a composition or arrangement with, or granted a trust deed for, his creditors; or

(e) he is otherwise unable or unfit to carry out his functions as chairman or ordinary member.

5. The chairman or a non-executive member is eligible for re-appointment, except where he is removed from office under subparagraph (4).

6. The FIA shall pay to the chairman and each of the non-executive members such remuneration and allowances as may be approved by the Minister.

7. The Minister shall cause to be published in the Gazette the name of every person appointed as member of the Board.

QUALIFICATION FOR APPOINTMENT

8. A person is disqualified for appointment as member of the Board if he is a member of either House of the Legislature or a person serving in a government department in employment in respect of which remuneration is payable out of money provided by Parliament.

9. The fact that a person has held office as a member of the Board does not disqualify him for re-appointment to that office.

REMOVAL FROM OFFICE

10. A person appointed as member of the Board shall vacate office if he becomes a person to whom paragraph 8 applies.

11. The Minister acting after consultation with the FIA may remove a person from office as non-executive member of the Board if he is satisfied that that person -

(a) has been absent from meetings of the Board for more than three months without the consent of the Board;

(b) has become bankrupt, that his estate has been sequestered or that he has made an arrangement with or granted a trust deed for his creditors; or

(c) is unable or unfit to discharge his functions as a member.

PART 2 PROCEDURE FOR MEETINGS OF THE BOARD

POWERS

12. The Board may act notwithstanding the existence of one or more vacancies in its members or a defect in the appointment of a member.

MEETINGS

13. (1) The Board shall meet as often as necessary or expedient for the due performance of its functions.

(2) The chairman may summon a meeting at any time on giving such notice as in his judgment the circumstances may require.

14 (1) At a meeting of the Board, the proceedings shall be regulated as follows.

(2) A majority of the members of the Board constitute a quorum.[1398]

(3) The chairman shall chair meetings of the Board.

(4) If the chairman is absent from a meeting of the Board, the members present at the meeting shall nominate one of their number to chair the meeting.

(5) If a member of the Board has any direct or indirect interest in any dealing or business with FIA -

(a) he shall disclose his interest to the Board at the time of the dealing or business being negotiated or transacted; and

(b) he shall have no vote in relation to the dealing or business, unless the Board has resolved that the interest does not give rise to a conflict of interest.

(6) Subject to subparagraph (5), a member of the Board shall have no vote in relation to any question arising which touches or concerns him.

(7) In the event of an equality of votes, the chairman shall have a casting vote.

(8) Subject to subparagraphs (2) to (7), the Board shall determine its own procedure.

[Schedule Part 2, para 14(2) amended by 2008:27 s.7 effective 15 November 2008]

[Assent Date: 26 June 2007]

[Operative Date: 15 November 2008]

[Amended by:

2008:27

2009:18

2010:50

BR 5/2011

2014:2

2015:53

2016:45

2017:31

2017:35

2017:47

2018:50

2018:51

2019:2]

BERMUDA

BERMUDA MONETARY AUTHORITY ACT 1969 (SELECT PROVISIONS - FEES)

FOURTH SCHEDULE[1399] [1400] [1401] [1402] [1403] [1404] [1405] [1406]

(section 20B)

Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008		
1	Application fee under section 14(1)	$150[1407]
2	Annual fee pursuant to section 14(2)	$1,000[1408]
Annual fees in respect of the above are due on or before 31 March.[1409]		

Endnotes

[1] Section 2 Proceeds of Crime Amendment Act 2000
[2] Section 2 Proceeds of Crime Amendment (No. 2) Act 2017
[3] Section 2 Proceeds of Crime Amendment (No. 2) Act 2017
[4] Section 2 Proceeds of Crime Amendment (No. 2) Act 2017
[5] Section 3 Proceeds of Crime Amendment Act 2007
[6] Section 3 Proceeds of Crime Amendment Act 2007
[7] Section 2(a) Proceeds of Crime Amendment (No. 2) Act 2013
[8] Section 6(1) Proceeds of Crime Amendment Act 2000
[9] Section 3 Proceeds of Crime Amendment Act 2007
[10] Section 2 of the Proceeds of Crime Amendment Act 2015
[11] Section 2(a) Proceeds of Crime Amendment (No. 2) Act 2013
[12] Section 2(a) Proceeds of Crime Amendment (No. 2) Act 2013
[13] Section 3 Proceeds of Crime Amendment Act 2007
[14] Section 3 Proceeds of Crime Amendment Act 2007
[15] Section 3 Proceeds of Crime Amendment Act 2007
[16] Section 5 Anti-Terrorism (Financial and Other Measures) Amendment Act 2009
[17] Section 2(a) Proceeds of Crime Amendment (No. 2) Act 2013
[18] Section 2(a) Proceeds of Crime Amendment (No. 2) Act 2013
[19] Section 3 Proceeds of Crime Amendment Act 2007
[20] Section 2(a) Proceeds of Crime Amendment (No. 2) Act 2013
[21] Section 2(a) Proceeds of Crime Amendment (No. 2) Act 2013
[22] Section 2(a) Proceeds of Crime Amendment (No. 2) Act 2013
[23] Section 2(a) Proceeds of Crime Amendment (No. 2) Act 2013
[24] Section 3 Proceeds of Crime Amendment Act 2007
[25] Section 3 Proceeds of Crime Amendment Act 2007
[26] Section 2(b) Proceeds of Crime Amendment (No. 2) Act 2013
[27] Section 2(b) Proceeds of Crime Amendment (No. 2) Act 2013
[28] Section 3 Proceeds of Crime Amendment (No. 2) Act 2013
[29] Section 3 Proceeds of Crime Amendment (No. 2) Act 2013
[30] Repealed and replaced by section 2 of the Proceeds of Crime Amendment Act 2015
[31] Repealed and replaced by section 2 of the Proceeds of Crime Amendment Act 2015
[32] Section 2 of the Proceeds of Crime Amendment Act 2015
[33] Section 20 Proceeds of Crime Amendment Act 2007
[34] Section 2 of the Proceeds of Crime Amendment Act 2015
[35] Repealed and replaced by section 3 of the Proceeds of Crime Amendment Act 2015
[36] Section 20 Proceeds of Crime Amendment Act 2007
[37] Section 2 of the Proceeds of Crime Amendment Act 2015
[38] Section 4of the Proceeds of Crime Amendment Act 2015
[39] Section 4of the Proceeds of Crime Amendment Act 2015
[40] Section 2 of the Proceeds of Crime Amendment Act 2015
[41] Section 20 Proceeds of Crime Amendment Act 2007
[42] Section 20 Proceeds of Crime Amendment Act 2007
[43] Section 20 Proceeds of Crime Amendment Act 2007
[44] Section 4of the Proceeds of Crime Amendment Act 2015
[45] Section 20 Proceeds of Crime Amendment Act 2007
[46] Section 5 of the Proceeds of Crime Amendment Act 2015
[47] Section 5 of the Proceeds of Crime Amendment Act 2015
[48] Section 20 Proceeds of Crime Amendment Act 2007
[49] Section 6 of the Proceeds of Crime Amendment Act 2015
[50] Section 6 of the Proceeds of Crime Amendment Act 2015
[51] Section 7 of the Proceeds of Crime Amendment Act 2015
[52] Section 7 of the Proceeds of Crime Amendment Act 2015
[53] Section 7 of the Proceeds of Crime Amendment Act 2015
[54] Section 7 of the Proceeds of Crime Amendment Act 2015
[55] Section 8 of the Proceeds of Crime Amendment Act 2015
[56] Section 8 of the Proceeds of Crime Amendment Act 2015

[57] Section 8 of the Proceeds of Crime Amendment Act 2015
[58] Section 20 Proceeds of Crime Amendment Act 2007
[59] Section 20 Proceeds of Crime Amendment Act 2007
[60] Section 20 Proceeds of Crime Amendment Act 2007
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[62] Section 20 Proceeds of Crime Amendment Act 2007
[63] Section 9 of the Proceeds of Crime Amendment Act 2015
[64] Section 8 of the Proceeds of Crime Amendment Act 2015
[65] Section 20 Proceeds of Crime Amendment Act 2007
[66] Section 2(a) Proceeds of Crime Amendment (No. 3) Act 2017
[67] Section 20 Proceeds of Crime Amendment Act 2007
[68] Section 9 of the Proceeds of Crime Amendment Act 2015
[69] Section 20 Proceeds of Crime Amendment Act 2007
[70] Section 20 Proceeds of Crime Amendment Act 2007
[71] Section 20 Proceeds of Crime Amendment Act 2007
[72] Land Title Registrar (Recording of Documents) Act 2017
[73] Schedule Proceeds of Crime Amendment Act 2007
[74] Section 6(2) Proceeds of Crime Amendment Act 2000
[75] Section 4(a) Proceeds of Crime Amendment (No. 2) Act 2013
[76] Section 4(b)(i) Proceeds of Crime Amendment (No. 2) Act 2013
[77] Section 4(b)(ii)(a) Proceeds of Crime Amendment (No. 2) Act 2013
[78] Section 4(b)(ii)(b) Proceeds of Crime Amendment (No. 2) Act 2013
[79] Section 4(b)(iii)(a) Proceeds of Crime Amendment (No. 2) Act 2013
[80] Section 4(b)(iii)(b) Proceeds of Crime Amendment (No. 2) Act 2013
[81] Section 4(b)(iv) Proceeds of Crime Amendment (No. 2) Act 2013
[82] Section 4(c)(i) Proceeds of Crime Amendment (No. 2) Act 2013
[83] Section 4(c)(ii) Proceeds of Crime Amendment (No. 2) Act 2013
[84] Section 5(a) Proceeds of Crime Amendment (No. 2) Act 2013
[85] Section 5(b)(i) Proceeds of Crime Amendment (No. 2) Act 2013
[86] Section 5(b)(ii) Proceeds of Crime Amendment (No. 2) Act 2013
[87] Section 5(b)(iii) Proceeds of Crime Amendment (No. 2) Act 2013
[88] Section 5(c) Proceeds of Crime Amendment (No. 2) Act 2013
[89] Section 6 Proceeds of Crime Amendment (No. 2) Act 2013
[90] Section 6 Proceeds of Crime Amendment (No. 2) Act 2013
[91] Section 6 Proceeds of Crime Amendment (No. 2) Act 2013
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[107] Section 6 Proceeds of Crime Amendment (No. 2) Act 2013
[108] Section 6 Proceeds of Crime Amendment (No. 2) Act 2013
[109] Land Title Registrar (Recording of Documents) Act 2017
[110] Land Title Registrar (Recording of Documents) Act 2017
[111] Land Title Registrar (Recording of Documents) Act 2017
[112] Section 6 Proceeds of Crime Amendment (No. 2) Act 2013
[113] Section 6 Proceeds of Crime Amendment (No. 2) Act 2013
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[125] Section 6 Proceeds of Crime Amendment (No. 2) Act 2013
[126] Section 6 Proceeds of Crime Amendment (No. 2) Act 2013
[127] Section 2 of the Proceeds of Crime Amendment Act 2015
[128] Section 6 Proceeds of Crime Amendment (No. 2) Act 2013
[129] Section 6 Proceeds of Crime Amendment (No. 2) Act 2013
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[143] Section 6 Proceeds of Crime Amendment (No. 2) Act 2013
[144] Section 6 Proceeds of Crime Amendment (No. 2) Act 2013
[145] Proceeds of Crime Amendment (No. 2) Act 2013 Commencement Day Notice 2013
[146] Section 6 Proceeds of Crime Amendment (No. 2) Act 2013
[147] Proceeds of Crime Amendment (No. 2) Act 2013 Commencement Day Notice 2013
[148] Section 6 Proceeds of Crime Amendment (No. 2) Act 2013
[149] Proceeds of Crime Amendment (No. 2) Act 2013 Commencement Day Notice 2013
[150] Section 6 Proceeds of Crime Amendment (No. 2) Act 2013
[151] Section 6 Proceeds of Crime Amendment (No. 2) Act 2013
[152] Section 2(a) Proceeds of Crime Amendment Act 2017
[153] Section 2(a) Proceeds of Crime Amendment Act 2017
[154] Section 6 Proceeds of Crime Amendment (No. 2) Act 2013
[155] Proceeds of Crime Amendment (No. 2) Act 2013 Commencement Day Notice 2013
[156] Section 7(a) Proceeds of Crime Amendment (No. 2) Act 2013
[157] Section 4 Proceeds of Crime Amendment Act 2007
[158] Section 7(b) Proceeds of Crime Amendment (No. 2) Act 2013
[159] Section 7(c) Proceeds of Crime Amendment (No. 2) Act 2013
[160] Section 8(a) Proceeds of Crime Amendment (No. 2) Act 2013
[161] Section 5 Proceeds of Crime Amendment Act 2007
[162] Section 8(b)(i) Proceeds of Crime Amendment (No. 2) Act 2013
[163] Section 8(b)(ii) Proceeds of Crime Amendment (No. 2) Act 2013
[164] Section 8(b)(iii) Proceeds of Crime Amendment (No. 2) Act 2013
[165] Section 5 Proceeds of Crime Amendment Act 2007
[166] Section 5 Proceeds of Crime Amendment Act 2007
[167] Section 5 Proceeds of Crime Amendment Act 2007
[168] Section 8(c) Proceeds of Crime Amendment (No. 2) Act 2013
[169] Section 20 Proceeds of Crime Amendment Act 2007
[170] Section 9 Proceeds of Crime Amendment (No. 2) Act 2013
[171] Schedule Proceeds of Crime Amendment Act 2007
[172] Section10 Proceeds of Crime Amendment (No. 2) Act 2013
[173] Section 6 Proceeds of Crime Amendment Act 2007
[174] Section 2 schedule Banks and Deposit Companies (Consequential Amendments) Order 1999

[175] Schedule Proceeds of Crime Amendment Act 2007
[176] Section 7 Proceeds of Crime Amendment Act 2007
[177] Section 11(a) Proceeds of Crime Amendment (No. 2) Act 2013
[178] Section 11(b) Proceeds of Crime Amendment (No. 2) Act 2013
[179] Section 7 Proceeds of Crime Amendment Act 2007
[180] Section 7 Proceeds of Crime Amendment Act 2007
[181] Section 12 Proceeds of Crime Amendment (No. 2) Act 2013
[182] Section 7 Proceeds of Crime Amendment Act 2007
[183] Section 7 Proceeds of Crime Amendment Act 2007
[184] Section 7 Proceeds of Crime Amendment Act 2007
[185] Section 7 Proceeds of Crime Amendment Act 2007
[186] Section 13 Proceeds of Crime Amendment (No. 2) Act 2013
[187] Section 2 of the Proceeds of Crime (Miscellaneous) Act 2018

[189] Section 2(b)(ii) Proceeds of Crime Amendment Act 2017
[190] Section 2 of the Proceeds of Crime (Miscellaneous) Act 2018
[191] Section 3 Proceeds of Crime Amendment Act 2008
[192] Section 11 of the Proceeds of Crime Amendment Act 2015
[193] Section 2 of the Proceeds of Crime Amendment Act 2022
[194] Section 2(c)(i) Proceeds of Crime Amendment Act 2017
[195] Proceeds of Crime (Miscellaneous) Act 2025, section 2(1)
[196] Schedule 2 of the Money Service Business Act 2016
[197] Section 2(c)(ii) Proceeds of Crime Amendment Act 2017
[198] Section 8 of the Proceeds of Crime (Miscellaneous) Act 2018
[199] Schedule 2 Digital Asset Business Act 2018
[200] Section 2 of the Proceeds of Crime Amendment Act 2022
[201] Section 1 Proceeds of Crime (Miscellaneous) (No. 2) Act 2018
[202] Schedule Casino Gaming Amendment Act 2015
[203] Section 52 of the Gaming (Transfer of Functions) Act 2021
[204] Schedule Casino Gaming Amendment Act 2015
[205] Section 52 of the Gaming (Transfer of Functions) Act 2021
[206] Schedule Casino Gaming Amendment Act 2015
[207] Section 52 of the Gaming (Transfer of Functions) Act 2021
[208] Section 11 of the Proceeds of Crime Amendment Act 2015
[209] Section 2(a) of the Proceeds of Crime Amendment (No. 2) Act 2016
[210] Section 2 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[211] Schedule Casino Gaming Amendment Act 2015
[212] Section 52 of the Gaming (Transfer of Functions) Act 2021
[213] Schedule Institute of Chartered Accountants of Bermuda Amendment Act 2014
[214] Schedule 3 Real Estate Brokers' Licensing Act 2017
[215] Section 2(c) of the Proceeds of Crime Amendment (No. 2) Act 2016
[216] Schedule 3 Real Estate Brokers' Licensing Act 2017
[217] Registrar of Companies (Supervision and Regulation) Act 2020
[218] Section 3 Proceeds of Crime Amendment Act 2008
[219] Schedule Casino Gaming Amendment Act 2015
[220] Registrar of Companies (Supervision and Regulation) Act 2020
[221] Section 2(b) of the Proceeds of Crime Amendment (No. 2) Act 2016
[222] Schedule 3 Real Estate Brokers' Licensing Act 2017
[223] Section 2(b) of the Proceeds of Crime Amendment (No. 2) Act 2016
[224] Schedule Casino Gaming Amendment Act 2015
[225] Schedule Casino Gaming Amendment Act 2015
[226] Section 52 of the Gaming (Transfer of Functions) Act 2021
[227] Section 11 of the Proceeds of Crime Amendment Act 2015
[228] Section 2 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[229] Proceeds of Crime (Miscellaneous) Act 2025, section 2(2)
[230] Section 12 of the Proceeds of Crime Amendment Act 2015
[231] Section 2 of the Proceeds of Crime (Miscellaneous) Act 2018

[232] Section 8 Proceeds of Crime Amendment Act 2007
[233] Section 2 of the Proceeds of Crime (Miscellaneous) Act 2018
[234] Proceeds of Crime Amendment Act 2015
[235] Proceeds of Crime Amendment Act 2008
[236] Section 2 of the Proceeds of Crime (Miscellaneous) Act 2018
[237] Section 14 of the Proceeds of Crime Amendment Act 2015
[238] Section 9 Proceeds of Crime Amendment Act 2007
[239] Section 5 Proceeds of Crime Amendment Act 2008
[240] Section 2 of the Proceeds of Crime (Miscellaneous) Act 2018
[241] Section 5 Proceeds of Crime Amendment Act 2008
[242] Section 9 Proceeds of Crime Amendment Act 2007
[243] Section 2 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[244] Section 14 of the Proceeds of Crime Amendment Act 2015
[245] Section 14 of the Proceeds of Crime Amendment Act 2015
[246] Section 14 of the Proceeds of Crime Amendment Act 2015
[247] Section 14 of the Proceeds of Crime Amendment Act 2015
[248] Section 14 of the Proceeds of Crime Amendment Act 2015
[249] Section 14 of the Proceeds of Crime Amendment Act 2015
[250] Section 9 Proceeds of Crime Amendment Act 2007
[251] Section 9 Proceeds of Crime Amendment Act 2007
[252] Section 9 Proceeds of Crime Amendment Act 2007
[253] Section 2 of the Proceeds of Crime (Miscellaneous) Act 2018
[254] Section 10 Proceeds of Crime Amendment Act 2007
[255] Section 10 Proceeds of Crime Amendment Act 2007
[256] Section 2(d)(i) Proceeds of Crime Amendment Act 2017
[257] Section 2 Proceeds of Crime and Related Measures Amendment Act 2013
[258] Section 11 Proceeds of Crime Amendment Act 2007
[259] Section 6 Proceeds of Crime Amendment Act 2008
[260] Section 2(d)(ii) Proceeds of Crime Amendment Act 2017
[261] Section 11 Proceeds of Crime Amendment Act 2007
[262] Section 2 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[263] Section 11 Proceeds of Crime Amendment Act 2007
[264] Section 11 Proceeds of Crime Amendment Act 2007
[265] Section 2(e)(i) Proceeds of Crime Amendment Act 2017
[266] Section 2(e)(i) Proceeds of Crime Amendment Act 2017
[267] Section 2 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[268] Section 12 Proceeds of Crime Amendment Act 2007
[269] Section 3(a) Proceeds of Crime and Related Measures Amendment Act 2013
[270] Section 2 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[271] Section 3(b) Proceeds of Crime and Related Measures Amendment Act 2013
[272] Section 2(e)(ii) Proceeds of Crime Amendment Act 2017
[273] Section 3(c) Proceeds of Crime and Related Measures Amendment Act 2013
[274] Section 3(c) Proceeds of Crime and Related Measures Amendment Act 2013
[275] Section 7 Proceeds of Crime Amendment Act 2008
[276] Paragraph 3(a) Ministers (Change of Responsibilities and Style) Order 2017
[277] Section 4(a) Proceeds of Crime and Related Measures Amendment Act 2013
[278] Section 8 Proceeds of Crime Amendment Act 2008
[279] Section 4(a) Proceeds of Crime and Related Measures Amendment Act 2013
[280] Section 8 Proceeds of Crime Amendment Act 2008
[281] Paragraph 3(a) Ministers (Change of Responsibilities and Style) Order 2017
[282] Section 8 Proceeds of Crime Amendment Act 2008
[283] Section 4(b) Proceeds of Crime and Related Measures Amendment Act 2013
[284] Section 2 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[285] Section 4(c) Proceeds of Crime and Related Measures Amendment Act 2013
[286] Paragraph 3(a) Ministers (Change of Responsibilities and Style) Order 2017
[287] Section 2 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[288] Section 2 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[289] Proceeds of Crime (Miscellaneous) Act 2025, section 2(2)(a)
[290] Section 2 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018

[291] Section 4(d) Proceeds of Crime and Related Measures Amendment Act 2013
[292] Section 8 Proceeds of Crime Amendment Act 2008
[293] Section 8 Proceeds of Crime Amendment Act 2008
[294] Section 13 Proceeds of Crime Amendment Act 2007
[295] Section 15 of the Proceeds of Crime Amendment Act 2015
[296] Section 13 Proceeds of Crime Amendment Act 2007
[297] Section 8 Proceeds of Crime Amendment Act 2008
[298] Section 13 Proceeds of Crime Amendment Act 2007
[299] Section 8 Proceeds of Crime Amendment Act 2008
[300] Section 8 Proceeds of Crime Amendment Act 2008
[301] Section 8 Proceeds of Crime Amendment Act 2008
[302] Section 15 of the Proceeds of Crime Amendment Act 2015
[303] Section 15 of the Proceeds of Crime Amendment Act 2015
[304] Section 2(b)(i) Proceeds of Crime Amendment (No. 3) Act 2017
[305] Section 15 of the Proceeds of Crime Amendment Act 2015
[306] Section 2(b)(ii) Proceeds of Crime Amendment (No. 3) Act 2017
[307] Section 52 of the Gaming (Transfer of Functions) Act 2021
[308] Proceeds of Crime (Miscellaneous) Act 2025, section 2(2)(b)
[309] Paragraph 3(b) Ministers (Change of Responsibilities and Style) Order 2017
[310] Schedule Proceeds of Crime Amendment Act 2007
[311] Paragraph 3(b) Ministers (Change of Responsibilities and Style) Order 2017
[312] Section 8 Proceeds of Crime Amendment Act 2008
[313] Section 8 Proceeds of Crime Amendment Act 2008
[314] Paragraph 3(b) Ministers (Change of Responsibilities and Style) Order 2017
[315] Section 8 Proceeds of Crime Amendment Act 2008
[316] Section 8 Proceeds of Crime Amendment Act 2008
[317] Paragraph 3(b) Ministers (Change of Responsibilities and Style) Order 2017
[318] Section 8 Proceeds of Crime Amendment Act 2008
[319] Schedule Proceeds of Crime Amendment Act 2007
[320] Section 8 Proceeds of Crime Amendment Act 2008
[321] Schedule Casino Gaming Amendment Act 2015
[322] Section 3 of the Proceeds of Crime Amendment (No. 2) Act 2016
[323] Schedule 3 Real Estate Brokers' Licensing Act 2017
[324] Section 3 of the Proceeds of Crime Amendment (No. 2) Act 2016
[325] Schedule Casino Gaming Amendment Act 2015
[326] Schedule Casino Gaming Amendment Act 2015
[327] Section 8 Proceeds of Crime Amendment Act 2008
[328] Section 8 Proceeds of Crime Amendment Act 2008
[329] Schedule Casino Gaming Amendment Act 2015
[330] Section 13 Proceeds of Crime Amendment Act 2007
[331] Section 15 of the Proceeds of Crime Amendment Act 2015
[332] Section 13 Proceeds of Crime Amendment Act 2007
[333] Section 8 Proceeds of Crime Amendment Act 2008
[334] Section 16 of the Proceeds of Crime Amendment Act 2015
[335] Section 7 inserts 49A-49LAnti-Terrorism (Financial and Other Measures) Amendment Act 2009
[336] Section 2 Proceeds of Crime (Miscellaneous) (No. 3) Act 2018
[337] Section 2 Proceeds of Crime (Miscellaneous) (No. 3) Act 2018
[338] Section2 Proceeds of Crime (Miscellaneous) (No. 3) Act 2018
[339] Section 2 Proceeds of Crime (Miscellaneous) (No. 3) Act 2018
[340] Section 2 Proceeds of Crime (Miscellaneous) (No. 3) Act 2018
[341] Section 3 Proceeds of Crime (Miscellaneous) (No. 3) Act 2018
[342] Section 2 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[343] Section 3 Proceeds of Crime (Miscellaneous) (No. 3) Act 2018
[344] Section 3 Proceeds of Crime (Miscellaneous) (No. 3) Act 2018
[345] Section 2 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[346] Section 3 Proceeds of Crime (Miscellaneous) (No. 3) Act 2018
[347] Section 3 Proceeds of Crime (Miscellaneous) (No. 3) Act 2018
[348] Section 3 Proceeds of Crime (Miscellaneous) (No. 3) Act 2018
[349] Section 2 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018

[350] Section 3 Proceeds of Crime (Miscellaneous) (No. 3) Act 2018
[351] Section 2 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[352] Section 3 Proceeds of Crime (Miscellaneous) (No. 3) Act 2018
[353] Section 2 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[354] Section 3 Proceeds of Crime (Miscellaneous) (No. 3) Act 2018
[355] Section 3 Proceeds of Crime (Miscellaneous) (No. 3) Act 2018
[356] Section 9 Proceeds of Crime Amendment Act 2008
[357] Section 8 Anti-Terrorism (Financial and Other Measures) Amendment Act 2009
[358] Section 9 Proceeds of Crime Amendment Act 2008
[359] Proceeds of Crime Amendment Act 2012
[360] Proceeds of Crime Amendment Act 2011
[361] Proceeds of Crime Amendment Act 2012
[362] Proceeds of Crime Amendment Act 2011
[363] Proceeds of Crime Amendment Act 2012
[364] Proceeds of Crime Amendment Act 2012
[365] Proceeds of Crime Amendment Act 2012
[366] Proceeds of Crime Amendment Act 2011
[367] Proceeds of Crime Amendment Act 2012
[368] Proceeds of Crime Amendment Act 2012
[369] Proceeds of Crime Amendment Act 2012
[370] Section 14 Proceeds of Crime Amendment Act 2007
[371] Section 14 Proceeds of Crime Amendment Act 2007
[372] Proceeds of Crime Amendment Act 2012
[373] Section 4 Proceeds of Crime (Miscellaneous) (No. 3) Act 2018
[374] Proceeds of Crime Amendment Act 2012
[375] Section 4 Proceeds of Crime (Miscellaneous) (No. 3) Act 2018
[376] Proceeds of Crime Amendment Act 2012
[377] Proceeds of Crime Amendment Act 2012
[378] Proceeds of Crime Amendment Act 2012
[379] Proceeds of Crime Amendment Act 2012
[380] Section 14(a) Proceeds of Crime Amendment (No. 2) Act 2013
[381] Proceeds of Crime Amendment Act 2012
[382] Section 14(b) Proceeds of Crime Amendment (No. 2) Act 2013
[383] Section14(c) Proceeds of Crime Amendment (No. 2) Act 2013
[384] Proceeds of Crime Amendment Act 2012
[385] Section 14(d) Proceeds of Crime Amendment (No. 2) Act 2013
[386] Proceeds of Crime Amendment Act 2012
[387] Proceeds of Crime Amendment Act 2012
[388] Proceeds of Crime Amendment Act 2012
[389] Proceeds of Crime Amendment Act 2012
[390] Proceeds of Crime Amendment Act 2012
[391] Proceeds of Crime Amendment Act 2012
[392] Proceeds of Crime Amendment Act 2012
[393] Proceeds of Crime Amendment Act 2012
[394] Proceeds of Crime Amendment Act 2012
[395] Section 15 Proceeds of Crime Amendment Act 2007
[396] Section 15 Proceeds of Crime Amendment Act 2007 states section 52B is to be added but does not provide for such a section.
[397] Section 15(a) Proceeds of Crime Amendment (No. 2) Act 2013
[398] Schedule Proceeds of Crime Amendment Act 2007
[399] Section 15(b)(i) Proceeds of Crime Amendment (No. 2) Act 2013
[400] Section 15(b)(ii) Proceeds of Crime Amendment (No. 2) Act 2013
[401] Section 15(c) Proceeds of Crime Amendment (No. 2) Act 2013
[402] Section 16(a) Proceeds of Crime Amendment (No. 2) Act 2013
[403] Section 16(b) Proceeds of Crime Amendment (No. 2) Act 2013
[404] Section 16(c) Proceeds of Crime Amendment (No. 2) Act 2013
[405] Section 2 Proceeds of Crime (Asset Retention) Amendment Act 2015
[406] Section 17(a) Proceeds of Crime Amendment (No. 2) Act 2013
[407] Section 17(b) Proceeds of Crime Amendment (No. 2) Act 2013

[408] Section 5(1)Proceeds of Crime Amendment Act 2000
[409] Section 3 Proceeds of Crime (Asset Retention) Amendment Act 2015
[410] Section 9 Anti-Terrorism (Financial and Other Measures) Amendment Act 2009
[411] Section 26(a) Anti-Terrorism (Financial and Other Measures) Act 2004
[412] Section 18(a) Proceeds of Crime Amendment (No. 2) Act 2013
[413] Section 3(a) Proceeds of Crime (Asset Retention) Amendment Act 2015
[414] Section 3(a) Proceeds of Crime (Asset Retention) Amendment Act 2015
[415] Section 2 Proceeds of Crime Amendment Act 2009
[416] Section 10 Proceeds of Crime Amendment Act 2008
[417] Section 26(b) Anti-Terrorism (Financial and Other Measures) Act 2004
[418] Section 2 Proceeds of Crime Amendment Act 2009
[419] Section 2 Proceeds of Crime Amendment Act 2009
[420] Section 18(b)(i) Proceeds of Crime Amendment (No. 2) Act 2013
[421] Section 2 Proceeds of Crime Amendment Act 2009
[422] Section 18(b)(ii) Proceeds of Crime Amendment (No. 2) Act 2013
[423] Section 16 Proceeds of Crime Amendment Act 2007
[424] Section 18(b)(iii) Proceeds of Crime Amendment (No. 2) Act 2013
[425] Part 7 Child Safeguarding (Miscellaneous Amendments) Act 2019
[426] Section 3(b) Proceeds of Crime (Asset Retention) Amendment Act 2015
[427] Section 2 Proceeds of Crime Amendment Act 2009
[428] Section 18(c) Proceeds of Crime Amendment (No. 2) Act 2013
[429] Section 26(c) Anti-Terrorism (Financial and Other Measures) Act 2004
[430] Section 26(c) Anti-Terrorism (Financial and Other Measures) Act 2004
[431] Section 2(a) Proceeds of Crime Amendment Act 2013
[432] Section 5 Proceeds of Crime Amendment Act 2000
[433] Section 2(b) Proceeds of Crime Amendment Act 2013
[434] Section 2(b) Proceeds of Crime Amendment Act 2013
[435] Section 5(1) Proceeds of Crime Amendment Act 2000
[436] Schedule Proceeds of Crime Amendment Act 2007
[437]
[438] Section 11 Proceeds of Crime Amendment Act 2008
[439] Section 12 Proceeds of Crime Amendment Act 2008
[440] Section 17 Proceeds of Crime Amendment Act 2007
[441] Section 20 Proceeds of Crime Amendment Act 2007
[442] Schedule 2 Criminal Jurisdiction and Procedure Act 2015
[443] Section 20 Proceeds of Crime Amendment Act 2007
[444] Schedule 2 Criminal Jurisdiction and Procedure Act 2015
[445] Schedule 2 Criminal Jurisdiction and Procedure Act 2015
[446] Section 19(a) Proceeds of Crime Amendment (No. 2) Act 2013
[447] Section 19(b) Proceeds of Crime Amendment (No. 2) Act 2013
[448] Section 19(c) Proceeds of Crime Amendment (No. 2) Act 2013
[449] Section 6(3) Proceeds of Crime Amendment Act 2000
[450] Section 20 Proceeds of Crime Amendment (No. 2) Act 2013
[451] Section 6(4) Proceeds of Crime Amendment Act 2000
[452] Section 21 Proceeds of Crime Amendment (No. 2) Act 2013
[453] Section 21 Proceeds of Crime Amendment (No. 2) Act 2013
[454] Section 18 Proceeds of Crime Amendment Act 2007
[455] Section 21 Proceeds of Crime Amendment (No. 2) Act 2013
[456] Section 18 Proceeds of Crime Amendment Act 2007
[457] Section 21 Proceeds of Crime Amendment (No. 2) Act 2013
[458] Section 21 Proceeds of Crime Amendment (No. 2) Act 2013
[459] Section 21 Proceeds of Crime Amendment (No. 2) Act 2013
[460] Section 21 Proceeds of Crime Amendment (No. 2) Act 2013
[461] Section 21 Proceeds of Crime Amendment (No. 2) Act 2013
[462] Section 21 Proceeds of Crime Amendment (No. 2) Act 2013
[463] Section 21 Proceeds of Crime Amendment (No. 2) Act 2013
[464] Section 19 Proceeds of Crime Amendment Act 2007
[465] Section 22 Proceeds of Crime Amendment (No. 2) Act 2013
[466] Section 22 Proceeds of Crime Amendment (No. 2) Act 2013

[467] Section 2(2) Proceeds of Crime Amendment Act 2000
[468] Section 23 Proceeds of Crime Amendment (No. 2) Act 2013
[469] Section 23 Proceeds of Crime Amendment (No. 2) Act 2013
[470] Section 2 Proceeds of Crime (Miscellaneous) (No. 2) Act 2018
[471] Section 8 Proceeds of Crime (Miscellaneous) (No. 2) Act 2018
[472] Section 27 of the Proceeds of Crime Amendment Act 2015
[473] Section 4 Proceeds of Crime (Miscellaneous) (No. 2) Act 2018
[474] Section 39 Proceeds of Crime Regulations (Supervisions and Enforcement) Act 2008
[475] Section 27 of the Proceeds of Crime Amendment Act 2015
[476] Schedule Casino Gaming Amendment Act 2015
[477] Section 52 of the Gaming (Transfer of Functions) Act 2021
[478] Section 8(a)(i) Proceeds of Crime Amendment (No. 3) Act 2017
[479] Section 52 of the Gaming (Transfer of Functions) Act 2021
[480] Schedule Casino Gaming Amendment Act 2015
[481] Section 52 of the Gaming (Transfer of Functions) Act 2021
[482] Schedule Casino Gaming Amendment Act 2015
[483] Section 52 of the Gaming (Transfer of Functions) Act 2021
[484] Section 27 of the Proceeds of Crime Amendment Act 2015
[485] Section 27 of the Proceeds of Crime Amendment Act 2015
[486] Regulation 2 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Amendment Regulations 2026
[487] Section 13(a) of the Proceeds of Crime Amendment (No. 2) Act 2016
[488] Section 3 of the Proceeds of Crime Amendment Act 2022
[489] Section 8(a)(i) Proceeds of Crime Amendment (No. 3) Act 2017
[490] Section 52 of the Gaming (Transfer of Functions) Act 2021
[491] Section 4 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[492] Section 27 of the Proceeds of Crime Amendment Act 2015
[493] Section 8(a)(ii)(a) Proceeds of Crime Amendment (No. 3) Act 2017
[494] Registrar of Companies (Supervision and Regulation) Act 2020
[495] Section 8(a)(ii)(b) Proceeds of Crime Amendment (No. 3) Act 2017
[496] Section 3 of the Proceeds of Crime Amendment (No. 3) Act 2016
[497] Section 3 of the Proceeds of Crime Amendment Act 2022
[498] Section 8(a)(ii)(c) Proceeds of Crime Amendment (No. 3) Act 2017
[499] Section 3 of the Proceeds of Crime Amendment Act 2022
[500] Section 3 of the Proceeds of Crime Amendment Act 2022
[501] Schedule Casino Gaming Amendment Act 2015
[502] Section 52 of the Gaming (Transfer of Functions) Act 2021
[503] Section 8(a)(ii)(c) Proceeds of Crime Amendment (No. 3) Act 2017
[504] Section 52 of the Gaming (Transfer of Functions) Act 2021
[505] Regulation 2 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Amendment Regulations 2026
[506] Schedule 3 Real Estate Brokers' Licensing Act 2017
[507] Section 13(c) of the Proceeds of Crime Amendment (No. 2) Act 2016
[508] Schedule 3 Real Estate Brokers' Licensing Act 2017
[509] Registrar of Companies (Supervision and Regulation) Act 2020
[510] Registrar of Companies (Supervision and Regulation) Act 2020
[511] Schedule Casino Gaming Amendment Act 2015
[512] Section 39 Proceeds of Crime Regulations (Supervisions and Enforcement) Act 2008
[513] Registrar of Companies (Supervision and Regulation) Act 2020
[514] Section 13(b) of the Proceeds of Crime Amendment (No. 2) Act 2016
[515] Schedule 3 Real Estate Brokers' Licensing Act 2017
[516] Section 13(b) of the Proceeds of Crime Amendment (No. 2) Act 2016
[517] Section 52 of the Gaming (Transfer of Functions) Act 2021
[518] Section 4 Proceeds of Crime (Miscellaneous) (No. 2) Act 2018
[519] Section 39 Proceeds of Crime Regulations (Supervisions and Enforcement) Act 2008
[520] Section 5(a) Proceeds of Crime Amendment Act 2017
[521] Schedule 2 of the Corporate Service Provider Business Act 2012
[522] Section 12 of the Proceeds of Crime (Miscellaneous) Act 2018
[523] Schedule 2 Digital Asset Business Act 2018
[524] Schedule 2 of the Corporate Service Provider Business Act 2012
[525] Section 5(b) Proceeds of Crime Amendment Act 2017

[526] Section 27 of the Proceeds of Crime Amendment Act 2015
[527] Schedule 2 Digital Asset Business Act 2018
[528] Schedule 2 of the Corporate Service Provider Business Act 2012
[529] Schedule 2 Digital Asset Business Act 2018
[530] Schedule Casino Gaming Amendment Act 2015
[531] Section 52 of the Gaming (Transfer of Functions) Act 2021
[532] Beneficial Ownership (Consequential Amendments) Order 2025, section 14
[533] Beneficial Ownership (Consequential Amendments) Order 2025, section 14
[534] Charities Amendment Act 2026, s 6
[535] Section 5 of the Proceeds of Crime (Miscellaneous) Act 2018
[536] Charities Amendment Act 2026, s 6
[537] Charities Amendment Act 2026, s 6
[538] Charities Amendment Act 2026, s 6
[539] Section 28 of the Proceeds of Crime Amendment Act 2015
[540] Charities Amendment Act 2026, s 6
[541] Section 5 of the Proceeds of Crime (Miscellaneous) Act 2018
[542] Section 3 of the Proceeds of Crime Amendment Act 2022
[543] Section 2 of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Amendment Regulations 2013
[544] Section 39 Proceeds of Crime Regulations (Supervisions and Enforcement) Act 2008
[545] Schedule Casino Gaming Amendment Act 2015
[546] Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008 Commencement Day Notice 2008
[547] Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008 Commencement Day Notice 2012 (BR 63/2012) brought into force regulation 4(b) on 15 August 2012
[548] Section 14 of the Proceeds of Crime Amendment (No. 2) Act 2016
[549] Schedule Casino Gaming Amendment Act 2015
[550] Registrar of Companies (Supervision and Regulation) Act 2020
[551] Section 2 of the Proceeds of Crime Amendment (No. 3) Act 2016
[552] Section 14 of the Proceeds of Crime Amendment (No. 2) Act 2016
[553] Section 4 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[554] Schedule 3 Real Estate Brokers' Licensing Act 2017
[555] Section 14 of the Proceeds of Crime Amendment (No. 2) Act 2016
[556] Section 4 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[557] Section 29 of the Proceeds of Crime Amendment Act 2015
[558] Section 29 of the Proceeds of Crime Amendment Act 2015
[559] Section 8(b) Proceeds of Crime Amendment (No. 3) Act 2017
[560] Section 9 Proceeds of Crime (Miscellaneous) (No. 3) Act 2018
[561] Section 8(b) Proceeds of Crime Amendment (No. 3) Act 2017
[562] Section 29 of the Proceeds of Crime Amendment Act 2015
[563] Section 8(b) Proceeds of Crime Amendment (No. 3) Act 2017
[564] Regulation 3 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Amendment Regulations 2026
[565] Section 30 of the Proceeds of Crime Amendment Act 2015
[566] Section 8(c)(i) Proceeds of Crime Amendment (No. 3) Act 2017
[567] Section 5 of the Proceeds of Crime (Miscellaneous) Act 2018
[568] Section 5 of the Proceeds of Crime (Miscellaneous) Act 2018
[569] Section 30 of the Proceeds of Crime Amendment Act 2015
[570] Regulation 3 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Amendment Regulations 2026
[571] Section 4 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[572] Section 8(c)(ii) Proceeds of Crime Amendment (No. 3) Act 2017
[573] Section 30 of the Proceeds of Crime Amendment Act 2015
[574] Regulation 3 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Amendment Regulations 2026
[575] Section 30 of the Proceeds of Crime Amendment Act 2015
[576] Section 30 of the Proceeds of Crime Amendment Act 2015
[577] Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Amendment Regulations 2014
[578] Section 3 of the Proceeds of Crime Amendment Act 2022
[579] Section 17 Proceeds of Crime and Related Measures Amendment Act 2013
[580]Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Amendment Regulations 2014
[581]Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Amendment Regulations 2014
[582]Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Amendment Regulations 2014

[583] Section 31 of the Proceeds of Crime Amendment Act 2015
[584] Section 31 of the Proceeds of Crime Amendment Act 2015
[585] Section 10 Proceeds of Crime (Miscellaneous) (No. 3) Act 2018
[586] Regulation 4 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Amendment Regulations 2026
[587] Section 31 of the Proceeds of Crime Amendment Act 2015
[588] Regulation 4 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Amendment Regulations 2026
[589] Section 31 of the Proceeds of Crime Amendment Act 2015
[590] Section 10 Proceeds of Crime (Miscellaneous) (No. 3) Act 2018
[591] Section 31 of the Proceeds of Crime Amendment Act 2015
[592] Section 10 Proceeds of Crime (Miscellaneous) (No. 3) Act 2018
[593] Section 10 Proceeds of Crime (Miscellaneous) (No. 3) Act 2018
[594] Section 10 Proceeds of Crime (Miscellaneous) (No. 3) Act 2018
[595] Schedule Casino Gaming Amendment Act 2015
[596] Section 8(d)(i) Proceeds of Crime Amendment (No. 3) Act 2017
[597] Section 8(d)(ii) Proceeds of Crime Amendment (No. 3) Act 2017
[598] Section 8(d)(ii) Proceeds of Crime Amendment (No. 3) Act 2017
[599] Section 8(d)(ii) Proceeds of Crime Amendment (No. 3) Act 2017
[600] Section 8(e)Proceeds of Crime Amendment (No. 3) Act 2017
[601] Section 52 of the Gaming (Transfer of Functions) Act 2021
[602] Section 52 of the Gaming (Transfer of Functions) Act 2021
[603] Schedule Casino Gaming Amendment Act 2015
[604] Section 8(f)(i) Proceeds of Crime Amendment (No. 3) Act 2017
[605] Section 8(f)(ii) Proceeds of Crime Amendment (No. 3) Act 2017
[606] Section 8(f)(iii) Proceeds of Crime Amendment (No. 3) Act 2017
[607] Schedule Casino Gaming Amendment Act 2015
[608] Section 8(g)(i) Proceeds of Crime Amendment (No. 3) Act 2017
[609] Section 8(g)(i) Proceeds of Crime Amendment (No. 3) Act 2017
[610] Section 8(g)(i) Proceeds of Crime Amendment (No. 3) Act 2017
[611] Section 8(g)(ii) Proceeds of Crime Amendment (No. 3) Act 2017
[612] Section 8(g)(ii) Proceeds of Crime Amendment (No. 3) Act 2017
[613] Section 8(g)(iii) Proceeds of Crime Amendment (No. 3) Act 2017
[614] Section 8(g)(iii) Proceeds of Crime Amendment (No. 3) Act 2017
[615] Section 8(g)(iii) Proceeds of Crime Amendment (No. 3) Act 2017
[616] Section 8(g)(iii) Proceeds of Crime Amendment (No. 3) Act 2017
[617] Section 8(g)(iii) Proceeds of Crime Amendment (No. 3) Act 2017
[618] Section 8(g)(iii) Proceeds of Crime Amendment (No. 3) Act 2017
[619] Section 8(g)(iii) Proceeds of Crime Amendment (No. 3) Act 2017
[620] Section 8(g)(iii) Proceeds of Crime Amendment (No. 3) Act 2017
[621] Section 8(g)(iii) Proceeds of Crime Amendment (No. 3) Act 2017
[622] Section 8(g)(iii) Proceeds of Crime Amendment (No. 3) Act 2017
[623] Section 8(g)(iv) Proceeds of Crime Amendment (No. 3) Act 2017
[624] Section 5 of the Proceeds of Crime (Miscellaneous) Act 2018
[625] Section 8(h) Proceeds of Crime Amendment (No. 3) Act 2017
[626] Regulation 5 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Amendment Regulations 2026
[627] Section 4 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[628] Section 32 of the Proceeds of Crime Amendment Act 2015
[629] Section 32 of the Proceeds of Crime Amendment Act 2015
[630] Section 4 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[631] Section 4 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[632] Regulation 6 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Amendment Regulations 2026
[633] Regulation 6 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Amendment Regulations 2026
[634] Section 39 Proceeds of Crime Regulations (Supervisions and Enforcement) Act 2008
[635] Section 39 Proceeds of Crime Regulations (Supervisions and Enforcement) Act 2008
[636] Section 32 of the Proceeds of Crime Amendment Act 2015
[637] Section 32 of the Proceeds of Crime Amendment Act 2015
[638] Section 32 of the Proceeds of Crime Amendment Act 2015
[639] Section 32 of the Proceeds of Crime Amendment Act 2015
[640] Regulation 6 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Amendment Regulations 2026
[641] Section 32 of the Proceeds of Crime Amendment Act 2015

[642] Section 32 of the Proceeds of Crime Amendment Act 2015
[643] Section 18(a) Proceeds of Crime and Related Measures Amendment Act 2013
[644] Section 8(i) Proceeds of Crime Amendment (No. 3) Act 2017
[645] Section 18(b)(i) Proceeds of Crime and Related Measures Amendment Act 2013
[646] Section 18(b)(ii) Proceeds of Crime and Related Measures Amendment Act 2013
[647] Section 18(c) Proceeds of Crime and Related Measures Amendment Act 2013
[648] Section 33 of the Proceeds of Crime Amendment Act 2015
[649] Section 33 of the Proceeds of Crime Amendment Act 2015
[650] Section 4 Proceeds of Crime (Miscellaneous) (No. 2) Act 2018
[651] Regulation 7 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Amendment Regulations 2026
[652] Regulation 7 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Amendment Regulations 2026
[653] Section 39 Proceeds of Crime Regulations (Supervisions and Enforcement) Act 2008
[654] Section 4 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[655] Section 4 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[656] Proceeds of Crime (Miscellaneous) Act 2025, section 4(1)(a)
[657] Regulation 7 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Amendment Regulations 2026
[658] Proceeds of Crime (Miscellaneous) Act 2025, section 4(1)(b)
[659] Section 8(i)(ii) Proceeds of Crime Amendment (No. 3) Act 2017
[660] Proceeds of Crime (Miscellaneous) Act 2025, section 4(1)(c)
[661] Section 8(i)(ii) Proceeds of Crime Amendment (No. 3) Act 2017
[662] Regulation 7 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Amendment Regulations 2026
[663] Section 33 of the Proceeds of Crime Amendment Act 2015
[664] Section 5 of the Proceeds of Crime (Miscellaneous) Act 2018
[665] Section 5 of the Proceeds of Crime (Miscellaneous) Act 2018
[666] Section 3 of the Proceeds of Crime Amendment Act 2022
[667] Section 5 of the Proceeds of Crime (Miscellaneous) Act 2018
[668] Section 3 of the Proceeds of Crime Amendment Act 2022
[669] Section 33 of the Proceeds of Crime Amendment Act 2015
[670] Section 33 of the Proceeds of Crime Amendment Act 2015
[671] Section 33 of the Proceeds of Crime Amendment Act 2015
[672] Section 33 of the Proceeds of Crime Amendment Act 2015
[673] Section 8(i)(iii)(A) Proceeds of Crime Amendment (No. 3) Act 2017
[674] Section 8(i)(iii) (B) Proceeds of Crime Amendment (No. 3) Act 2017
[675] Section 8(i)(iii) (C) Proceeds of Crime Amendment (No. 3) Act 2017
[676] Section 33 of the Proceeds of Crime Amendment Act 2015
[677] Section 8(j)(i) Proceeds of Crime Amendment (No. 3) Act 2017
[678] Section 39 Proceeds of Crime Regulations (Supervisions and Enforcement) Act 2008
[679] Section 34 of the Proceeds of Crime Amendment Act 2015
[680] Regulation 8 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Amendment Regulations 2026
[681] Section 34 of the Proceeds of Crime Amendment Act 2015
[682] Section 8(j)(ii) Proceeds of Crime Amendment (No. 3) Act 2017
[683] Section 39 Proceeds of Crime Regulations (Supervisions and Enforcement) Act 2008
[684] Regulation 8 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Amendment Regulations 2026
[685] Section 8(j)(iii) Proceeds of Crime Amendment (No. 3) Act 2017
[686] Section 4 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[687] Regulation 9 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Amendment Regulations 2026
[688] Section 3 of the Proceeds of Crime Amendment Act 2022
[689] Regulation 9 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Amendment Regulations 2026
[690] Regulation 9 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Amendment Regulations 2026
[691] Proceeds of Crime (Miscellaneous) Act 2025, section 5
[692] Proceeds of Crime (Miscellaneous) Act 2025, section 5
[693] Section 39 Proceeds of Crime Regulations (Supervisions and Enforcement) Act 2008
[694] Section 5 of the Proceeds of Crime (Miscellaneous) Act 2018
[695] Section 39 Proceeds of Crime Regulations (Supervisions and Enforcement) Act 2008
[696] Section 19 Proceeds of Crime and Related Measures Amendment Act 2013
[697] Section 35 of the Proceeds of Crime Amendment Act 2015
[698] Section 8(k) Proceeds of Crime Amendment (No. 3) Act 2017
[699] Section 11 Proceeds of Crime (Miscellaneous) (No. 3) Act 2018
[700] Section 39 Proceeds of Crime Regulations (Supervisions and Enforcement) Act 2008

[701] Section 39 Proceeds of Crime Regulations (Supervisions and Enforcement) Act 2008
[702] Section 36 of the Proceeds of Crime Amendment Act 2015
[703] Regulation 10 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Amendment Regulations 2026
[704] Schedule Casino Gaming Amendment Act 2015
[705] Section 5 of the Proceeds of Crime (Miscellaneous) Act 2018
[706] Section 5 of the Proceeds of Crime (Miscellaneous) Act 2018
[707] Schedule Casino Gaming Amendment Act 2015
[708]Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Amendment Regulations 2014
[709] Section 20 Proceeds of Crime and Related Measures Amendment Act 2013
[710]Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Amendment Regulations 2014
[711] Section 5 of the Proceeds of Crime (Miscellaneous) Act 2018
[712] Section 5 of the Proceeds of Crime (Miscellaneous) Act 2018
[713] Section 37 of the Proceeds of Crime Amendment Act 2015
[714] Section 38 of the Proceeds of Crime Amendment Act 2015
[715] Section 38 of the Proceeds of Crime Amendment Act 2015
[716] Section 38 of the Proceeds of Crime Amendment Act 2015
[717] Section 38 of the Proceeds of Crime Amendment Act 2015
[718] Regulation 11 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Amendment Regulations 2026
[719] Section 38 of the Proceeds of Crime Amendment Act 2015
[720] Regulation 11 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Amendment Regulations 2026
[721] Regulation 11 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Amendment Regulations 2026
[722] Section 5 of the Proceeds of Crime (Miscellaneous) Act 2018
[723] Section 5(d) Proceeds of Crime Amendment Act 2017
[724] Regulation 11 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Amendment Regulations 2026
[725] Regulation 11 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Amendment Regulations 2026
[726] Section 8(l)(i) Proceeds of Crime Amendment (No. 3) Act 2017
[727] Section 39 Proceeds of Crime Regulations (Supervisions and Enforcement) Act 2008
[728] Section 8(l)(ii) Proceeds of Crime Amendment (No. 3) Act 2017
[729] Section 39 Proceeds of Crime Regulations (Supervisions and Enforcement) Act 2008
[730] Section 4 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[731] Section 4 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[732] Regulation 11 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Amendment Regulations 2026
[733] Section 39 of the Proceeds of Crime Amendment Act 2015
[734] Section 39 of the Proceeds of Crime Amendment Act 2015
[735] Regulation 12 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Amendment Regulations 2026
[736] Section 39 of the Proceeds of Crime Amendment Act 2015
[737] Section 39 of the Proceeds of Crime Amendment Act 2015
[738] Section 39 of the Proceeds of Crime Amendment Act 2015
[739] Section 5(d) Proceeds of Crime Amendment Act 2017
[740] Regulation 12 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Amendment Regulations 2026
[741] Section 39 of the Proceeds of Crime Amendment Act 2015
[742] Section 40 of the Proceeds of Crime Amendment Act 2015
[743] Regulation 13 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Amendment Regulations 2026
[744] Section 21(a) Proceeds of Crime and Related Measures Amendment Act 2013
[745] Regulation 14 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Amendment Regulations 2026
[746] Section 21(a) Proceeds of Crime and Related Measures Amendment Act 2013
[747] Section 21(a) Proceeds of Crime and Related Measures Amendment Act 2013
[748] Section 21(b) Proceeds of Crime and Related Measures Amendment Act 2013
[749] Regulation 14 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Amendment Regulations 2026
[750] Regulation 14 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Amendment Regulations 2026
[751] Section 41 of the Proceeds of Crime Amendment Act 2015
[752] Section 42 of the Proceeds of Crime Amendment Act 2015
[753] Section 11 Proceeds of Crime (Miscellaneous) (No. 3) Act 2018
[754] Section 40 Proceeds of Crime Regulations (Supervisions and Enforcement) Act 2008
[755] Section 22 Proceeds of Crime and Related Measures Amendment Act 2013
[756] Section 40 Proceeds of Crime Regulations (Supervisions and Enforcement) Act 2008
[757] Part 4 inserted by Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Amendment Regulations 2009 (BR2/2010)
[758] Section 3 of the Proceeds of Crime Amendment Act 2022

[759] Section 4 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[760] Section 43 of the Proceeds of Crime Amendment Act 2015
[761] Section 4 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[762] Section 4 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[763] Section 4 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[764] Section 44 of the Proceeds of Crime Amendment Act 2015
[765] Section 44 of the Proceeds of Crime Amendment Act 2015
[766] Section 44 of the Proceeds of Crime Amendment Act 2015
[767] Section 5(c) Proceeds of Crime Amendment Act 2017
[768] Section 5(c) Proceeds of Crime Amendment Act 2017
[769] Section 5(c) Proceeds of Crime Amendment Act 2017
[770] Section 4 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[771] Section 4 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[772] Section 45 of the Proceeds of Crime Amendment Act 2015
[773] Section 45 of the Proceeds of Crime Amendment Act 2015
[774] Section 45 of the Proceeds of Crime Amendment Act 2015
[775] Section 46 of the Proceeds of Crime Amendment Act 2015
[776] Section 46 of the Proceeds of Crime Amendment Act 2015
[777] Section 4 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[778] Section 46 of the Proceeds of Crime Amendment Act 2015
[779] Section 46 of the Proceeds of Crime Amendment Act 2015
[780] Section 46 of the Proceeds of Crime Amendment Act 2015
[781] Section 47 of the Proceeds of Crime Amendment Act 2015
[782] Section 47 of the Proceeds of Crime Amendment Act 2015
[783] Section 48 of the Proceeds of Crime Amendment Act 2015
[784] Section 49 of the Proceeds of Crime Amendment Act 2015
[785] Section 49 of the Proceeds of Crime Amendment Act 2015
[786] Section 4 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[787] Section 4 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[788] Section 4 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[789] Section 4 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[790] Section 4 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[791] Section 50 of the Proceeds of Crime Amendment Act 2015
[792] Section 50 of the Proceeds of Crime Amendment Act 2015
[793] Section 50 of the Proceeds of Crime Amendment Act 2015
[794] Section 50 of the Proceeds of Crime Amendment Act 2015
[795] Section 4 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[796] Section 4 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[797] Section 4 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[798] Regulation 15 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Amendment Regulations 2026
[799] Section 3 of the Proceeds of Crime Amendment Act 2022
[800] Section 51 of the Proceeds of Crime Amendment Act 2015
[801] Section 52 of the Gaming (Transfer of Functions) Act 2021
[802] Section 1 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[803] Section 3 Proceeds of Crime (Miscellaneous) (No. 2) Act 2018
[804] Section 4(b) Proceeds of Crime Amendment Act 2017
[805] Schedule 2 of the Money Service Business Act 2016
[806] Schedule 2 of the Corporate Service Provider Business Act 2012
[807] Section 11 of the Proceeds of Crime (Miscellaneous) Act 2018
[808] Schedule 2 of the Corporate Service Provider Business Act 2012
[809] Section 4(c) Proceeds of Crime Amendment Act 2017
[810] Schedule 2 of the Corporate Service Provider Business Act 2012
[811] Digital Asset Business Act 2018
[812] Schedule Casino Gaming Amendment Act 2015
[813] Section 52 of the Gaming (Transfer of Functions) Act 2021
[814] Schedule Casino Gaming Amendment Act 2015
[815] Section 52 of the Gaming (Transfer of Functions) Act 2021
[816] Schedule Casino Gaming Amendment Act 2015
[817] Section 52 of the Gaming (Transfer of Functions) Act 2021

[818] Schedule Casino Gaming Amendment Act 2015
[819] Registrar of Companies (Supervision and Regulation) Act 2020
[820] Section 9(a) of the Proceeds of Crime Amendment (No. 2) Act 2016
[821] Schedule Casino Gaming Amendment Act 2015
[822] Section 3 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[823] Section 52 of the Gaming (Transfer of Functions) Act 2021
[824] Section 9(b) of the Proceeds of Crime Amendment (No. 2) Act 2016
[825] Section 10 Anti-Terrorism (Financial and Other Measures) Amendment Act 2009
[826] Section 3 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[827] Section 3 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[828] Schedule Institute of Chartered Accountants of Bermuda Amendment Act 2014
[829] Schedule Institute of Chartered Accountants of Bermuda Amendment Act 2014
[830] Section 3 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[831] Section 10 Anti-Terrorism (Financial and Other Measures) Amendment Act 2009
[832] Section 2 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Amendment Act 2018
[833] Section 10 Anti-Terrorism (Financial and Other Measures) Amendment Act 2009
[834] Section 3 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[835] Investment Business Amendment Act 2022
[836] Section 3 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[837] Section 3 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[838] Section 3 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[839] Schedule 3 Real Estate Brokers' Licensing Act 2017
[840] Section 9(c) of the Proceeds of Crime Amendment (No. 2) Act 2016
[841] Schedule 3 Real Estate Brokers' Licensing Act 2017
[842] Registrar of Companies (Supervision and Regulation) Act 2020
[843] Section 3 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[844] Section 3 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[845] Credit Unions Act 2010
[846] Schedule 2 of the Corporate Service Provider Business Act 2012
[847] Schedule 2 of the Money Service Business Act 2016
[848] Schedule 2 of the Corporate Service Provider Business Act 2012
[849] Schedule 2 of the Corporate Service Provider Business Act 2012
[850] Section 2 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Amendment Act 2018
[851] Schedule 2 Digital Asset Business Act 2018 - [Section 2 of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Amendment Act 2018 (2018:48) inserted paragraph (i) in the definition of "regulatory Acts", effective 10 August 2018; Schedule 2 to the Digital Asset Business Act 2018 (2018:28) inserted paragraph (i) in the definition of "regulatory Acts", effective 10 September 2018
[852] Schedule 2 paragraph 3 Fund Administration Provider Business Act 2019
[853] Section 10 Anti-Terrorism (Financial and Other Measures) Amendment Act 2009
[854] Section 3 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[855] Schedule 3 Real Estate Brokers' Licensing Act 2017
[856] Section 9(d) of the Proceeds of Crime Amendment (No. 2) Act 2016
[857] Section 4(a) Proceeds of Crime Amendment Act 2017
[858] Section 3 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[859] Section 52 of the Gaming (Transfer of Functions) Act 2021
[860] Section 3 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[861] Section 11 Anti-Terrorism (Financial and Other Measures) Amendment Act 2009
[862] Schedule 3 Real Estate Brokers' Licensing Act 2017
[863] Section 9A(a) of the Proceeds of Crime Amendment (No. 2) Act 2016
[864] Schedule Casino Gaming Amendment Act 2015
[865] Section 4 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[866] Registrar of Companies (Supervision and Regulation) Act 2020
[867] Schedule Casino Gaming Amendment Act 2015
[868] Section 4 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[869] Schedule Casino Gaming Amendment Act 2015
[870] Section 52 of the Gaming (Transfer of Functions) Act 2021
[871] Section 3 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018

[872] Section 4 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[873] Section 3 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[874] Section 4 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[875] Section 3 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[876] Section 4 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[877] Section 4 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[878] Section 4 of the Proceeds of Crime (Miscellaneous) Act 2018
[879] Section 5 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[880] Section 6 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[881] Section 3 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[882] Section 3 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[883] Section 3 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Amendment Act 2018
[884] Section 12 Anti-Terrorism (Financial and Other Measures) Amendment Act 2009
[885] Section 3 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[886] Section 3 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[887] Section 4 of the Proceeds of Crime (Miscellaneous) Act 2018
[888] Section 4 of the Proceeds of Crime (Miscellaneous) Act 2018
[889] Section 3 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[890] Section 3 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[891] Section 3 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Amendment Act 2018
[892] Section 12 Anti-Terrorism (Financial and Other Measures) Amendment Act 2009
[893] Section 3 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[894] Section 3 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[895] Proceeds of Crime (Miscellaneous) Act 2025, section 3(1)
[896] Section 4(d) Proceeds of Crime Amendment Act 2017
[897] Section 8 replaces instances of 'the BMA' with 'competent authority' Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[898] Section 3 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[899] Section 13 Anti-Terrorism (Financial and Other Measures) Amendment Act 2009
[900] Section 3 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[901] Section 9 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[902] Section 13 Anti-Terrorism (Financial and Other Measures) Amendment Act 2009
[903] Registrar of Companies (Supervision and Regulation) Act 2020
[904] Section 9A(b)(i) of the Proceeds of Crime Amendment (No. 2) Act 2016
[905] Schedule Casino Gaming Amendment Act 2015
[906] Section 10 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[907] Section 52 of the Gaming (Transfer of Functions) Act 2021
[908] Registrar of Companies (Supervision and Regulation) Act 2020
[909] Schedule 3 Real Estate Brokers' Licensing Act 2017
[910] Schedule 3 Real Estate Brokers' Licensing Act 2017
[911] Section 9A(b)(ii) of the Proceeds of Crime Amendment (No. 2) Act 2016
[912] Section 14 Anti-Terrorism (Financial and Other Measures) Amendment Act 2009
[913] Section 11 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[914] Section 4 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Amendment Act 2018
[915] Section 11 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[916] Section 3 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[917] Section 3 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[918] Section 3 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[919] Registrar of Companies (Supervision and Regulation) Act 2020
[920] Schedule Casino Gaming Amendment Act 2015
[921] Section 12 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[922] Section 52 of the Gaming (Transfer of Functions) Act 2021
[923] Schedule 3 Real Estate Brokers' Licensing Act 2017
[924] Section 9A(c) of the Proceeds of Crime Amendment (No. 2) Act 2016
[925] Registrar of Companies (Supervision and Regulation) Act 2020
[926] Section 13 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010

[927] Section 14 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[928] Section 10 of the Proceeds of Crime Amendment (No. 2) Act 2016
[929] Section 5 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Amendment Act 2018
[930] Section 17 of the Proceeds of Crime Amendment Act 2015
[931] Section 6 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Amendment Act 2018
[932] Section 15 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[933] Section 16 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[934] Section 16 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[935] Section 7 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Amendment Act 2018
[936] Section 16 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[937] Section 17 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[938] Section 8 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Amendment Act 2018
[939] Section 4 of the Proceeds of Crime (Miscellaneous) Act 2018
[940] Section 8 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Amendment Act 2018
[941] Section 8 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Amendment Act 2018
[942] Section 8 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Amendment Act 2018
[943] Section 8 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Amendment Act 2018
[944] Section 17 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[945] Section 9 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Amendment Act 2018
[946] Section 9 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Amendment Act 2018
[947] Section 9 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Amendment Act 2018
[948] Section 9 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Amendment Act 2018
[949] Section 9 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Amendment Act 2018
[950] Section 9 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Amendment Act 2018
[951] Section 9 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Amendment Act 2018
[952] Section 9 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Amendment Act 2018
[953] Section 9 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Amendment Act 2018
[954] Section 9 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Amendment Act 2018
[955] Section 9 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Amendment Act 2018
[956] Section 9 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Amendment Act 2018
[957] Section 9 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Amendment Act 2018
[958] Section 9 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Amendment Act 2018
[959] Section 18 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[960] Section 18 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[961] Section 18 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[962] Section 10 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Amendment Act 2018

[963] Section 18 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[964] Section 18 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[965] Section 19 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[966] Section 19 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[967] Section 19 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[968] Section 19 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[969] Section 19 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[970] Section 19 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[971] Proceeds of Crime (Miscellaneous) Act 2025, section 3(2)
[972] Section 11 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Amendment Act 2018
[973] Section 20 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[974] Section 21 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[975] Section 3 Bermuda Monetary Authority (Regulatory Fees) Amendment Act 2011
[976] Section 12 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Amendment Act 2018
[977] Section 3 Bermuda Monetary Authority (Regulatory Fees) Amendment Act 2011
[978] Section 21 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[979] Registrar of Companies (Supervision and Regulation) Act 2020
[980] Section 22 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[981] Section 22 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[982] Section 23 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[983] Section 3 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[984] Section 3 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[985] Section 3 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[986] Section 24 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[987] Section 3 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[988] Section 24 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[989] Section 16 Anti-Terrorism (Financial and Other Measures) Amendment Act 2009
[990] Section 3 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[991] Section 24 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[992] Section 3 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[993] Section 24 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[994] Section 3 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[995] Section 24 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[996] Section 3 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[997] Section 24 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[998] Section 16 Anti-Terrorism (Financial and Other Measures) Amendment Act 2009
[999] Section 24 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[1000] Section 24 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[1001] Section 24 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[1002] Section 24 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[1003] Section 3 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[1004] Section 25 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[1005] Section 3 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[1006] Section 26 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[1007] Section 18 Anti-Terrorism (Financial and Other Measures) Amendment Act 2009
[1008] Section 5 Proceeds of Crime Amendment (No. 3) Act 2017
[1009] Section 11 of the Proceeds of Crime Amendment (No. 2) Act 2016
[1010] Section 3 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[1011] Section 27 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[1012] Section 3 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[1013] Section 27 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[1014] Section 13 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Amendment Act 2018
[1015] Registrar of Companies (Supervision and Regulation) Act 2020
[1016] Section 28 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[1017] Proceeds of Crime Regulations (Supervision and Enforcement)(Provisions Subject to Civil Penalties) Order 2009 (BR1/2010)
[1018] Section 3 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018

[1019] Schedule 3 Real Estate Brokers' Licensing Act 2017
[1020] Section 11A(a) of the Proceeds of Crime Amendment (No. 2) Act 2016
[1021] Section 2 of the Proceeds of Crime Amendment Act 2019
[1022] Section 28 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[1023] Section 2 of the Proceeds of Crime Amendment Act 2019
[1024] Proceeds of Crime (Miscellaneous) Act 2025, section 3(3)(a)
[1025] Section 3 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[1026] Schedule 3 Real Estate Brokers' Licensing Act 2017
[1027] Section 11A(b) of the Proceeds of Crime Amendment (No. 2) Act 2016
[1028] Section 2 of the Proceeds of Crime Amendment Act 2019
[1029] Section 2 of the Proceeds of Crime Amendment Act 2019
[1030] Section 2 of the Proceeds of Crime Amendment Act 2019
[1031] Section 28 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[1032] Section 19 Anti-Terrorism (Financial and Other Measures) Amendment Act 2009
[1033] Section 2 of the Proceeds of Crime Amendment Act 2019
[1034] Section 14 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Amendment Act 2018
[1035] Section 11A(c)(i) of the Proceeds of Crime Amendment (No. 2) Act 2016
[1036] Registrar of Companies (Supervision and Regulation) Act 2020
[1037] Section 11A(c)(ii) of the Proceeds of Crime Amendment (No. 2) Act 2016
[1038] Section 11A(c)(iii) of the Proceeds of Crime Amendment (No. 2) Act 2016
[1039] Section 3 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[1040] Schedule 3 Real Estate Brokers' Licensing Act 2017
[1041] Section 11A(d) of the Proceeds of Crime Amendment (No. 2) Act 2016
[1042] Section 28 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[1043] Proceeds of Crime (Miscellaneous) Act 2025, section 3(3)(b)
[1044] Section 3 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[1045] Section 28 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[1046] Section 19 Anti-Terrorism (Financial and Other Measures) Amendment Act 2009
[1047] Section 3 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[1048] Section 28 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[1049] Section 3 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[1050] Section 28 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[1051] Section 19 Anti-Terrorism (Financial and Other Measures) Amendment Act 2009
[1052] Section 15 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Amendment Act 2018
[1053] Section 15 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Amendment Act 2018
[1054] Section 15 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Amendment Act 2018
[1055] Section 2 of the Proceeds of Crime Amendment Act 2019
[1056] Section 15 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Amendment Act 2018
[1057] Section 15 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Amendment Act 2018
[1058] Section 2 of the Proceeds of Crime Amendment Act 2019
[1059] Section 15 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Amendment Act 2018
[1060] Section 15 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Amendment Act 2018
[1061] Section 15 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Amendment Act 2018
[1062] Section 15 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Amendment Act 2018
[1063] Section 2 of the Proceeds of Crime Amendment Act 2019
[1064] Section 2 of the Proceeds of Crime Amendment Act 2019
[1065] Section 2 of the Proceeds of Crime Amendment Act 2019
[1066] Section 3 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[1067] Section 29 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010

[1068] Section 29 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[1069] Section 3 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[1070] Section 29 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[1071] Section 3 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[1072] Section 30 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[1073] Section 3 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[1074] Section 30 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[1075] Section 20 Anti-Terrorism (Financial and Other Measures) Amendment Act 2009
[1076] Section 3 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[1077] Section 30 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[1078] Proceeds of Crime (Miscellaneous) Act 2025, section 3(4)
[1079] Section 3 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[1080] Section 31 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[1081] Section 16 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Amendment Act 2018
[1082] Section 32 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[1083] Section 32 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[1084] Section 3 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[1085] Section 32 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[1086] Section 21 Anti-Terrorism (Financial and Other Measures) Amendment Act 2009
[1087] Section 17 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Amendment Act 2018
[1088] Section 17 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Amendment Act 2018
[1089] Section 17 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Amendment Act 2018
[1090] Section 17 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Amendment Act 2018
[1091] Section 33 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[1092] Section 34 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[1093] Section 35 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[1094] Registrar of Companies (Supervision and Regulation) Act 2020
[1095] Section 35 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[1096] Section 18 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Amendment Act 2018
[1097] Section 36 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[1098] Section 36 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[1099] Section 37 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[1100] Section 20 Bermuda Bar Amendment Act 2018
[1101] Section 20 Bermuda Bar Amendment Act 2018
[1102] Section 20 Bermuda Bar Amendment Act 2018
[1103] Section 20 Bermuda Bar Amendment Act 2018
[1104] Section 20 Bermuda Bar Amendment Act 2018
[1105] Section 20 Bermuda Bar Amendment Act 2018
[1106] Section 20 Bermuda Bar Amendment Act 2018
[1107] Section 20 Bermuda Bar Amendment Act 2018
[1108] Proceeds of Crime (Miscellaneous) Act 2026
[1109] The Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010 the word ‘of’ was inserted we believe mistakenly and the word should be or
[1110] Proceeds of Crime (Miscellaneous) Act 2026
[1111] Section 19 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Amendment Act 2018
[1112] Proceeds of Crime (Miscellaneous) Act 2026
[1113] Proceeds of Crime (Miscellaneous) Act 2026
[1114] Proceeds of Crime (Miscellaneous) Act 2026
[1115] Section 20 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Amendment Act 2018
[1116] Proceeds of Crime (Miscellaneous) Act 2026
[1117] Proceeds of Crime (Miscellaneous) Act 2026

[1118] Proceeds of Crime (Miscellaneous) Act 2026
[1119] Proceeds of Crime (Miscellaneous) Act 2026
[1120] Section 37 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[1121] Section 11B of the Proceeds of Crime Amendment (No. 2) Act 2016
[1122] Registrar of Companies (Supervision and Regulation) Act 2020
[1123] Schedule Institute of Chartered Accountants of Bermuda Amendment Act 2014
[1124] Section 38 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[1125] Section 4 of the Proceeds of Crime (Miscellaneous) Act 2018
[1126] Section 39 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[1127] Section 3 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[1128] Section 3 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[1129] Section 39 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[1130] Section 39 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[1131] Section 39 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[1132] Section 3 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[1133] Section 3 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[1134] Registrar of Companies (Supervision and Regulation) Act 2020
[1135] Section 39 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[1136] Section 3 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[1137] Section 39 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[1138] Section 3 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[1139] Section 3 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[1140] Section 39 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[1141] Section 3 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[1142] Section 40 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[1143] Section 41 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[1144] Section 41 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[1145] Section 42 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[1146] Section 10 Appeal Tribunals (Miscellaneous) Act 2017
[1147] Section 12 of the Proceeds of Crime Amendment (No. 2) Act 2016
[1148] Schedule Casino Gaming Amendment Act 2015
[1149] Section 42 Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[1150] Section 5 Proceeds of Crime (Miscellaneous) (No. 2) Act 2018
[1151] Section 2 Anti-Terrorism (Financial and Other Measures) Amendment Act 2009
[1152] Section 3(a)(i) Proceeds of Crime Amendment Act 2017
[1153] Schedule 2 of the Money Service Business Act 2016
[1154] Schedule 2 of the Corporate Service Provider Business Act 2012
[1155] Section 10 of the Proceeds of Crime (Miscellaneous) Act 2018
[1156] Schedule 2 of the Corporate Service Provider Business Act 2012
[1157] Section 3(a)(ii) Proceeds of Crime Amendment Act 2017
[1158] Schedule 2 of the Corporate Service Provider Business Act 2012
[1159] Schedule Casino Gaming Amendment Act 2015
[1160] Section 52 of the Gaming (Transfer of Functions) Act 2021
[1161] Section 2 Anti-Terrorism (Financial and Other Measures) Amendment Act 2009
[1162] Section 2 Anti-Terrorism (Financial and Other Measures) Amendment Act 2009
[1163] Schedule Casino Gaming Amendment Act 2015
[1164] Section 52 of the Gaming (Transfer of Functions) Act 2021
[1165] Schedule Casino Gaming Amendment Act 2015
[1166] Section 52 of the Gaming (Transfer of Functions) Act 2021
[1167] Section 2 Anti-Terrorism (Financial and Other Measures) Amendment Act 2009
[1168] Section 4(a) of the Proceeds of Crime Amendment (No. 2) Act 2016
[1169] Section 2 Anti-Terrorism (Financial and Other Measures) Amendment Act 2009
[1170] Section 2 Anti-Terrorism (Financial and Other Measures) Amendment Act 2008
[1171] Section 6 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[1172] Section 5 Proceeds of Crime (Miscellaneous) (No. 2) Act 2018
[1173] Section 2 Anti-Terrorism (Financial and Other Measures) Amendment Act 2009
[1174] Section 2 Anti-Terrorism (Financial and Other Measures) Amendment Act 2008
[1175] Section 2 Anti-Terrorism (Financial and Other Measures) Amendment Act 2008
[1176] Section 2 Anti-Terrorism (Financial and Other Measures) Amendment Act 2009

[1177] Section 2 Anti-Terrorism (Financial and Other Measures) Amendment Act 2009
[1178] Schedule Casino Gaming Amendment Act 2015
[1179] Section 52 of the Gaming (Transfer of Functions) Act 2021
[1180] Schedule Institute of Chartered Accountants of Bermuda Amendment Act 2014
[1181] Section 2 Anti-Terrorism (Financial and Other Measures) Amendment Act 2008
[1182] Section 2 Anti-Terrorism (Financial and Other Measures) Amendment Act 2008
[1183] Section 2 Anti-Terrorism (Financial and Other Measures) Amendment Act 2009
[1184] Schedule 3 Real Estate Brokers' Licensing Act 2017
[1185] Section 4(b) of the Proceeds of Crime Amendment (No. 2) Act 2016
[1186] Schedule 3 Real Estate Brokers' Licensing Act 2017
[1187] Registrar of Companies (Supervision and Regulation) Act 2020
[1188] Section 6 Proceeds of Crime (Miscellaneous) (No. 3) Act 2018
[1189] Section 2 Anti-Terrorism (Financial and Other Measures) Amendment Act 2009
[1190] Section 52 of the Gaming (Transfer of Functions) Act 2021
[1191] Section 3 Anti-Terrorism (Financial and Other Measures) Amendment Act 2008
[1192] Section 5 Proceeds of Crime and Related Measures Amendment Act 2013
[1193] Section 3 Anti-Terrorism (Financial and Other Measures) Amendment Act 2008
[1194] Section 3 Anti-Terrorism (Financial and Other Measures) Amendment Act 2008
[1195] Section 3 Anti-Terrorism (Financial and Other Measures) Amendment Act 2008
[1196] Section 3 Anti-Terrorism (Financial and Other Measures) Amendment Act 2008
[1197] Section 6 Proceeds of Crime and Related Measures Amendment Act 2013
[1198] Section 6 Proceeds of Crime and Related Measures Amendment Act 2013
[1199] Section 6 Proceeds of Crime and Related Measures Amendment Act 2013
[1200] Section 6 Proceeds of Crime and Related Measures Amendment Act 2013
[1201] Section 6 Proceeds of Crime and Related Measures Amendment Act 2013
[1202] Section 6 Proceeds of Crime and Related Measures Amendment Act 2013
[1203] Section 7 Proceeds of Crime and Related Measures Amendment Act 2013
[1204] Section 5(a)(i) of the Proceeds of Crime Amendment (No. 2) Act 2016
[1205] Section 5(a)(ii) of the Proceeds of Crime Amendment (No. 2) Act 2016
[1206] Section 5(b) of the Proceeds of Crime Amendment (No. 2) Act 2016
[1207] Section 5(a)(ii) of the Proceeds of Crime Amendment (No. 2) Act 2016
[1208] Section 7 Proceeds of Crime and Related Measures Amendment Act 2013
[1209] Section 5(a)(i) of the Proceeds of Crime Amendment (No. 2) Act 2016
[1210] Section 5(a)(ii) of the Proceeds of Crime Amendment (No. 2) Act 2016
[1211] Section 5(b) of the Proceeds of Crime Amendment (No. 2) Act 2016
[1212] Section 5(a)(ii) of the Proceeds of Crime Amendment (No. 2) Act 2016
[1213] Section 7 Proceeds of Crime and Related Measures Amendment Act 2013
[1214] Section 5(a)(i) of the Proceeds of Crime Amendment (No. 2) Act 2016
[1215] Section 5(a)(ii) of the Proceeds of Crime Amendment (No. 2) Act 2016
[1216] Section 5(b) of the Proceeds of Crime Amendment (No. 2) Act 2016
[1217] Section 5(a)(ii) of the Proceeds of Crime Amendment (No. 2) Act 2016
[1218] Section 4 Anti-Terrorism (Financial and Other Measures) Amendment Act 2008
[1219] Section 4 Anti-Terrorism (Financial and Other Measures) Amendment Act 2008
[1220] Section 3(b) Proceeds of Crime Amendment Act 2017
[1221] Section 6 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[1222] Section 6 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[1223] Section 22 Financial Intelligence Agency Act 2007
[1224] Section 6 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[1225] Section 3(c) Proceeds of Crime Amendment Act 2017
[1226] Section 8(a) Proceeds of Crime and Related Measures Amendment Act 2013
[1227] Section 8(b) Proceeds of Crime and Related Measures Amendment Act 2013
[1228] Section 22 Financial Intelligence Agency Act 2007
[1229] Section 22 Financial Intelligence Agency Act 2007
[1230] Section 22 Financial Intelligence Agency Act 2007
[1231] Section 5 Anti-Terrorism (Financial and Other Measures) Amendment Act 2008
[1232] Section 3(d)(i) Proceeds of Crime Amendment Act 2017
[1233] Section 3(d)(i) Proceeds of Crime Amendment Act 2017
[1234] Section 9(a) Proceeds of Crime and Related Measures Amendment Act 2013
[1235] Section 9(b) Proceeds of Crime and Related Measures Amendment Act 2013

[1236] Section 3(d)(ii) Proceeds of Crime Amendment Act 2017
[1237] Section 3(d)(iii) Proceeds of Crime Amendment Act 2017
[1238] Section 3(d)(iii) Proceeds of Crime Amendment Act 2017
[1239] Section 3(d)(iii) Proceeds of Crime Amendment Act 2017
[1240] Section 22 Financial Intelligence Agency Act 2007
[1241] Section 22 Financial Intelligence Agency Act 2007
[1242] Section 6 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[1243] Section 22 Financial Intelligence Agency Act 2007
[1244] Section 22 Financial Intelligence Agency Act 2007
[1245] Section 22 Financial Intelligence Agency Act 2007
[1246] Section 6 Anti-Terrorism (Financial and Other Measures) Amendment Act 2008
[1247] Section 24 of the Proceeds of Crime Amendment Act 2015
[1248] Schedule Casino Gaming Amendment Act 2015
[1249] Section 6 of the Proceeds of Crime Amendment (No. 2) Act 2016
[1250] Section 6 of the Proceeds of Crime Amendment (No. 2) Act 2016
[1251] Schedule Casino Gaming Amendment Act 2015
[1252] Schedule Casino Gaming Amendment Act 2015
[1253] Schedule Casino Gaming Amendment Act 2015
[1254] Section 3 inserts section 12B-12N Anti-Terrorism (Financial and Other Measures) Amendment Act 2009
[1255] Section 7 Proceeds of Crime (Miscellaneous) (No. 3) Act 2018
[1256] Section 7 Proceeds of Crime (Miscellaneous) (No. 3) Act 2018
[1257] Section 6 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[1258] Section 7 Proceeds of Crime (Miscellaneous) (No. 3) Act 2018
[1259] Section 6 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[1260] Section 6 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[1261] Section 6 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[1262] Section 6 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[1263] Section 6 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[1264] Section 8 Proceeds of Crime (Miscellaneous) (No. 3) Act 2018
[1265] Section 6 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[1266] Section 8 Proceeds of Crime (Miscellaneous) (No. 3) Act 2018
[1267] Section 6 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[1268] Section 8 Proceeds of Crime (Miscellaneous) (No. 3) Act 2018
[1269] Section 6 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[1270] Section 8 Proceeds of Crime (Miscellaneous) (No. 3) Act 2018
[1271] Section 6 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[1272] Section 8 Proceeds of Crime (Miscellaneous) (No. 3) Act 2018
[1273] Section 6 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[1274] Section 8 Proceeds of Crime (Miscellaneous) (No. 3) Act 2018
[1275] Section 6 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[1276] Section 8 Proceeds of Crime (Miscellaneous) (No. 3) Act 2018
[1277] Section 6 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[1278] Section 8 Proceeds of Crime (Miscellaneous) (No. 3) Act 2018
[1279] Section 6 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[1280] Section 6 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[1281] Section 6 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[1282] Section 6 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[1283] Section 6 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[1284] Section 6 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[1285] Section 6 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[1286] Section 6 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[1287] Section 6 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[1288] Section 6 Anti-Terrorism (Financial and Other Measures) Amendment Act 2008
[1289] Section 6 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[1290] Section 10 Proceeds of Crime and Related Measures Amendment Act 2013
[1291] Section 4 Anti-Terrorism (Financial and Other Measures) Amendment Act 2009
[1292] Section 7(a) of the Proceeds of Crime Amendment (No. 2) Act 2016
[1293] Section 6 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[1294] Section 7(b) of the Proceeds of Crime Amendment (No. 2) Act 2016

[1295] Schedule Casino Gaming Amendment Act 2015
[1296] Section 52 of the Gaming (Transfer of Functions) Act 2021
[1297] Registrar of Companies (Supervision and Regulation) Act 2020
[1298] Section 7(c) of the Proceeds of Crime Amendment (No. 2) Act 2016
[1299] Schedule 3 Real Estate Brokers' Licensing Act 2017
[1300] Section 7(c) of the Proceeds of Crime Amendment (No. 2) Act 2016
[1301] Section 6 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[1302] Section 6 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[1303] Section 40 Proceeds of Crime Regulations (Supervisions and Enforcement) Act 2008
[1304] Section 7 Anti-Terrorism (Financial and Other Measures) Amendment Act 2008
[1305] Section 11 Proceeds of Crime and Related Measures Amendment Act 2013
[1306] Section 3(e) Proceeds of Crime Amendment Act 2017
[1307] Section 6 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[1308] Section 6 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[1309] Section 22 Financial Intelligence Agency Act 2007
[1310] Section 22 Financial Intelligence Agency Act 2007
[1311] Section 6 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[1312] Financial Intelligence Agency Amendment Act 2026
[1313] Section 51 of the Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[1314] Financial Intelligence Agency Amendment Act 2026
[1315] Financial Intelligence Agency Amendment Act 2026
[1316] Financial Intelligence Agency Amendment Act 2026
[1317] Financial Intelligence Agency Amendment Act 2026
[1318] Section 51 of the Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[1319] Financial Intelligence Agency Amendment Act 2026
[1320] Financial Intelligence Agency Amendment Act 2026
[1321] Financial Intelligence Agency Amendment Act 2026
[1322] Financial Intelligence Agency Amendment Act 2026
[1323] Financial Intelligence Agency Amendment Act 2026
[1324] Financial Intelligence Agency Amendment Act 2026
[1325] Financial Intelligence Agency Amendment Act 2026
[1326] Section 18 of the Proceeds of Crime Amendment Act 2015
[1327] Section 2 Financial Intelligence Agency Amendment Act 2008
[1328] Section 18 of the Proceeds of Crime Amendment Act 2015
[1329] Section 3 Financial Intelligence Agency Amendment Act 2008
[1330] Financial Intelligence Agency Amendment Act 2026
[1331] Financial Intelligence Agency Amendment Act 2026
[1332] Financial Intelligence Agency Amendment Act 2026
[1333] Section 19 of the Proceeds of Crime Amendment Act 2015
[1334] Section 4 Financial Intelligence Agency Amendment Act 2008
[1335] Financial Intelligence Agency Amendment Act 2026
[1336] Section 5 Financial Intelligence Agency Amendment Act 2008
[1337] Financial Intelligence Agency Amendment Act 2026
[1338] Section 52 of the Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[1339] Registrar of Companies (Supervision and Regulation) Act 2020
[1340] Section 3 Proceeds of Crime Amendment Act 2009
[1341] Financial Intelligence Agency Amendment Act 2026
[1342] Financial Intelligence Agency Amendment Act 2026
[1343] Financial Intelligence Agency Amendment Act 2026
[1344] Financial Intelligence Agency Amendment Act 2026
[1345] Section 53 of the Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[1346] Financial Intelligence Agency Amendment Act 2026
[1347] Section 4(a)(i) Proceeds of Crime Amendment (No. 3) Act 2017
[1348] Section 52 of the Gaming (Transfer of Functions) Act 2021
[1349] Financial Intelligence Agency Amendment Act 2026
[1350] Financial Intelligence Agency Amendment Act 2026
[1351] Section 4(a)(ii) Proceeds of Crime Amendment (No. 3) Act 2017
[1352] Section 20 of the Proceeds of Crime Amendment Act 2015
[1353] Financial Intelligence Agency Amendment Act 2026

[1354] Registrar of Companies (Supervision and Regulation) Act 2020
[1355] Section 5 Proceeds of Crime (Miscellaneous) (No. 3) Act 2018
[1356] Section 53 of the Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[1357] Financial Intelligence Agency Amendment Act 2026
[1358] Section 20 of the Proceeds of Crime Amendment Act 2015
[1359] Section 20 of the Proceeds of Crime Amendment Act 2015
[1360] Section 54 of the Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[1361] Financial Intelligence Agency Amendment Act 2026
[1362] Financial Intelligence Agency Amendment Act 2026
[1363] Financial Intelligence Agency Amendment Act 2026
[1364] Financial Intelligence Agency Amendment Act 2026
[1365] Financial Intelligence Agency Amendment Act 2026
[1366] Financial Intelligence Agency Amendment Act 2026
[1367] Financial Intelligence Agency Amendment Act 2026
[1368] Section 7 Proceeds of Crime (Miscellaneous) (No. 4) Act 2018
[1369] Financial Intelligence Agency Amendment Act 2026
[1370] Section 55 of the Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
[1371] Registrar of Companies (Supervision and Regulation) Act 2020
[1372] Financial Intelligence Agency Amendment Act 2026
[1373] Financial Intelligence Agency Amendment Act 2026
[1374] Financial Intelligence Agency Amendment Act 2026
[1375] Financial Intelligence Agency Amendment Act 2026
[1376] Financial Intelligence Agency Amendment Act 2026
[1377] Financial Intelligence Agency Amendment Act 2026
[1378] Financial Intelligence Agency Amendment Act 2026
[1379] Financial Intelligence Agency Amendment Act 2026
[1380] Section 21 of the Proceeds of Crime Amendment Act 2015
[1381] Section 8(a) of the Proceeds of Crime Amendment (No. 2) Act 2016
[1382] Section 3 of the Proceeds of Crime Amendment Act 2019
[1383] Section 8(b) of the Proceeds of Crime Amendment (No. 2) Act 2016
[1384] Section 20(3) of the Land Title Registration Amendment Act 2017
[1385] Section 4(b)(i) Proceeds of Crime Amendment (No. 3) Act 2017
[1386] Section 3 Proceeds of Crime Amendment (No. 2) Act 2017
[1387] Section 4(b)(ii) Proceeds of Crime Amendment (No. 3) Act 2017
[1388] Section 3 Proceeds of Crime Amendment (No. 2) Act 2017
[1389] Section 4(b)(ii) Proceeds of Crime Amendment (No. 3) Act 2017
[1390] Section 52 of the Gaming (Transfer of Functions) Act 2021
[1391] Section 3 Proceeds of Crime Amendment (No. 2) Act 2017
[1392] Section 4(b)(ii) Proceeds of Crime Amendment (No. 3) Act 2017
[1393] Financial Intelligence Agency Amendment Act 2026
[1394] Section 8(c) of the Proceeds of Crime Amendment (No. 2) Act 2016
[1395] Financial Intelligence Agency Amendment Act 2026
[1396] Financial Intelligence Agency Amendment Act 2026
[1397] Section 22 of the Proceeds of Crime Amendment Act 2015
[1398] Section 7 Financial Intelligence Agency Amendment Act 2008
[1399] Bermuda Monetary Authority Amendment (No. 2) Act 2022
[1400] Bermuda Monetary Authority Amendment (No. 2) Act 2021
[1401] Bermuda Monetary Authority Amendment (No. 3) Act 2018
[1402] The Bermuda Monetary Authority Amendment (No. 2) Act 2008
[1403] Bermuda Monetary Authority (Regulatory Fees) Amendment Act 2010
[1404] Bermuda Monetary Authority Amendment Act 2014
[1405] Bermuda Monetary Authority Amendment Act 2014
[1406] Bermuda Monetary Authority Amendment Act 2020
[1407] Bermuda Monetary Authority Amendment Act 2024
[1408] Bermuda Monetary Authority Amendment Act 2024
[1409] Bermuda Monetary Authority Amendment (No. 2) Act 2022