

No. 16 of 2006

VIRGIN ISLANDS

PROCEEDS OF CRIMINAL CONDUCT (AMENDMENT) ACT, 2006

ARRANGEMENT OF SECTIONS

Section

1. Short title and commencement.
2. Interpretation.
3. Section 27 amended.
4. Section 30A inserted.
5. Section 34A inserted.

I Assent

**(Sgd.) DAVID PEAREY,
Governor.
16th October, 2006**

VIRGIN ISLANDS

No. 16 of 2006

An Act to amend the Proceeds of Criminal Conduct Act, 1997 (No. 5 of 1997).

[Gazetted 2nd November, 2006]

ENACTED by the Legislature of the Virgin Islands as follows:

Short title and
commencement.

1. This Act may be cited as the Proceeds of Criminal Conduct (Amendment) Act, 2006 and shall come into force on the 1st day of December, 2006.

Interpretation.
No. 5 of 1997

2. In this Act, “the principal Act” means the Proceeds of Criminal Conduct Act, 1997.

Section 27
amended.

3. Section 27 of the principal Act is amended

- (a) in the marginal note, by deleting the words “Reporting Authority” and substituting the words “Joint Anti-money Laundering Co-ordinating Committee”; and
- (b) by adding after subsection (1), the following subsections:

“(2) There is established a committee to be known as “the Joint Anti-money Laundering Co-ordinating Committee” (hereinafter called “the Committee”) which shall consist of not less than seven and not more than twenty persons appointed by the Minister, after consultation with the Attorney General and the Managing Director of the Financial Services Commission, for such period and on such other terms and conditions as the Minister thinks fit.

(3) The functions and powers of the Committee are

- (a) to develop and issue guidelines for detecting and dealing with money laundering activities;
- (b) to prescribe rules governing the procedures to be followed with respect to money laundering matters;
- (c) to do all such other things as are necessary, relevant or incidental to its functions and powers under paragraphs (a) and (b).

(4) Subject to subsection (5), guidelines and rules issued or prescribed by the Committee shall

- (a) have the force of law; and
- (b) be subject to a negative resolution of the Legislative Council.

(5) Guidelines and rules issued or prescribed under subsection (4) shall not come into force unless they are first published in the *Gazette*.

(6) Where a person contravenes a provision of any guidelines or rules issued or prescribed by the Committee, he commits an offence punishable on summary conviction with a fine not exceeding five thousand dollars or a term of imprisonment not exceeding three years, or both.

(7) The Committee, or any sub-committee thereof, may make its own rules governing its procedure.”.

4. The principal Act is amended by inserting after section 30, the following section: Section 30A inserted.

“Mandatory reporting of suspicious transactions. S.I. 1999 No. 48

30A. (1) In this section,

“relevant business” has the meaning assigned to it in the Anti-money Laundering Code of Practice, 1999;

“relevant person” has the meaning assigned to it in the Anti-money Laundering Code of Practice, 1999;

“Steering Committee” means the Steering Committee of the Financial Investigation Agency.

(2) A relevant person shall disclose to the Steering Committee any transaction carried out in the course of its relevant business that gives rise to a reasonable suspicion or belief that

- (a) any funds or investments are derived from or used in connection with criminal conduct,
- (b) any property is, or in whole or in part directly or indirectly represents, another person’s proceeds of criminal conduct,
- (c) any property is, or in whole or in part directly or indirectly represents, proceeds of criminal conduct, and that such property has been, is being or is likely to be, concealed, disguised, converted, transferred or removed from the Territory for the purpose of
 - (i) avoiding prosecution for an offence to which this Act applies,
 - (ii) avoiding the making or enforcement of a confiscation order in relation to such property,
 - (iii) assisting any person to avoid prosecution for an offence to which this Act applies,
 - (iv) assisting any person to avoid the making or enforcement of an order in relation to such property,
- (d) an offence under section 28, 29 or 30 has been, is being or is likely to be committed,

and any matter on which such a suspicion or belief is based, within seven days of the date of the transaction.

(3) Where the Steering Committee takes investigative action in relation to a transaction reported to it by a relevant person under subsection (2), the Agency shall notify the relevant person

that such action has been taken and direct the relevant person to deal with all future transactions by or with the person named in the transaction in such manner as the Steering Committee thinks fit.

(4) A relevant person who fails to comply with subsection (2) or any direction given to it under subsection (3), commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding three years, or both.”.

5. The principal Act is amended by inserting after section 34, the following section: Section 34A inserted.

“Forfeiture.

34A. (1) Subject to subsection (3), where a person is convicted of an offence under section 28, 29 or 30, the court

- (a) may, in passing sentence, order forfeiture to the Government of the Territory of any real property or any ship, vessel, boat, aircraft, vehicle or other means of conveyance of any description shown to the satisfaction of the court to relate to the offence; and
- (b) shall, in passing sentence, order forfeiture to the Government of the Territory of any article, money or valuable consideration shown to the satisfaction of the court to relate to the offence.

(2) Subject to subsection (3), where, in a trial for an offence under this Act, it is shown to the satisfaction of the court that any property is or represents proceeds of criminal conduct or has been, is being or is reasonably likely to be, used in connection with the retention, control, acquisition, possession, use, concealment, disguising, conversion, transfer or moving of proceeds of criminal conduct, the court may, whether or not the defendant is convicted of the offence, order forfeiture to the Government of the Territory of any such property.

(3) The court shall not order anything to be forfeited under this section unless an opportunity has been given to the person claiming to be the owner or other person interested in it to show cause within twenty-one days from the date of conviction why the order should not be made.

(4) Forfeiture under subsection (1) shall extend

- (a) to any property which there is reason to believe has been obtained from the proceeds of anything relating to the offence for which a person is convicted or to a conspiracy to commit any such offence; or
- (b) to anything into which any such property has been converted.”.

Passed by the Legislative Council this 3rd day of October, 2006.

(Sgd.) V. INEZ ARCHIBALD,
Speaker.

(Sgd.) ALVA MC CALL,
Acting Clerk of the Legislative Council.

