



367

No. 27 ] *Money Laundering (Prevention) Act* [2003.

SAINT LUCIA

**No. 27 of 2003**

ARRANGEMENT OF REGULATIONS

PART I

PRELIMINARY

1. Short title and commencement.
2. Interpretation

PART II

ESTABLISHMENT, FUNCTIONS AND POWERS OF FINANCIAL INTELLIGENCE AUTHORITY

3. Establishment of the Financial Intelligence Authority.
4. Functions of the Authority.
5. Powers of the Authority.
6. Additional functions.
7. Prohibition.

PART III

PREVENTION MEASURES

8. Customer identity.
9. Assistance by and immunity of financial institution or business of a financial nature.
10. Internal reporting procedures.
11. Further precautionary measures.
12. Warrants to search or seize.

PART IV

FREEZING AND FORFEITURE OF PROPERTY

13. Freezing of property.
14. Forfeiture of property and Forfeiture Fund.
15. Third party rights.
16. Application of orders.

PART V

OFFENCES AND PENALTIES

17. Rules for establishing actus reas.
18. Offence of money laundering.

19. Offence committed by a body of persons.
20. Other offences.

PART VI  
MISCELLANEOUS

21. Mutual assistance
22. Secrecy obligations overridden
23. No liability.
24. No criminal or civil liability for information.
25. Confidentiality.
26. Annual Report.
27. Annual Budget.
28. Accounts and Audit.
29. Expenses of the Authority.
30. Application of Proceeds of Crime Act.
31. Mandatory injunction.
32. Amendment of Proceeds of Crime Act.
33. Power to amend Schedules.
34. Regulations.
35. Repeal and Savings.

FIRST SCHEDULE

SECOND SCHEDULE

THIRD SCHEDULE



369

No. 27 ]

*Money Laundering (Prevention) Act*

[2003.

I ASSENT

[L.S.]

PEARLETTE LOUISY,  
*Governor-General.*

*3rd October, 2003.*

## SAINT LUCIA

---

**No. 27 of 2003**

AN ACT to provide for the prevention of money laundering and related matters.

[ On Order ]

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



PART I  
PRELIMINARY

**Short title and commencement**

1.— (1) This Act may be cited as the Money Laundering (Prevention) Act, 2003.

(2) This Act comes into force on a date to be prescribed by the Minister by Order in the *Gazette*.

**Interpretation**

2.— (1) In this Act —

“account” means a facility by which a financial institution or business of a financial nature —

- (a) accepts deposits of money;
- (b) allows withdrawals or transfers of money;
- (c) pays or collects cheques or payment orders drawn on a financial institution or business of a financial nature by a person or on behalf of a person; or
- (d) supplies a safety deposit box;
- (e) engage in any other activity for and on behalf of an account holder;

“Advisory Council on Misuse of Drugs” means the Advisory Council on the Misuse of Drugs established under the Drugs (Prevention of Misuse) Act, No. 22 of 1988 or any enactment replacing it;

“Authority” means the Financial Intelligence Authority established under section 3;

“business of a financial nature” includes the types of business specified in the Second Schedule;

“Court” means the High Court;

“Director” means the director of the Financial Intelligence Authority, appointed pursuant to section 3;

“document” includes —

- (a) a thing on which there is writing, marks, figures, symbols or perforations, having a meaning for a person qualified to interpret them;



- (b) a thing from which sounds, images or writing may be reproduced; and
- (c) a map, plan, drawing or photograph;

“financial institution” includes —

- (a) a bank licensed under the Banking Act, No. 7 of 1991 or any enactment replacing it;
- (b) a building society registered under the Building Societies Ordinance, No. 3 of 1965 or any enactment replacing it;
- (c) a credit union registered under the Co-operative Societies Act No. 28 of 1999 or any enactment replacing it;
- (d) an insurance company registered under the Insurance Act, No. 6 of 1994 or any enactment replacing it;
- (e) a company that performs international financial services under the international financial services legislation in force in Saint Lucia, a trust company, finance company or deposit taking company declared by the Minister by Order published in the *Gazette* to be a financial institution;

“Foreign Financial Intelligence Unit” means such body or bodies outside of Saint Lucia which performs functions similar to those of the Financial Intelligence Authority and which may be designated by the Minister by Order for purposes of this Act;

“forfeiture” means the permanent deprivation of property by order of a court or other competent authority;

“forfeiture order” means an order made under section 14;

“freeze” means to temporarily prohibit the transfer, conversion, disposition or movement of property or to temporarily assume custody or control of property on the basis of an order by a court or other competent authority;

“freezing order” means an order made under section 13;

“identification record” means —

- (a) documentary evidence to prove the identity of a person who is a nominee, agent, beneficiary or principal in relation to a transaction; or
- (b) in the case where the person is a corporate body —
  - (i) incorporated in Saint Lucia, the certificate of incorporation of that body;

- (ii) incorporated outside of Saint Lucia, the authenticated certificate of incorporation or equivalent document of that body;
- (iii) the most recent annual return to the Registrar of the Court in Saint Lucia where the corporate body is incorporated abroad; or
- (iv) documentary evidence to prove the identity of an officer of the corporate body;

“joint account” means an account held by two or more persons;

“Minister” means the Attorney-General;

“money laundering” means —

- (a) directly or indirectly engaging in a transaction that involves property that is the proceeds of a prescribed offence knowing or having reasonable grounds to believe the property to be the proceeds of a prescribed offence; or
- (b) receiving, possessing, concealing, disposing of, or bringing into Saint Lucia, property that is proceeds of a prescribed offence knowing or having reasonable grounds to believe the property to be the proceeds of a prescribed offence;

“person” includes a body corporate and an unincorporated body;

“prescribed offence” means an offence listed in the First Schedule;

“proceeds of a prescribed offence” means the property derived from or property mingled with the proceeds of a prescribed offence;

“property” includes money, movable or immovable property, corporeal or incorporeal property and an interest in property;

“requesting State” means a State which makes a request to Saint Lucia for assistance pursuant to the Mutual Assistance in Criminal Matters Act, No. 10 of 1996 or any enactment replacing it;

“transaction” includes —

- (a) opening of a joint account where the purpose of the account is to facilitate a transaction between the holders of the joint account;
- (b) a transaction between the holders of a joint account relating to the joint account; and



(c) the making of a gift;

“transaction record” includes —

- (a) the identification records of a person who is a party to a transaction;
- (b) a description of the transaction sufficient to identify its date, purpose and method of execution;
- (c) the details of any account used for a transaction including name of financial institution or business of a financial nature, address and sort code;
- (d) the total value of the transaction; and
- (e) the name and address of the employee in the financial institution or business of a financial nature who prepared the transaction record;

“unlawful act” means an act which under a law in any jurisdiction is a crime and is punishable by imprisonment for a period of not less than twelve months or is punishable by death.

(2) A reference in this Act to a document includes a reference to —

- (a) part of a document; and
- (b) a copy, reproduction or duplicate of the document, or of part of the document.

## PART II

### ESTABLISHMENT, FUNCTIONS AND POWERS OF FINANCIAL INTELLIGENCE AUTHORITY

#### **Establishment of the Financial Intelligence Authority**

3.— (1) There is hereby established a body to be known as the Financial Intelligence Authority.

(2) The Authority shall consist of five persons appointed by the Minister and having expertise in the area of law, accounting and law enforcement.

(3) The Minister shall appoint a Chairperson from amongst the persons appointed pursuant to subsection (2).

- (4) The Authority shall be serviced by a secretariat comprising —
  - (a) the Director who shall be the Chief Executive Officer of the Authority;



(b) such other general support personnel as the Authority considers necessary.

5. The Authority shall, with the approval of the Minister, appoint a Director on such terms and conditions as the Authority may determine.

6. The Authority may, with the approval of the Minister, in writing, appoint consultants having suitable qualifications and experience to provide services to the Authority.

#### **Functions of the Authority**

4.— (1) In the exercise of its functions under subsection (2), the Authority shall act as the agency responsible for receiving, analyzing, obtaining and disseminating information which relates to or may relate to the proceeds of the offences under this Act and the Proceeds of Crime Act No. 10 of 1993 or any enactment replacing it.

(2) Without limiting the provisions of subsection (1) and notwithstanding any other law to the contrary, the Authority —

- (a) shall collect, receive and analyze reports submitted to the Authority by financial institutions and businesses of a financial nature under this Act and Proceeds of Crime Act No. 10 of 1993 and information received from any Foreign Financial Intelligence Unit;
- (b) shall advise the Minister in relation to the detection and prevention of money laundering and financing of terrorism in Saint Lucia;
- (c) may disseminate information to the Commissioner of Police or the Director of Public Prosecutions;
- (d) shall retain the record of all information that it receives for a minimum period of five years;
- (e) may provide information relating to suspected money laundering or information relating to a suspicious activity report to any Foreign Financial Intelligence Unit subject to the conditions the Financial Intelligence Authority may consider appropriate;
- (f) may enter into any agreement or arrangement, in writing, with any Foreign Financial Intelligence Unit which is considered by the Financial Intelligence Authority to be necessary or desirable for the discharge or performance of its functions;





- (g) shall compile statistics or records;
- (h) may consult with a person, institution or organization for the purpose of performing its functions or exercising its powers under this Act;
- (i) shall advise financial institutions and businesses of a financial nature of their obligations under measures that have been or might be taken to detect, prevent and deter the commission of offences under the Proceeds of Crime Act or any enactments replacing it;
- (j) shall advise the Minister as to the participation of Saint Lucia in the international effort against money laundering and financing of terrorism;
- (k) may do any other matter incidental to its functions under this section.

(3) Any person failing or refusing to provide such information as is required under paragraph (b) of section 5 commits an offence and shall be liable on summary conviction, to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding ten years or both.

#### **Powers of the Authority**

**5.** For purposes of carrying out its function under section 4, the Authority shall have the power to—

- (a) enter into the premises of a financial institution or business of a financial nature during normal working hours and inspect a transaction record kept by the financial institution or business of a financial nature;
- (b) require the production of such information that the Financial Intelligence Authority considers relevant to the fulfillment of its functions;
- (c) ask questions relevant to a transaction record inspected under paragraph (b);
- (d) make notes or take a copy of part or all of the transaction record inspected under paragraph (b);
- (e) instruct a financial institution or business of a financial nature to take steps as may be appropriate to facilitate an investigation by the Financial Intelligence Authority;



- (f) issue from time to time guidelines to financial institutions or businesses of a financial nature as to compliance with this Act and regulations made under the Act;

**Additional functions**

6. In addition to its functions under section 4, the Authority shall —
- (a) report to the Commissioner of Police and Director of Public Prosecutions information derived from an inspection carried out under section 5 if, on the basis of the information the Authority has reasonable grounds to suspect that a transaction involves the proceeds of a prescribed offence;
  - (b) within five years after an inspection, destroy a note or copy of a note made pursuant to section 5 except where the note or copy has been sent to the Commissioner of Police and the Director of Public Prosecutions;
  - (c) receive the reports issued by financial institutions and businesses of a financial nature pursuant to section 9(1)(c);
  - (d) create training requirements and facilitate, with the co-operation of a financial institution or business of a financial nature, the training for a financial institution or business of a financial nature in respect of transaction record keeping or reporting obligations required by this Act.

**Prohibition**

7. The Authority shall not conduct an investigation into a financial institution or a business of a financial nature other than for the purpose of ensuring compliance by the financial institution or a business of a financial nature with this Act.

**PART III****PREVENTION MEASURES****Customer identity**

8.— (1) A financial institution or a business of a financial nature shall take reasonable measures to satisfy itself as to the true identity of a person seeking to enter into a transaction with it or to carry out a transaction or series of transactions with it.

(2) Where a person requests a financial institution or a business of a financial nature to enter into a transaction, the institution shall take reasonable measures to establish whether the person is acting on behalf of another person.



(3) Where it reasonably appears to a financial institution or a business of a financial nature that a person requesting to enter into a transaction is acting on behalf of another person, the financial institution or a business of a financial nature shall take reasonable measures to establish the true identity of the other person on whose behalf or for whose benefit the person may be acting in the proposed transaction, whether as a trustee, nominee, agent or otherwise.

(4) In determining what constitutes reasonable measures for the purposes of this section, a financial institution or a business of a financial nature shall have regard to all the circumstances of the case and in particular —

- (a) as to whether the person is resident or is a corporate body incorporated in a country in which there are in force provisions applicable to it to prevent the use of a financial institution or a business of a financial nature for the purpose of money laundering; or
- (b) to custom or practice current to the relevant business.

(5) Nothing in this section requires the production of identity records where —

- (a) the applicant itself is a financial institution or business of a financial nature to which this Act applies; or
- (b) there is a transaction or series of transactions taking place in the course of a business relationship, in respect of which the applicant has already produced satisfactory evidence of identity.

**Assistance by and immunity of financial institution or business of a financial nature**

**9.**— (1) A financial institution or a business of a financial nature shall —

- (a) establish and maintain transaction records of a transaction for a period of seven years after the completion of the transaction recorded;
- (b) where evidence of a person's identity is obtained in accordance with section 8, establish and maintain a record that indicates the nature of the evidence obtained and which comprises either a copy of the evidence or information as would enable a copy of it to be maintained;

- (c) report to the Authority a transaction where the identity of a person involved in the transaction or the circumstances relating to the transaction gives an employee of the financial institution or business of a financial nature reasonable grounds to suspect that the transaction involves the proceeds of a prescribed offence;
- (d) comply with an instruction issued to it by the Authority pursuant to section 5;
- (e) permit a member of the Authority to enter into any premises of the financial institution or a business of a financial nature during normal working hours; and —
  - (i) inspect the records kept pursuant to paragraph (a);
  - (ii) make notes or take a copy of the whole or part of the record;
  - (iii) answer a question of the Authority in relation to the record;
- (f) develop and apply internal policies, procedures or controls to combat money laundering, and develop audit functions to evaluate the internal policies, procedures or controls;
- (g) comply with the guidelines or training requirements issued by the Authority in accordance with this Act;
- (h) develop a procedure to audit compliance with this section.

(2) A financial institution or a business of a financial nature shall keep an account in the true name of the account holder.

(3) Where a financial institution or a business of a financial nature discloses information to the Authority in accordance with this Act, but in breach of another enactment or a contract, the financial institution or a business of a financial nature, its directors or its employees shall not be liable for such breach.

(4) Where a financial institution or a business of a financial nature makes a report under subsection 9(c), the financial institution or a business of a financial nature and its employees, staff, directors, owners or other representatives shall not disclose to anyone else—

- (a) that the financial institution or a business of a financial nature has formed a suspicion;
- (b) that information has been communicated to the Authority; or



- (c) any other information from which the person to whom the information is disclosed could reasonably be expected to infer that the suspicion had been formed or that a report had been made under subsection 9(c).

(5) Where a financial institution or a business of a financial nature acts in contravention of subsection (4), a person who, at the time of the commission of the offence, acted or purported to act in an official capacity for or on behalf of the body of persons, commits an offence and is liable on summary conviction to a fine of not less than one hundred thousand dollars and not exceeding five hundred thousand dollars or to imprisonment for a term of not less than seven years and not exceeding fifteen years or both.

#### **Internal reporting procedures**

**10.** A financial institution or a business of a financial nature shall establish and maintain internal reporting procedures to —

- (a) identify persons to whom an employee is to report information which comes to the employee's attention in the course of employment that a person may be engaged in money laundering;
- (b) enable a person identified in accordance with paragraph (a) to have reasonable access to information that may be relevant to determining whether sufficient basis exists to report the matter pursuant to section 9 (1)(c);
- (c) require the person referred to in paragraph (b) to report the matter pursuant to section 9 (1)(c) in the event that the person determines that sufficient basis exists.

#### **Further precautionary measures**

**11.** A financial institution or a business of a financial nature shall —

- (a) take appropriate measures for the purpose of making its employees aware of the law in force in Saint Lucia relating to money laundering and the procedures or policies established and maintained by the institution or business pursuant to this Part;
- (b) provide its employees with appropriate training in the recognition and handling of money laundering transactions.

#### **Warrants to search or seize**

**12.** A Magistrate may, in accordance with the Criminal Code, 1992 or any enactment replacing it, issue to a police officer a warrant —



- (a) to enter premises belonging to or in the possession or control of a financial institution or a business of a financial nature or an employee of a financial institution or a business of a financial nature;
- (b) to search the premises and remove any document, material or other thing therein if the Magistrate is satisfied by evidence on oath that there are reasonable grounds to believe that —
  - (i) a financial institution or a business of a financial nature has failed to keep a transaction record as required by section 9(1)(a);
  - (ii) a financial institution or a business of a financial nature has failed to comply with section 9(1)(b); or
  - (iii) an employee of a financial institution or a business of a financial nature is committing, has committed or is about to commit an offence under this Act.

#### PART IV

##### FREEZING AND FORFEITURE OF PROPERTY

###### **Freezing of property**

**13.—** (1) The Court may, upon application by the Director of Public

Prosecutions, where it is satisfied that a person charged or who is about to be charged with an offence under this Act, grant an order freezing the property of, or in the possession or under the control of that person.

(2) The Court may, in making a freezing order give directions with regard to —

- (a) the duration of the freezing order; or
- (b) the disposal of the property for the purpose of —
  - (i) determining a dispute relating to the ownership of or other interest in the property or a part of the property;
  - (ii) the proper administration of the property during the period of freezing;
  - (iii) the payment of debts incurred in good faith prior to the making of the freezing order;
  - (iv) the payment of money to a person referred to in subsection (1) for the reasonable subsistence of that person and that person's family; or



- (v) the payment of the costs of a person referred to in subparagraph (1) to defend criminal proceedings against that person.

(3) A freezing order shall cease to have effect after seven days of the freezing order being made if the person against whom the freezing order was made has not been charged with an offence under this Act within the seven days.

(4) The Government is not liable for damages or costs arising directly or indirectly from the making of freezing order under subsection (1) unless it is proved on a balance of probability that the application for the freezing order was made in bad faith.

(5) Where under subsection (2) a Court gives a direction for the administration of frozen property, the person upon whom the duty to administer the property is imposed shall not be liable —

- (a) for any loss or damage to the property;
- (b) for the costs of proceedings taken to establish a claim to the property; or
- (c) to a person having an interest in the property;

unless the Court in which the claim is made is of the opinion that the person has been negligent in respect of taking of custody or control of the property.

#### **Forfeiture of property and Forfeiture Fund**

**14.**— (1) The Director of Public Prosecutions shall apply to the Court for an order for the forfeiture of any property owned by, or in the possession or control of, a person who is convicted of an offence under this Act.

(2) Where an application is made under subsection (1) and the Court is satisfied that a person convicted of an offence under this Act owns or is in possession or control of property that is derived from the offence of money laundering, the Court shall grant the forfeiture order applied for.

(3) In determining whether or not property is derived from money laundering, the standard of proof required for the purposes of subsections (4) or (5) is on a balance of probabilities.

(4) Where it is proved that property which is the subject of a forfeiture order made under subsection (1) is not derived from money laundering, the Court shall return the property to the person.

(5) For the purposes of subsection (4), the burden of proof lies on the person who owns or is in possession or control of the property.



(6) In making a forfeiture order, the Court may give directions —

- (a) for the purpose of determining a dispute as to the ownership of or other interest in the property or a part of the property; and
- (b) as to the disposal of the property.

(7) Upon application to the Court by a person against whom a forfeiture order has been made under this section, the Court may require that a sum deemed by the Court to be the value of the property ordered to be forfeited, be paid by that person to the Court and upon satisfactory payment of that sum by that person, the property ordered to be forfeited shall be returned to that person.

(8) A fund to be known as the Forfeiture Fund shall be established under the administration and control of the Accountant General.

(9) Forty percent of the proceeds from the sale of all property forfeited under this section shall be deposited in the Forfeiture Fund.

(10) Fifty percent of all proceeds deposited in the Forfeiture Fund under subsection (9) shall be allocated to the Authority to be used for the advancement of its work.

(11) Fifty percent of all proceeds deposited in the Forfeiture Fund under subsection (9) shall be allocated to the Advisory Council/Secretariat on the Misuse of Drugs to be used for the advancement of its work.

### **Third party rights**

**15.—** (1) An order referred to in section 13 or 14 shall apply without prejudice to the rights of a third party.

(2) The Registrar of the Court shall notify a third party who has a legitimate legal interest in property which is the subject of an order made under section 13 or 14 by publication of the order in the *Gazette* and at least one weekly newspaper published in Saint Lucia within fourteen days of the order being made.

(3) A third party who has been notified under subsection (2), may make a claim to the Court against property which is the subject of an order made under section 13 or 14.

(4) The Court shall return the property or proceeds of the property to a third party, when it has been demonstrated to its satisfaction that —

- (a) the third party has a legitimate legal interest in the property or proceeds of the property;





No. 27 ] *Money Laundering (Prevention) Act* [2003.

- (b) no participation, collusion or involvement with respect to a money laundering offence which is the subject of the proceedings can be imputed to the claimant;
- (c) the third party lacked knowledge and was not intentionally ignorant of the illegal use of the property or proceeds of the property;
- (d) the third party did not acquire any right in the property from a person proceeded against under circumstances that give rise to a reasonable inference that any right was transferred for the purpose of evading the forfeiture of the property or the proceeds of the property; and
- (e) the third party did all that could reasonably be expected to prevent the illegal use of the property, or proceeds of the property.

**Application of orders**

**16.** Section 13 or 14 shall apply only to property coming into the possession or under the control of a person after the coming into force of this Act.

**PART V**

**OFFENCES AND PENALTIES**

**Rules for establishing actus reus**

**17.—** (1) For the purposes of this Act conduct engaged in on behalf of a body corporate —

- (a) by a director, servant or agent of that body corporate within the scope of the director, servant or agent's authority; or
- (b) by a person at the direction or with the consent or agreement whether express or implied of a director, servant or agent of that body corporate where the giving of the direction, consent or agreement is within the scope of the authority of the director, servant or agent;

shall be deemed to have been engaged in by the body corporate.

(2) Conduct engaged in on behalf of a person other than a body corporate —

- (a) by a servant or agent of that person reasonably within the scope of that person's authority; or



- (b) another person at the direction or within the consent or agreement whether express or implied of a servant or agent of that person, where the giving of the direction, consent or agreement is reasonably within the scope of the authority;

shall be deemed, for the purpose of this Act, to be engaged in by that person.

#### **Offence of money laundering**

**18.**— (1) A person who engages in money laundering commits an offence and is liable —

- (a) on summary conviction to a fine of not less than half a million dollars and not exceeding one million dollars or to imprisonment for a term of not less than five years and not exceeding ten years or both;
- (b) on conviction on indictment to a fine of not less than one million dollars and not exceeding two million dollars or to imprisonment for a term of not less than ten years and not exceeding fifteen years or both.

(2) A person who attempts, aids, abets, counsels, or procures the commission of, or who conspires to engage in money laundering, commits an offence and is liable —

- (a) on summary conviction to fine not exceeding one million dollars or to imprisonment for five years or both;
- (b) on conviction on indictment to a fine not exceeding two million dollars or to imprisonment for fifteen years or both.

#### **Offence committed by a body of persons**

**19.** Where an offence under section 18 is committed by a body of persons, whether corporate or incorporate, a person who, at the time of the commission of the offence, acted or purported to act in an official capacity for or on behalf of the body of persons, is regarded as having committed the offence and shall be tried and punished accordingly.

#### **Other offences**

**20.**— (1) A person who has reasonable grounds to believe that an investigation into money laundering has been, is being, or is about to be made shall not prejudice the investigation by divulging that fact to another person.



(2) A person shall not, if that person is the subject of an order made under section 13, disclose the existence or operation of the order to any person except —

- (a) to a police officer named in the order;
- (b) to an officer or agent to the financial institution named in the order, for the purposes of ensuring that the order is complied with; or
- (c) for the purpose of obtaining legal advice or representation in relation to the order.

(3) A person who contravenes subsection (1) or (2) commits an offence and is liable on summary conviction to a fine of not less than fifty thousand dollars and not exceeding two hundred and fifty thousand dollars or to imprisonment for a term not less than five years and not exceeding ten years.

(4) A person who has reasonable grounds to believe that an investigation into money laundering has been or is being or is about to be made shall not prejudice the investigation by falsifying, concealing, destroying or otherwise disposing of or causing or permitting the falsification, concealment, destruction or disposal of a matter or thing that is or is likely to be material to the investigation.

(5) A person shall not falsify, conceal, destroy or otherwise dispose of or cause the falsification, concealment, destruction or disposal of a thing that is likely to be material to the execution of an order made under section 13 or 14.

(6) A person who contravenes subsection (4) or (5) commits an offence and is liable on summary conviction to a fine of not less than one hundred thousand dollars and not exceeding five hundred thousand dollars or to imprisonment for a term of not less than seven years and not exceeding fifteen years or both.

## PART VI MISCELLANEOUS

### **Mutual assistance**

**21.**— (1) In this section,

“assistance” includes:

- (a) the providing of original or certified copies of relevant documents and records, including those financial institutions and government agencies obtaining testimony, in a requesting State of persons, including those in custody; to
- (b) the giving of testimony locating or identifying persons;
- (c) service of documents;



- (d) examining of objects or places;
- (e) the executing of searches and seizure; and
- (f) the providing of information and evidentiary items.

(2) The Court or the Authority shall co-operate with a court or other competent authority of a requesting State by taking the appropriate measures under this Act and within the limits of the requesting State's legal system to provide assistance in matters concerning a money laundering offence.

(3) The Court or the Authority on receiving a request from a court or competent authority from a requesting State to freeze, seize or forfeit under this Act, property or a thing connected to a money laundering offence shall take appropriate measures.

#### **Secrecy obligations overridden**

**22.** Subject to the provisions of the Constitution the provisions of this Act shall have effect notwithstanding any obligation as to secrecy or other restriction upon disclosure or information imposed by law or otherwise.

#### **No liability**

**23.** No action shall lie against the Authority, Minister, Director, officers or personnel of the Authority or any person acting under the direction of the Director for anything done or omitted to be done in good faith and in the administration or discharge of any functions, duties or powers under this Act.

#### **No criminal or civil liability for information**

**24.—(1)** No proceedings for breach of banking or professional confidentiality may be instituted against any person or against directors or employees of a financial institution or business of a financial nature who, in good faith, submit reports on suspicious activities to the Authority in accordance with this Act or the Proceeds of Crime Act No. 10 of 1993 under this Act.

(2) No civil or criminal action may be brought nor may any professional sanction be taken against any person or against directors or employees of a financial institution or a business of a financial nature who in good faith transmit information or submit reports to the Authority.

#### **Confidentiality**

**25.—(1)** A person who obtains information in any form as a result of his or her connection with the Authority shall not disclose that information to any person except as far as it is required or permitted under this Act or other enactment.



(2) Any person who wilfully discloses information to any person in contravention of subsection (1) commits an offence and shall be liable on summary conviction to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding ten years or both.

#### **Annual Report**

**26.**— (1) The Authority shall —

- (a) advise the Minister of the work of the Authority and in particular on matters that could affect public policy or the priorities of the Authority;
- (b) prepare and submit to the Minister on or before 1<sup>st</sup> June in each year or such other later time as the Minister direct, an annual report reviewing the work of the Authority.
- (c) prepare and submit interim reports every three months reviewing the work of the Authority.

(2) The Minister shall lay or cause to be laid a copy of every annual report on the table of the House of Assembly and the Senate.

#### **Annual Budget**

**27.**— (1) The Authority shall prepare for each financial year an annual budget of revenue and expenditure which shall be submitted to the Minister at least three months prior to the commencement of the financial year.

(2) The revenue of the Authority shall consist of —

- (a) revenues allocated from the Consolidated Fund;
- (b) grants from international funding or financial agencies; and
- (c) any other money lawfully contributed, donated, or bequeathed to the Authority from any legitimate source.

(3) For the purposes of this Act, the financial year of the Authority shall be the twelve months ending on the 31st day of March in any year.

#### **Accounts and Audit**

**28.**— (1) The Authority shall keep proper accounts and other records in relation thereto, and shall prepare in respect of each financial year a statement of accounts.



(2) The accounts of the Authority for each year shall be audited by an auditor to be appointed by the director with the approval of the Minister.

(3) As soon as the accounts have been audited the Authority shall submit a copy to the Minister and a copy of any report made by the auditor.

(4) The Minister shall lay or cause to be laid a copy of the audited accounts on the table of the House of Assembly and the Senate.

#### **Expenses of the Authority**

**29.** The expenses of the Authority, including the remuneration of members and staff therefor shall be paid out of the funds and resources of the Authority.

#### **Application of Proceeds of Crime Act**

**30.—** (1) The following provisions of the Proceeds of Crime Act, No. 10 of 1993 apply to this Act with modifications or adaptations as the circumstance require:

- (a) section 47 (relating to monitoring orders);
- (b) section 48 (relating to non-disclosure of monitoring orders);
- (c) sections 54-58 (relating to disclosure of income tax information); and
- (d) section 59 (relating to access to specified information and documents held by government departments or statutory boards).

(2) A reference in sections 47 or 48 of the Proceeds of Crime Act, 1993 to “financial institution “ shall be construed as a reference to “financial institution or business of a financial nature” in accordance with this Act.

#### **Mandatory injunction**

**31.—** (1) The employees of a financial institution or business of a financial nature shall take all reasonable steps to ensure the compliance by that financial institution or business of a financial nature with its obligations under this Act.

(2) The Court may, where it is satisfied upon application by the Director of Public Prosecutions that a financial institution or business of a financial nature has failed without reasonable cause to comply in whole or in part with an obligation imposed on the financial institution or business of a financial nature by section 9(1) issue a mandatory injunction against the financial institution or business of a financial nature in such terms as the Court considers necessary to enforce compliance with the obligation.

**Amendment of Proceeds of Crime Act**

**32.** The provisions of the Proceeds of Crime Act, No.10 of 1993, set out in the first column of the Third Schedule are amended as in the second column of the Third Schedule.

**Power to amend Schedules**

**33.** The Minister may, by Order in the *Gazette*, amend the Schedules.

**Regulations**

**34.—** (1) The Minister may make regulations prescribing all matters —

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary to be prescribed for carrying out or giving effect to this Act.

(2) Without derogating from the generality of subsection (1), the Minister may make regulations prescribing the qualifications of the Director.

**Repeal and Savings**

**35.—** (1) The following Acts are repealed

- (a) The Money Laundering (Prevention) Act No. 36 of 1999; and
- (b) The Financial Intelligence Authority Act No. 17 of 2002.

(2) Any regulations or orders made under the repealed Acts shall remain in force until such time that they are revoked under this Act.



390

No. 27 ]

*Money Laundering (Prevention) Act*

[2003.

**FIRST SCHEDULE**

*(sections 2 )*

**PRESCRIBED OFFENCES**

Abduction

Blackmail

Corruption

Counterfeiting

Drug trafficking

Extortion

Firearms trafficking

Forgery

Fraud

Gambling

Illegal deposit taking

Prostitution

Robbery

Terrorism

Stealing

Trafficking in Persons



**SECONDSCHEDULE***(sections 2)*

Businesses of a financial nature includes the following types of business-

	<b>Class</b>	<b>Activities</b>
1.	Finance House or Finance Company	Hire purchase and installment credit
2.	Credit Unions	Provision of basic savings (share accounts) for members and making loans to members.
3.	Merchant Bank	Floating and underwriting, stocks, Shares, and bonds Loans syndication Dealing in gold Providing consultancy and investment management services and corporate advisory services Acceptance credit Project Development Lease financing Foreign exchange dealing Inter-banking financing.

No. 27 ] *Money Laundering (Prevention) Act* [2003.

- |    |                       |   |
|----|-----------------------|---|
| 4. | Mortgage Institutions | Mortgage lending.   |
| 5. | Trust Company         | Managing Trust Funds<br>Performing duties of trustees<br>Executor or administrator and attorney<br>Administration of Pension Funds<br>Mortgage lending.   |
| 6. | Unit Trust            | Providing facilities for the participation by persons as beneficiaries under a trust or other scheme, in profits or income arising from the acquisition, holding, management or disposal of securities or any other property whatever.  |
| 7. | Credit card business  | Issuing payment, credit or charge cards and in co-operation with others including other financial institutions, operating a payment, credit or charge card plan.  |
| 8. | Financial Services    | Providing financial services relating to future and contingent liabilities in relation to foreign exchange and commodities.   |
| 9. | Securities business   | carrying on, within the meaning of the Securities Act No. 21 of 2001, the business of securities exchange, clearing agency, securities depository, securities registry, underwriting, broker-dealer, limited service broker, custodian, an investment adviser, or a management company or trustee or custodian of a collective investment scheme. |

**OTHER BUSINESS ACTIVITIES**

- |  |  |
|--|--|
| 1. Real estate business;                 | 7. Management Companies;   |
| 2. Car dealerships;                      | 8. Asset management and advice-custodial services;                             |
| 3. Casinos (gaming houses);              | 9. Nominee services  |
| 4. Courier services;                     | 10. Registered agents;   |
| 5. Jewellery business                    | 11. Any business transaction conducted at a post office involving money order; |
| 6. Internet gaming and wagering services |  |



394

No. 27 ]                      *Money Laundering (Prevention) Act*                      [2003.

**THIRDSCHEDULE**

(section 31)

**ENACTMENT**

**AMENDMENT**

Proceeds of Crime Act, 1993

1. Repeal sections 60 to 63.

2. Delete paragraph 4 of the  
Schedule

Passed in the House of Assembly this 2nd day of September, 2003.

J. BADEN ALLAIN,  
*Speaker of the House of Assembly.*

Passed in the Senate this 23rd day of September, 2003.

HILFORD DETERVILLE,  
*President of the Senate.*

SAINT LUCIA  
PRINTED BY THE NATIONAL PRINTING CORPORATION  
CASTRIES  
2003

[ Price : \$21.00 ]