

*Legal Supplement Part C to the "Trinidad and Tobago Gazette", Vol. 53,
No. 108, 19th August, 2014*

No. 7 of 2014

Fifth Session Tenth Parliament Republic of
Trinidad and Tobago

SENATE

BILL

AN ACT to amend the Proceeds of Crime Act,
Chap. 11:27, the Anti-Terrorism Act, Chap. 12:07
and the Financial Intelligence Unit of Trinidad and
Tobago Act, Chap. 72:01

THE MISCELLANEOUS PROVISIONS (PROCEEDS
OF CRIME, ANTI-TERRORISM, FINANCIAL
INTELLIGENCE UNIT OF TRINIDAD AND TOBAGO)
(NO. 2) BILL, 2014

Explanatory Note

(These notes form no part of the Bill but are intended only to indicate its general purport)

This Bill seeks to amend the Proceeds of Crime Act, Chap. 11:27, the Anti-Terrorism Act, Chap. 12:07 and the Financial Intelligence Unit of Trinidad and Tobago Act, Chap. 72:01.

The Bill would contain the constitutionally required preambulatory clauses which indicate that the Bill requires a special majority where it is inconsistent with sections 4 and 5 of the Constitution.

Clause 1 of the Bill would provide the short title of the Act for which this is the Bill.

Clause 2 of the Bill would provide that the Act shall have effect although inconsistent with the Constitution.

Clause 3 of the Bill would amend the Proceeds of Crime Act, Chap. 11:27. Clause 3(a) of the Bill would seek to amend section 2 of the Act to amend the definitions of “financial institution”, “security” and “specified offence” and to insert a definition of “Seized Assets Fund”.

Clause 3(b) of the Bill would seek to amend section 19(2) of the Act to set out the factors for the Court to consider in making a restraint order.

Clause 3(c) of the Bill would seek to amend section 29(5) of the Act to provide for compensation to be paid out of the Seized Assets Fund, and from the Consolidated Fund, where the balance of the Seized Asset Fund is less than the quantum of compensation to be paid.

Clause 3(d) of the Bill would seek to amend section 32 of the Act, to correct a typographical error and provide that materials necessary for investigation may be provided in electronic format.

Clause 3(e) of the Bill would seek to amend section 38(1) of the Act to remove the requirement for an officer to be on duty in order to assist in a cash seizure. Subsection (4) is also being amended to provide for initial applications to freeze or seize assets to be made *ex parte* and for the service of the order on parties.

Clause 3(*f*) of the Bill would seek to amend sections 42A to 46 of the Act, by repealing those sections and substituting new sections 43 to 46. The proposed section 43 would address the offence of money laundering by inserting definitions for “criminal conduct” and “criminal property”. Proposed section 44 would make money laundering an indictable offence. Proposed section 45 would specify the constituent elements of the offence of money laundering, and would also provide that the standard of proof required shall be on a balance of probabilities rather than beyond reasonable doubt. Proposed section 46 would provide a defence to the offence of money laundering.

Clause 3(*g*) of the Bill would seek to amend section 47 of the Act to replace the term “specified offence” with the term “criminal conduct” and insert a new subsection to provide the protection for persons who make disclosures to the FIU in the form of an STR or SAR report.

Clause 3(*h*) of the Bill would seek to amend section 50 of the Act, to correct a cross reference and replace the term “specified offence” with the term “criminal conduct”.

Clause 3(*i*) of the Bill would seek to amend section 51 of the Act, by deleting the words “is guilty of” and substituting the words “commits an offence” as a person is only guilty of an offence where he has been convicted of such.

Clause 3(*j*) of the Bill would also seek to amend section 52 of the Act, to correct a cross reference and also delete the words “is guilty of” and substitute the words “commits an offence”.

Clause 3(*k*) of the Bill would amend section 53 of the Act, to provide a penalty for the offence of money laundering now created under section 45 and to delete the words “is guilty of” and substitute the words “who commits an offence”.

Clause 3(*l*) of the Bill would seek to amend section 55 of the Act to require financial institutions and listed businesses to pay special attention to unusual large transactions. The clause will also repeal subsections (2)(*b*), (3), (3A), (3B), (4), (5), (6), (7), (8), (9), (11), and (12). The clause goes further to decrease the value of a “large transaction” from ninety-five thousand dollars to ninety thousand dollars, this is for consistency with the Financial Obligations Regulations.

Clause 3(*m*) of the Bill would insert after section 55 of the Act, new sections 55A to 55F. Proposed section 55A would address the reporting of suspicious activity and transactions. Proposed

section 55B would exempt financial institutions or listed businesses from liability for complying with the requirement to make a report where such report is done in good faith. Proposed section 55C would address compliance programmes and require each financial institution or listed business, senior management to approve compliance programmes. Proposed section 55D would authorize the Supervisory Authority to enter into premises during working hours and with the consent of the owner or occupier in order to inspect records and ask relevant questions, to determine whether compliance programmes are being implemented and whether there is compliance with the Act or Regulations. Provision is made in the clause for where consent for entry is not given for an application for a warrant to be made. Proposed section 55E would outline the duty of the Supervisory Authority to treat all information obtained in the course of duties as confidential while proposed section 55F would provide the penalty for the Supervisory Authority breaching the requirement for confidentiality. The penalty for such breach is two hundred and fifty thousand dollars and imprisonment for three years.

Clause 3(n) of the Bill would seek to amend section 57 of the Act, in subsection (1) to delete the words “is guilty of” and substitute the words “commits an offence” and include references to sections 55A and 55C. Subsection (2) would delete the words “guilty of,” and substitute the word “commits”.

Clause 3(o) of the Bill would seek to amend section 58 of the Act, to ensure consistency, and allow for increased uses of seized assets. The clause would require compliance with the Exchequer and Audit Act. It will also provide for the creation of the “Seized Assets Fund” and the use of monies of the Fund. The Clause sets out what monies comprise monies of the Fund. They are *inter alia* property both real and personal seized under a forfeiture order. The clause provides for reciprocal agreements for the sharing of assets seized and also sets out the purposes for which the monies in the Fund may be used. Recommendations for the use of monies from the Fund are given by a Statutory Committee known as “the Seized Assets Advisory Committee” and the clause provides for the appointment, composition, terms of office and meetings of the “Seized Assets Advisory Committee”. Members of the Committee are required to make declarations of interest where such interest is likely to be directly affected by a decision or determination of the Committee on any subject matter. Provision is made for the accounts of the Fund and its audit. Provision is also made for the Minister with responsibility for national security to submit a report to Parliament on the management of the Fund. Finally, the clause

provides in proposed section 58M for the Minister with responsibility for finance to make Regulations and Rules in respect of *inter alia* the management and control of the Fund.

Clause 3(p) of the Bill would seek to amend the First Schedule of the Act to replace the definition of “Private Members’ Clubs” with a new definition that is in accordance with the Registration of Clubs Act, Chap. 21:01 and to amend the type of business “An Accountant, an Attorney-at-law or Other Independent Legal Professional” to include a person performing the functions of an Accountant or Other Independent Legal Professional. The clause would also provide for the creation, operation or management of legal persons or arrangements as functions for which an accountant, Attorney-at-law or person performing those functions would be held accountable.

The First Schedule is also being amended to provide that a trustee of an express trust be included in the category of “Trust and Company Service Provider”. Finally, the First Schedule is being amended to remove the category “Money or Value Transfer Services” as a listed business.

Clause 3(q) of the Bill would seek to repeal the Third Schedule as the FIU will now develop its own forms rather than having the forms prescribed.

Clause 4 of the Bill would amend the Anti-Terrorism Act, Chap. 12:07. The clause would seek to expand the definition of “terrorist property” in section 2, to include property belonging to a terrorist or a terrorist organization. The clause would also amend section 34, to narrow the scope of that provision to provide that customs officers, immigration officers or police officers above a certain rank may seek a Restraint Order against a person for property deemed to be “terrorist property”. Finally, the clause would increase the penalties in sections 22A, 22C(5), 24B, 24C and 42. In respect of the financing of terrorism a fine of five million dollars is being added to the penalty of twenty-five years in prison. In respect of the disclosure of a customer information order, the penalty is being increased from two hundred and fifty thousand dollars to five million dollars however, the imprisonment penalty remains at five years. In respect of the disclosure of the existence or operation of an Order by a financial institution or listed business, the penalty is increased from five hundred thousand dollars to five million dollars. In regard to disclosing a monitoring order by a financial institution, non-listed business or non-profit organization, the penalty is being increased from five hundred thousand dollars to five million dollars. Finally, in respect of the failure to comply with reporting requirements and procedures, the penalty is being increased from two million dollars to three million dollars.

Clause 5 of the Bill would seek to amend the Financial Intelligence Unit of Trinidad and Tobago Act, Chap. 72:01. Clause 5(a) would amend section 2 of the Act to include in the definition of a “non-regulated financial institution”, a person who carries on money or value transfer services. The clause would also insert a new section 18C to allow the FIU to publish the names of registered financial institutions and listed businesses on the FIU website. Finally, the clause would amend section 18F, by providing that an FIU officer may accompany a police officer in the execution of a warrant.

BILL

AN ACT to amend the Proceeds of Crime Act,
Chap. 11:27, the Anti-Terrorism Act, Chap. 12:07
and the Financial Intelligence Unit of Trinidad and
Tobago Act, Chap. 72:01

[, 2014]

WHEREAS it is enacted by section 13(1) of the ^{Preamble} Constitution, that an Act of Parliament to which that section applies may expressly declare that it shall have effect even though inconsistent with sections 4 and 5 of

the Constitution and, if any Act does so declare, it shall have effect accordingly:

And whereas it is provided in section 13(2) of the Constitution that an Act of Parliament to which that section applies is one the Bill for which has been passed by both Houses of Parliament and at the final vote thereon in each House has been supported by the votes of not less than three-fifths of all the members of that House:

And whereas it is necessary and expedient that the provisions of this Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution:

Enactment ENACTED by the Parliament of Trinidad and Tobago as follows:

Short title 1. This Act may be cited as the Miscellaneous Provisions (Proceeds of Crime, Anti-Terrorism and Financial Intelligence Unit of Trinidad and Tobago) Act, 2014.

Act inconsistent with the Constitution 2. This Act shall have effect even though inconsistent with the Constitution.

Chap. 11:27 amended 3. The Proceeds of Crime Act is amended—

(a) in section 2(1)—

(i) in the definition of “financial institution”—

(A) in paragraph (e), by inserting after the word “company” the words “, agent or broker”;

(B) in paragraph (g), by deleting the word “Industry”; and

(C) by deleting paragraphs (h), (i) and (j) and substituting the following paragraphs:

“(h) a person who carries on money or value transfer services;

- (i) a person or entity managing a collective investment scheme under the Securities Act;”;
- (ii) by deleting the definition of “security” and substituting the following definition:
 - “ “security” has the meaning assigned to it by the Securities Act;”;
- (iii) by inserting after the definition of “security” the following new definition:
 - “Seized Assets Fund” means the Seized Assets Fund established under section 58(1);”;
- (iv) by deleting the definition of “specified offence” and substituting the following definition:
 - “ “specified offence” means—
 - (a) an offence which is punishable upon conviction with a fine of not less than five thousand dollars or to imprisonment for not less than twelve months; or
 - (b) any act committed outside of Trinidad and Tobago, which would constitute an offence referred to in paragraph (a) if committed in Trinidad and Tobago;”;

(b) in section 19, by repealing subsection (2) and substituting the following subsection:

“ (2) Without prejudice to the generality of subsection (1), the Court in making a restraint order may make it subject to such conditions and exceptions as the Court considers fit, and may in particular—

(a) make provision for meeting out of the property or a specified part of the property, reasonable living expenses, including but not limited to—

- (i) mortgage or rent payments;
- (ii) allowances for food, medicine and medical treatment;
- (iii) any payments due as a result of an Order of the Court;
- (iv) provision for the reasonable living expenses of dependants including educational expenses; and
- (v) provision for taxes, insurance premiums and public utilities;

(b) make provision for reasonable expenses, including expenses incurred in defending a criminal charge or any proceedings connected thereto and any proceedings under this Act;

- (c) make provision for expenses necessary to enable a person to carry on any trade, business, profession or occupation; and
- (d) be made subject to any other condition that the Court considers reasonable.”;

(c) in section 29—

- (i) in subsection (5), by deleting the words “Consolidated Fund” and substituting the words “Seized Assets Fund”; and
- (ii) by inserting after subsection (5), the following new subsections:

“ (6) N o t w i t h s t a n d i n g subsection (5), where the monies in the Seized Assets Fund cannot satisfy the compensation payable under this section, compensation shall be paid out of the Consolidated Fund.

(7) Compensation paid out of the Consolidated Fund under subsection (6) shall be only to the extent necessary to satisfy a payment under subsection (5).”;

(d) in section 32—

- (i) in subsection (3), by deleting the words “(1)(d)” and substituting the word “(1)”; and
- (ii) in subsection (10)—
 - (A) in paragraph (a), by deleting the word “and”;

(B) in paragraph (b), by deleting the word “.” and substituting the words “; and”;

(C) by inserting after paragraph (b), the following new paragraph:

“(c) an order under subsection (2)(a) may specify that the material required be provided in electronic format.”;

(e) in section 38—

(i) in subsection (1), by deleting the words “on duty at a port of entry into Trinidad and Tobago,” and the words “on duty at any place,”;

(ii) in subsection (4), by inserting after the word “made”, the words “in the prescribed form”; and

(iii) by inserting after subsection (4), the following new subsections:

“ (4A) An application for an order under subsection (2) shall be made *ex parte*.

(4B) Where an order has been granted under subsection (2) or (3), the order shall be served as soon as reasonably practicable on—

(a) the person by, or on whose behalf the cash was being imported or exported, if known; or

(b) the person from whom the cash was seized.”;

(f) by repealing sections 42A, 43, 44, 45 and 46 and substituting the following sections:

“Interpretation
of certain
words and
phrases

43. (1) In this Part—

“criminal conduct” means conduct which—

(a) constitutes an offence in Trinidad and Tobago; or

(b) occurs outside of Trinidad and Tobago and would constitute an offence if committed in Trinidad and Tobago; and

“criminal property” means property which constitutes the benefit to a person for criminal conduct or represents such a benefit in whole or in part whether directly or indirectly.

(2) For the purposes of the definition of “criminal property” under subsection (1), it is immaterial who—

(a) carried out the criminal conduct; or

(b) benefitted from the criminal conduct.

Money
laundering

44. (1) An offence committed under section 45 shall be known as a money laundering offence and the term “money laundering” shall be construed accordingly.

(2) The offence of money laundering is an indictable offence.

Dealings with
criminal
property

45. (1) A person who knows or has reasonable grounds to suspect that property is criminal property and who—

(a) engages directly or indirectly, in a transaction that involves that criminal property; or

(b) receives, possesses, conceals, disposes of, disguises, transfers, brings into, or sends out of Trinidad and Tobago, that criminal property; or

(c) converts, transfers or removes from Trinidad and Tobago that criminal property,

commits an offence of money laundering.

(2) Where a person referred to in subsection (1) is a financial institution or listed business, the person knows or has reasonable grounds to suspect that the property is criminal property, if the person fails to take reasonable steps to implement or apply procedures to control or combat money laundering in accordance with the Regulations made pursuant to section 56.

(3) Where a person is charged with an offence under this section and the Court is satisfied that the property in his possession or under his control was not acquired from income derived from a legitimate source, it shall be presumed, unless the contrary is proven, that the property is criminal property.

(4) For the purposes of subsection (3), the standard of proof required by the person referred to in that subsection, shall be on a balance of probabilities.

Defence to
charge of
money
laundering

46. (1) It is a defence to a charge of money laundering that the accused acquired or otherwise came into possession of the property for adequate consideration and had no knowledge that the property was criminal property.

(2) For the purposes of this section—

(a) a person acquires property for adequate consideration if the value of the consideration is not significantly less than the value of the property; or

(b) a person uses or has possession of property for adequate consideration if the value of the consideration is not significantly less than the value of the use or possession.

(3) The provision of goods and services to any person who is of assistance to him in the course of engaging in criminal conduct shall not be treated as consideration for the purposes of subsection (1).”;

(g) in section 50—

- (i) by deleting the words “43, 45 or 46” and substituting the word “45”; and
- (ii) by deleting the words “a specified offence” and “specified offence” and substituting the words “criminal conduct”;

(h) in section 51, by deleting the words “is guilty of” wherever they occur and substituting the word “commits”;

(i) in section 52—

- (i) in subsection (1), by deleting the words “is guilty of” and substituting the word “commits”; and
- (ii) in subsection (8), by deleting the words “55(3)” and substituting the words “55A”;

(j) in section 53—

- (i) in subsection (1), by deleting the words “guilty of an offence under sections 43, 44, 45 and 46” and substituting the words “who commits an offence under section 45”; and
- (ii) in subsections (2) and (3), by deleting the words “guilty of” wherever they occur and substituting the words “who commits”;

(k) in section 55—

- (i) in subsection (2)(a)(ii), by deleting the words “, or”;
- (ii) by repealing subsections (2)(b), (3), (3A), (3B), (4), (5), (6), (7), (8), (9), (11) and (12); and
- (iii) in subsection (3C), by deleting the words “ninety-five” and substituting the word “ninety”;

(l) by inserting after section 55, the following new sections:

“Reporting
suspicious
activity and
transactions” 55A. (1) Where a financial institution or listed business knows or has reasonable grounds to suspect that funds being used for the purpose of a transaction to which subsection (2) refers, are the proceeds of criminal conduct, the financial institution or listed business shall make a suspicious transaction or a suspicious activity report to the FIU in the form approved by the FIU.

(2) Where a financial institution or listed business makes a suspicious transaction or suspicious activity report to the FIU under this section, the Director or staff of such financial institution or listed business shall not disclose the fact or content of such report to any person, and any person who contravenes this subsection commits an offence and is liable on summary conviction to a fine of five million dollars and imprisonment for five years.

(3) A report to which subsection (1) refers shall be made as soon as possible, but in any event, within fourteen days of the date on which the financial institution or listed business knew or had reasonable grounds to suspect that the funds used for a transaction were the proceeds of criminal conduct.

Exemption
from liability

55B. When the report referred to in section 55A is made in good faith, the financial institution or listed business and their employees, staff, directors, owners or other representatives as authorised by law, shall be exempted from criminal, civil or administrative liability, as the case may be, for complying with this section or for breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision, regardless of the result of the communication.

Compliance
programme

55C. (1) Every financial institution or listed business shall develop and implement a written compliance programme, approved by the financial institution's or listed business' senior management and reasonably designed to ensure compliance with this Act.

(2) A compliance programme referred to in subsection (1) shall include—

- (a) a system of internal controls to ensure ongoing compliance;
- (b) internal or external independent testing for compliance;
- (c) training of personnel in the identification of suspicious transactions; and
- (d) appointment of a staff member responsible for continual compliance with the Act and the Regulations.

Supervisory
Authority
may enter
premises

55D. (1) The relevant Supervisory Authority or a person authorized by the relevant Supervisory Authority may enter into the premises of any financial institution or listed business during working hours and with the consent of the owner or occupier of such premises in order to—

- (a) inspect any business transaction record or client information record kept by the financial institution or listed business pursuant to this Act and the Regulations made thereunder and ask any

questions relevant to such record and to make any notes or take any copies of the whole or any part of any such record;

- (b) determine whether a compliance programme has been implemented; and
- (c) determine whether there is compliance with this Act or any Rules or Regulations made thereunder.

(2) Where the financial institution or listed business refuses to give consent under subsection (1), a police officer above the rank of sergeant may apply for a warrant to enter the premises accompanied by an officer of the relevant Supervisory Authority referred to in subsection (1).

(3) For the purposes of this section, “Supervisory Authority”, in relation to—

- (a) a financial institution licensed under the Financial Institutions Act, the Insurance Act, the Exchange Control Act, the Home Mortgage Bank established under the Home Mortgage Bank Act, the

Chap. 79:09

Chap. 84:01

Chap. 79:50

Chap. 79:08

Chap. 79:07 Agricultural Development Bank established under the Agricultural Development Bank Act, and the Trinidad and Tobago Mortgage Finance Company, means the Central Bank;

Chap. 83:02 (b) a person licensed as a broker-dealer, investment advisor or underwriter under the Securities Act, means the Trinidad and Tobago Securities and Exchange Commission; or

(c) any other financial institution and listed business, means the FIU.

Confidentiality 55E. A Supervisory Authority shall regard and deal with all information and documents which it has obtained in the course of its duties as the Supervisory Authority as secret and confidential.

Breach of confidentiality 55F. Where a Supervisory Authority communicates or attempts to communicate the information or documents referred to in section 55E to any person or anything contained in such document or copies to any person—

(a) other than a person to whom it is authorised to communicate it; or

(b) otherwise than for the purposes of this Act or any other written law,

commits an offence and is liable on summary conviction to a fine of two hundred and fifty thousand dollars and to imprisonment for three years.”;

(m) in section 57—

(i) in subsection (1)—

(A) by inserting after the word “55” the words, “55A and 55C”; and

(B) by deleting the words “is guilty of an offence and” and substituting the words “commits an offence and is”; and

(ii) in subsection (2), by deleting the words “guilty of,” and substituting the word “commits”;

(n) by deleting section 58 and substituting the following sections:

“Seized
Assets Fund

58. (1) There is hereby established a fund to be known as “the Seized Assets Fund” (hereinafter referred to as “the Fund”).

(2) The Minister with responsibility for finance shall disburse monies from the Fund to finance activities as advised by the Seized Assets Advisory Committee under section 58E.

Monies of the
Fund

58A. The Fund shall comprise—

- (a) any monies paid in satisfaction of a confiscation under this Act;
- (b) cash forfeited under this Act;
- (c) proceeds of the sale of forfeited real property under section 58B;
- (d) proceeds of the sale of forfeited personal property under section 58C;
- (e) proceeds of the sale of forfeited property under section 58D to which Trinidad and Tobago is entitled pursuant to any reciprocal agreement;
- (f) the proceeds of any charging order under this Act;
- (g) cash or the proceeds of the sale of any property real or personal forfeited to the State under Part VIII of the Anti-Terrorism Act; and
- (h) proceeds of the sale of any property or benefit forfeited to the State under section 24 of the Trafficking in Persons Act.

Property
seized
pursuant to a
forfeiture
order

58B. (1) Where real property has been forfeited under this Act, the real property shall—

- (a) vest in the State and may be sold; or
- (b) where it is the subject of a reciprocal sharing agreement under section 58D, it shall be sold and the proceeds of such sale divided between the State and the foreign State party to the reciprocal agreement.

(2) The proceeds of the sale of the property under subsection (1) which belongs to the State shall form part of the monies of the Fund under section 58A.

Personal
property
seized
pursuant
to a
forfeiture
Order

58C. (1) Where personal property is seized pursuant to a forfeiture order, the Permanent Secretary in the Ministry with responsibility for national security shall take possession of such personal property and may—

- (a) dispose of it by public auction on behalf of the State; or
- (b) direct the manner in which it is to be used by the State.

(2) The proceeds of the sale of personal property under subsection (1) shall form part of the monies of the Fund under section 58A.

Reciprocal
agreement

58D. The Attorney General may enter into an agreement with the government of any foreign State for the reciprocal sharing of the proceeds or disposition of property confiscated, forfeited or seized—

(a) under this Act; or

(b) by that foreign State,

in circumstances where law enforcement authorities of that foreign State, or of Trinidad and Tobago, as the case may be, have participated in the investigation of the offence that led to the confiscation, forfeiture or seizure of the property or if the law enforcement authorities participation led to the confiscation, forfeiture or seizure of the property under this Act.

Purpose of
Fund

58E. The purpose of the Fund is to provide funds for—

(a) community development;

(b) drug abuse treatment;

(c) rehabilitation projects;

(d) law enforcement;

(e) compensation under section 29; and

(f) restoration of monies by the President under section 42.

Appointment
of Seized
Assets
Advisory
Committee

58F. The Minister with responsibility for national security shall appoint a committee to be known as “the Seized Assets Advisory

Committee”, to advise on the areas under section 58E(a) to (d), for which the monies in the Fund are to be used.

Composition
of Seized
Assets
Advisory
Committee

58G. (1) The Seized Assets Advisory Committee shall comprise of a minimum of five but no more than nine members, one of whom shall be appointed by the Minister as the Chairman.

(2) The members of the Seized Assets Advisory Committee shall be selected from among persons with experience and relevant qualifications in areas of finance, community development, drug abuse treatment, demand reduction and rehabilitation and law enforcement.

Terms of
office of
members

58H. (1) Members of the Seized Assets Advisory Committee may hold office for a term of two years.

(2) The Minister with responsibility for national security may renew the appointment of a member of the Seized Assets Advisory Committee for no more than two consecutive terms.

Meetings

58I. (1) The Seized Assets Advisory Committee shall regulate its own procedures.

(2) The Seized Assets Advisory Committee shall meet at least once a month and at such other times as may be necessary or expedient and such meetings

shall be held at such place and time and on such days as the Seized Assets Advisory Committee may determine.

(3) The Minister with responsibility for national security may, in writing request the Chairman convene a special meeting of the Seized Assets Advisory Committee.

(4) The Seized Assets Advisory Committee shall elect a Secretary from amongst its membership.

(5) The Secretary under this section shall keep minutes of each meeting, which shall be confirmed by the Seized Assets Advisory Committee at the subsequent meeting.

(6) A copy of the confirmed minutes of each meeting shall be submitted to the Minister with responsibility for national security.

Declaration
of interest

58J. (1) Any member of the Seized Assets Advisory Committee, including its Chairman whose interest is likely to be directly affected by a decision or determination of the Seized Assets Advisory Committee on any subject matter, shall declare his interest in the subject matter and shall not be present or take part in the meeting when the particular subject matter is being deliberated.

(2) A member or person who fails to disclose his interest under subsection (1) commits an offence and is liable on summary conviction to a fine of five hundred thousand dollars and to imprisonment for two years.

Accounts and
Audit 58K. All accounts relating to the Seized Assets Fund shall be—

(a) kept separately by the Comptroller of Accounts but shall be shown to the general accounts of Trinidad and Tobago and laid therewith before Parliament; and

(b) audited annually by the Auditor General in accordance with the Exchequer and Audit Act as if the Fund were established under section 43 of that Act.

Chap. 69:01

Report of
Minister 58L. The Minister with responsibility for national security shall within four months from the end of the financial year, submit to Parliament a report on the management of the Fund.

Regulations
and Rules 58M. (1) The Minister with responsibility for finance may make Regulations for—

(a) the management and control of the Fund;

(b) the accounts, books and forms to be used in the management of the Fund; and

(c) the general operations of the Fund.

(2) The Minister with responsibility for national security may make rules with respect to the sale and disposal of real and personal property forfeited under the Act, for the purpose of sections 58B and 58C.”;

(o) in the First Schedule—

(i) in respect of the type of business “A Private Members’ Club” referred to in the First Column, by deleting its related words of interpretation in the Second Column and substituting the following words:

“A members’ club which is granted a certificate under section 5(4) of the Registration of Clubs Act, Chap. 21:01.”;

(ii) by deleting in the First Column, the words “An Accountant, an Attorney-at-law or other Independent Legal Professional” in respect of the type of business and substituting the following words:

“An Attorney-at-law, Accountant or other person performing the functions of an Accountant or Other Independent Legal Professional.”;

(iii) in the Second Column, in respect of the type of business referred to as “An Attorney-at-law, Accountant or other person performing the functions of an Accountant or Other Independent Legal Professional” as amended—

(a) in item (d), by deleting the words “legal persons or arrangements”; and

(b) by deleting item (e) and substituting the following item:

“(e) creation, operation or management of legal persons or arrangements, and buying and selling of b u s i n e s s entities.”;

(iv) in the Second Column, in respect of the type of business “Trust and Company Service Provider”—

(A) in item (d), by deleting the word “.” and substituting the words “; and”; and

(B) by inserting after item (d), the following item:

“(e) acting as, or arranging for another person to act as a trustee of an express trust.”; and

(v) in the First Column, by deleting the item “Money or Value Transfer Services” and its related words of interpretation contained in the Second Column after the item “Motor Vehicle Sales”;

(p) by repealing the Third Schedule.

4. The Anti-Terrorism Act is amended—

Chap. 12:07
amended

(a) in section 2 in the definition of “terrorist property”—

- (i) in paragraph (b), by deleting the word “or” after the words “act;”;
- (ii) in paragraph (c), by inserting the word “or” after the words “organization;”;
- (iii) by inserting after paragraph (c) the following paragraph:

“(d) property belonging to a terrorist or terrorist organization;”;

(b) in section 22A—

(i) in subsection (3)—

(A) in paragraph (a), by inserting after the word “years” the words “and to a fine of five million dollars”; and

(B) in paragraph (b), by deleting the word “two” and substituting the words “twenty-five”; and

(ii) in subsection (4), by inserting after the words “twenty-five years” the words “and to a fine of five million dollars”;

(c) in section 22C(5), by deleting the words “two hundred and fifty dollars” and “five years” and substituting the words “five million dollars” and “five years” respectively;

(d) in section 24B(10), by deleting the words “five hundred thousand” and substituting the words “five million”;

- (e) in section 24C(8), by deleting the words “five hundred thousand” and substituting the words “five million”;
- (f) in section 34(1), by deleting all the words after the word “possession” and substituting the words “of a person is terrorist property,”; and
- (g) in section 42 in paragraph (a), by deleting the words “fine of two” and substituting the words “fine of three”.

Chap. 72:01
amended

5. The Financial Intelligence Unit of Trinidad and Tobago Act is amended—

- (a) in section 2 in the definition of “non-regulated financial institution” by deleting paragraph (b) and substituting the following paragraph:

“(b) a person who carries on money or value transfer services or;” and

- (b) by inserting after section 18B the following new section:

“FIU to
publish
names of
registered
financial
institutions
and listed
businesses” 18C. The FIU shall maintain a list of all non-regulated financial institutions and listed businesses registered pursuant to section 18B and make the same available to the public by posting it to the FIU’s website unless—

- (a) the FIU determines that such disclosure would not be in the public interest; or
- (b) the Court directs otherwise.”;
- (c) by renumbering sections 18C to 18G as sections 18D to 18H respectively; and

(d) in renumbered section 18G, by inserting after subsection (3) the following new subsection:

“ (4) A warrant under subsection (2) shall authorize the police officer to be accompanied by an officer of the FIU.”.

Passed in the Senate this day of , 2014.

Clerk of the Senate

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the Senate and at the final vote thereon in the Senate has been supported by the votes of not less than three-fifths of all the members of the Senate, that is to say, by the votes of Senators.

Clerk of the Senate

I confirm the above.

President of the Senate

Passed in the House of Representatives this day of , 2014.

Clerk of the House

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the House of Representatives and at the final vote thereon in the House has been supported by the votes of not less than three-fifths of all the members in the House, that is to say by the votes of _____ members of the House.

Clerk of the House

I confirm the above.

Speaker

No. 7 of 2014

FIFTH SESSION
TENTH PARLIAMENT
REPUBLIC OF
TRINIDAD AND TOBAGO

BILL

AN ACT to amend the Proceeds of Crime Act, Chap. 11:27, the Anti-Terrorism Act, Chap. 12:07 and the Financial Intelligence Unit of Trinidad and Tobago Act, Chap.72:01

Received and read the

First time

Second time

Third time
