

**PROCEEDS OF CRIME (CIVIL CONFISCATION) (AMENDMENT)
BILL, 2017**

(Bill No. 3 of 2017)

OBJECTS AND REASONS

This amendment seeks to strengthen the legislation and the national effort to combat crime, drug traffickers and corruption.

This amendment transfers power into the hands of the police to administer and discharge the duties under the Act which require substantial resources in terms of manpower and infrastructure, that are available in the police force.

It is evident that the local intelligence regarding drug trafficking and other crimes in Seychelles, constitutionally rests with the police as an integral part of their operational mandate and investigation duties to combat crime.

The amendment will allow the FIU to concentrate its efforts and resources to implement the Anti-Money Laundering Act more efficiently in respect of monetary transactions through the banks and the operation of bank accounts, to prevent money laundering.

The Bill also corrects errors in section 2 wherein references to sections are incorrect in some definitions

Dated this 3rd day of December, 2016.

I hereby certify that the attached Bill is a true copy of the full text of the Bill proposed to be introduced.

**Honourable Ahmed Afif
Member of National Assembly**

I hereby certify that the Bill is a true copy of the full text of the Bill proposed by Honourable Ahmed Afif Member of National Assembly.

Dated this 3rd day of December, 2016.

**Jutta Alexis
Acting Clerk National Assembly**

**PROCEEDS OF CRIME (CIVIL CONFISCATION)
(AMENDMENT) BILL, 2017**

(Bill No. 3 of 2017)



A BILL

OF

**AN ACT to amend the Proceeds of Crime (Civil
Confiscation) Act 2008.**

ENACTED by the President and National Assembly.

1. This Act may be cited as the Proceeds of Crime (Civil Confiscation) (Amendment) Act 2017. Short title

2. The Proceeds of Crime (Civil Confiscation) Act 2008 is hereby amended as follows—

- a) Repealing section 2 and substituting therefor the following—

“2. In this Act—

“act” includes an omission;

“applicant” means the Government of Seychelles;

“court” means the Supreme Court;

“the Act” means the Proceeds of Crime (Civil Confiscation) Act, 2008;

“criminal conduct” means the offence committed by a person who—

(i) converts or transfers property knowing or having reason to believe that the property is the proceeds of a crime with the aim of concealing or disguising the illicit origin of that property, or of aiding any person involved in the commission of the offence to evade the legal consequences thereof;

(ii) conceals or disguises the true nature, origin, location, disposition, movement or ownership of the property knowing or having reason to believe that the property is the proceeds of a crime; and

(iii) acquires, possesses or uses property knowing or having reason to believe that the property is the proceeds of a crime.

“benefit from criminal conduct” means any property obtained or received at any time (whether before or after the passing of this Act) by, or as a result of, or in connection with criminal conduct;

“dealing”, in relation to property in the possession or control of a person, includes—

- (a) where a debt is owed to that person, making a payment to any person in reduction of the amount of the debt;
- (b) removing the property from the Republic; and
- (c) in the case of property held for the person by another person, paying or releasing or transferring it to the person or to any other person;

“disposal order” means an order made under section 5.

“interest”, in relation to property, includes a right;

“interim order” means an order under section 3;

"interlocutory order" means an order under section 4;

"Minister" means the Minister responsible for internal affairs;

"officer of Customs" includes a police officer who performs the functions of controlling imports or exports;

"police officer" means a police officer above the rank of inspector;

"property" means currency notes and coins and, excluding bank accounts, all other property, real or personal, heritable or moveable, including choses in action and other intangible or incorporeal property and references to property shall be construed as including references to any interest in property, and includes property outside the Republic where by virtue of its domestic jurisdiction generally, *in rem* or *in personam* or by virtue of an arrangement with any other country or territory, the Court might be in a position to enforce, and/or secure compliance with any order it might make or otherwise exercise jurisdiction in relation to that property and to comply with an arrangement or a request from another country or territory.

"Republic" means the Republic of Seychelles";

"respondent" means a person in respect of whom an application for an

interim order or an interlocutory order has been made or in respect of whom such an order has been made and includes any person who, but for this Act, would become entitled, on the death of the first-mentioned person, to any property to which such an order related being an order that is in force and is in respect of the person;

“specified property” means property the subject of an application to Court or an order made by Court under this Act.

b) Repealing section 4 (9);

c) Repealing section 5 (7) and renumbering the sections that follow (7) to (10).Police for FIU;

d) In section 9 (1) deleting the words “the Director or Deputy Director” and substituting therefor the words “a police officer”;

e) In section 14 (2) (a) deleting the words “and the FIU”;

f) In section 17(1) and (2) deleting the word “FIU” and substituting therefor the word “Government”;

g) In section 23 (1) deleting the words “the Director, the Deputy Director, the FIU Legal Officer, an assets agent or a lawyer who

acts on behalf of the FIU” and substituting therefor “a police officer or a state counsel”; and

h) Adding the following new sections 25 and 26—

“25. All actions pending before the court in which an interim order or an interlocutory order has been made in respect of bank accounts under the Act, shall proceed as an action under the Anti-Money Laundering Act and the bank accounts shall be deemed to have been frozen under the Anti Money Laundering Act and the FIU shall be granted time to file charges against the owners of the bank accounts within a period of 1 month from the coming into force of this Act, failing which the frozen funds shall be released and no further action shall be taken under the Anti Money Laundering Act in respect of the funds in the said bank accounts.

26. Any action or court proceeding commenced prior to the coming into force of this Act shall proceed under the Proceeds of Crime (Civil Confiscation) Act 2008 in force at the time of the aforementioned action or proceedings, save for the

definition of "property" in section 2 of this Act which shall have immediate effect and in respect of which section 25 above applies."