



OFFICIAL GAZETTE

REPUBLIC OF SEYCHELLES

EXTRAORDINARY

Published by Authority of the Government

Vol. XLVI

Friday 5th March 2021

No. 18

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Gazette Supplements of 2021 are published by Order.

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EXTRADITION (AMENDMENT) ACT, 2021

(Act 4 of 2021)



I assent

A handwritten signature in black ink, appearing to read "Wavel".

Wavel Ramkalawan
President

5th March, 2021

AN ACT to amend the Extradition Act (*Cap. 78*).

ENACTED by the President and the National Assembly.

Short title and commencement

1. This Act may be cited as the Extradition (Amendment) Act, 2021.

Amendments to Cap. 78

2. The Extradition Act (Cap. 78) is amended as follows —

(a) in section 2, —

(i) after the definition of “Interpol”, the following definition shall be added —

“Minister” means the Minister responsible for legal affairs;’;

(ii) after the definition of “person committed”, the following definition shall be added —

“terrorist financing activities” shall have the meaning assigned to it in section 2 of the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020);’;

(iii) in section 4, after subsection (4), the following subsection shall be added —

“(5) Notwithstanding any other law in force, —

(a) the offence of money laundering under section 3 of the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020);

(b) an offence relating to terrorist financing activities as defined under section 2 of the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020);

(c) an offence relating to terrorist financing activities under section 5 of the Prevention of Terrorism Act (Cap. 179),

shall be extraditable offences for the purposes of this Act.”;

- (iv) in section 17, after subsection (3) the following new section shall be added —

“(4) The Attorney General shall maintain a case management system in manual and electronic form to be known as “Register of Extradition Cases”.”.

- (b) in the First Schedule, after serial number 29, the following serial number and description of the extraditable offence shall be added —

“(30) Offence of money laundering under section 3 of the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020) and an offence relating to terrorist financing activities under section 5 of the Prevention of Terrorism Act (Cap. 179).”.

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 2nd March, 2021.



Mrs. Tania Isaac
Clerk to the National Assembly



**MUTUAL ASSISTANCE IN CRIMINAL MATTERS (AMENDMENT)
ACT, 2021**

(Act 5 of 2021)



I assent

A handwritten signature in black ink, appearing to read 'Wavel'.

Wavel Ramkalawan
President

5th March, 2021

AN ACT to amend the Mutual Assistance in Criminal Matters Act (*Cap. 284*).

ENACTED by the President and the National Assembly.

Short title and commencement

1. This Act may be cited as the Mutual Assistance in Criminal matters (Amendment) Act, 2021.

Amendments to Cap. 284

2. The Mutual Assistance in Criminal Matters Act (Cap.284) is amended as follows —

(a) in section 2, —

(i) for the definition “criminal investigation”, the following definition shall be substituted —

“criminal investigation” means an investigation into criminal matters and institution of the prosecution thereof in such cases where it is believed that an offence has been committed;”;

(ii) in the definition of “criminal matter”, after paragraph (b), the following paragraph shall be added —

“(ba) a matter relating to any offence under section 3 of the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020), to terrorist financing activities as defined under section 2 of the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020), and to terrorist financing activities under section 5 of the Prevention of Terrorism Act (Cap. 179);”;

(iii) after the definition “serious offence”, the following definition shall be added —

“terrorist financing activities” shall have the same meaning assigned to it in section 2 of the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020);”;

(b) in section 6, —

(i) subsection (4) shall be re-numbered as subsection (9);

- (ii) after subsection (3), the following subsections shall be added —

“(4) Notwithstanding any other law in force and subsection (3) of this section, and subject to section 7, any request received from a foreign country shall be processed and disposed of in a time-bound manner.

(5) The Attorney General shall maintain a case management system in manual and electronic form to be known as “Register of Mutual Assistance Cases”.

(6) Subject to section 153 of the Criminal Procedure Code (Cap. 54) and the provisions of any other law, where a request has been received from any foreign country for forfeiture of any property, or property of corresponding value, the provisions of section 153A of the Criminal Procedure Code shall apply and the property shall be forfeited according to the provisions of section 153B and 153C of the Code..

(7) For the purposes of subsection (6), “property of corresponding value” means any other property of the accused equivalent to the value of property involved in the offence, for which forfeiture has been ordered and for all material purposes, the provisions of section 153B (13) shall be applicable, *mutatis mutandis*, for forfeiture of such property.

(8) Notwithstanding any other law in force, if the confiscated property is directly or indirectly a result of coordinated law enforcement actions by the State or any of its enforcement agencies and a foreign country, the confiscated property or the proceeds of the confiscated property shall be shared with such foreign country in the proportion as may be decided by mutual agreement between the Government of Seychelles and the foreign country.”.

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 2nd March, 2021.



Mrs. Tania Isaac
Clerk to the National Assembly



BENEFICIAL OWNERSHIP (AMENDMENT) ACT, 2021

(Act 6 of 2021)



I assent

A handwritten signature in black ink, appearing to read 'Wavel'.

Wavel Ramkalawan
President

5th March, 2021

AN ACT to amend the Beneficial Ownership Act, 2020 (Act 4 of 2020).

ENACTED by the President and the National Assembly.

Citation and commencement

1. This Act may be cited as the Beneficial Ownership (Amendment) Act, 2021.

Amendments to Act 4 of 2020

2. Section 18 of the Beneficial Ownership Act, 2020 is hereby repealed and the following section is substituted with effect from 1st February, 2021 —

“18. Every legal person and legal arrangement, other than extractive companies, through their resident agent shall comply with the provisions of this Act by such date as the Minister, by notice published in the Gazette, may specify.”.

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 2nd March, 2021.



Mrs. Tania Isaac
Clerk to the National Assembly



**ANTI-MONEY LAUNDERING AND COUNTERING THE
FINANCING OF TERRORISM (AMENDMENT) ACT, 2021**

(Act 7 of 2021)



I assent

A handwritten signature in black ink, appearing to read "Wavel".

Wavel Ramkalawan
President

5th March, 2021

AN ACT to amend the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020).

ENACTED by the President and the National Assembly.

Short title

1. This Act may be cited as the Anti-Money Laundering and Countering the Financing of Terrorism (Amendment) Act, 2021.

Amendments to Act 5 of 2020

2. The Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020, (hereinafter referred to as the principal Act), is hereby amended as follows —

(a) in section 2 of the principal Act, —

(i) after the definition of “Committee”, the following definition shall be added —

‘ “consolidated supervision” means supervision of the financial group by a regulatory body on the basis of the totality of its business, wherever conducted;’;

(ii) after the definition of “Court of Appeal”, the following definition shall be added —

‘ “cross border wire transfer” means any wire transfer where the ordering financial institution and beneficiary financial institution are located in different countries, and any chain of wire transfers in which at least one of the financial institutions involved is operating in a different country;’;

(iii) after the definition of “Director”, the following definition shall be added —

‘ “domestic wire transfer” means any wire transfer where the ordering financial institution and beneficiary financial institution are operating in the Republic;’;

(iv) after the definition of “monetary instruments”, the following definition shall be added —

‘ “money or value transfer services provider or MVTS provider” means a body corporate licensed by the Central Bank of Seychelles to carry on the business of money or value transfer services;’;

- (v) after the definition “offence”, the following definitions shall be added —

‘ “originator” means the account holder who authorises the wire transfer from his account, or where there is no account, the person who places the order with the ordering financial institution to perform the wire transfer;

“payable-through account” means a correspondent account that is used directly by third parties to transact business on their own behalf;’;

- (vi) after the definition of “virtual asset”, the following definition shall be added —

‘ “wire transfer” means any transaction carried out on behalf of an originator through a financial institution by electronic means with a view to making an amount of funds available to a beneficiary person at a beneficiary financial institution, irrespective of whether the originator and the beneficiary are the same person;’;

- (b) Section 3 of the principal Act is hereby amended —

- (i) by repealing subsection (1) and substituting therefor the following subsection —

“3.(1) A person is guilty of money laundering if —

- (A) he or she directly or indirectly acquires property from the proceeds of criminal conduct;
- (B) knowing or believing that property is or represents the benefit of criminal conduct or being reckless as to whether the property is or represents such

benefit, the person, without lawful authority or excuse (the proof of which shall lie on the person) —

- (a) converts, transfers or handles the property, or removes the property from the Republic;
- (b) conceals or disguises the true nature, source, location, disposition, movement or ownership of the property or any rights associated with the property; or
- (c) acquires, possesses or uses the property.”;

(ii) by inserting after subsection (13), the following subsection —

“(14) The offence of money laundering shall be an extraditable offence for the purposes of the Extradition Act (Cap.78).”;

(c) Section 5 of the principal Act is hereby amended by repealing the word “Currency” in the marginal note and substituting therefor the word “Cash”;

(d) Section 7(1) of the principal Act is hereby amended —

(i) in paragraph (e), after the words “national risk assessments” the following shall be inserted —

“and internationally accepted standards of best practices”;

(ii) in paragraph (l), repeal the word “and”;

- (iii) after paragraph (m), the following paragraphs shall be inserted —
- “(n) fostering cooperation and coordination between relevant authorities to ensure the compatibility of anti-money laundering and countering the financing of terrorism requirements with data protection and privacy rules and any other similar provisions;
 - (o) ensuring cooperation and coordination amongst relevant authorities in combating the financing of proliferation of weapons of mass destruction;
 - (p) coordinating with the relevant authorities to maintain comprehensive statistics on matters relevant to the effectiveness and efficiency of their anti-money laundering and countering the financing of terrorism systems; and
 - (q) fostering and enhancing partnership between stakeholders, through the provision of guidance and feedback, to support the application of national measures to combat money laundering and terrorism financing.”;
- (e) Section 27 (1) (g) of the principal Act is amended by repealing the words “clause (d) for a further period of seven days” and substituting therefor the words “clause (e) for a further period of ten days”;
- (f) Section 28 of the principal Act is amended by inserting after subsection (6), the following subsections —
- “(7) The FIU may impose administrative sanctions referred to in section 60(3) on a reporting entity to whom this Act applies if satisfied that the reporting entity has failed to fully comply with a lawful request for information made

under subsection (1) or to a directive issued under section 27(1)(d) or (e).

(8) A reporting entity shall take all necessary measures to ensure the accuracy of the information submitted to the FIU under subsection (1) or to comply with a directive issued under section 27(1)(d) or (e).

(9) A reporting entity which intentionally fails to provide the FIU with accurate information under subsection (1) or to comply with a directive issued under section 27(1)(d) or (e), commits an offence and is liable on conviction to a fine not exceeding SCR50,000.”;

- (g) The principal Act is amended, by inserting after section 30, the following section —

Designation of Non-Profit Organisations

“**30A.**(1) The FIU shall, following the conduct of a risk assessment of the NPO sector, in consultation with the Registrar and the Committee, determine the appropriate risk levels for the purpose of designating any NPO as a high-risk NPO, through a directive.

(2) Upon review of the risk assessment referred to in subsection (1) and on deriving the updated risk levels, if a designated NPO is no longer considered as a high-risk NPO, the FIU shall notify the said NPO accordingly.

(3) The list of designated NPOs shall be confidential and shall not be accessible to the general public.

(4) The FIU may impose administrative sanctions referred to in section 60(3) on the NPOs to whom this section applies.

(5) Any NPO aggrieved by the decision of the FIU under subsection (4) may appeal to the Appeals Board under section 62, as if it is a reporting entity.”;

- (h) Section 41 of the principal Act is hereby amended by repealing subsection (3) and substituting therefor the following subsection —

“(3) Without limiting the generality of subsection (1), a reporting entity shall, proportionate to risk, apply enhanced customer due diligence measures and enhanced ongoing monitoring in respect of business relationships and transactions with legal and natural persons from countries which do not apply or fully apply the Financial Action Task Force Recommendations.”;

- (i) Section 45 of the principal Act is hereby amended —

(I) in subsection (2) —

(a) by repealing the words “reporting authority” and substituting therefor the words “reporting entity”;

(b) in paragraph (b), by repealing the words “information traceable” and substituting therefor the words “information that is fully traceable”;

(II) by repealing subsections (3) and (4) and substituting therefor the following subsections —

“(3) The provisions of subsection (1) and (2) shall not apply to any transfer that flows from a transaction carried out using a credit, debit or prepaid card for the purchase of goods or services as long as the credit, debit or prepaid card number accompanies all transfers flowing from the transaction.

(4) The provisions of subsections (1) and (2) shall not apply to transfers and settlements between financial institutions, where both the originator person

and the beneficiary person are financial institutions acting on their own behalf.”;

- (III) in subsection 5(d), repeal the word “affected” and therefor substitute the word “effected” and delete the word “with”;
- (IV) in subsection (6), repeal paragraphs (a) and (b) and therefor substitute the following paragraphs —
 - “(a) ensure that the required originator and beneficiary information relating to a domestic wire transfer is retained with the transfer;
 - (b) ensure that the required originator and beneficiary information relating to a cross-border wire transfer is retained with the transfer.”;
- (V) by repealing subsection (7) and therefor substituting the following subsection —

“(7) Every reporting entity shall take reasonable measures, which may include post-event monitoring or real-time monitoring where feasible, to identify any wire transfer which may lack the information required under subsections (1) and (2).”;
- (VI) by repealing subsection (8) and therefor substituting the following subsection —

“(8) In respect of any transfer, which lacks information required under subsections (1) and (2), reporting entities processing an intermediary element of wire transfer or receiving a wire transfer, shall apply risk-based policies and procedures to determine whether to reject, suspend or execute the cross-border or domestic wire transfer and take appropriate follow-up actions.”;
- (VII) by inserting after subsection (8) the following subsections—

“(9) MVTIS providers shall comply with all of the relevant requirements of this section in the countries in which they operate directly or through their agents.

(10) An MVTIS provider that controls both the ordering and the beneficiary side of a wire transfer shall—

- (a) take into account all the information from both the ordering and beneficiary sides in order to determine whether a suspicious transaction report under section 48 is to be filed; and
 - (b) file a suspicious transaction report in any country affected by the suspicious wire transfer and make relevant transaction information available to the FIU in a timely manner.”;
- (j) The principal Act is amended, by inserting after section 45, the following section —

Retention of records

45A. Where technical limitations prevent the required originator or beneficiary information accompanying a cross-border wire transfer from remaining with a related domestic wire transfer, the intermediary financial institution shall be required to keep a record of all the information received from the ordering financial institution or another intermediary financial institution for at least 7 years, as required under section 47.”;

- (k) Section 48 (1) (a) of the principal Act is hereby amended by repealing the word “service” and therefor substituting the word “activity”;
- (l) in section 50(1) of the principal Act —

- (a) in paragraph (e), repeal the words “production order;” and therefor substitute the words “production order; or”;
- (b) by repealing paragraphs (f) and (g) and substitute therefor the following —

“(f) an investigation has commenced concerning the circumstances that gave rise to the suspicious transaction report, the warrant or the production order,

makes any disclosure, commits an offence and is liable on conviction to imprisonment up to six months or to a fine not exceeding SCR200,000 or to both.”;

- (m) The principal Act is amended, by inserting after section 53, the following section —

Overriding of confidentiality

“53A. A reporting entity shall comply with the requirements of this Act notwithstanding any obligation as to the confidentiality or other restrictions on the disclosure of information imposed by any written law or otherwise.”;

- (n) Section 58 of the principal Act is hereby amended —
 - (i) in subsection (2), by repealing the word “and” in paragraph (a), by removing the full stop after paragraph (b) and inserting “; and”, and by inserting the following paragraph after paragraph (b) —

“(c) the application of consolidated supervision to financial institutions for the purposes of anti-money laundering and countering the financing of terrorism.”;
 - (ii) by inserting after subsection (8), the following subsection —

“(9) Every reporting entity shall apply risk-based counter measures against any country when called upon to do so by the FIU, its supervisory authority or any law enforcement agency, as communicated from time to time.”;

- (o) Section 60 (3) (d) of the principal Act is hereby amended —
- (i) by inserting the words “or registration authority” after the words “licencing authority”;
 - (ii) by inserting the words “or registration” after the words “suspend the licence”;
- (p) The principal Act is amended, by inserting after section 63, the following section —

Written memorandum of understanding between FIU and law enforcement agencies.

“63A. For the purposes of promoting and supporting intelligence sharing between the FIU and law enforcement agencies, the FIU and law enforcement agencies shall enter into written memoranda of understanding which shall provide for sharing of information and cooperation between them or any other information or support as may be prescribed by regulations.”;

- (q) Section 67(1)(d) is hereby amended by repealing the word “FCIU” and thereby substituting the words “law enforcement”;
- (r) The principal Act is amended, by inserting, after section 69, the following section —

Ex-Parte Restraint Order

“69A.(1) Notwithstanding anything in sections 68 and 69, the Attorney General may apply for a restraint order ex parte

where proceedings have not been initiated in Seychelles against a person for criminal conduct.

(2) Where a restraint order is made on the ex parte application, the Attorney General shall inform any person identifiable as affected by the order of both the existence of the order and the person's right to apply to seek discharge or variation of the order pursuant to subsection 69(6).”;

- (s) Section 74 (1) of the principal Act is hereby amended by repealing the words “a person within the jurisdiction” and therefor substituting the words “a person at or in the vicinity of any port or airport or within the limit of the territorial sea as defined in the Maritime Zones Act” and repealing the words “and any vehicle belonging to him or her, or in which he or she was found or in the vicinity” and therefor substituting the words “and any vehicle or vessel belonging to him or her, or in which, or in the vicinity of which, he or she was found”;
- (t) The **FIRST SCHEDULE** of the principal Act is hereby amended —
- (i) in PART A, by inserting the words “excluding the Central Bank of Seychelles” after the words “National Payment System Act”;
- (ii) in PART B, —
- (A) by repealing the words “A licensee under the Mutual Fund and Hedge Fund Act” and substituting therefor the following words “A Fund Administrator licensed under the Mutual Fund and Hedge Fund Act;
- (B) by repealing the words “A licensee under the Securities Act” and substituting therefor the following words “A licensee under the Securities

Act, except an investment advisor's representative or a securities dealer's representative;”;

(iii) in PART C, by repealing serial number 9 and entry thereunder and substituting therefor the following entry —

“9. A person who, by way of business invests, administers or manages funds or money on behalf of third parties.”;

(u) The **THIRD SCHEDULE** of the principal Act is hereby amended —

(i) by repealing serial number 2 and entry thereunder and substituting therefor the following entry —

“2. REPORTING THRESHOLD APPLICABLE TO WIRE TRANSFERS

Every financial institution that sends domestically or cross-border or receives cross-border wire transfers, including electronic fund transfers, shall report all wire transfers of SCR50,000 or more of the equivalent money in the currency of other countries.”;

(ii) in serial number 4, insert the words “,including banks acting as Bureau de Change for forex trading in respect of persons who are not their customers” after the words “Every Bureau de Change”;

(v) The **FIFTH SCHEDULE** of the principal Act is hereby amended by repealing the words “Anti-Money Laundering and Countering the Funding of Terrorism Act” and substituting therefor the words “Anti-Money Laundering and Countering the Financing of Terrorism Act”.

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 2nd March, 2021.



Mrs. Tania Isaac
Clerk to the National Assembly



PREVENTION OF TERRORISM (AMENDMENT) ACT, 2021

(Act 8 of 2021)



I assent

A handwritten signature in black ink, appearing to read 'Wavel'.

Wavel Ramkalawan
President

5th March, 2021

AN ACT to amend the Prevention of Terrorism Act (Cap. 179).

ENACTED by the President and the National Assembly.

Short title

1. This Act may be cited as the Prevention of Terrorism (Amendment) Act, 2021.

Amendments to Cap. 179

2. The Prevention of Terrorism Act (hereinafter referred to as the principal Act) is amended as follows —

(a) in section 2 of the principal Act, —

(i) by repealing the definition “financial institution” and therefor substituting the following definitions —

‘ “financial institution” shall have the same meaning assigned to it in the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020);

“funds” shall have the same meaning assigned to it in the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020);’;

(ii) after the definition of “operator”, the following definition shall be added —

‘ “person” and “legal person” shall have the same meanings assigned to them in the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020);’;

(iii) by repealing the definition of “property” and therefor substituting the following definition —

‘ “property” shall have the same meaning assigned to it in the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020);’;

(iv) after the definition of “specified entity”, the following definition shall be added —

‘ “terrorist” means a natural person who —

(a) commits or attempts to commit terrorist acts by any means, directly or indirectly;

- (b) (a) participates as an accomplice in terrorist acts;
- (c) organises or directs others to commit terrorist acts;
- (d) contributes to the commission of terrorist acts by a group of persons acting with a common purpose where the contribution is made intentionally and with the aim of furthering the terrorist act or with the knowledge of the intention of the group to commit a terrorist act;”;
- (v) in the definition of “terrorist acts”, after paragraph (e), the following paragraph shall be inserted —
 - “(ea) involves any of the following activities —
 - (i) any offence relating to aircraft hijacking;
 - (ii) any offence relating to aviation sabotage;
 - (iii) any offence against the safety of maritime navigation;
 - (iv) any offence against the safety of fixed platforms located on the continental shelf;
 - (v) any criminal acts against internationally protected persons including diplomats and similar persons;
 - (vi) unlawfully taking possession of nuclear material;
 - (vii) any activities in relation to hostage taking;
 - (viii) any offence relating to terrorist bombings or bomb threats or hoax information and use of aircraft as a weapon; and
 - (ix) funding terrorist acts, terrorists and terrorist organisations;”;

- (b) in section 5 of the principal Act, after the words “terrorist act”, the following words shall be inserted —
- “even in the absence of a link to a specific terrorist act or acts”;
- (c) in section 6 of the principal Act, —
- (i) after the words “other related services”, the words “, intending or knowing that” shall be inserted;
- (ii) in paragraph (a), by repealing the words “intending that”;
- (iii) in paragraph (b) by repealing the words “knowing that”;
- (d) in section 15 of the principal Act —
- (i) after the words “who in Seychelles”, insert the words “or who travels to any foreign State”;
- (ii) in paragraph (a), —
- (a) after the words “of any act”, insert the words “in Seychelles or”;
- (b) after subparagraph (iii), the following subparagraph shall be added —
- “(iv) for the purpose of perpetration, planning or preparation of, or participation in any terrorist act;”;
- (e) after section 20 of the principal Act, the following section shall be added —

Punishment for offence by legal persons

20A.(1) Every legal person who commits an offence under this Act is guilty of an offence and shall on conviction, be liable to pay penalty of not less than SCR500,000.

(2) Every Director and Senior Manager of a legal person who is holding the position on the date of commission of the offence shall be responsible for any offence committed by the legal person under this Act.

(f) after PART III, the following PART shall be inserted —

“PART-III A-PROLIFERATION OF WEAPONS OF MASS DESTRUCTION AND ITS FINANCING

Definitions

20B. In this Part —

“biological weapons” are —

- (i) microbial or other biological agents, or toxins whatever their origin or method of production, of types and in quantities that have no justification for prophylactic, protective or other peaceful purposes; and
- (ii) weapons, equipment or delivery systems specially designed to use such agents or toxins for hostile purposes or in armed conflict;

“chemical weapons” means —

- (i) toxic chemicals and their precursors, except where intended for —
 - (a) industrial, agricultural, research, medical, pharmaceutical or other peaceful purposes;
 - (b) protective purposes, namely those purposes directly related to protection against toxic chemicals and to protection against chemical weapons;
 - (c) military purposes not connected with the use of chemical weapons and not dependent on

the use of the toxic properties of chemicals as a method of warfare; or

(d) law enforcement including domestic riot control purposes,

as long as the types and quantities are consistent with such purposes;

(ii) the munitions and devices, specifically designed to cause death or other harm through the toxic properties of those toxic chemicals specified in paragraph (i), which would be released as a result of the employment of such munitions and devices; and

(iii) any equipment specifically designed for use directly in connection with the employment of munitions and devices specified in paragraph (ii),

together or separately;

“nuclear weapon” means any nuclear weapon or other nuclear explosive device as may be determined by the Minister by notice published in the Gazette, whose determination in the matter shall be final;

“person” shall have the same meaning assigned to it in the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020);

“proliferation financing” means the act of providing funds or financial assistance or service, which may, in whole or in part, be used for the manufacture, acquisition, possession, development, export, trans-

shipment, brokering, transport, transfer, stockpiling or use of nuclear, chemical or biological weapons and their means of delivery and related materials (including both technologies and dual use goods used for non-legitimate purposes), in contravention of the Laws of Seychelles, where applicable, and international obligations;

“weapons of mass destruction” means any biological, chemical or nuclear weapons.

Offence of proliferation financing

20C.(1) No person shall engage in proliferation financing.

(2) Any person who contravenes subsection (1),

(a) in case of a natural person, commits an offence and is liable on conviction to imprisonment for a term not exceeding 20 years and to a fine of not less than SCR500,000;

(b) in case of a body corporate, a fine not less than SCR1000,000.

Enforcement of United Nations Security Council Resolutions in the Republic.

20D.(1) In order to enforce compliance in the Republic with United Nations Security Council Resolutions, adopted under Chapter VII of the Charter of the United Nations, relating to terrorism and terrorist financing and relating to the prevention,

suppression and disruption of proliferation of weapons of mass destruction and its financing, the procedures under subsections (2) to (4) of this section, which are in addition to and not in substitution of any other process of detention, freezing or forfeiture under this Act, a restraint order under section 69 of the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020, or a forfeiture order or a pecuniary penalty order under that Act or any order that might be made under the provisions of the Proceeds of Crimes (Civil Confiscation) Act (Cap. 298) shall apply.

(2) All natural and non-natural persons within Seychelles shall without delay and without prior notice freeze the property of designated entities.

(3) Without prejudice to the generality of the foregoing, the freezing obligation shall extend to —

- (i) all property that is owned or controlled by the designated entity and not just that which can be tied to a particular terrorist act, plot or threat or to a particular act, plot or threat of proliferation;
- (ii) property that is wholly or jointly owned or controlled directly or indirectly by a designated entity;
- (iii) property derived or generated from property owned or controlled directly or indirectly by a designated entity; and
- (iv) property of a person or entity acting on behalf of or at the direction of a designated entity.

(4) A person who without lawful excuse

fails or refuses to freeze property without delay as provided in subsection (2) commits an offence and, if a natural person, is liable on conviction to imprisonment for a term not exceeding 20 years or to a fine not exceeding SCR1,000,000 or to both and if a non-natural person, to a fine not exceeding SCR2,000,000.

Regulations

E.(1) The Minister may by regulations make such provisions as may appear to the Minister to be necessary or expedient for the application and enforcement of this Part and to enforce compliance with United Nations Security Council Resolutions relating to terrorism and terrorist financing and relating to the prevention suppression and disruption of proliferation of weapons of mass destructions and its financing

(2) Where a designation is made under a regulation made under subsection (1), that the named entity is engaged in the financing of proliferation of weapons of mass destructions, that entity shall be deemed with effect from the date of publication of the regulation to have been so engaged.

(3) Any designation made under any regulation made under subsection (1) shall be communicated to all financial institutions and designated non-financial businesses or professions with the guidance, in taking action for freezing such funds or assets, to hold targeted funds or other assets.

(4) Every financial institution and designated non-financial business or profession shall report to its respective supervisory authority of the freezing of any assets or any action taken in compliance with the designation made under regulations issued under subsection (1).

Protection of action taken in good faith

20F. No person shall be prosecuted for any action taken by him or her in good faith for implementing the provisions of this Part against any person.

Compliance by financial institutions and designated non-financial businesses or professions.

20G.(1) Every financial institution and designated non-financial business or profession shall comply with all the requirements under this Part and report the compliance to its respective monitoring supervisory authority designated under the provisions of the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020).

(2) Any financial institution and designated non-financial business or profession which fails to comply with any of the requirements under this Part commits an offence and, if a natural person, is liable on conviction to imprisonment for a term not exceeding 20 years or to a fine not exceeding SCR1,000,000 or to both, and if a non-natural person, to a fine not exceeding SCR2,000,000.

Power to prohibit making funds available to persons in foreign states to commit proliferation financing.

20H.(1) Where the Minister has reasonable grounds to believe that a person outside Seychelles is committing, or is likely to commit, proliferation financing in Seychelles, the Minister may, by Order published in the Gazette prohibit —

- (a) all persons in Seychelles;

- (b) all citizens of Seychelles residing outside Seychelles,

from making funds available to, or for the use or benefit of, the first mentioned person who shall be named in the Order or be identified by reference to a description of persons set out in the Order.

(2) Every person who does any act in contravention of an Order made under subsection (1), commits an offence and shall, on conviction, be liable to imprisonment for a term of not less than 3 years and not exceeding 5 years.”;

- (g) in section 27(3)(a), by inserting the following new subparagraph (iii) after subparagraph (ii) —
- (iii) a non-Seychellois person;
- (h) in section 35 of the principal Act —
- (A) in subsection (2) repeal the words “Every financial institution shall report every three months to the Central Bank” and therefor substitute the words “Every person shall report to the Financial Intelligence Unit in accordance with regulations made under this Act”;
- (B) in subsection (4), repeal the words “Central Bank” occurring at both places and substitute therefor the words “Financial Intelligence Unit”;
- (i) in sections 9(1)(a) and (c), 19(1)(a) and (b) and 37(7)(c) of the principal Act, after the words “terrorist group”, wherever they occur, insert the words “or a terrorist”;

MISCELLANEOUS AMENDMENTS

Amendment to Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020

- (j) Section 55 of the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 is amended by inserting a new subsection (4)

(4) Notwithstanding anything in subsections (1) to (3), the supervisory authorities shall be the monitoring authorities for the purposes of the Prevention of Terrorism Act (Cap.179) and all the reporting entities, and entities covered under this Act, shall comply with all the requirements under the Prevention of Terrorism Act (Cap.179).

Amendment to Cap. 54

- (k) The **Criminal Procedure Code** (Cap. 54) is amended in section 153B,—

- (i) after the definition of “connected offence”, the definition of “Proceeds of an Offence” shall be repealed and the following definition shall be added —

“Proceeds of an Offence” means any property or property of corresponding value that is derived or realized, directly or indirectly, by a person from the commission of a relevant offence;”.

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 5th March, 2021.



Mrs. Tania Isaac
Clerk to the National Assembly



INTERNATIONAL TRUSTS (AMENDMENT) ACT, 2021

(Act 9 of 2021)



I assent

A handwritten signature in black ink, appearing to read "Wavel".

Wavel Ramkalawan
President

5th March, 2021

AN ACT to amend the International Trusts Act (Cap. 276).

ENACTED by the President and the National Assembly.

Short title

1. This Act may be cited as the International Trusts (Amendment) Act, 2021.

Amendments to Cap. 276

2. The International Trusts Act (Cap.276) (hereinafter referred to as the principal Act) is amended as follows —

(A) by repealing section 29A(1) (a) of the principal Act and substituting therefor the following —

“(a) full name, address, nationality or place of incorporation of each —

(i) trustee;

(ii) beneficiary or class of beneficiaries;

(iii) settlor;

(iv) protector (if any); and

(v) regulated agent and service provider of the trust including, but not limited to, investment advisors, investment managers, accountants or tax advisors of the trust;”;

(B) the principal Act is amended, by inserting after section 33, the following section —

Disclosure by trustees

33A.(1) The trustee of a trust shall disclose its status as a trustee to a financial institution or a designated non-financial business or profession when forming a business relationship or carrying out an occasional transaction in an amount equal to or above the amount prescribed under the Third Schedule to the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020).

(2) For the purposes of subsection (1), the terms “financial institution” and “designated non-financial business or profession” shall have the same meanings assigned to them in the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020).

(3) A trustee who or which contravenes the provisions of subsection (1) shall be liable to a penalty not exceeding USD 5000.”.

3. The provisions of section 29A(1)(a), as amended by this Act, shall be complied with by every trustee within 3 months from the date of commencement of this Act.

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 5th March, 2021.



Mrs. Tania Isaac
Clerk to the National Assembly

S.I. 21 of 2021**PREVENTION OF TERRORISM ACT***(Act 7 of 2004)***Prevention of proliferation financing Regulations, 2021**

In exercise of the powers conferred by section 20 E of the Prevention of Terrorism Act, 2004 (Cap. 179), the Minister responsible for Internal Affairs makes the following regulations —

Citation

1. These regulations may be cited as the Prevention of Proliferation Financing Regulations, 2021.

Definitions

2. For the purposes of these regulations the definitions defined in the Act and the Prevention of Terrorism (Implementation of United Nations Security Council Resolutions on Suppression of Terrorism) Regulations, 2015, shall apply mutatis mutandis to these regulations.

Designation and listing of persons or entities involved in proliferation financing

3. For the purposes of designation and listing of persons or entities under these regulations, the procedures prescribed under the Prevention of Terrorism (Implementation of United Nations Security Council Resolutions on Suppression of Terrorism) Regulations, 2015, shall be applied mutatis mutandis under these regulations.

De-listing of designated and specified entities

4.(1) The Committee shall review the designation list made under regulation 3, annually to consider whether there are still reasonable grounds, for any Order in relation to each specified entity.

(2) The Committee shall, if satisfied that there exist no reasonable grounds for any Order in relation to a specified entity to continue in the list,

advice the Attorney-General to make an appropriate recommendation to the Minister.

(3) A specified entity may apply to the Attorney-General seeking revocation of the order made to list the entity as a designated entity.

(4) The Attorney-General may, on receipt of an application may refer the application to the Committee for its examination and report.

(5) A designated entity may also make an application to the Committee for de-listing.

(6) An application submitted to the Attorney-General or to the Committee, may be made on the following grounds —

- (a) mistaken identity;
- (b) relevant and significant change of facts or circumstances including the inclusion of the applicant in a witness protection program;
- (c) persons or entities that have been designated by mistake for having the same or similar name as a designated person;
- (d) the death, dissolution or liquidation of a designated or specified entity; or
- (e) any other circumstance which would show that the basis for designation no longer exists.

(7) Where the Committee recommends to the Attorney General for the deletion of the name of an entity appearing on a sanctions list, upon satisfaction the Attorney General may recommend the Minister to issue an Order either for removing or continuing the name of the designated entity from the list.

(8) Where an Order has been issued under subregulation (7) for deletion of the name of entity on a sanctions list, the Director shall, within 24 hours of the order, circulate notice of the deletion to all the concerned.

(9) A notice of deletion circulated under subregulation (8) shall have the effect of revoking any freeze and any other sanction imposed against the entity whose name is deleted from the list and such revocation shall be communicated expeditiously to the respective financial institutions and designated non-financial business or professions that may be holding targeted funds or other assets to respect the de-listing and unfreezing instruction.

(10) Notwithstanding subregulation(5), an entity designated pursuant to resolutions by the United Nations Security Council Resolutions in respect to Proliferation Financing, may make a request for de-listing in accordance with subregulation (11).

(11) A request may be made by a designated entity —

- (a) to the Office of the Ombudsman through the address specified by the Committee; or
- (b) shall be submitted to the Focal Point for De-Listing through the address as may be specified by the Sanctions Committee.

under the provisions of the Act and these regulations.

Humanitarian exemptions

5.(1) An entity which has been designated under PART III-A of the Act, shall not deal with any property in Seychelles unless —

- (a) the property is necessary to cover the basic and necessary expenses or extraordinary expenses of the entity; and
- (b) the entity has applied for and obtained an authorisation in accordance with this regulation.

(2) An entity which requires funds to cover its basic and necessary or extraordinary expenses may make an application for that purpose to the Committee.

(3) The Committee shall consider an application made under subregulation (2) within seven days from the date of receipt of the application and make a preliminary recommendation to the Minister.

(4) Where the applicant is a specified entity, the Minister may, if he or she considers necessary and reasonable the withdrawal of funds for the purpose referred to in subregulation (2), authorise the withdrawal of such funds.

(5) Where the applicant is a designated entity, the Minister shall —

- (a) if he or she finds merit in an application made under subregulation (2); and
- (b) prior to authorising the withdrawal of funds requested under the application,

notify the Committee of the application and request the Committee to submit to him or her its recommendations on the matter.

(6) The Minister may, within 10 days from the date of notification of the Committee under subregulation (5) and in the absence of negative recommendations from the Committee, authorise the withdrawal of such funds as he or she considers necessary and reasonable to cover the basic and necessary expenses of the entity.

(7) Where an application is for the withdrawal of funds to cover extraordinary expenses of a designated entity, the Minister may grant an authorisation for the withdrawal of such funds as he or she considers necessary and reasonable for that purpose only with the prior written approval of the Committee.

(8) For the purposes of this regulation “basic and necessary expenses” includes —

- (a) monthly family expenses, payments for foods, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges;
- (b) reasonable professional fees and reimbursement of expenses related to the provision of legal services; and
- (c) fees or service charges incurred for the routine holding or maintenance of frozen funds or other property;

- (d) the exemptions provided under United National Security Council Resolutions 1718 and 2231.

Addition of interest or other earnings to the frozen accounts

6. Where an account has frozen under the provisions of the Act in pursuance of the United Nations Security Council Resolution 1718 of 2231, the interests or other earnings accrued on those account or payments due under contracts, agreements or obligations that arose prior to the date on which those accounts became subject to the provisions of the United Nations Security Council Resolution 1718 of 2231, such interest or other earnings and payments shall be included in the frozen accounts and the accrued interest or the earnings shall also continue to be frozen.

Payments by a designated entity

7. Any freezing action taken in pursuance of United national Security Council Resolution 1737 and continued by Resolution 2231, or taken pursuant to Resolution 2231, shall not prevent a designated person or entity from making any payment due under a contract entered into prior to the listing of such person or entity subject to the following —

- (a) it has been determined that the contract is not related to any of the prohibited items, materials, equipment, goods, technologies, assistance, training, financial assistance, investment, brokering or services referred to in United national Security Council Resolution 2231 and any future successor resolutions;
- (b) it has determined that the payment is not directly or indirectly received by a person or entity subject to the measures in paragraph 6 of Annex B to United national Security Council Resolution 2231; and
- (c) it has been submitted prior notification to the Security Council of the intention to make or receive such payments or to authorise, where appropriate, the unfreezing of funds, other financial assets or economic resources for this purpose, ten working days prior to such authorisation,

MADE this 5th day of March, 2021.

**ERROL FONSEKA
MINISTER OF INTERNAL AFFAIRS**

S.I. 22 of 2021**PREVENTION OF TERRORISM ACT***(Act 7 of 2004)***Prevention of Terrorism (Implementation of United Nations Security Council Resolutions on Suppression of Terrorism) (Amendment) Regulations, 2021**

In exercise of the powers conferred by section 42(2) of the Prevention of Terrorism Act, 2004 (Cap. 179), the Minister responsible for Internal Affairs makes the following regulations —

Citation

1. These regulations may be cited as the Prevention of Terrorism (Implementation of United Nations Security Council Resolutions on Suppression of Terrorism) (Amendment) Regulations, 2021.

Amendments to S.I. 39 of 2015

2. The Prevention of Terrorism (Implementation of United Nations Security Council Resolutions on Suppression of Terrorism) Regulations (hereinafter referred to as the principal regulations) are amended as follows —

- (a) in regulation 2 of the principal regulations —
 - (i) by repealing paragraph (2) and therefor substituting the following paragraph —

‘(2) “AML Act” means the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020);’;
 - (ii) in paragraph (3), by repealing the words “Financing of”;
 - (iii) by repealing paragraph (16) and therefor substituting the following paragraph —

'(16) "property" shall have the same meaning assigned to it in the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020);';

- (b) in regulation 4(1) of the principal regulations, repeal the words "Financing of";
- (c) in regulation 5 (1) of the principal regulations —
 - (i) in paragraph (a) insert the figures ",1540" after the figures "1373";
 - (ii) in paragraph (b), repeal the words "Financing of";
 - (iii) in paragraph (d), repeal the words "advise the National Anti-Money Laundering Committee and the Financial Intelligence Unit" and substitute therefor the words "coordinate and advise the National Anti-Money Laundering and Countering the Financing of Terrorism Committee established under section 6 of the AML Act and the Financial Intelligence Unit on financing of terrorism matters";
 - (iv) paragraph (e) shall be re-numbered as paragraph (g) and before the paragraph (g) so renumbered, the following paragraphs shall be inserted —
 - "(e) to identify the persons or entities for designation as a competent authority, based on the designation procedures and standard forms of listing as adopted in UNSCR 1267/1989 (Al Qaida) and 1988 United Nations Sanctions Regimes; to identify the persons and entities for designation that meet the criteria for designation as set forth in UNSCR 1373 as put forth by the Committee or after examining and giving effect to, if appropriate, the request of another country;";

- (d) regulation 6 of the principal regulations is amended by inserting sub-regulations (3) to (5) after subregulation (2) —
- “(3) The Committee shall meet at least once in a quarter.
- (4) While identifying a person or entity for designation under sub-regulation 5 (1) (e), the Committee shall consider all the evidence available to the Committee, or solicit any information from the competent authorities which may be necessary to identify the persons and entities, based on a standard of proof of reasonable grounds to arrive at the conclusion that a person or entity shall be designated and the proposal for designations shall not require the existence of any criminal proceeding and the Committee shall not be required to consider any other standard of proof in arriving to a decision for designation.
- (5) Every competent authority shall provide all the relevant information as much as possible on a proposed name for identification and necessary information sought for by the Committee under sub-regulation (4) without any delay.
- (6) Notwithstanding anything in sub-regulation (4), the Committee shall have the power to operate *ex parte* in respect of a person or an entity, who has been identified and the proposal for designation of such person or the entity is under consideration of the Committee.”;
- (e) in regulation 10 of the principal regulations —
- (i) in subregulation (4) by repealing the words “to advise the Attorney General to recommend” and substitute therefor the words “to advise the Attorney General to promptly recommend”;
- (ii) by inserting subregulation (5) after subregulation (4)—
- “(5) While requesting any other country to give effect to the freezing mechanisms against the persons

designated under section 3 of the Act, all necessary information relating to the identification and supporting information for designation of the person or the entity shall be provided to the requesting country.”;

(f) regulation 13 of the principal regulations is amended —

(i) by inserting after subregulation (1), the following subregulations —

“(1A) Every person and legal person with in the Republic shall freeze the funds or other assets of the designated persons or entities, without any delay and prior notice.

(1B) Freezing funds or other assets of the designated persons or entities under subregulations (1A) shall extend to —

- (a) all funds or other assets that are owned or controlled by the designated person or entity and shall not be limited to the funds or other assets related to a particular terrorist act or plot or threat;
- (b) funds or other assets that are wholly or jointly owned or controlled, directly or indirectly by the designated persons or entities;
- (c) funds or other assets derived or generated from funds or other assets owned or controlled directly or indirectly by the designated persons or entities; and
- (d) funds or other assets of the persons and entities acting on behalf of, or at the

direction of, designated persons or entities.

- (ii) by inserting subregulation (3), after subregulations (2) —

“(3) Any person, who is a citizen of Seychelles or any other person or entity within the jurisdiction of the Republic shall not make available any funds or other assets, economic resources or financial or other related services directly or indirectly, wholly or jointly, for the benefit of designated persons and entities; entities owned or controlled directly or indirectly by the designated persons or entities and persons and entities acting on behalf of, or at the direction of, designated persons or entities, unless licensed, authorised or otherwise notified in accordance with the United Nations Security Council Resolutions.

- (g) in regulation 14 of the principal regulations —

(i) in subregulation (3), by repealing the words “section 10(1) or section 11” and substitute therefore the words “section 48”;

(ii) in subregulation (4), after the words “Financial Intelligence Unit”, insert the words “ and to the Chairperson of the Committee”;

- (h) after regulation 21 of the principal regulations, the following regulation shall be inserted —

Protection of bonafide third parties for the action taken in good faith.

21A. No bona fide third party shall be prosecuted for any action taken in good faith for discharging his obligations and duties under the provisions of these regulations.

- (i) after regulation 23 of the principal regulations, the following regulation shall be inserted —

Administrative sanctions

24. If any reporting entity or any other entity under the AML Act fails to comply with the provisions of the Act or these regulations, the supervisory authorities of the respective reporting entity or other entity may impose administrative sanctions provided under the AML Act.

MADE this 5th day of March, 2021.

**ERROL FONSEKA
MINISTER OF INTERNAL AFFAIRS**

S.I. 21 of 2021**PREVENTION OF TERRORISM ACT***(Act 7 of 2004)***Prevention of proliferation financing Regulations, 2021**

In exercise of the powers conferred by section 20 E of the Prevention of Terrorism Act, 2004 (Cap. 179), the Minister responsible for Internal Affairs makes the following regulations —

Citation

1. These regulations may be cited as the Prevention of Proliferation Financing Regulations, 2021.

Definitions

2. For the purposes of these regulations the definitions defined in the Act and the Prevention of Terrorism (Implementation of United Nations Security Council Resolutions on Suppression of Terrorism) Regulations, 2015, shall apply mutatis mutandis to these regulations.

Designation and listing of persons or entities involved in proliferation financing

3. For the purposes of designation and listing of persons or entities under these regulations, the procedures prescribed under the Prevention of Terrorism (Implementation of United Nations Security Council Resolutions on Suppression of Terrorism) Regulations, 2015, shall be applied mutatis mutandis under these regulations.

De-listing of designated and specified entities

4.(1) The Committee shall review the designation list made under regulation 3, annually to consider whether there are still reasonable grounds, for any Order in relation to each specified entity.

(2) The Committee shall, if satisfied that there exist no reasonable grounds for any Order in relation to a specified entity to continue in the list,

advice the Attorney-General to make an appropriate recommendation to the Minister.

(3) A specified entity may apply to the Attorney-General seeking revocation of the order made to list the entity as a designated entity.

(4) The Attorney-General may, on receipt of an application may refer the application to the Committee for its examination and report.

(5) A designated entity may also make an application to the Committee for de-listing.

(6) An application submitted to the Attorney-General or to the Committee, may be made on the following grounds —

- (a) mistaken identity;
- (b) relevant and significant change of facts or circumstances including the inclusion of the applicant in a witness protection program;
- (c) persons or entities that have been designated by mistake for having the same or similar name as a designated person;
- (d) the death, dissolution or liquidation of a designated or specified entity; or
- (e) any other circumstance which would show that the basis for designation no longer exists.

(7) Where the Committee recommends to the Attorney General for the deletion of the name of an entity appearing on a sanctions list, upon satisfaction the Attorney General may recommend the Minister to issue an Order either for removing or continuing the name of the designated entity from the list.

(8) Where an Order has been issued under subregulation (7) for deletion of the name of entity on a sanctions list, the Director shall, within 24 hours of the order, circulate notice of the deletion to all the concerned.

(9) A notice of deletion circulated under subregulation (8) shall have the effect of revoking any freeze and any other sanction imposed against the entity whose name is deleted from the list and such revocation shall be communicated expeditiously to the respective financial institutions and designated non-financial business or professions that may be holding targeted funds or other assets to respect the de-listing and unfreezing instruction.

(10) Notwithstanding subregulation(5), an entity designated pursuant to resolutions by the United Nations Security Council Resolutions in respect to Proliferation Financing, may make a request for de-listing in accordance with subregulation (11).

(11) A request may be made by a designated entity —

- (a) to the Office of the Ombudsman through the address specified by the Committee; or
- (b) shall be submitted to the Focal Point for De-Listing through the address as may be specified by the Sanctions Committee.

under the provisions of the Act and these regulations.

Humanitarian exemptions

5.(1) An entity which has been designated under PART III-A of the Act, shall not deal with any property in Seychelles unless —

- (a) the property is necessary to cover the basic and necessary expenses or extraordinary expenses of the entity; and
- (b) the entity has applied for and obtained an authorisation in accordance with this regulation.

(2) An entity which requires funds to cover its basic and necessary or extraordinary expenses may make an application for that purpose to the Committee.

(3) The Committee shall consider an application made under subregulation (2) within seven days from the date of receipt of the application and make a preliminary recommendation to the Minister.

(4) Where the applicant is a specified entity, the Minister may, if he or she considers necessary and reasonable the withdrawal of funds for the purpose referred to in subregulation (2), authorise the withdrawal of such funds.

(5) Where the applicant is a designated entity, the Minister shall —

- (a) if he or she finds merit in an application made under subregulation (2); and
- (b) prior to authorising the withdrawal of funds requested under the application,

notify the Committee of the application and request the Committee to submit to him or her its recommendations on the matter.

(6) The Minister may, within 10 days from the date of notification of the Committee under subregulation (5) and in the absence of negative recommendations from the Committee, authorise the withdrawal of such funds as he or she considers necessary and reasonable to cover the basic and necessary expenses of the entity.

(7) Where an application is for the withdrawal of funds to cover extraordinary expenses of a designated entity, the Minister may grant an authorisation for the withdrawal of such funds as he or she considers necessary and reasonable for that purpose only with the prior written approval of the Committee.

(8) For the purposes of this regulation “basic and necessary expenses” includes —

- (a) monthly family expenses, payments for foods, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges;
- (b) reasonable professional fees and reimbursement of expenses related to the provision of legal services; and
- (c) fees or service charges incurred for the routine holding or maintenance of frozen funds or other property;

- (d) the exemptions provided under United National Security Council Resolutions 1718 and 2231.

Addition of interest or other earnings to the frozen accounts

6. Where an account has frozen under the provisions of the Act in pursuance of the United Nations Security Council Resolution 1718 of 2231, the interests or other earnings accrued on those account or payments due under contracts, agreements or obligations that arose prior to the date on which those accounts became subject to the provisions of the United Nations Security Council Resolution 1718 of 2231, such interest or other earnings and payments shall be included in the frozen accounts and the accrued interest or the earnings shall also continue to be frozen.

Payments by a designated entity

7. Any freezing action taken in pursuance of United national Security Council Resolution 1737 and continued by Resolution 2231, or taken pursuant to Resolution 2231, shall not prevent a designated person or entity from making any payment due under a contract entered into prior to the listing of such person or entity subject to the following —

- (a) it has been determined that the contract is not related to any of the prohibited items, materials, equipment, goods, technologies, assistance, training, financial assistance, investment, brokering or services referred to in United national Security Council Resolution 2231 and any future successor resolutions;
- (b) it has determined that the payment is not directly or indirectly received by a person or entity subject to the measures in paragraph 6 of Annex B to United national Security Council Resolution 2231; and
- (c) it has been submitted prior notification to the Security Council of the intention to make or receive such payments or to authorise, where appropriate, the unfreezing of funds, other financial assets or economic resources for this purpose, ten working days prior to such authorisation,

MADE this 5th day of March, 2021.

**ERROL FONSEKA
MINISTER OF INTERNAL AFFAIRS**



**ANTI-MONEY LAUNDERING AND COUNTERING THE
FINANCING OF TERRORISM (AMENDMENT) ACT, 2021**

(Act 7 of 2021)



I assent

A handwritten signature in black ink, appearing to read "Wavel".

Wavel Ramkalawan
President

5th March, 2021

AN ACT to amend the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020).

ENACTED by the President and the National Assembly.

Short title

1. This Act may be cited as the Anti-Money Laundering and Countering the Financing of Terrorism (Amendment) Act, 2021.

Amendments to Act 5 of 2020

2. The Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020, (hereinafter referred to as the principal Act), is hereby amended as follows —

(a) in section 2 of the principal Act, —

(i) after the definition of “Committee”, the following definition shall be added —

‘ “consolidated supervision” means supervision of the financial group by a regulatory body on the basis of the totality of its business, wherever conducted;’;

(ii) after the definition of “Court of Appeal”, the following definition shall be added —

‘ “cross border wire transfer” means any wire transfer where the ordering financial institution and beneficiary financial institution are located in different countries, and any chain of wire transfers in which at least one of the financial institutions involved is operating in a different country;’;

(iii) after the definition of “Director”, the following definition shall be added —

‘ “domestic wire transfer” means any wire transfer where the ordering financial institution and beneficiary financial institution are operating in the Republic;’;

(iv) after the definition of “monetary instruments”, the following definition shall be added —

‘ “money or value transfer services provider or MVTS provider” means a body corporate licensed by the Central Bank of Seychelles to carry on the business of money or value transfer services;’;

- (v) after the definition “offence”, the following definitions shall be added —

‘ “originator” means the account holder who authorises the wire transfer from his account, or where there is no account, the person who places the order with the ordering financial institution to perform the wire transfer;

“payable-through account” means a correspondent account that is used directly by third parties to transact business on their own behalf;’;

- (vi) after the definition of “virtual asset”, the following definition shall be added —

‘ “wire transfer” means any transaction carried out on behalf of an originator through a financial institution by electronic means with a view to making an amount of funds available to a beneficiary person at a beneficiary financial institution, irrespective of whether the originator and the beneficiary are the same person;’;

- (b) Section 3 of the principal Act is hereby amended —

- (i) by repealing subsection (1) and substituting therefor the following subsection —

“3.(1) A person is guilty of money laundering if —

(A) he or she directly or indirectly acquires property from the proceeds of criminal conduct;

(B) knowing or believing that property is or represents the benefit of criminal conduct or being reckless as to whether the property is or represents such

benefit, the person, without lawful authority or excuse (the proof of which shall lie on the person) —

- (a) converts, transfers or handles the property, or removes the property from the Republic;
- (b) conceals or disguises the true nature, source, location, disposition, movement or ownership of the property or any rights associated with the property; or
- (c) acquires, possesses or uses the property.”;

(ii) by inserting after subsection (13), the following subsection —

“(14) The offence of money laundering shall be an extraditable offence for the purposes of the Extradition Act (Cap.78).”;

(c) Section 5 of the principal Act is hereby amended by repealing the word “Currency” in the marginal note and substituting therefor the word “Cash”;

(d) Section 7(1) of the principal Act is hereby amended —

(i) in paragraph (e), after the words “national risk assessments” the following shall be inserted —

“and internationally accepted standards of best practices”;

(ii) in paragraph (l), repeal the word “and”;

- (iii) after paragraph (m), the following paragraphs shall be inserted —
- “(n) fostering cooperation and coordination between relevant authorities to ensure the compatibility of anti-money laundering and countering the financing of terrorism requirements with data protection and privacy rules and any other similar provisions;
 - (o) ensuring cooperation and coordination amongst relevant authorities in combating the financing of proliferation of weapons of mass destruction;
 - (p) coordinating with the relevant authorities to maintain comprehensive statistics on matters relevant to the effectiveness and efficiency of their anti-money laundering and countering the financing of terrorism systems; and
 - (q) fostering and enhancing partnership between stakeholders, through the provision of guidance and feedback, to support the application of national measures to combat money laundering and terrorism financing.”;
- (e) Section 27 (1) (g) of the principal Act is amended by repealing the words “clause (d) for a further period of seven days” and substituting therefor the words “clause (e) for a further period of ten days”;
- (f) Section 28 of the principal Act is amended by inserting after subsection (6), the following subsections —
- “(7) The FIU may impose administrative sanctions referred to in section 60(3) on a reporting entity to whom this Act applies if satisfied that the reporting entity has failed to fully comply with a lawful request for information made

under subsection (1) or to a directive issued under section 27(1)(d) or (e).

(8) A reporting entity shall take all necessary measures to ensure the accuracy of the information submitted to the FIU under subsection (1) or to comply with a directive issued under section 27(1)(d) or (e).

(9) A reporting entity which intentionally fails to provide the FIU with accurate information under subsection (1) or to comply with a directive issued under section 27(1)(d) or (e), commits an offence and is liable on conviction to a fine not exceeding SCR50,000.”;

- (g) The principal Act is amended, by inserting after section 30, the following section —

Designation of Non-Profit Organisations

“**30A.**(1) The FIU shall, following the conduct of a risk assessment of the NPO sector, in consultation with the Registrar and the Committee, determine the appropriate risk levels for the purpose of designating any NPO as a high-risk NPO, through a directive.

(2) Upon review of the risk assessment referred to in subsection (1) and on deriving the updated risk levels, if a designated NPO is no longer considered as a high-risk NPO, the FIU shall notify the said NPO accordingly.

(3) The list of designated NPOs shall be confidential and shall not be accessible to the general public.

(4) The FIU may impose administrative sanctions referred to in section 60(3) on the NPOs to whom this section applies.

(5) Any NPO aggrieved by the decision of the FIU under subsection (4) may appeal to the Appeals Board under section 62, as if it is a reporting entity.”;

- (h) Section 41 of the principal Act is hereby amended by repealing subsection (3) and substituting therefor the following subsection —

“(3) Without limiting the generality of subsection (1), a reporting entity shall, proportionate to risk, apply enhanced customer due diligence measures and enhanced ongoing monitoring in respect of business relationships and transactions with legal and natural persons from countries which do not apply or fully apply the Financial Action Task Force Recommendations.”;

- (i) Section 45 of the principal Act is hereby amended —

(I) in subsection (2) —

(a) by repealing the words “reporting authority” and substituting therefor the words “reporting entity”;

(b) in paragraph (b), by repealing the words “information traceable” and substituting therefor the words “information that is fully traceable”;

(II) by repealing subsections (3) and (4) and substituting therefor the following subsections —

“(3) The provisions of subsection (1) and (2) shall not apply to any transfer that flows from a transaction carried out using a credit, debit or prepaid card for the purchase of goods or services as long as the credit, debit or prepaid card number accompanies all transfers flowing from the transaction.

(4) The provisions of subsections (1) and (2) shall not apply to transfers and settlements between financial institutions, where both the originator person

and the beneficiary person are financial institutions acting on their own behalf.”;

- (III) in subsection 5(d), repeal the word “affected” and therefor substitute the word “effected” and delete the word “with”;
- (IV) in subsection (6), repeal paragraphs (a) and (b) and therefor substitute the following paragraphs —
- “(a) ensure that the required originator and beneficiary information relating to a domestic wire transfer is retained with the transfer;
- (b) ensure that the required originator and beneficiary information relating to a cross-border wire transfer is retained with the transfer.”;
- (V) by repealing subsection (7) and therefor substituting the following subsection —
- “(7) Every reporting entity shall take reasonable measures, which may include post-event monitoring or real-time monitoring where feasible, to identify any wire transfer which may lack the information required under subsections (1) and (2).”;
- (VI) by repealing subsection (8) and therefor substituting the following subsection —
- “(8) In respect of any transfer, which lacks information required under subsections (1) and (2), reporting entities processing an intermediary element of wire transfer or receiving a wire transfer, shall apply risk-based policies and procedures to determine whether to reject, suspend or execute the cross-border or domestic wire transfer and take appropriate follow-up actions.”;
- (VII) by inserting after subsection (8) the following subsections—

“(9) MVTIS providers shall comply with all of the relevant requirements of this section in the countries in which they operate directly or through their agents.

(10) An MVTIS provider that controls both the ordering and the beneficiary side of a wire transfer shall—

- (a) take into account all the information from both the ordering and beneficiary sides in order to determine whether a suspicious transaction report under section 48 is to be filed; and
 - (b) file a suspicious transaction report in any country affected by the suspicious wire transfer and make relevant transaction information available to the FIU in a timely manner.”;
- (j) The principal Act is amended, by inserting after section 45, the following section —

Retention of records

45A. Where technical limitations prevent the required originator or beneficiary information accompanying a cross-border wire transfer from remaining with a related domestic wire transfer, the intermediary financial institution shall be required to keep a record of all the information received from the ordering financial institution or another intermediary financial institution for at least 7 years, as required under section 47.”;

- (k) Section 48 (1) (a) of the principal Act is hereby amended by repealing the word “service” and therefor substituting the word “activity”;
- (l) in section 50(1) of the principal Act —

- (a) in paragraph (e), repeal the words “production order;” and therefor substitute the words “production order; or”;
- (b) by repealing paragraphs (f) and (g) and substitute therefor the following —

“(f) an investigation has commenced concerning the circumstances that gave rise to the suspicious transaction report, the warrant or the production order,

makes any disclosure, commits an offence and is liable on conviction to imprisonment up to six months or to a fine not exceeding SCR200,000 or to both.”;

- (m) The principal Act is amended, by inserting after section 53, the following section —

Overriding of confidentiality

“53A. A reporting entity shall comply with the requirements of this Act notwithstanding any obligation as to the confidentiality or other restrictions on the disclosure of information imposed by any written law or otherwise.”;

- (n) Section 58 of the principal Act is hereby amended —
 - (i) in subsection (2), by repealing the word “and” in paragraph (a), by removing the full stop after paragraph (b) and inserting “; and”, and by inserting the following paragraph after paragraph (b) —

“(c) the application of consolidated supervision to financial institutions for the purposes of anti-money laundering and countering the financing of terrorism.”;
 - (ii) by inserting after subsection (8), the following subsection —

“(9) Every reporting entity shall apply risk-based counter measures against any country when called upon to do so by the FIU, its supervisory authority or any law enforcement agency, as communicated from time to time.”;

- (o) Section 60 (3) (d) of the principal Act is hereby amended —
- (i) by inserting the words “or registration authority” after the words “licencing authority”;
 - (ii) by inserting the words “or registration” after the words “suspend the licence”;
- (p) The principal Act is amended, by inserting after section 63, the following section —

Written memorandum of understanding between FIU and law enforcement agencies.

“**63A.** For the purposes of promoting and supporting intelligence sharing between the FIU and law enforcement agencies, the FIU and law enforcement agencies shall enter into written memoranda of understanding which shall provide for sharing of information and cooperation between them or any other information or support as may be prescribed by regulations.”;

- (q) Section 67(1)(d) is hereby amended by repealing the word “FCIU” and thereby substituting the words “law enforcement”;
- (r) The principal Act is amended, by inserting, after section 69, the following section —

Ex-Parte Restraint Order

“**69A.(1)** Notwithstanding anything in sections 68 and 69, the Attorney General may apply for a restraint order ex parte

where proceedings have not been initiated in Seychelles against a person for criminal conduct.

(2) Where a restraint order is made on the ex parte application, the Attorney General shall inform any person identifiable as affected by the order of both the existence of the order and the person's right to apply to seek discharge or variation of the order pursuant to subsection 69(6).”;

- (s) Section 74 (1) of the principal Act is hereby amended by repealing the words “a person within the jurisdiction” and therefor substituting the words “a person at or in the vicinity of any port or airport or within the limit of the territorial sea as defined in the Maritime Zones Act” and repealing the words “and any vehicle belonging to him or her, or in which he or she was found or in the vicinity” and therefor substituting the words “and any vehicle or vessel belonging to him or her, or in which, or in the vicinity of which, he or she was found”;
- (t) The **FIRST SCHEDULE** of the principal Act is hereby amended —
- (i) in PART A, by inserting the words “excluding the Central Bank of Seychelles” after the words “National Payment System Act”;
- (ii) in PART B, —
- (A) by repealing the words “A licensee under the Mutual Fund and Hedge Fund Act” and substituting therefor the following words “A Fund Administrator licensed under the Mutual Fund and Hedge Fund Act;
- (B) by repealing the words “A licensee under the Securities Act” and substituting therefor the following words “A licensee under the Securities

Act, except an investment advisor's representative or a securities dealer's representative;”;

(iii) in PART C, by repealing serial number 9 and entry thereunder and substituting therefor the following entry —

“9. A person who, by way of business invests, administers or manages funds or money on behalf of third parties.”;

(u) The **THIRD SCHEDULE** of the principal Act is hereby amended —

(i) by repealing serial number 2 and entry thereunder and substituting therefor the following entry —

“2. REPORTING THRESHOLD APPLICABLE TO WIRE TRANSFERS

Every financial institution that sends domestically or cross-border or receives cross-border wire transfers, including electronic fund transfers, shall report all wire transfers of SCR50,000 or more of the equivalent money in the currency of other countries.”;

(ii) in serial number 4, insert the words “,including banks acting as Bureau de Change for forex trading in respect of persons who are not their customers” after the words “Every Bureau de Change”;

(v) The **FIFTH SCHEDULE** of the principal Act is hereby amended by repealing the words “Anti-Money Laundering and Countering the Funding of Terrorism Act” and substituting therefor the words “Anti-Money Laundering and Countering the Financing of Terrorism Act”.

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 2nd March, 2021.



Mrs. Tania Isaac
Clerk to the National Assembly



EXTRADITION (AMENDMENT) ACT, 2021

(Act 4 of 2021)



I assent

A handwritten signature in black ink, appearing to read "Wavel".

Wavel Ramkalawan
President

5th March, 2021

AN ACT to amend the Extradition Act (*Cap. 78*).

ENACTED by the President and the National Assembly.

Short title and commencement

1. This Act may be cited as the Extradition (Amendment) Act, 2021.

Amendments to Cap. 78

2. The Extradition Act (Cap. 78) is amended as follows —

(a) in section 2, —

(i) after the definition of “Interpol”, the following definition shall be added —

“Minister” means the Minister responsible for legal affairs;’;

(ii) after the definition of “person committed”, the following definition shall be added —

“terrorist financing activities” shall have the meaning assigned to it in section 2 of the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020);’;

(iii) in section 4, after subsection (4), the following subsection shall be added —

“(5) Notwithstanding any other law in force, —

(a) the offence of money laundering under section 3 of the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020);

(b) an offence relating to terrorist financing activities as defined under section 2 of the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020);

(c) an offence relating to terrorist financing activities under section 5 of the Prevention of Terrorism Act (Cap. 179),

shall be extraditable offences for the purposes of this Act.”;

- (iv) in section 17, after subsection (3) the following new section shall be added —

“(4) The Attorney General shall maintain a case management system in manual and electronic form to be known as “Register of Extradition Cases”.”.

- (b) in the First Schedule, after serial number 29, the following serial number and description of the extraditable offence shall be added —

“(30) Offence of money laundering under section 3 of the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020) and an offence relating to terrorist financing activities under section 5 of the Prevention of Terrorism Act (Cap. 179).”.

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 2nd March, 2021.



Mrs. Tania Isaac
Clerk to the National Assembly



PREVENTION OF TERRORISM (AMENDMENT) ACT, 2021

(Act 8 of 2021)



I assent

A handwritten signature in black ink, appearing to read 'Wavel'.

Wavel Ramkalawan
President

5th March, 2021

AN ACT to amend the Prevention of Terrorism Act (Cap. 179).

ENACTED by the President and the National Assembly.

Short title

1. This Act may be cited as the Prevention of Terrorism (Amendment) Act, 2021.

Amendments to Cap. 179

2. The Prevention of Terrorism Act (hereinafter referred to as the principal Act) is amended as follows —

(a) in section 2 of the principal Act, —

(i) by repealing the definition “financial institution” and therefor substituting the following definitions —

‘ “financial institution” shall have the same meaning assigned to it in the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020);

“funds” shall have the same meaning assigned to it in the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020);’;

(ii) after the definition of “operator”, the following definition shall be added —

‘ “person” and “legal person” shall have the same meanings assigned to them in the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020);’;

(iii) by repealing the definition of “property” and therefor substituting the following definition —

‘ “property” shall have the same meaning assigned to it in the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020);’;

(iv) after the definition of “specified entity”, the following definition shall be added —

‘ “terrorist” means a natural person who —

(a) commits or attempts to commit terrorist acts by any means, directly or indirectly;

- (b) (a) participates as an accomplice in terrorist acts;
 - (c) organises or directs others to commit terrorist acts;
 - (d) contributes to the commission of terrorist acts by a group of persons acting with a common purpose where the contribution is made intentionally and with the aim of furthering the terrorist act or with the knowledge of the intention of the group to commit a terrorist act;”;
- (v) in the definition of “terrorist acts”, after paragraph (e), the following paragraph shall be inserted —
- “(ea) involves any of the following activities —
- (i) any offence relating to aircraft hijacking;
 - (ii) any offence relating to aviation sabotage;
 - (iii) any offence against the safety of maritime navigation;
 - (iv) any offence against the safety of fixed platforms located on the continental shelf;
 - (v) any criminal acts against internationally protected persons including diplomats and similar persons;
 - (vi) unlawfully taking possession of nuclear material;
 - (vii) any activities in relation to hostage taking;
 - (viii) any offence relating to terrorist bombings or bomb threats or hoax information and use of aircraft as a weapon; and
 - (ix) funding terrorist acts, terrorists and terrorist organisations;”;

- (b) in section 5 of the principal Act, after the words “terrorist act”, the following words shall be inserted —
- “even in the absence of a link to a specific terrorist act or acts”;
- (c) in section 6 of the principal Act, —
- (i) after the words “other related services”, the words “, intending or knowing that” shall be inserted;
- (ii) in paragraph (a), by repealing the words “intending that”;
- (iii) in paragraph (b) by repealing the words “knowing that”;
- (d) in section 15 of the principal Act —
- (i) after the words “who in Seychelles”, insert the words “or who travels to any foreign State”;
- (ii) in paragraph (a), —
- (a) after the words “of any act”, insert the words “in Seychelles or”;
- (b) after subparagraph (iii), the following subparagraph shall be added —
- “(iv) for the purpose of perpetration, planning or preparation of, or participation in any terrorist act;”;
- (e) after section 20 of the principal Act, the following section shall be added —

Punishment for offence by legal persons

20A.(1) Every legal person who commits an offence under this Act is guilty of an offence and shall on conviction, be liable to pay penalty of not less than SCR500,000.

(2) Every Director and Senior Manager of a legal person who is holding the position on the date of commission of the offence shall be responsible for any offence committed by the legal person under this Act.

(f) after PART III, the following PART shall be inserted —

“PART-III A-PROLIFERATION OF WEAPONS OF MASS DESTRUCTION AND ITS FINANCING

Definitions

20B. In this Part —

“biological weapons” are —

- (i) microbial or other biological agents, or toxins whatever their origin or method of production, of types and in quantities that have no justification for prophylactic, protective or other peaceful purposes; and
- (ii) weapons, equipment or delivery systems specially designed to use such agents or toxins for hostile purposes or in armed conflict;

“chemical weapons” means —

- (i) toxic chemicals and their precursors, except where intended for —
 - (a) industrial, agricultural, research, medical, pharmaceutical or other peaceful purposes;
 - (b) protective purposes, namely those purposes directly related to protection against toxic chemicals and to protection against chemical weapons;
 - (c) military purposes not connected with the use of chemical weapons and not dependent on

the use of the toxic properties of chemicals as a method of warfare; or

(d) law enforcement including domestic riot control purposes,

as long as the types and quantities are consistent with such purposes;

(ii) the munitions and devices, specifically designed to cause death or other harm through the toxic properties of those toxic chemicals specified in paragraph (i), which would be released as a result of the employment of such munitions and devices; and

(iii) any equipment specifically designed for use directly in connection with the employment of munitions and devices specified in paragraph (ii),

together or separately;

“nuclear weapon” means any nuclear weapon or other nuclear explosive device as may be determined by the Minister by notice published in the Gazette, whose determination in the matter shall be final;

“person” shall have the same meaning assigned to it in the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020);

“proliferation financing” means the act of providing funds or financial assistance or service, which may, in whole or in part, be used for the manufacture, acquisition, possession, development, export, trans-

shipment, brokering, transport, transfer, stockpiling or use of nuclear, chemical or biological weapons and their means of delivery and related materials (including both technologies and dual use goods used for non-legitimate purposes), in contravention of the Laws of Seychelles, where applicable, and international obligations;

“weapons of mass destruction” means any biological, chemical or nuclear weapons.

Offence of proliferation financing

20C.(1) No person shall engage in proliferation financing.

(2) Any person who contravenes subsection (1),

- (a) in case of a natural person, commits an offence and is liable on conviction to imprisonment for a term not exceeding 20 years and to a fine of not less than SCR500,000;
- (b) in case of a body corporate, a fine not less than SCR1000,000.

Enforcement of United Nations Security Council Resolutions in the Republic.

20D.(1) In order to enforce compliance in the Republic with United Nations Security Council Resolutions, adopted under Chapter VII of the Charter of the United Nations, relating to terrorism and terrorist financing and relating to the prevention,

suppression and disruption of proliferation of weapons of mass destruction and its financing, the procedures under subsections (2) to (4) of this section, which are in addition to and not in substitution of any other process of detention, freezing or forfeiture under this Act, a restraint order under section 69 of the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020, or a forfeiture order or a pecuniary penalty order under that Act or any order that might be made under the provisions of the Proceeds of Crimes (Civil Confiscation) Act (Cap. 298) shall apply.

(2) All natural and non-natural persons within Seychelles shall without delay and without prior notice freeze the property of designated entities.

(3) Without prejudice to the generality of the foregoing, the freezing obligation shall extend to —

- (i) all property that is owned or controlled by the designated entity and not just that which can be tied to a particular terrorist act, plot or threat or to a particular act, plot or threat of proliferation;
- (ii) property that is wholly or jointly owned or controlled directly or indirectly by a designated entity;
- (iii) property derived or generated from property owned or controlled directly or indirectly by a designated entity; and
- (iv) property of a person or entity acting on behalf of or at the direction of a designated entity.

(4) A person who without lawful excuse

fails or refuses to freeze property without delay as provided in subsection (2) commits an offence and, if a natural person, is liable on conviction to imprisonment for a term not exceeding 20 years or to a fine not exceeding SCR1,000,000 or to both and if a non-natural person, to a fine not exceeding SCR2,000,000.

Regulations

E.(1) The Minister may by regulations make such provisions as may appear to the Minister to be necessary or expedient for the application and enforcement of this Part and to enforce compliance with United Nations Security Council Resolutions relating to terrorism and terrorist financing and relating to the prevention suppression and disruption of proliferation of weapons of mass destructions and its financing

(2) Where a designation is made under a regulation made under subsection (1), that the named entity is engaged in the financing of proliferation of weapons of mass destructions, that entity shall be deemed with effect from the date of publication of the regulation to have been so engaged.

(3) Any designation made under any regulation made under subsection (1) shall be communicated to all financial institutions and designated non-financial businesses or professions with the guidance, in taking action for freezing such funds or assets, to hold targeted funds or other assets.

(4) Every financial institution and designated non-financial business or profession shall report to its respective supervisory authority of the freezing of any assets or any action taken in compliance with the designation made under regulations issued under subsection (1).

Protection of action taken in good faith

20F. No person shall be prosecuted for any action taken by him or her in good faith for implementing the provisions of this Part against any person.

Compliance by financial institutions and designated non-financial businesses or professions.

20G.(1) Every financial institution and designated non-financial business or profession shall comply with all the requirements under this Part and report the compliance to its respective monitoring supervisory authority designated under the provisions of the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020).

(2) Any financial institution and designated non-financial business or profession which fails to comply with any of the requirements under this Part commits an offence and, if a natural person, is liable on conviction to imprisonment for a term not exceeding 20 years or to a fine not exceeding SCR1,000,000 or to both, and if a non-natural person, to a fine not exceeding SCR2,000,000.

Power to prohibit making funds available to persons in foreign states to commit proliferation financing.

20H.(1) Where the Minister has reasonable grounds to believe that a person outside Seychelles is committing, or is likely to commit, proliferation financing in Seychelles, the Minister may, by Order published in the Gazette prohibit —

- (a) all persons in Seychelles;

- (b) all citizens of Seychelles residing outside Seychelles,

from making funds available to, or for the use or benefit of, the first mentioned person who shall be named in the Order or be identified by reference to a description of persons set out in the Order.

(2) Every person who does any act in contravention of an Order made under subsection (1), commits an offence and shall, on conviction, be liable to imprisonment for a term of not less than 3 years and not exceeding 5 years.”;

- (g) in section 27(3)(a), by inserting the following new subparagraph (iii) after subparagraph (ii) —
 - (iii) a non-Seychellois person;
- (h) in section 35 of the principal Act —
 - (A) in subsection (2) repeal the words “Every financial institution shall report every three months to the Central Bank” and therefor substitute the words “Every person shall report to the Financial Intelligence Unit in accordance with regulations made under this Act”;
 - (B) in subsection (4), repeal the words “Central Bank” occurring at both places and substitute therefor the words “Financial Intelligence Unit”;
- (i) in sections 9(1)(a) and (c), 19(1)(a) and (b) and 37(7)(c) of the principal Act, after the words “terrorist group”, wherever they occur, insert the words “or a terrorist”;

MISCELLANEOUS AMENDMENTS

Amendment to Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020

- (j) Section 55 of the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 is amended by inserting a new subsection (4)

(4) Notwithstanding anything in subsections (1) to (3), the supervisory authorities shall be the monitoring authorities for the purposes of the Prevention of Terrorism Act (Cap.179) and all the reporting entities, and entities covered under this Act, shall comply with all the requirements under the Prevention of Terrorism Act (Cap.179).

Amendment to Cap. 54

- (k) The **Criminal Procedure Code** (Cap. 54) is amended in section 153B,—

- (i) after the definition of “connected offence”, the definition of “Proceeds of an Offence” shall be repealed and the following definition shall be added —

“Proceeds of an Offence” means any property or property of corresponding value that is derived or realized, directly or indirectly, by a person from the commission of a relevant offence;”.

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 5th March, 2021.



Mrs. Tania Isaac
Clerk to the National Assembly

S.I. 22 of 2021**PREVENTION OF TERRORISM ACT***(Act 7 of 2004)***Prevention of Terrorism (Implementation of United Nations Security Council Resolutions on Suppression of Terrorism) (Amendment) Regulations, 2021**

In exercise of the powers conferred by section 42(2) of the Prevention of Terrorism Act, 2004 (Cap. 179), the Minister responsible for Internal Affairs makes the following regulations —

Citation

1. These regulations may be cited as the Prevention of Terrorism (Implementation of United Nations Security Council Resolutions on Suppression of Terrorism) (Amendment) Regulations, 2021.

Amendments to S.I. 39 of 2015

2. The Prevention of Terrorism (Implementation of United Nations Security Council Resolutions on Suppression of Terrorism) Regulations (hereinafter referred to as the principal regulations) are amended as follows —

- (a) in regulation 2 of the principal regulations —
 - (i) by repealing paragraph (2) and therefor substituting the following paragraph —

‘(2) “AML Act” means the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020);’;
 - (ii) in paragraph (3), by repealing the words “Financing of”;
 - (iii) by repealing paragraph (16) and therefor substituting the following paragraph —

'(16) "property" shall have the same meaning assigned to it in the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020);';

- (b) in regulation 4(1) of the principal regulations, repeal the words "Financing of";
- (c) in regulation 5 (1) of the principal regulations —
 - (i) in paragraph (a) insert the figures ",1540" after the figures "1373";
 - (ii) in paragraph (b), repeal the words "Financing of";
 - (iii) in paragraph (d), repeal the words "advise the National Anti-Money Laundering Committee and the Financial Intelligence Unit" and substitute therefor the words "coordinate and advise the National Anti-Money Laundering and Countering the Financing of Terrorism Committee established under section 6 of the AML Act and the Financial Intelligence Unit on financing of terrorism matters";
 - (iv) paragraph (e) shall be re-numbered as paragraph (g) and before the paragraph (g) so renumbered, the following paragraphs shall be inserted —
 - "(e) to identify the persons or entities for designation as a competent authority, based on the designation procedures and standard forms of listing as adopted in UNSCR 1267/1989 (Al Qaida) and 1988 United Nations Sanctions Regimes; to identify the persons and entities for designation that meet the criteria for designation as set forth in UNSCR 1373 as put forth by the Committee or after examining and giving effect to, if appropriate, the request of another country;";

- (d) regulation 6 of the principal regulations is amended by inserting sub-regulations (3) to (5) after subregulation (2) —
- “(3) The Committee shall meet at least once in a quarter.
- (4) While identifying a person or entity for designation under sub-regulation 5 (1) (e), the Committee shall consider all the evidence available to the Committee, or solicit any information from the competent authorities which may be necessary to identify the persons and entities, based on a standard of proof of reasonable grounds to arrive at the conclusion that a person or entity shall be designated and the proposal for designations shall not require the existence of any criminal proceeding and the Committee shall not be required to consider any other standard of proof in arriving to a decision for designation.
- (5) Every competent authority shall provide all the relevant information as much as possible on a proposed name for identification and necessary information sought for by the Committee under sub-regulation (4) without any delay.
- (6) Notwithstanding anything in sub-regulation (4), the Committee shall have the power to operate *ex parte* in respect of a person or an entity, who has been identified and the proposal for designation of such person or the entity is under consideration of the Committee.”;
- (e) in regulation 10 of the principal regulations —
- (i) in subregulation (4) by repealing the words “to advise the Attorney General to recommend” and substitute therefor the words “to advise the Attorney General to promptly recommend”;
- (ii) by inserting subregulation (5) after subregulation (4)—
- “(5) While requesting any other country to give effect to the freezing mechanisms against the persons

designated under section 3 of the Act, all necessary information relating to the identification and supporting information for designation of the person or the entity shall be provided to the requesting country.”;

(f) regulation 13 of the principal regulations is amended —

(i) by inserting after subregulation (1), the following subregulations —

“(1A) Every person and legal person with in the Republic shall freeze the funds or other assets of the designated persons or entities, without any delay and prior notice.

(1B) Freezing funds or other assets of the designated persons or entities under subregulations (1A) shall extend to —

- (a) all funds or other assets that are owned or controlled by the designated person or entity and shall not be limited to the funds or other assets related to a particular terrorist act or plot or threat;
- (b) funds or other assets that are wholly or jointly owned or controlled, directly or indirectly by the designated persons or entities;
- (c) funds or other assets derived or generated from funds or other assets owned or controlled directly or indirectly by the designated persons or entities; and
- (d) funds or other assets of the persons and entities acting on behalf of, or at the

direction of, designated persons or entities.

- (ii) by inserting subregulation (3), after subregulations (2) —

“(3) Any person, who is a citizen of Seychelles or any other person or entity within the jurisdiction of the Republic shall not make available any funds or other assets, economic resources or financial or other related services directly or indirectly, wholly or jointly, for the benefit of designated persons and entities; entities owned or controlled directly or indirectly by the designated persons or entities and persons and entities acting on behalf of, or at the direction of, designated persons or entities, unless licensed, authorised or otherwise notified in accordance with the United Nations Security Council Resolutions.

- (g) in regulation 14 of the principal regulations —

(i) in subregulation (3), by repealing the words “section 10(1) or section 11” and substitute therefore the words “section 48”;

(ii) in subregulation (4), after the words “Financial Intelligence Unit”, insert the words “ and to the Chairperson of the Committee”;

- (h) after regulation 21 of the principal regulations, the following regulation shall be inserted —

Protection of bonafide third parties for the action taken in good faith.

21A. No bona fide third party shall be prosecuted for any action taken in good faith for discharging his obligations and duties under the provisions of these regulations.

- (i) after regulation 23 of the principal regulations, the following regulation shall be inserted —

Administrative sanctions

24. If any reporting entity or any other entity under the AML Act fails to comply with the provisions of the Act or these regulations, the supervisory authorities of the respective reporting entity or other entity may impose administrative sanctions provided under the AML Act.

MADE this 5th day of March, 2021.

**ERROL FONSEKA
MINISTER OF INTERNAL AFFAIRS**



BENEFICIAL OWNERSHIP (AMENDMENT) ACT, 2021

(Act 6 of 2021)



I assent

A handwritten signature in black ink, appearing to read 'Wavel'.

Wavel Ramkalawan
President

5th March, 2021

AN ACT to amend the Beneficial Ownership Act, 2020 (Act 4 of 2020).

ENACTED by the President and the National Assembly.

Citation and commencement

1. This Act may be cited as the Beneficial Ownership (Amendment) Act, 2021.

Amendments to Act 4 of 2020

2. Section 18 of the Beneficial Ownership Act, 2020 is hereby repealed and the following section is substituted with effect from 1st February, 2021 —

“18. Every legal person and legal arrangement, other than extractive companies, through their resident agent shall comply with the provisions of this Act by such date as the Minister, by notice published in the Gazette, may specify.”.

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 2nd March, 2021.



Mrs. Tania Isaac
Clerk to the National Assembly



**MUTUAL ASSISTANCE IN CRIMINAL MATTERS (AMENDMENT)
ACT, 2021**

(Act 5 of 2021)



I assent

A handwritten signature in black ink, appearing to read "Wavel".

Wavel Ramkalawan
President

5th March, 2021

AN ACT to amend the Mutual Assistance in Criminal Matters Act (*Cap. 284*).

ENACTED by the President and the National Assembly.

Short title and commencement

1. This Act may be cited as the Mutual Assistance in Criminal matters (Amendment) Act, 2021.

Amendments to Cap. 284

2. The Mutual Assistance in Criminal Matters Act (Cap.284) is amended as follows —

(a) in section 2, —

(i) for the definition “criminal investigation”, the following definition shall be substituted —

‘ “criminal investigation” means an investigation into criminal matters and institution of the prosecution thereof in such cases where it is believed that an offence has been committed;’;

(ii) in the definition of “criminal matter”, after paragraph (b), the following paragraph shall be added —

“(ba) a matter relating to any offence under section 3 of the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020), to terrorist financing activities as defined under section 2 of the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020), and to terrorist financing activities under section 5 of the Prevention of Terrorism Act (Cap. 179);”;

(iii) after the definition “serious offence”, the following definition shall be added —

‘ “terrorist financing activities” shall have the same meaning assigned to it in section 2 of the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020);’;

(b) in section 6, —

(i) subsection (4) shall be re-numbered as subsection (9);

- (ii) after subsection (3), the following subsections shall be added —

“(4) Notwithstanding any other law in force and subsection (3) of this section, and subject to section 7, any request received from a foreign country shall be processed and disposed of in a time-bound manner.

(5) The Attorney General shall maintain a case management system in manual and electronic form to be known as “Register of Mutual Assistance Cases”.

(6) Subject to section 153 of the Criminal Procedure Code (Cap. 54) and the provisions of any other law, where a request has been received from any foreign country for forfeiture of any property, or property of corresponding value, the provisions of section 153A of the Criminal Procedure Code shall apply and the property shall be forfeited according to the provisions of section 153B and 153C of the Code..

(7) For the purposes of subsection (6), “property of corresponding value” means any other property of the accused equivalent to the value of property involved in the offence, for which forfeiture has been ordered and for all material purposes, the provisions of section 153B (13) shall be applicable, mutatis mutandis, for forfeiture of such property.

(8) Notwithstanding any other law in force, if the confiscated property is directly or indirectly a result of coordinated law enforcement actions by the State or any of its enforcement agencies and a foreign country, the confiscated property or the proceeds of the confiscated property shall be shared with such foreign country in the proportion as may be decided by mutual agreement between the Government of Seychelles and the foreign country.”.

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 2nd March, 2021.



Mrs. Tania Isaac
Clerk to the National Assembly



INTERNATIONAL TRUSTS (AMENDMENT) ACT, 2021

(Act 9 of 2021)



I assent

A handwritten signature in black ink, appearing to read "Wavel".

Wavel Ramkalawan
President

5th March, 2021

AN ACT to amend the International Trusts Act (Cap. 276).

ENACTED by the President and the National Assembly.

Short title

1. This Act may be cited as the International Trusts (Amendment) Act, 2021.

Amendments to Cap. 276

2. The International Trusts Act (Cap.276) (hereinafter referred to as the principal Act) is amended as follows —

(A) by repealing section 29A(1) (a) of the principal Act and substituting therefor the following —

“(a) full name, address, nationality or place of incorporation of each —

(i) trustee;

(ii) beneficiary or class of beneficiaries;

(iii) settlor;

(iv) protector (if any); and

(v) regulated agent and service provider of the trust including, but not limited to, investment advisors, investment managers, accountants or tax advisors of the trust;”;

(B) the principal Act is amended, by inserting after section 33, the following section —

Disclosure by trustees

33A.(1) The trustee of a trust shall disclose its status as a trustee to a financial institution or a designated non-financial business or profession when forming a business relationship or carrying out an occasional transaction in an amount equal to or above the amount prescribed under the Third Schedule to the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020).

(2) For the purposes of subsection (1), the terms “financial institution” and “designated non-financial business or profession” shall have the same meanings assigned to them in the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020).

(3) A trustee who or which contravenes the provisions of subsection (1) shall be liable to a penalty not exceeding USD 5000.”.

3. The provisions of section 29A(1)(a), as amended by this Act, shall be complied with by every trustee within 3 months from the date of commencement of this Act.

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 5th March, 2021.



Mrs. Tania Isaac
Clerk to the National Assembly