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**ANTI-MONEY LAUNDERING AND COUNTERING THE FINANCING  
OF TERRORISM (SECOND AMENDMENT) BILL, 2021***(Bill No. 63 of 2021)***OBJECTS AND REASONS**

The Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020) (hereinafter referred to as AMLCFT Act) was enacted for the prevention, detection and combating of money laundering and terrorist financing activities; for collection, analysis and managing information on suspicious financial transactions and activities; to create and empower institutions to suppress money laundering and the financing of terrorism and for matters connected therewith or incidental thereto.

2. A review of the Act was conducted while implementing the provisions of the Act and certain shortcomings have been identified to meet with the recommendations of the FATF and the observations made in the Mutual Evaluation Report of the ESAAMLG. Accordingly, it is proposed to amend sections 2, 7, 13, 27, 29, 30A, 32, 34, 35, 45, 50, 57, 60, 61, 67, 69, 69A, 74, 90, 92, 97 and repeal PART XI of the AMLCFT Act.

3. The salient features of the proposed amendments, inter alia, are as follows —

- (a) re-defining the terms “beneficial owner” and “suspicious transaction report or suspicious activity report”;
- (b) to amend section 7 of the Act to empower the National Committee on AMLCFT to apply counter measures and specifying the countermeasures as required under recommendation No. 19 of the FATF recommendations;
- (c) to amend section 13 of the Act to direct the reporting entities to submit the records, documents etc. to the FIU for the discharge of its functions;

- (d) to amend section 27 of the Act to fix a maximum time of ten days for refraining and freezing the account by the reporting entities;
- (e) to amend section 30A of the Act empowering the Minister to make regulations in respect of designated NPO's;
- (f) to amend section 45 of the Act to align the same with FATF recommendation number 16 regarding wire transfers;
- (j) to amend section 57 of the Act to caution the reporting entities not to repeat the noncompliant conduct and to take remedial actions etc.;
- (m) to amend sections 69 and 69A of the Act to empower the prosecutor on behalf of Anti-Corruption Commission to file certain applications before the Court;
- (n) to amend section 74 of the Act to seize any cash found during search, if the law enforcement officer has reasonable grounds for suspecting that it represents proceeds of crime;
- (o) amendments to sections 90, 92 and 97 of the Act to remove the reference of Asset Recovery Fund; and
- (p) repeal PART XI of the Act, in view of the provisions incorporated in the Custody, Management and Disposal of Seized, Forfeited or Confiscated Properties Bill, 2021.

**Dated this 9<sup>th</sup> day of December, 2021.**

**FRANK D.R. ALLY  
ATTORNEY-GENERAL**

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**ANTI-MONEY LAUNDERING AND COUNTERING THE FINANCING  
OF TERRORISM (SECOND AMENDMENT) BILL, 2021**

*(Bill No. 63 of 2021)*



**A BILL**

**FOR**

**AN ACT** TO AMEND THE ANTI-MONEY LAUNDERING AND COUNTERING THE  
FINANCING OF TERRORISM ACT, 2020 (ACT 5 OF 2020).

**ENACTED** by the President and the National Assembly.

**Short title**

1. This Act may be cited as the Anti-Money Laundering and  
Countering the Financing of Terrorism (Second Amendment) Act, 2021.

## Amendments to Act 5 of 2020

2. The Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (hereinafter referred to as the principal Act) is hereby amended as follows —

(a) in section 2 of the principal Act, —

(i) by repealing the definition of “beneficial owner” and therefor substituting the following definition —

‘ “beneficial owner” shall have the meaning assigned to it under the Beneficial Ownership Act, 2020 (Act 4 of 2020) and the determination provided under regulation 3 of the Beneficial Ownership Regulations, 2020 (S.I. 107 of 2020);”;

(ii) by repealing the definition of “Suspicious Transaction Report” and therefor substituting the following definition —

‘ “Suspicious Transaction Report or Suspicious Activity Report” means a report that shall be submitted by a reporting entity to the FIU under section 48, if there are reasonable grounds to suspect that an activity or a transaction or series of transactions made or attempted in the course of their activities relating to commission or the attempted commission of criminal conduct including the money laundering and terrorist financing offences;”;

(b) section 7 of the principal Act is hereby amended —

(i) by inserting after paragraph (j), the following paragraph —

“(ja) apply counter measures as may be necessary, when called upon to do so by the Financial

Action Task Force or on country's independent determination, issue directives to the reporting entities to apply such countermeasures proportionate to the risk, business relationship and transactions;”;

- (ii) by inserting after subsection (6), the following subsection —

“(7) The following countermeasures may be applied under subsection (1) (ja), when called upon by the Financial Action Task force or after country's independent determination, proportionate to the risk, business relationship and transactions —

- (a) requiring the financial institutions to apply specific elements of enhanced due diligence;
- (b) introducing enhanced relevant reporting mechanisms or systematic reporting of financial transactions;
- (c) refusing the establishment of subsidiaries or branches or representative offices of financial institutions from the country concerned, or otherwise taking into account the fact that the relevant financial institution is from a country that does not have adequate AMLCFT systems;
- (d) prohibiting financial institutions from establishing branches or representative offices in the country concerned, or otherwise taking into account the fact that the relevant branch or representative office would be in a country that does not have adequate AMLCFT systems;

- (e) limiting business relationships or financial transactions with the identified country or persons in that country;
  - (f) prohibiting financial institutions from relying on third parties located in the country concerned to conduct elements of the CDD process;
  - (g) requiring financial institutions to review and amend, or if necessary, terminate, correspondent relationships with financial institutions in the country concerned;
  - (h) requiring increased supervisory examination and external audit requirements for branches and subsidiaries of financial institutions based in the country concerned;
  - (i) requiring increased external audit requirements for financial groups with respect to any of their branches and subsidiaries located in the country concerned; and
  - (j) any other counter measure, as may be necessary to implement the Act, FATF suggestions or on the basis of risk assessment, which shall be notified by the Minister responsible for Finance by notice published in the Gazette.”;
- (c) section 13 of the principal Act is hereby amended by inserting after paragraph (e), the following paragraph —

- “(ea) directing the reporting entity to produce, who is in possession of any record, document or information that is necessary for the discharge of the functions of the FIU;”;
- (d) section 27 (1) of the principal Act is hereby amended —
- (i) in paragraph (d), repeal the words “for a period not exceeding five working days”;
- (ii) in paragraph (e), repeal the words “for a period not exceeding five working days”;
- (iii) after paragraph (e), the following proviso shall be added —
- “Provided that the period for refraining the reporting entity from completing the transaction under paragraph (d) and freezing of banking or similar account of the entity or person under paragraph (e), shall not exceed ten working days.”;
- (e) section 29 (6) of the principal Act is hereby amended by repealing the words “requesting FIU's” and therefor substituting the words “requesting foreign counterpart agencies”;
- (f) section 30A of the principal Act is hereby amended by inserting after subsection (5), the following subsection —
- “(6) The designated high-risk NPO's under subsection (1) shall be regulated in accordance with the regulations, as may be prescribed by the Minister in consultation with the Committee.”;
- (g) section 32(6) of the principal Act is hereby amended by repealing the words “money laundering and the terrorist financing activities” and substituting therefor the following words “money laundering and terrorist financing activities”;



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- (h) section 34 of the principal Act is hereby amended —
- (a) in subsection (3) —
- (i) by inserting after the words “management level”, the words “or employee with the same qualifications prescribed for the compliance officer,”;
- (ii) by repealing the words “absence of a compliance office” and substituting therefor the words “absence of a compliance officer”;
- (b) in subsection (4), after the words “under subsection (1)” the words “or an alternate compliance officer under subsection (3)” shall be added;
- (i) section 35 (2)(c) of the principal Act is hereby amended by inserting after the words “identify the beneficial owner”, the words “as per the determination provided under regulation 3 of the Beneficial Ownership Regulations, 2020 (S.I. 107 of 2020);
- (j) section 45 of the principal Act is hereby amended —
- (a) by repealing subsection (2) and therefor substituting the following subsection —
- “(2) The following particulars shall be made available by the ordering financial institution —
- (a) in the case of domestic wire transfers, full details of the originator information within three business days from the date of request from the beneficiary financial institution or from the appropriate competent authority; and

- (b) in case of cross-border transfers, where individual transfers from a single originator are bundled in a batch file, the originator's account number, full beneficiary information and the unique reference number allocated for such transfer including the full details of the originator information traceable in the recipient jurisdiction.”;
- (b) in subsection (5)(b), by repealing the words “section 35” and substituting therefor the words “section 47”;
- (c) by repealing subsection 5 (c) and renumbering subsection 5 (d) as subsection 5(c);
- (d) by inserting a new subsection after subsection (5) —

“(5A) Every reporting entity receiving a wire transfer shall ensure that the identity of the beneficiary is verified, where the identity has not been previously verified and maintain the information in accordance with the provisions of section 47.”;
- (k) section 50(1) of the principal Act is hereby amended by repealing paragraphs (f) and (g) and substituting therefor the following paragraph —

“(f) an investigation has commenced concerning the circumstances that gave rise to the suspicious transaction report, the warrant or the production order,

makes any disclosure which could or may be likely to prejudice the implementation of the warrant, the making available of the material in accordance with the production order, or the investigation, commits an offence and is liable on conviction to imprisonment up

to six months or to a fine not exceeding SCR200,000 or to both.”;

(l) section 57 of the principal Act is hereby amended —

(a) in subsection (1), by inserting after paragraph (g), the following paragraphs —

“(ga) to caution a reporting entity not to repeat a non-compliant conduct;

(gb) to direct a reporting entity to take remedial action;”;

(b) by repealing subsection (3) and therefor substituting the following subsection —

“(3) Every reporting entity, including a director, manager or other officer involved in the control or management of the entity, that

(i) obstructs or interferes with the exercise of the powers of a supervisory authority; or

(ii) fails to comply with a direction or request made by the supervisory authority within such timeframe as may be specified by the supervisory authority,

commits an offence and is liable on conviction to a fine not exceeding SCR200,000.”;

(m) section 60 of the principal Act is hereby amended —

(a) in subsection (1), after the words “directive issued under the Act” add the words “,within timeframe specified by the supervisory authority”;

- (b) in subsection (3), by repealing paragraphs (a) and (b) and consequentially renumbering paragraphs (c), (d) and (e) as paragraphs (a), (b) and (c);
- (c) by inserting after subsection(3), the following subsection —

“(3A) Financial penalty imposed by the supervisory authorities under this section or under any other provision of the Act shall be credited to a separate designated account maintained by the Ministry of Finance for this purpose and the funds so accrued in the said account shall be utilised only for the purpose of anti-money laundering and countering the financing of terrorism compliance awareness, education and capacity building for implementing the provisions of the Act.”.

- (n) section 61(2)(a) of the principal Act is hereby amended by repealing the words “at least 10 years' experience ” and substituting therefor the words “at least 3 years' experience”;
- (o) section 67(1)(b) of the principal Act is hereby amended by repealing the words “FCIU officer” and therefor substituting the words “law enforcement officer”;
- (p) section 69 of the principal Act is hereby amended —
  - (i) in subsection (4), after the words “Attorney General” the words “ or a prosecutor on behalf of Anti-Corruption Commission of Seychelles” shall be added;
  - (ii) in subsection (6), after the words “Attorney General” the words “ or a prosecutor on behalf of Anti-Corruption Commission of Seychelles” shall be added;
- (q) section 69A of the principal Act is hereby amended —

- (i) in subsection (1), after the words “Attorney General” the words “or a prosecutor on behalf of Anti-Corruption Commission of Seychelles” shall be added;
  - (ii) in subsection (2), after the words “Attorney General” the words “ or a prosecutor on behalf of Anti-Corruption Commission of Seychelles” shall be added;
- (r) section 74 (2) of the principal Act is hereby repealed and substitute therefor the following subsection —

“(2) The officers referred to in subsection (1) may seize, any cash found during a search under subsection (1) if he or she has reasonable grounds for suspecting that it represents proceeds of crime, or is intended by any person to be used in connection with any criminal conduct and shall have the authority to seek further information from the carrier regarding the origin of the cash and their intended use and also notify the FIU regarding such cash seizure in such form and manner as may be prescribed.”;
- (s) in section 90(1) of the principal Act, by repealing the words “Asset Recovery Fund established under section 93 of this Act” and substitute therefor the words “Asset Recovery Fund established under section 11 of the Custody, Management and Disposal of Seized, Forfeited or Confiscated Properties Act, 2021.”;
- (t) in section 92 (2) of the principal Act, by repealing the words “paid into the Asset Recovery Fund.” and substitute therefor the words “paid into the Asset Recovery Fund established under section 11 of the Custody, Management and Disposal of Seized, Forfeited or Confiscated Properties Act, 2021.”;
- (u) by repealing PART XI of the principal Act; and
- (v) by repealing paragraph (f) of section 97(1) of the principal Act.

**CUSTODY, MANAGEMENT AND DISPOSAL OF SEIZED,  
FORFEITED OR CONFISCATED PROPERTIES BILL, 2021**

(Bill No. 64 2021)

**OBJECTS AND REASONS**

This Bill seeks to provide for custody, management and disposal of seized, forfeited or confiscated properties and for matters connected therewith or incidental thereto.

The Financial Action Task Force (FATF), an inter-governmental body established in 1989 by the Ministers of the member jurisdictions has set out the standards to promote effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and financing of proliferation and other related threats to the integrity of the international financial system. The recommendations of the FATF has set out a comprehensive and consistent framework of measures, which the States are required to implement, to combat money laundering and terrorist financing activities.

The Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG), a regional body founded in August, 1999 has been tasked to oversee the member countries of the Group in combating money laundering and terrorism financing by implementing the FATF recommendations. The ESAAMLG has evaluated the Anti-Money Laundering and Countering Financing of Terrorist measures in place in the Republic of Seychelles and submitted its Mutual Evaluation Report (MER) in September, 2018. The shortcomings identified by the ESAAMLG in its MER are required to be met out in time bound manner. Recommendation Nos. 4 and 38 of the FATF relates to confiscation and provisional measures and mutual legal assistance in confiscation and freezing respectively. The ESAAMLG observed that the Republic is Partially Compliant (PC) in respect of recommendation Nos. 4 and 38. In order to meet out the shortcomings identified by the ESAAMLG, the proposed Bill, *inter alia*, provides that —

Part I provides for preliminary matters such as short title, commencement, application, interpretation of various expressions used in the Bill.

Part II provides for establishment of Asset Management Unit, functions of the Asset Management Unit, taking over of the properties by the Asset Management Unit, steps to prevent funds or assets to the designated persons, coordination with other countries in the seizure, forfeiture or confiscation of the properties, policies and procedure for management of seized business, measures to trace, identify and evaluate the property and measures to manage and maintain and dispose the properties subjected to seizure, forfeiture or confiscation.

Part III provides for establishment of Asset Recovery Fund and receipts and disbursements from the Asset Recovery Fund.

Part IV provides for miscellaneous provisions which includes regulations making power, protection of action taken in good faith and transitional provision, which enables the transfer of assets to the Asset Management Unit on and from the date as may be notified by the Minister.

**Dated this 9<sup>th</sup> day of December, 2021.**

**FRANK D.R. ALLY**  
**ATTORNEY-GENERAL**

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**CUSTODY, MANAGEMENT AND DISPOSAL OF SEIZED,  
FORFEITED OR CONFISCATED PROPERTIES BILL, 2021**

*(Bill No. 64 2021)*

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**SECTIONS**

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**CUSTODY, MANAGEMENT AND DISPOSAL OF SEIZED,  
FORFEITED OR CONFISCATED PROPERTIES BILL, 2021**

*(Bill No. 64 of 2021)*



**A BILL**

**FOR**

**AN ACT** FOR THE CUSTODY, MANAGEMENT AND DISPOSAL OF THE SEIZED, FORFEITED OR CONFISCATED PROPERTIES AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

**ENACTED** by the President and the National Assembly.

**PART 1  
PRELIMINARY**

**Short title and commencement**

**1.** This Act may be cited as the Custody, Management and Disposal of Seized, Forfeited or Confiscated Properties Act, 2021 and shall come into operation on such date as the Minister may, by notice in the Gazette, appoint and different dates may be appointed for different provisions of the Act.

## Interpretation

2. In this Act, unless the context otherwise requires —

“AMLCFT Act” means the Anti-Money Laundering the Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020);

“Asset Management Unit” means the Asset Management Unit established under section 3 of this Act;

“Consolidated Fund” means the fund established by that name under article 151 of the Constitution;

“court” means a court of competent jurisdiction established by or under the authority of the Constitution;

“domestic authorities” means the authorities under different Ministries and Departments dealing with seizure, freezing, forfeiture and confiscation of the properties;

“Minister” means the Minister responsible for Finance and the term “Ministry” shall be construed accordingly;

“notified date” means a date notified by the Minister to take over the properties frozen, seized, forfeited or confiscated to the Republic under various laws in force in the Republic;

“offence” shall have the same meaning assigned to it in the AMLCFT Act (Act 5 of 2020);

“Property” shall have the same meaning assigned to it in the AMLCFT Act (Act 5 of 2020) and the term “properties” shall be construed accordingly;

“realizable property” means property liable to be taken into possession and disposed of under section 10 of this Act and includes property in the custody or possession of a person other than the beneficial owner; and

“Republic” means the Republic of Seychelles.

## **PART 2**

### **ASSET MANAGEMENT UNIT**

#### **Asset Management Unit**

3.(1) There shall be established a Unit to be known as the Asset Management Unit in the Ministry of Finance.

(2) The composition of the officers and staff of the Asset Management Unit shall be decided by the Minister and the same shall be notified to all the concerned Ministries and Departments.

#### **Functions of Asset Management Unit**

4. The functions of the Asset Management Unit shall be —

- (a) to collaborate with the authorities to identify, trace and evaluate the realizable property that is subject to seizure, forfeiture or confiscation;
- (b) to collaborate with all the Ministries and Departments, which shall be dealing with the properties seized, frozen, forfeited or confiscated to the Republic under the Acts in force in the Republic;
- (c) to take custody of the realizable properties frozen, seized, forfeited or confiscated in furtherance of any law in force in the Republic;
- (d) to maintain the properties frozen, seized, forfeited or confiscated until they are disposed of under the provisions of this Act or the regulations made hereunder;
- (e) to take measures for the disposal of the forfeited or confiscated properties and also for disposal of any property upon an order of the court;
- (f) to take steps for filing appropriate applications before the courts for freezing or seizing the properties to prevent dealing with or transfer or disposal of such properties;

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- (g) to take steps, which will not allow the opposite parties to file applications which may prevent the Republic to take actions to freeze, seize or recover the property that is liable for forfeiture or confiscation;
  - (h) to support the domestic authorities to take appropriate investigate measures to identify the properties that are to be frozen or seized;
  - (i) to support and administer the identification, tracing and evaluation of property that is subject to forfeiture or confiscation;
  - (j) to support the administration of provisional measures, such as freezing or seizing, to prevent any dealing, transfer or disposal of property subject to forfeiture or confiscation;
  - (k) to maintain proper records of the properties frozen, seized, forfeited or confiscated to the Republic;
  - (l) to take steps for identifying the auctioneers for the disposal of the forfeited or confiscated property;
  - (m) to take steps for identifying the persons or agencies or institutions to maintain the frozen or seized property;
  - (n) to assist the Attorney General's Office in coordinating with other countries in the freezing, seizure and forfeiture of properties and disposal of the properties between the countries when the forfeiture or confiscation is directly or indirectly a result of co-ordinated law enforcement actions;
  - (o) to assist the domestic authorities for coordinated mechanism for disposal of the forfeited or confiscated properties;
  - (p) to take all necessary measures to protect the rights of bona fide third parties;

- (q) to take all necessary steps for proper management of the frozen or seized properties;
- (r) to issues policies, procedures and guidelines related to management of properties subject to freezing, seizing, forfeiture or confiscation actions undertaken by the domestic authorities;
- (s) perform as the primary mechanism for managing, and when necessary, disposing of property frozen, seized, forfeited or confiscated; and
- (t) any other functions as may be necessary for the custody, management and disposal of any realizable property.

### **Taking over of the properties by Asset Management Unit.**

5.(1) Every Ministry and Department upon freezing, seizure, forfeiture or confiscation of the property to the Republic shall provide the data of such properties to the Asset Management Unit within 2 working days from the date of freezing, seizure, forfeiture or confiscation, as the case may be.

(2) Every Ministry and Department that have powers to freeze, seize, forfeit or confiscate the properties shall appoint a liaison officer, who shall be in charge of liaising and shall be responsible to coordinate the freezing and seizing actions with the Asset Management Unit and providing the data under subsection (1).

(3) If any person, knowingly fails to provide the data to the Asset Management Unit, the same shall be regarded as dereliction of duties and necessary action shall be taken against such person responsible for laches as per the provisions of Public Services Order.

(4) The Asset Management Unit established under section 3 shall take over all the properties that are frozen, seized, forfeited or confiscated under any law in force in the Republic as on the notified date.

(5) Every Ministry or Department, which is in custody of the properties as on the notified date shall handover all the properties in their

possession to the Asset Management Unit with all the relevant documents available with them for taking further actions against those properties.

(6) The Asset Management Unit shall continue the process started by the respective Ministry or Department for disposal of such properties and the actions need not be initiated afresh.

(7) The Asset Management Unit shall dispose of the properties as per the provisions of this Act.

(8) The Asset Management Unit shall not institute actions and measures that are detrimental to the rights of bona fide third parties.

### **Steps to prevent funds or assets to the designated persons.**

6.(1) Notwithstanding any other law in force, the Asset Management Unit shall take all necessary steps to prevent the availability of funds or assets to the designated persons under the Prevention of Terrorism Act (Cap. 179) and the regulations made thereunder.

(2) The Asset Management Unit shall coordinate with the respective law enforcement agency responsible for designation of persons under the Prevention of Terrorism Act (Cap. 179) and also with Attorney General's Office, while taking any steps under subsection (1) to prevent the availability of funds or assets to the designated persons.

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

7.(1) The Asset Management Unit shall act as a coordinating agency to support the Attorney General's Office to arrange for coordination with other countries for seizure and forfeiture or confiscation of the properties.

(2) The Asset Management Unit shall coordinate with Attorney General's Office and with other countries, in reaching an agreement or arrangement for disposing the properties between the countries when the forfeiture or confiscation is directly or indirectly a result of coordinated law enforcement action.

(3) The Asset Management Unit shall develop a mechanism by guidelines for coordination between the domestic authorities for custody, management and disposal of properties.

### **Policies and procedures for management of seized business**

8. The Asset Management Unit shall devise policies and procedures with the approval of the Minister for management of seized businesses on case to case basis, which may be warranted from time to time.

### **Measures to trace, identify and evaluate the property**

9. The Minister may by regulations prescribe the procedures to trace, identify and evaluate the property, which is subjected to forfeiture or confiscation.

### **Measures to manage and maintain and disposal of the properties subjected to seizure, forfeiture or confiscation**

10.(1) The Minister may by regulations prescribe the procedures to manage and maintain or dispose of the properties, which were subjected to seizure, forfeiture or confiscation.

(2) While disposing of the properties under the regulations made under subsection (1), the Asset Management Unit shall give due regard to the bona fide third parties and take measures to protect their rights.

## **PART 3 ASSET RECOVERY FUND**

### **Establishment of Asset Recovery Fund**

11.(1) The Asset Recovery Fund referred to in section 93 of the AMLCFT Act shall be the Asset Recovery Fund established under this Act (herein after referred to as the ARF).

(2) The Ministry responsible for Finance shall be the administrator of the ARF.



(3) The Minister may by regulations regulate the administration and management of the ARF.

(4) The ARF shall be audited by the Auditor-General in accordance with the provisions of Article 158 of the Constitution.

### **Receipts and disbursements from the ARF**

**12.(1)** There shall be credited to the ARF —

- (a) all moneys derived from the fulfilment of forfeiture or confiscation under any law in force;
- (b) all moneys derived from the fulfilment of pecuniary penalty orders under the AMLCFT Act;
- (c) any sums of money allocated to the ARF by the National Assembly from time to time by due appropriation of the funds;
- (d) any income derived from the investment of amounts that are credited to the ARF; and
- (e) any sharing of confiscated or forfeited property and funds received from other states.

(2) The Minister may authorise payments out of the ARF to —

- (a) compensate victims who suffer losses as a result of offences under respective laws in force;
- (b) pay expenses relating to recovery, management and disposition of property under the provisions of any law in force, including mortgages and liens against relevant property, and the fees for receivers, trustees, managers, institutions or other professionals providing assistance;
- (c) allocate funds to the Department of Legal Affairs to meet the expenses of the prosecution division;

- (d) with the approval of the Cabinet, return assets to the original owner;
- (e) supplement the resources to any law enforcement agency, Ministry or Department, supervisory authority under AMLCFT Act or the FIU;
- (f) pay innocent third parties for any interest they have in the property, as appropriate;
- (g) authorise payment for community projects and training; and
- (h) pay compensation ordered by a Court.

(3) The Minister shall, after making adequate provisions at the end of each financial year for the application of funds and resources under subsection (2), pay out any excess funds from the ARF to the Consolidated Fund.

## **PART 4 MISCELLANEOUS**

### **Protection of action taken in good faith**

**13.** Any suit or other legal proceedings shall not lie against any officer or other employee of the Ministry for anything done or intended to be done in good faith in pursuance of this Act.

### **Regulations**

**14.(1)** The Minister may make regulations for the purpose of carrying out the provisions of this Act.

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

- (a) the procedures to trace, identify and evaluate the property, which is subjected to forfeiture or confiscation under section 9;

- (b) procedures to manage and maintain or dispose of the properties, which were subject to seizure, forfeiture or confiscation under section 10(1); and
- (c) any other matter which is required to be, or may be, prescribed for implementation of this Act.

### **Transitional Provision**

**15.(1)** All the properties under seizure, forfeiture or confiscation and liable to be disposed of shall be transferred to the Asset Management Unit, on and from the date as may be notified by the Minister and shall be dealt with in accordance with the provisions of this Act.

**LICENCES (AMENDMENT) BILL, 2021***(Bill No. 65 of 2021)***OBJECTS AND REASONS**

The Licences Act (Cap 113 (hereinafter referred to as the Licences Act) was enacted to provide for a new licensing body to license various activities in a transparent and reasonable manner.

The Financial Action Task Force (FATF), an inter-governmental body established in 1989 by the Ministers of the member jurisdictions has set out the standards to promote effective implementation of the measures for combating money laundering activities. Recommendation Number 28 of the said recommendations relates to regulation of designated non-financial businesses and profession. The Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG), a regional body has been, *inter alia*, tasked by the FATF to oversee the implementation of FATF Recommendations in the Region. The said ESAAMLG evaluated the steps taken for implementation of FATF recommendations and submitted its Mutual Evaluation Report (MER) in September, 2018. In the said MER, the ESAAMLG, *inter alia*, observed that criterion No. 28.4 has not been met with the recommendations of the FATF.

In order to meet with the said criterion, it is proposed to insert new section 20A in the Licences Act (Cap. 113) to provide for fit and proper assessment of persons falling under the category of designated non-financial businesses and profession, who do not fall under regulatory ambit of any other Ministry or Department or Agency or under any other law in force, before issuing the license by the Seychelles Licensing Authority and to enter into a memorandum of understanding with the FIU or any other Ministry or Department or Agency for fit and proper assessment.

**Dated this 9<sup>th</sup> day of December, 2021.**

**FRANK D.R. ALLY  
ATTORNEY-GENERAL**

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## **LICENCES (AMENDMENT) BILL, 2021**

*(Bill No. 65 of 2021)*



## **A BILL FOR**

**AN ACT** TO AMEND THE LICENCES ACT (CAP. 113).

**ENACTED** by the President and the National Assembly.

### **Short title and commencement**

**1.** This Act may be cited as the Licences (Amendment) Act, 2021 and shall come into operation on such date as the Minister for Finance may, by notice published in the Gazette, appoint.

**Insertion of new section 20A in the Licences Act (Cap. 113)**

2. The Licences Act is hereby amended by inserting after section 20, the following section —

**Verification of antecedents regarding criminal records etc. for certain categories of persons**

“**20A.**(1) Notwithstanding anything in any other Act, the Authority before issuing a license to an applicant falling under the category of designated non-financial businesses or professions, shall verify the antecedents of the applicant for license regarding any criminal records associated with the criminal activities, holding significant or controlling interest or of being a beneficial owner or holding a management function in the respective designated non-financial businesses or professions:

Provided that this subsection shall be applicable only to the designated non-financial businesses and professions, which does not fall under regulatory ambit of any other Ministry or Department or Agency or under any other law in force.

(2) The Authority shall enter into a memorandum of understanding with the Financial Intelligence Unit established under section 10 of the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020) and with any other Ministry or Department or Agency, to verify the antecedents of the applicants for license regarding the criminal records associated with the criminal activities, holding significant or controlling interest or of being a beneficial owner or holding a management function in the respective designated non-financial businesses or professions.

(3) Subject to the satisfactory verification under subsection (1) by the designated competent authority, the Authority shall grant professional accreditation or license to the applicants covered under subsection (1).

(4) For the purposes of this section, the expression “designated non-financial businesses or professions” shall have

the same meaning assigned to it in the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020).

(5) For the purposes of this section, the expression “beneficial owner” shall have the same meaning assigned to it under the Beneficial Ownership Act, 2020 (Act 4 of 2020) and the determination provided under regulation 3 of the Beneficial Ownership Regulations, 2020 (S.I. 107 of 2020).

(6) For the purposes of subsection (4), “designated competent authority” means the Financial Intelligence Unit established under the under section 10 of the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020) for the time being and any other Ministry or Department or Agency as may be designated by the Minister for Finance, by notice published in the Gazette.



## **PREVENTION OF TERRORISM (SECOND AMENDMENT) BILL, 2021**

*(Bill No. 66 of 2021)*

### **OBJECTS AND REASONS**

The Prevention of Terrorism Act, 2004 (Cap 179) (hereinafter referred to as P T Act) was enacted to provide for measures to prevent and suppress terrorism and for connected matters.

The Financial Action Task Force (FATF), an inter-governmental body established in 1989 by the Ministers of the member jurisdictions has set out the standards to promote effective implementation of the measures for combating money laundering activities. Recommendation Numbers 5, 6 and 7 of the said recommendations relates to Terrorist Financing and Financing of Proliferation. The Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG), a regional body has been, *inter alia*, tasked by the FATF to oversee the implementation of FATF Recommendations in the Region. The said ESAAMLG evaluated the steps taken for implementation of FATF recommendations and submitted its Mutual Evaluation Report (MER) in September, 2018. In the said MER, the ESAAMLG, *inter alia*, observed that criterion Nos. 5.2, 5.10, 6.1, 6.2 and 6.5 were partly met with and criterion Nos. 5.7, 6.3, 7.1 to 7.5 have not been met with the recommendations of the FATF. In so far as Criterion 6.1, 6.2, 6.5 and 7.5 of the recommendations, regulations have been amended.

In order to meet with the other criterion, it is proposed to amend sections 2, 5, insertion of new section 15A, amendment to section 20D, 20E and 20H of the Prevention of Terrorism Act (Cap.179). The salient features of the proposed Bill are as follows —

- (A) Amendment of section 2 (Definitions):** To sync the definition of “terrorist acts” in line with FATF requirement;
- (B) Amendment of section 5:** To substitute section 5 to cover funding of individual terrorist or a terrorist group or a terrorist act as offence under the P T Act.

- (C) **Insertion of new section 15A:** It is proposed to insert a new section 20A in the P T Act to provide for punishment for funding or financing foreign terrorist fighters.
- (D) **Amendments to section 20D, 20E and 20H:** It is proposed to amend section 20D, 20E and 20H to provide time frame of 24 hours for certain actions under the PT Act and for insertion of new subsections (3A) to (3E) in section 20D so as to prohibit provisioning of funds to designated entities by any person in Seychelles.

**Dated this 9<sup>th</sup> day of December, 2021.**

**FRANK D.R. ALLY  
ATTORNEY-GENERAL**

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**PREVENTION OF TERRORISM (SECOND AMENDMENT)  
BILL, 2021**

*(Bill No. 66 of 2021)*



**A BILL  
FOR**

**AN ACT** TO AMEND THE PREVENTION OF TERRORISM ACT (CAP. 179).

**ENACTED** by the President and the National Assembly.

**Short title**

**1.** This Act may be cited as the Prevention of Terrorism (Second Amendment) Act, 2021.

**Amendments to Cap. 179**

**2.** The Prevention of Terrorism Act (hereinafter referred to as the principal Act) is amended as follows —

- (a) in section 2 of the principal Act, in the definition of “terrorist acts”, in the longline, repeal the words “and is intended, or”;
- (b) by repealing section 5 of the principal Act and therefor substitute the following section —

**Provision or collection of funds to support a terrorist or terrorist group or a terrorist act**

**5.** Any person who willfully provides or collects funds or any assets, by any means, directly or indirectly, with the intention that they shall be used or of the knowledge that the said funds or assets shall be used in full or in part, even in the absence of a link to a specific terrorist act or acts to support —

- (a) a terrorist;
- (b) a terrorist group;
- (c) terrorist act,

commits an offence and shall, on conviction, be liable to imprisonment for a term not less than 7 years and not more than 20 years.

- (c) after section 15 of the principal Act, the following section shall be added —

**Punishment for funding or financing foreign terrorist fighters**

**15A.** Every person who in Seychelles, provides or collects funds by any means, directly or indirectly, for the

promotion or facilitation of terrorism in a foreign state, for the purposes of any of the objectives provided in section 15, commits an offence and shall, on conviction, be liable to imprisonment for a term not less than 7 years and not more than 20 years.

(d) in section 20D of the principal Act —

- (i) in subsection (2), by repealing the words “without delay” and substituting therefor the words “within 24 hours”;
- (ii) after subsection(3), the following subsections shall be added —

“(3A) All natural and non-natural persons within Seychelles are prohibited from making funds or other assets available to a designated entity.

(3B) Subject to the provisions of this Act, no person shall make any funds or other assets or financial or other related services available, directly or indirectly, wholly or jointly, to or for the benefit of —

- (a) a designated entity;
- (b) a party acting on behalf, or at the direction, of a designated entity; or
- (c) an entity owned or controlled, directly or indirectly, by a designated entity.

(3C) Subject to the provisions of this Act, no person shall deal with the funds or other assets of a designated entity or listed entity, including the funds or other assets that are owned or controlled by the designated entity.

(3D) Without prejudice to the generality of subsections (3A), (3B) and (3C), the prohibition shall extend to —

- (a) all the properties that are owned or controlled by the designated entity and not just that which can be connected to a particular terrorist act, plot or threat or to a particular act, plot or threat of proliferation;
- (b) property that is wholly or jointly owned or controlled directly or indirectly by a designated entity;
- (c) property derived or generated from property owned or controlled directly or indirectly by a designated entity; and
- (d) property of a person or entity acting on behalf of or at the direction of a designated entity.

(3E) Where a prohibition under subsections (3A), (3B), (3C) or (3D) is in force, nothing shall prevent any interest which may accrue, or other earnings due, on the accounts held by a listed party, or payments due under contracts, agreements or obligations that arose prior to the date on which those accounts became subject to the prohibition, provided that any such interest, earnings and payments shall continue to be subject to the prohibition.”;

- (iii) in subsection (4), by repealing the words “without delay as provided in subsection (2)” and substituting therefor the words “within 24 hours as provided in

subsection (2) or fails or refuses to comply with the prohibition provided under subsections (3A), (3B), (3C) or (3D),”;

- (e) in section 20E of the principal Act, in subsection (3), by repealing the words “with the guidance, in taking” and substituting therefor the words “, within 24 hours, with the guidance to take”;
- (f) in section 20H (1) of the principal Act, by repealing the words “the Minister has reasonable grounds to believe that”.

**ANTI-MONEY LAUNDERING AND COUNTERING THE FINANCING  
OF TERRORISM (SECOND AMENDMENT) BILL, 2021***(Bill No. 63 of 2021)***OBJECTS AND REASONS**

The Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020) (hereinafter referred to as AMLCFT Act) was enacted for the prevention, detection and combating of money laundering and terrorist financing activities; for collection, analysis and managing information on suspicious financial transactions and activities; to create and empower institutions to suppress money laundering and the financing of terrorism and for matters connected therewith or incidental thereto.

2. A review of the Act was conducted while implementing the provisions of the Act and certain shortcomings have been identified to meet with the recommendations of the FATF and the observations made in the Mutual Evaluation Report of the ESAAMLG. Accordingly, it is proposed to amend sections 2, 7, 13, 27, 29, 30A, 32, 34, 35, 45, 50, 57, 60, 61, 67, 69, 69A, 74, 90, 92, 97 and repeal PART XI of the AMLCFT Act.

3. The salient features of the proposed amendments, inter alia, are as follows —

- (a) re-defining the terms “beneficial owner” and “suspicious transaction report or suspicious activity report”;
- (b) to amend section 7 of the Act to empower the National Committee on AMLCFT to apply counter measures and specifying the countermeasures as required under recommendation No. 19 of the FATF recommendations;
- (c) to amend section 13 of the Act to direct the reporting entities to submit the records, documents etc. to the FIU for the discharge of its functions;



- (d) to amend section 27 of the Act to fix a maximum time of ten days for refraining and freezing the account by the reporting entities;
- (e) to amend section 30A of the Act empowering the Minister to make regulations in respect of designated NPO's;
- (f) to amend section 45 of the Act to align the same with FATF recommendation number 16 regarding wire transfers;
- (j) to amend section 57 of the Act to caution the reporting entities not to repeat the noncompliant conduct and to take remedial actions etc.;
- (m) to amend sections 69 and 69A of the Act to empower the prosecutor on behalf of Anti-Corruption Commission to file certain applications before the Court;
- (n) to amend section 74 of the Act to seize any cash found during search, if the law enforcement officer has reasonable grounds for suspecting that it represents proceeds of crime;
- (o) amendments to sections 90, 92 and 97 of the Act to remove the reference of Asset Recovery Fund; and
- (p) repeal PART XI of the Act, in view of the provisions incorporated in the Custody, Management and Disposal of Seized, Forfeited or Confiscated Properties Bill, 2021.

**Dated this 9<sup>th</sup> day of December, 2021.**

**FRANK D.R. ALLY  
ATTORNEY-GENERAL**

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**ANTI-MONEY LAUNDERING AND COUNTERING THE FINANCING  
OF TERRORISM (SECOND AMENDMENT) BILL, 2021**

*(Bill No. 63 of 2021)*



**A BILL  
FOR**

**AN ACT** TO AMEND THE ANTI-MONEY LAUNDERING AND COUNTERING THE FINANCING OF TERRORISM ACT, 2020 (ACT 5 OF 2020).

**ENACTED** by the President and the National Assembly.

**Short title**

1. This Act may be cited as the Anti-Money Laundering and Countering the Financing of Terrorism (Second Amendment) Act, 2021.

**Amendments to Act 5 of 2020**

**2.** The Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (hereinafter referred to as the principal Act) is hereby amended as follows —

(a) in section 2 of the principal Act, —

(i) by repealing the definition of “beneficial owner” and therefor substituting the following definition —

‘ “beneficial owner” shall have the meaning assigned to it under the Beneficial Ownership Act, 2020 (Act 4 of 2020) and the determination provided under regulation 3 of the Beneficial Ownership Regulations, 2020 (S.I. 107 of 2020);”;

(ii) by repealing the definition of “Suspicious Transaction Report” and therefor substituting the following definition —

‘ “Suspicious Transaction Report or Suspicious Activity Report” means a report that shall be submitted by a reporting entity to the FIU under section 48, if there are reasonable grounds to suspect that an activity or a transaction or series of transactions made or attempted in the course of their activities relating to commission or the attempted commission of criminal conduct including the money laundering and terrorist financing offences;”;

(b) section 7 of the principal Act is hereby amended —

(i) by inserting after paragraph (j), the following paragraph —

“(ja) apply counter measures as may be necessary, when called upon to do so by the Financial

Action Task Force or on country's independent determination, issue directives to the reporting entities to apply such countermeasures proportionate to the risk, business relationship and transactions;”;

- (ii) by inserting after subsection (6), the following subsection —

“(7) The following countermeasures may be applied under subsection (1) (ja), when called upon by the Financial Action Task force or after country's independent determination, proportionate to the risk, business relationship and transactions —

- (a) requiring the financial institutions to apply specific elements of enhanced due diligence;
- (b) introducing enhanced relevant reporting mechanisms or systematic reporting of financial transactions;
- (c) refusing the establishment of subsidiaries or branches or representative offices of financial institutions from the country concerned, or otherwise taking into account the fact that the relevant financial institution is from a country that does not have adequate AMLCFT systems;
- (d) prohibiting financial institutions from establishing branches or representative offices in the country concerned, or otherwise taking into account the fact that the relevant branch or representative office would be in a country that does not have adequate AMLCFT systems;

- (e) limiting business relationships or financial transactions with the identified country or persons in that country;
  - (f) prohibiting financial institutions from relying on third parties located in the country concerned to conduct elements of the CDD process;
  - (g) requiring financial institutions to review and amend, or if necessary, terminate, correspondent relationships with financial institutions in the country concerned;
  - (h) requiring increased supervisory examination and external audit requirements for branches and subsidiaries of financial institutions based in the country concerned;
  - (i) requiring increased external audit requirements for financial groups with respect to any of their branches and subsidiaries located in the country concerned; and
  - (j) any other counter measure, as may be necessary to implement the Act, FATF suggestions or on the basis of risk assessment, which shall be notified by the Minister responsible for Finance by notice published in the Gazette.”;
- (c) section 13 of the principal Act is hereby amended by inserting after paragraph (e), the following paragraph —

- “(ea) directing the reporting entity to produce, who is in possession of any record, document or information that is necessary for the discharge of the functions of the FIU;”;
- (d) section 27 (1) of the principal Act is hereby amended —
- (i) in paragraph (d), repeal the words “for a period not exceeding five working days”;
- (ii) in paragraph (e), repeal the words “for a period not exceeding five working days”;
- (iii) after paragraph (e), the following proviso shall be added —
- “Provided that the period for refraining the reporting entity from completing the transaction under paragraph (d) and freezing of banking or similar account of the entity or person under paragraph (e), shall not exceed ten working days.”;
- (e) section 29 (6) of the principal Act is hereby amended by repealing the words “requesting FIU's” and therefor substituting the words “requesting foreign counterpart agencies”;
- (f) section 30A of the principal Act is hereby amended by inserting after subsection (5), the following subsection —
- “(6) The designated high-risk NPO's under subsection (1) shall be regulated in accordance with the regulations, as may be prescribed by the Minister in consultation with the Committee.”;
- (g) section 32(6) of the principal Act is hereby amended by repealing the words “money laundering and the terrorist financing activities” and substituting therefor the following words “money laundering and terrorist financing activities”;

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- (h) section 34 of the principal Act is hereby amended —
- (a) in subsection (3) —
- (i) by inserting after the words “management level”, the words “or employee with the same qualifications prescribed for the compliance officer, ”;
- (ii) by repealing the words “absence of a compliance office” and substituting therefor the words “absence of a compliance officer”;
- (b) in subsection (4), after the words “under subsection (1)” the words “or an alternate compliance officer under subsection (3)” shall be added;
- (i) section 35 (2)(c) of the principal Act is hereby amended by inserting after the words “identify the beneficial owner”, the words “as per the determination provided under regulation 3 of the Beneficial Ownership Regulations, 2020 (S.I. 107 of 2020);
- (j) section 45 of the principal Act is hereby amended —
- (a) by repealing subsection (2) and therefor substituting the following subsection —
- “(2) The following particulars shall be made available by the ordering financial institution —
- (a) in the case of domestic wire transfers, full details of the originator information within three business days from the date of request from the beneficiary financial institution or from the appropriate competent authority; and

- (b) in case of cross-border transfers, where individual transfers from a single originator are bundled in a batch file, the originator's account number, full beneficiary information and the unique reference number allocated for such transfer including the full details of the originator information traceable in the recipient jurisdiction.”;
- (b) in subsection (5)(b), by repealing the words “section 35” and substituting therefor the words “section 47”;
- (c) by repealing subsection 5 (c) and renumbering subsection 5 (d) as subsection 5(c);
- (d) by inserting a new subsection after subsection (5) —

“(5A) Every reporting entity receiving a wire transfer shall ensure that the identity of the beneficiary is verified, where the identity has not been previously verified and maintain the information in accordance with the provisions of section 47.”;
- (k) section 50(1) of the principal Act is hereby amended by repealing paragraphs (f) and (g) and substituting therefor the following paragraph —

“(f) an investigation has commenced concerning the circumstances that gave rise to the suspicious transaction report, the warrant or the production order,

makes any disclosure which could or may be likely to prejudice the implementation of the warrant, the making available of the material in accordance with the production order, or the investigation, commits an offence and is liable on conviction to imprisonment up



to six months or to a fine not exceeding SCR200,000 or to both.”;

(l) section 57 of the principal Act is hereby amended —

(a) in subsection (1), by inserting after paragraph (g), the following paragraphs —

“(ga) to caution a reporting entity not to repeat a non-compliant conduct;

(gb) to direct a reporting entity to take remedial action;”;

(b) by repealing subsection (3) and therefor substituting the following subsection —

“(3) Every reporting entity, including a director, manager or other officer involved in the control or management of the entity, that

(i) obstructs or interferes with the exercise of the powers of a supervisory authority; or

(ii) fails to comply with a direction or request made by the supervisory authority within such timeframe as may be specified by the supervisory authority,

commits an offence and is liable on conviction to a fine not exceeding SCR200,000.”;

(m) section 60 of the principal Act is hereby amended —

(a) in subsection (1), after the words “directive issued under the Act” add the words “,within timeframe specified by the supervisory authority”;

- (b) in subsection (3), by repealing paragraphs (a) and (b) and consequentially renumbering paragraphs (c), (d) and (e) as paragraphs (a), (b) and (c);
- (c) by inserting after subsection(3), the following subsection —

“(3A) Financial penalty imposed by the supervisory authorities under this section or under any other provision of the Act shall be credited to a separate designated account maintained by the Ministry of Finance for this purpose and the funds so accrued in the said account shall be utilised only for the purpose of anti-money laundering and countering the financing of terrorism compliance awareness, education and capacity building for implementing the provisions of the Act.”.

- (n) section 61(2)(a) of the principal Act is hereby amended by repealing the words “at least 10 years' experience ” and substituting therefor the words “at least 3 years' experience”;
- (o) section 67(1)(b) of the principal Act is hereby amended by repealing the words “FCIU officer” and therefor substituting the words “law enforcement officer”;
- (p) section 69 of the principal Act is hereby amended —
  - (i) in subsection (4), after the words “Attorney General” the words “ or a prosecutor on behalf of Anti-Corruption Commission of Seychelles” shall be added;
  - (ii) in subsection (6), after the words “Attorney General” the words “ or a prosecutor on behalf of Anti-Corruption Commission of Seychelles” shall be added;
- (q) section 69A of the principal Act is hereby amended —

- (i) in subsection (1), after the words “Attorney General” the words “or a prosecutor on behalf of Anti-Corruption Commission of Seychelles” shall be added;
  - (ii) in subsection (2), after the words “Attorney General” the words “ or a prosecutor on behalf of Anti-Corruption Commission of Seychelles” shall be added;
- (r) section 74 (2) of the principal Act is hereby repealed and substitute therefor the following subsection —

“(2) The officers referred to in subsection (1) may seize, any cash found during a search under subsection (1) if he or she has reasonable grounds for suspecting that it represents proceeds of crime, or is intended by any person to be used in connection with any criminal conduct and shall have the authority to seek further information from the carrier regarding the origin of the cash and their intended use and also notify the FIU regarding such cash seizure in such form and manner as may be prescribed.”;
- (s) in section 90(1) of the principal Act, by repealing the words “Asset Recovery Fund established under section 93 of this Act” and substitute therefor the words “Asset Recovery Fund established under section 11 of the Custody, Management and Disposal of Seized, Forfeited or Confiscated Properties Act, 2021.”;
- (t) in section 92 (2) of the principal Act, by repealing the words “paid into the Asset Recovery Fund.” and substitute therefor the words “paid into the Asset Recovery Fund established under section 11 of the Custody, Management and Disposal of Seized, Forfeited or Confiscated Properties Act, 2021.”;
- (u) by repealing PART XI of the principal Act; and
- (v) by repealing paragraph (f) of section 97(1) of the principal Act.

**LICENCES (AMENDMENT) BILL, 2021***(Bill No. 65 of 2021)***OBJECTS AND REASONS**

The Licences Act (Cap 113 (hereinafter referred to as the Licences Act) was enacted to provide for a new licensing body to license various activities in a transparent and reasonable manner.

The Financial Action Task Force (FATF), an inter-governmental body established in 1989 by the Ministers of the member jurisdictions has set out the standards to promote effective implementation of the measures for combating money laundering activities. Recommendation Number 28 of the said recommendations relates to regulation of designated non-financial businesses and profession. The Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG), a regional body has been, *inter alia*, tasked by the FATF to oversee the implementation of FATF Recommendations in the Region. The said ESAAMLG evaluated the steps taken for implementation of FATF recommendations and submitted its Mutual Evaluation Report (MER) in September, 2018. In the said MER, the ESAAMLG, *inter alia*, observed that criterion No. 28.4 has not been met with the recommendations of the FATF.

In order to meet with the said criterion, it is proposed to insert new section 20A in the Licences Act (Cap. 113) to provide for fit and proper assessment of persons falling under the category of designated non-financial businesses and profession, who do not fall under regulatory ambit of any other Ministry or Department or Agency or under any other law in force, before issuing the license by the Seychelles Licensing Authority and to enter into a memorandum of understanding with the FIU or any other Ministry or Department or Agency for fit and proper assessment.

**Dated this 9<sup>th</sup> day of December, 2021.**

**FRANK D.R. ALLY  
ATTORNEY-GENERAL**

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## **LICENCES (AMENDMENT) BILL, 2021**

*(Bill No. 65 of 2021)*



## **A BILL FOR**

**AN ACT** TO AMEND THE LICENCES ACT (CAP. 113).

**ENACTED** by the President and the National Assembly.

### **Short title and commencement**

**1.** This Act may be cited as the Licences (Amendment) Act, 2021 and shall come into operation on such date as the Minister for Finance may, by notice published in the Gazette, appoint.

**Insertion of new section 20A in the Licences Act (Cap. 113)**

2. The Licences Act is hereby amended by inserting after section 20, the following section —

**Verification of antecedents regarding criminal records etc. for certain categories of persons**

“**20A.**(1) Notwithstanding anything in any other Act, the Authority before issuing a license to an applicant falling under the category of designated non-financial businesses or professions, shall verify the antecedents of the applicant for license regarding any criminal records associated with the criminal activities, holding significant or controlling interest or of being a beneficial owner or holding a management function in the respective designated non-financial businesses or professions:

Provided that this subsection shall be applicable only to the designated non-financial businesses and professions, which does not fall under regulatory ambit of any other Ministry or Department or Agency or under any other law in force.

(2) The Authority shall enter into a memorandum of understanding with the Financial Intelligence Unit established under section 10 of the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020) and with any other Ministry or Department or Agency, to verify the antecedents of the applicants for license regarding the criminal records associated with the criminal activities, holding significant or controlling interest or of being a beneficial owner or holding a management function in the respective designated non-financial businesses or professions.

(3) Subject to the satisfactory verification under subsection (1) by the designated competent authority, the Authority shall grant professional accreditation or license to the applicants covered under subsection (1).

(4) For the purposes of this section, the expression “designated non-financial businesses or professions” shall have

the same meaning assigned to it in the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020).

(5) For the purposes of this section, the expression “beneficial owner” shall have the same meaning assigned to it under the Beneficial Ownership Act, 2020 (Act 4 of 2020) and the determination provided under regulation 3 of the Beneficial Ownership Regulations, 2020 (S.I. 107 of 2020).

(6) For the purposes of subsection (4), “designated competent authority” means the Financial Intelligence Unit established under the under section 10 of the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020) for the time being and any other Ministry or Department or Agency as may be designated by the Minister for Finance, by notice published in the Gazette.



## **PREVENTION OF TERRORISM (SECOND AMENDMENT) BILL, 2021**

*(Bill No. 66 of 2021)*

### **OBJECTS AND REASONS**

The Prevention of Terrorism Act, 2004 (Cap 179) (hereinafter referred to as P T Act) was enacted to provide for measures to prevent and suppress terrorism and for connected matters.

The Financial Action Task Force (FATF), an inter-governmental body established in 1989 by the Ministers of the member jurisdictions has set out the standards to promote effective implementation of the measures for combating money laundering activities. Recommendation Numbers 5, 6 and 7 of the said recommendations relates to Terrorist Financing and Financing of Proliferation. The Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG), a regional body has been, *inter alia*, tasked by the FATF to oversee the implementation of FATF Recommendations in the Region. The said ESAAMLG evaluated the steps taken for implementation of FATF recommendations and submitted its Mutual Evaluation Report (MER) in September, 2018. In the said MER, the ESAAMLG, *inter alia*, observed that criterion Nos. 5.2, 5.10, 6.1, 6.2 and 6.5 were partly met with and criterion Nos. 5.7, 6.3, 7.1 to 7.5 have not been met with the recommendations of the FATF. In so far as Criterion 6.1, 6.2, 6.5 and 7.5 of the recommendations, regulations have been amended.

In order to meet with the other criterion, it is proposed to amend sections 2, 5, insertion of new section 15A, amendment to section 20D, 20E and 20H of the Prevention of Terrorism Act (Cap.179). The salient features of the proposed Bill are as follows —

- (A) Amendment of section 2 (Definitions):** To sync the definition of “terrorist acts” in line with FATF requirement;
- (B) Amendment of section 5:** To substitute section 5 to cover funding of individual terrorist or a terrorist group or a terrorist act as offence under the P T Act.

- (C) **Insertion of new section 15A:** It is proposed to insert a new section 20A in the P T Act to provide for punishment for funding or financing foreign terrorist fighters.
- (D) **Amendments to section 20D, 20E and 20H:** It is proposed to amend section 20D, 20E and 20H to provide time frame of 24 hours for certain actions under the PT Act and for insertion of new subsections (3A) to (3E) in section 20D so as to prohibit provisioning of funds to designated entities by any person in Seychelles.

**Dated this 9<sup>th</sup> day of December, 2021.**

**FRANK D.R. ALLY**  
**ATTORNEY-GENERAL**

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**PREVENTION OF TERRORISM (SECOND AMENDMENT)  
BILL, 2021**

*(Bill No. 66 of 2021)*



**A BILL  
FOR**

**AN ACT** TO AMEND THE PREVENTION OF TERRORISM ACT (CAP. 179).

**ENACTED** by the President and the National Assembly.

**Short title**

**1.** This Act may be cited as the Prevention of Terrorism (Second Amendment) Act, 2021.

**Amendments to Cap. 179**

**2.** The Prevention of Terrorism Act (hereinafter referred to as the principal Act) is amended as follows —

- (a) in section 2 of the principal Act, in the definition of “terrorist acts”, in the longline, repeal the words “and is intended, or”;
- (b) by repealing section 5 of the principal Act and therefor substitute the following section —

**Provision or collection of funds to support a terrorist or terrorist group or a terrorist act**

**5.** Any person who willfully provides or collects funds or any assets, by any means, directly or indirectly, with the intention that they shall be used or of the knowledge that the said funds or assets shall be used in full or in part, even in the absence of a link to a specific terrorist act or acts to support —

- (a) a terrorist;
- (b) a terrorist group;
- (c) terrorist act,

commits an offence and shall, on conviction, be liable to imprisonment for a term not less than 7 years and not more than 20 years.

- (c) after section 15 of the principal Act, the following section shall be added —

**Punishment for funding or financing foreign terrorist fighters**

**15A.** Every person who in Seychelles, provides or collects funds by any means, directly or indirectly, for the

promotion or facilitation of terrorism in a foreign state, for the purposes of any of the objectives provided in section 15, commits an offence and shall, on conviction, be liable to imprisonment for a term not less than 7 years and not more than 20 years.

(d) in section 20D of the principal Act —

- (i) in subsection (2), by repealing the words “without delay” and substituting therefor the words “within 24 hours”;
- (ii) after subsection(3), the following subsections shall be added —

“(3A) All natural and non-natural persons within Seychelles are prohibited from making funds or other assets available to a designated entity.

(3B) Subject to the provisions of this Act, no person shall make any funds or other assets or financial or other related services available, directly or indirectly, wholly or jointly, to or for the benefit of —

- (a) a designated entity;
- (b) a party acting on behalf, or at the direction, of a designated entity; or
- (c) an entity owned or controlled, directly or indirectly, by a designated entity.

(3C) Subject to the provisions of this Act, no person shall deal with the funds or other assets of a designated entity or listed entity, including the funds or other assets that are owned or controlled by the designated entity.

(3D) Without prejudice to the generality of subsections (3A), (3B) and (3C), the prohibition shall extend to —

- (a) all the properties that are owned or controlled by the designated entity and not just that which can be connected to a particular terrorist act, plot or threat or to a particular act, plot or threat of proliferation;
- (b) property that is wholly or jointly owned or controlled directly or indirectly by a designated entity;
- (c) property derived or generated from property owned or controlled directly or indirectly by a designated entity; and
- (d) property of a person or entity acting on behalf of or at the direction of a designated entity.

(3E) Where a prohibition under subsections (3A), (3B), (3C) or (3D) is in force, nothing shall prevent any interest which may accrue, or other earnings due, on the accounts held by a listed party, or payments due under contracts, agreements or obligations that arose prior to the date on which those accounts became subject to the prohibition, provided that any such interest, earnings and payments shall continue to be subject to the prohibition.”;

- (iii) in subsection (4), by repealing the words “without delay as provided in subsection (2)” and substituting therefor the words “within 24 hours as provided in

subsection (2) or fails or refuses to comply with the prohibition provided under subsections (3A), (3B), (3C) or (3D),”;

- (e) in section 20E of the principal Act, in subsection (3), by repealing the words “with the guidance, in taking” and substituting therefor the words “, within 24 hours, with the guidance to take”;
- (f) in section 20H (1) of the principal Act, by repealing the words “the Minister has reasonable grounds to believe that”.

**CUSTODY, MANAGEMENT AND DISPOSAL OF SEIZED,  
FORFEITED OR CONFISCATED PROPERTIES BILL, 2021**

(Bill No. 64 2021)

**OBJECTS AND REASONS**

This Bill seeks to provide for custody, management and disposal of seized, forfeited or confiscated properties and for matters connected therewith or incidental thereto.

The Financial Action Task Force (FATF), an inter-governmental body established in 1989 by the Ministers of the member jurisdictions has set out the standards to promote effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and financing of proliferation and other related threats to the integrity of the international financial system. The recommendations of the FATF has set out a comprehensive and consistent framework of measures, which the States are required to implement, to combat money laundering and terrorist financing activities.

The Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG), a regional body founded in August, 1999 has been tasked to oversee the member countries of the Group in combating money laundering and terrorism financing by implementing the FATF recommendations. The ESAAMLG has evaluated the Anti-Money Laundering and Countering Financing of Terrorist measures in place in the Republic of Seychelles and submitted its Mutual Evaluation Report (MER) in September, 2018. The shortcomings identified by the ESAAMLG in its MER are required to be met out in time bound manner. Recommendation Nos. 4 and 38 of the FATF relates to confiscation and provisional measures and mutual legal assistance in confiscation and freezing respectively. The ESAAMLG observed that the Republic is Partially Compliant (PC) in respect of recommendation Nos. 4 and 38. In order to meet out the shortcomings identified by the ESAAMLG, the proposed Bill, *inter alia*, provides that —

Part I provides for preliminary matters such as short title, commencement, application, interpretation of various expressions used in the Bill.



Part II provides for establishment of Asset Management Unit, functions of the Asset Management Unit, taking over of the properties by the Asset Management Unit, steps to prevent funds or assets to the designated persons, coordination with other countries in the seizure, forfeiture or confiscation of the properties, policies and procedure for management of seized business, measures to trace, identify and evaluate the property and measures to manage and maintain and dispose the properties subjected to seizure, forfeiture or confiscation.

Part III provides for establishment of Asset Recovery Fund and receipts and disbursements from the Asset Recovery Fund.

Part IV provides for miscellaneous provisions which includes regulations making power, protection of action taken in good faith and transitional provision, which enables the transfer of assets to the Asset Management Unit on and from the date as may be notified by the Minister.

**Dated this 9<sup>th</sup> day of December, 2021.**

**FRANK D.R. ALLY  
ATTORNEY-GENERAL**

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**CUSTODY, MANAGEMENT AND DISPOSAL OF SEIZED,  
FORFEITED OR CONFISCATED PROPERTIES BILL, 2021**

*(Bill No. 64 2021)*

**ARRANGEMENT OF SECTIONS**

**SECTIONS**

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**CUSTODY, MANAGEMENT AND DISPOSAL OF SEIZED,  
FORFEITED OR CONFISCATED PROPERTIES BILL, 2021**

*(Bill No. 64 of 2021)*



**A BILL**

**FOR**

**AN ACT** FOR THE CUSTODY, MANAGEMENT AND DISPOSAL OF THE SEIZED, FORFEITED OR CONFISCATED PROPERTIES AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

**ENACTED** by the President and the National Assembly.

**PART 1  
PRELIMINARY**

**Short title and commencement**

**1.** This Act may be cited as the Custody, Management and Disposal of Seized, Forfeited or Confiscated Properties Act, 2021 and shall come into operation on such date as the Minister may, by notice in the Gazette, appoint and different dates may be appointed for different provisions of the Act.

## Interpretation

2. In this Act, unless the context otherwise requires —

“AMLCFT Act” means the Anti-Money Laundering the Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020);

“Asset Management Unit” means the Asset Management Unit established under section 3 of this Act;

“Consolidated Fund” means the fund established by that name under article 151 of the Constitution;

“court” means a court of competent jurisdiction established by or under the authority of the Constitution;

“domestic authorities” means the authorities under different Ministries and Departments dealing with seizure, freezing, forfeiture and confiscation of the properties;

“Minister” means the Minister responsible for Finance and the term “Ministry” shall be construed accordingly;

“notified date” means a date notified by the Minister to take over the properties frozen, seized, forfeited or confiscated to the Republic under various laws in force in the Republic;

“offence” shall have the same meaning assigned to it in the AMLCFT Act (Act 5 of 2020);

“Property” shall have the same meaning assigned to it in the AMLCFT Act (Act 5 of 2020) and the term “properties” shall be construed accordingly;

“realizable property” means property liable to be taken into possession and disposed of under section 10 of this Act and includes property in the custody or possession of a person other than the beneficial owner; and

“Republic” means the Republic of Seychelles.

## **PART 2**

### **ASSET MANAGEMENT UNIT**

#### **Asset Management Unit**

3.(1) There shall be established a Unit to be known as the Asset Management Unit in the Ministry of Finance.

(2) The composition of the officers and staff of the Asset Management Unit shall be decided by the Minister and the same shall be notified to all the concerned Ministries and Departments.

#### **Functions of Asset Management Unit**

4. The functions of the Asset Management Unit shall be —

- (a) to collaborate with the authorities to identify, trace and evaluate the realizable property that is subject to seizure, forfeiture or confiscation;
- (b) to collaborate with all the Ministries and Departments, which shall be dealing with the properties seized, frozen, forfeited or confiscated to the Republic under the Acts in force in the Republic;
- (c) to take custody of the realizable properties frozen, seized, forfeited or confiscated in furtherance of any law in force in the Republic;
- (d) to maintain the properties frozen, seized, forfeited or confiscated until they are disposed of under the provisions of this Act or the regulations made hereunder;
- (e) to take measures for the disposal of the forfeited or confiscated properties and also for disposal of any property upon an order of the court;
- (f) to take steps for filing appropriate applications before the courts for freezing or seizing the properties to prevent dealing with or transfer or disposal of such properties;

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- (g) to take steps, which will not allow the opposite parties to file applications which may prevent the Republic to take actions to freeze, seize or recover the property that is liable for forfeiture or confiscation;
  - (h) to support the domestic authorities to take appropriate investigate measures to identify the properties that are to be frozen or seized;
  - (i) to support and administer the identification, tracing and evaluation of property that is subject to forfeiture or confiscation;
  - (j) to support the administration of provisional measures, such as freezing or seizing, to prevent any dealing, transfer or disposal of property subject to forfeiture or confiscation;
  - (k) to maintain proper records of the properties frozen, seized, forfeited or confiscated to the Republic;
  - (l) to take steps for identifying the auctioneers for the disposal of the forfeited or confiscated property;
  - (m) to take steps for identifying the persons or agencies or institutions to maintain the frozen or seized property;
  - (n) to assist the Attorney General's Office in coordinating with other countries in the freezing, seizure and forfeiture of properties and disposal of the properties between the countries when the forfeiture or confiscation is directly or indirectly a result of co-ordinated law enforcement actions;
  - (o) to assist the domestic authorities for coordinated mechanism for disposal of the forfeited or confiscated properties;
  - (p) to take all necessary measures to protect the rights of bona fide third parties;

- (q) to take all necessary steps for proper management of the frozen or seized properties;
- (r) to issues policies, procedures and guidelines related to management of properties subject to freezing, seizing, forfeiture or confiscation actions undertaken by the domestic authorities;
- (s) perform as the primary mechanism for managing, and when necessary, disposing of property frozen, seized, forfeited or confiscated; and
- (t) any other functions as may be necessary for the custody, management and disposal of any realizable property.

### **Taking over of the properties by Asset Management Unit.**

5.(1) Every Ministry and Department upon freezing, seizure, forfeiture or confiscation of the property to the Republic shall provide the data of such properties to the Asset Management Unit within 2 working days from the date of freezing, seizure, forfeiture or confiscation, as the case may be.

(2) Every Ministry and Department that have powers to freeze, seize, forfeit or confiscate the properties shall appoint a liaison officer, who shall be in charge of liaising and shall be responsible to coordinate the freezing and seizing actions with the Asset Management Unit and providing the data under subsection (1).

(3) If any person, knowingly fails to provide the data to the Asset Management Unit, the same shall be regarded as dereliction of duties and necessary action shall be taken against such person responsible for laches as per the provisions of Public Services Order.

(4) The Asset Management Unit established under section 3 shall take over all the properties that are frozen, seized, forfeited or confiscated under any law in force in the Republic as on the notified date.

(5) Every Ministry or Department, which is in custody of the properties as on the notified date shall handover all the properties in their



possession to the Asset Management Unit with all the relevant documents available with them for taking further actions against those properties.

(6) The Asset Management Unit shall continue the process started by the respective Ministry or Department for disposal of such properties and the actions need not be initiated afresh.

(7) The Asset Management Unit shall dispose of the properties as per the provisions of this Act.

(8) The Asset Management Unit shall not institute actions and measures that are detrimental to the rights of bona fide third parties.

### **Steps to prevent funds or assets to the designated persons.**

6.(1) Notwithstanding any other law in force, the Asset Management Unit shall take all necessary steps to prevent the availability of funds or assets to the designated persons under the Prevention of Terrorism Act (Cap. 179) and the regulations made thereunder.

(2) The Asset Management Unit shall coordinate with the respective law enforcement agency responsible for designation of persons under the Prevention of Terrorism Act (Cap. 179) and also with Attorney General's Office, while taking any steps under subsection (1) to prevent the availability of funds or assets to the designated persons.

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

7.(1) The Asset Management Unit shall act as a coordinating agency to support the Attorney General's Office to arrange for coordination with other countries for seizure and forfeiture or confiscation of the properties.

(2) The Asset Management Unit shall coordinate with Attorney General's Office and with other countries, in reaching an agreement or arrangement for disposing the properties between the countries when the forfeiture or confiscation is directly or indirectly a result of coordinated law enforcement action.

(3) The Asset Management Unit shall develop a mechanism by guidelines for coordination between the domestic authorities for custody, management and disposal of properties.

### **Policies and procedures for management of seized business**

8. The Asset Management Unit shall devise policies and procedures with the approval of the Minister for management of seized businesses on case to case basis, which may be warranted from time to time.

### **Measures to trace, identify and evaluate the property**

9. The Minister may by regulations prescribe the procedures to trace, identify and evaluate the property, which is subjected to forfeiture or confiscation.

### **Measures to manage and maintain and disposal of the properties subjected to seizure, forfeiture or confiscation**

10.(1) The Minister may by regulations prescribe the procedures to manage and maintain or dispose of the properties, which were subjected to seizure, forfeiture or confiscation.

(2) While disposing of the properties under the regulations made under subsection (1), the Asset Management Unit shall give due regard to the bona fide third parties and take measures to protect their rights.

## **PART 3 ASSET RECOVERY FUND**

### **Establishment of Asset Recovery Fund**

11.(1) The Asset Recovery Fund referred to in section 93 of the AMLCFT Act shall be the Asset Recovery Fund established under this Act (herein after referred to as the ARF).

(2) The Ministry responsible for Finance shall be the administrator of the ARF.

(3) The Minister may by regulations regulate the administration and management of the ARF.

(4) The ARF shall be audited by the Auditor-General in accordance with the provisions of Article 158 of the Constitution.

### **Receipts and disbursements from the ARF**

**12.(1)** There shall be credited to the ARF —

- (a) all moneys derived from the fulfilment of forfeiture or confiscation under any law in force;
- (b) all moneys derived from the fulfilment of pecuniary penalty orders under the AMLCFT Act;
- (c) any sums of money allocated to the ARF by the National Assembly from time to time by due appropriation of the funds;
- (d) any income derived from the investment of amounts that are credited to the ARF; and
- (e) any sharing of confiscated or forfeited property and funds received from other states.

(2) The Minister may authorise payments out of the ARF to —

- (a) compensate victims who suffer losses as a result of offences under respective laws in force;
- (b) pay expenses relating to recovery, management and disposition of property under the provisions of any law in force, including mortgages and liens against relevant property, and the fees for receivers, trustees, managers, institutions or other professionals providing assistance;
- (c) allocate funds to the Department of Legal Affairs to meet the expenses of the prosecution division;

- (d) with the approval of the Cabinet, return assets to the original owner;
- (e) supplement the resources to any law enforcement agency, Ministry or Department, supervisory authority under AMLCFT Act or the FIU;
- (f) pay innocent third parties for any interest they have in the property, as appropriate;
- (g) authorise payment for community projects and training; and
- (h) pay compensation ordered by a Court.

(3) The Minister shall, after making adequate provisions at the end of each financial year for the application of funds and resources under subsection (2), pay out any excess funds from the ARF to the Consolidated Fund.

## **PART 4 MISCELLANEOUS**

### **Protection of action taken in good faith**

**13.** Any suit or other legal proceedings shall not lie against any officer or other employee of the Ministry for anything done or intended to be done in good faith in pursuance of this Act.

### **Regulations**

**14.(1)** The Minister may make regulations for the purpose of carrying out the provisions of this Act.

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

- (a) the procedures to trace, identify and evaluate the property, which is subjected to forfeiture or confiscation under section 9;

- (b) procedures to manage and maintain or dispose of the properties, which were subject to seizure, forfeiture or confiscation under section 10(1); and
- (c) any other matter which is required to be, or may be, prescribed for implementation of this Act.

**Transitional Provision**

**15.(1)** All the properties under seizure, forfeiture or confiscation and liable to be disposed of shall be transferred to the Asset Management Unit, on and from the date as may be notified by the Minister and shall be dealt with in accordance with the provisions of this Act.