



I assent,

CUTHBERT M SEBASTIAN

Governor-General.

25th April, 2008.

SAINT CHRISTOPHER AND NEVIS

No. 10 of 2008

AN ACT to amend the Proceeds of Crime Act, No. 16 of 2000.

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BE IT ENACTED by the Queen's Most Excellent Majesty by and with the advice and consent of the National Assembly of Saint Christopher and Nevis, and by the authority of the same as follows:

1. This Act may be cited as the Proceeds of Crime (Amendment) Act, 2008. Short title.
2. In this Act, unless the context otherwise requires, "Act" means the Proceeds of Crime Act, No. 16 of 2000. Interpretation.
3. The Act is amended in section 4 (2) as follows: Amendment of section 4.
 - (a) in paragraph (a) by deleting the word "or" occurring immediately after the word "crime";
 - (b) in paragraph (b) by inserting immediately after the word "possesses", the word "disguises" and by inserting immediately after the word "crime" the word "or"; and
 - (c) by inserting in the correct numerical order, the following new paragraph:
" (c) the person
 - (i) conspires to commit; or
 - (ii) attempts, incites another, aids, abets, counsels, facilitates or procures the commission of any of the activities in paragraphs (a) and (b)".
4. The Act is amended in section 7 (1) by inserting immediately after the expression "Police Force" the expression "after consultation with the Comptroller of Customs". Amendment of section 7.

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Amendment of
section 61.

5. The Act is amended by replacing section 61 thereof with the following sections:

“For-
feiture
Fund. 61. (1) There is hereby established a Fund to be
known as the Forfeiture Fund.

(2) The Fund shall consist of

- (a) all monies and proceeds from the sale of property forfeited or confiscated by virtue of this Act and the Organised Crime (Prevention and Control) Act, 2002;
- (b) all monies voted for the Fund by Parliament; and
- (c) any monies derived from any other source.

Board. 61A.(1) The Minister shall appoint a Board charged with the responsibility of the management of the Fund.

(2) Schedule 2 shall apply to the composition of the Board and related matters.

Deduc- 61B.(1) Where a forfeiture or confiscation of
tions monies is made under this Act or the Organised Crime
from (Prevention and Control) Act, 2002, pursuant to a request
funds. from a foreign authority,

- (a) there shall be deducted a twenty percent administrative fee from such monies which shall be deposited into the Fund; and
- (b) the remaining eighty percent may either
 - (i) be repatriated to the foreign authority where so requested; or
 - (ii) be deposited into the Fund.

(2) There shall be deducted from any other monies and proceeds of sale of property forfeited or confiscated by virtue of this Act or the Organised Crime (Prevention and Control) Act, 2002 other than pursuant to subsection (1)

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- (a) a ten percent administrative fee to be deposited in the Consolidated Fund of Saint Christopher;
- (b) a ten percent administrative fee to be deposited in the Consolidated Fund of Nevis; and
- (c) the remaining eighty percent to be deposited into the Fund.

(3) The deductions referred to in subsection (2) shall be paid to the Government of Saint Christopher and Nevis or to the Nevis Island Administration, as the case may be.

Use of Fund. 61C. The Board shall use the monies standing in the account of the Fund

- (a) for the purpose of anti-money laundering activities in Saint Christopher and Nevis;
- (b) to compensate the victims of offences committed under this Act or the Organised Crime (Prevention and Control) Act, 2002.

Auditing of Fund. 61D. The accounts of the Fund shall be audited at least once every financial year by the Director of Audit.”

6. The Schedule to the Act is amended

- (a) by re-numbering it as “Schedule 1”; and
- (b) by inserting immediately after paragraph 21 the following new paragraphs:

“21A. Charities and other non profit organisations;

21B. Jewellers and dealers in precious stones and metal;”

Amendment of Schedule.

7. The Act is amended by inserting immediately after Schedule 1 as re-numbered in section 4, the following new Schedule 2:

Insertion of new Schedule.

*The Proceeds of Crime (Amendment) Act, 2008 – 10.***“Schedule 2**

(Section 61A)

Constitution and Procedure of the Board**Constitution of Board**

1. The Board shall consist of not less than five persons appointed by the Minister by instrument as follows:
 - (a) the Financial Secretary in Saint Christopher and Nevis;
 - (b) the Permanent Secretary in the Ministry of Finance in Nevis; and
 - (c) not less than three other persons selected by the Minister from persons appearing to him to have wide experience in the law, law enforcement, management and finance.

Appointment of Chairperson

2. The Minister shall appoint a member to be the Chairperson of the Board.

Temporary Appointment

3. The Minister may, in accordance with paragraph 1, appoint any person to act temporarily in the place of any member who is absent from Saint Christopher and Nevis or is unable to act.

Tenure

4.
 - (1) A member shall hold office for a period of three years unless he resigns or his appointment is revoked before the end of that period.
 - (2) Every member is on the expiration of the period of his appointment eligible for further appointment.
 - (3) Where a vacancy is created by the death, resignation or removal from office of a member, a person may be appointed in accordance with paragraph 1 to fill that vacancy but shall hold office only for the unexpired portion of the period of the former member.

Remuneration of Board Members

5. The Minister shall pay the members of the Board
 - (a) such remuneration as he may determine; and
 - (b) reasonable out of pocket or other expenses occasioned in the carrying out of their duties.

Resignation of members

6. A member other than the Chairperson, may, at any time resign his office by instrument in writing transmitted through the Chairperson and, from the date of the receipt by the Minister of the instrument, the member ceases to be a member.

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Resignation of Chairperson

7. The Chairperson may, at any time resign his office by instrument in writing addressed to the Minister and, upon receipt by the Minister of such instrument, the Chairperson ceases to be Chairperson and, if the instrument so specifies, also ceases to be a member.

Non-attendance at meetings

8. A member who fails, without reasonable excuse, to attend three consecutive meetings of the Board ceases to be a member and is not eligible for appointment to the Board until the expiration of three years from the date when he ceases to be a member.

Revocation

9. The Minister may, at any time, by instrument in writing revoke the appointment of any member.

Publication of notice

10. The appointment and cessation of appointment of any member shall be notified in the *Official Gazette*.

Meetings

11. The Board shall meet at such times as may be necessary or expedient for the transaction of its business.

Special Meetings

12. The Chairperson may, at any time call a meeting of the Board and shall call a meeting within seven days
 - (a) of the receipt by him of a request for the purpose addressed to him in writing and signed by three other members;
 - (b) of receiving a direction to that effect addressed to him in writing and signed by the Minister.

Quorum

13. A majority of the members shall constitute a quorum.

Presiding at meetings

14. The Chairperson shall preside at all meetings of the Board and in case of his absence, the members present and constituting a quorum shall elect a temporary Chairperson from among their number who shall preside at the meeting.

Decisions

15. The decisions of the Board shall be by a majority of votes and in any case in which the voting is equal, the Chairperson, or temporary Chairperson presiding at the meeting has, in addition to an original vote, a second or casting vote.

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Minutes

16. The minutes in proper form of each meeting shall be kept by the Secretary or such other officer as the Board appoints for the purpose and shall be confirmed in writing at the next meeting by the Chairperson.

Attendance of public officer at meetings

17. (1) The Chairperson may invite any public officer to attend a meeting of the Board where the Board considers it necessary to do so.
(2) A public officer referred to in sub-paragraph (1) may take part in the deliberations of the Board but shall not vote on any matter.

Validity of decisions of the Board

18. Any act or proceedings taken by the Board under this Act or the Regulations shall not be questioned on the grounds of
(a) the existence of any vacancy in the membership or any defect in the constitution of the Board;
(b) any omission, defect or irregularity that does not affect the merits of the case.”

CURTIS A. MARTIN
Speaker

Passed by the National Assembly this 18th day of April, 2008.

JOSÉ LLOYD
Clerk of the National Assembly