

No. 4] *Proceeds of Crime (Amendment) Act* [2010.

Short title

1. This Act may be cited as the Proceeds of Crime (Amendment) Act 2010.

Interpretation

2. In this Act “principal Act” means the Proceeds of Crime Act, Cap. 3:04.

Amendment of section 2

3. Section 2 of the principal Act is amended –

(a) by deleting the definition of the words “scheduled offence”;

(b) by inserting the following definitions in the correct alphabetical sequence –

“criminal conduct” means –

(a) drug trafficking; or

(b) any relevant offence;

“relevant offence”

(a) means –

(i) any indictable offence or an offence triable both summarily or on indictment in Saint Lucia;

(ii) an offence listed in the Schedule;

(b) includes –

(i) an offence of conspiring to commit any of those offences;

(ii) an offence of aiding, abetting, counselling or procuring, or being in any way knowingly concerned in, the commission of any of those offences;

(iii) an offence of attempting to commit any of those offences;

- (iv) an offence of inciting another to commit any of those offences;”.

Insertion of sections 49A, 49B and 49C

4. The principal Act is amended by inserting after section 49 the following sections 49A, 49B and 49C:

“Forfeiture order for cash

49A. — (1) A court of summary jurisdiction may make an order ordering the forfeiture of any cash which has been seized under section 49 if satisfied, on an application made by a police officer while the cash is detained under that section, that the cash directly or indirectly represents any person’s proceeds of, or benefit from, or is intended by any person for use in, the commission of criminal conduct.

(2) An order may be made under subsection (1) whether or not proceedings are brought against any person for an offence with which the cash in question is connected.

(3) Any party to the proceedings in which a forfeiture order is made (other than the applicant) may, before the end of the period of 30 days beginning with the date on which it is made, appeal to the Court.

(4) On an application made by an appellant to a court of summary jurisdiction at any time, that court may order the release of so much of the cash to which the forfeiture order relates as it considers appropriate to enable him or her to meet his or her legal expenses in connection with the appeal.

(5) An appeal under this section must be by way of a hearing *de novo*, and the court may make such order as it considers appropriate and, in particular, may order the release of the cash (or any remaining cash) together with any accrued interest.

Interest on cash forfeited

49B. — (1) Cash consisting of coins and bank-notes seized under this Part and detained for more than 48 hours is where practicable, unless required as evidence of an offence, to be held in an interest-bearing account, and the interest accruing on any cash must be added to that cash on its forfeiture or release.

(2) An order under section 49A must provide for notice to be given to persons affected by the order.

(3) Without prejudice to the generality of any existing power to make rules, provision may be made by rules of court –

- (a) with respect to applications to any court under this Part;
- (b) for the giving of notice of applications to persons affected;
- (c) for the joinder of persons as parties; and
- (d) generally with respect to the procedure under this Part before any court.

Cash defined

49C. For the purposes of sections 49A and 49B, “cash” means –

- (a) coins and bank-notes in any currency; and
- (b) negotiable instruments.”

Amendment of principal Act

5. The principal Act is amended by deleting the words “scheduled offence” and substituting the words “criminal conduct” wherever they appear in the principal Act.

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Substitution of Schedule

6. The Schedule to the principal Act is deleted and substituted with the following:

“Schedule

(Section 2)

An offence under the –

Anti-Terrorism Act No. 36 of 2003

Copyright Act, Cap. 13.07

Criminal Code, Cap. 3.01

Customs (Control and Management) Act, Cap. 15.05

Drugs (Prevention of Misuse) Act, Cap. 3.02

Fisheries Act, Cap. 7.15

Income Tax Act, Cap. 15.02

Money Laundering (Prevention) Act

Physical Planning and Development Act, Cap. 5.12

Public Health Act, Cap. 11.01

Securities Act, Cap. 12.18.”.

Passed in the House of Assembly this 8th day of December, 2009.

ROSEMARIE HUSBANDS-MATHURIN,
Speaker of the House.

Passed in the Senate this 15th day of December, 2009.

GAIL V. PHILIP,
President of the Senate.