

No. 4 of 2023

VIRGIN ISLANDS

PROCEEDS OF CRIMINAL CONDUCT (AMENDMENT) ACT, 2023

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I ASSENT
(Sgd.) John Rankin CMG,
Governor.
20th March, 2023

VIRGIN ISLANDS

No. 4 of 2023

AN ACT TO AMEND THE PROCEEDS OF CRIMINAL CONDUCT ACT, REVISED EDITION 2020, AND FOR OTHER MATTERS CONNECTED THEREWITH.

[Gazetted 21st March, 2023]

ENACTED by the Legislature of the Virgin Islands as follows:

Short title and commencement

1. (1) This Act may be cited as the Proceeds of Criminal Conduct (Amendment) Act, 2023.

(2) This Act shall come into force on such date as the Minister may, by Notice published in the *Gazette*, appoint.

Section 27 amended

2. Section 27 of the Proceeds of Criminal Conduct Act, Revised Edition 2020 (as amended by No. 11 of 2022), (hereinafter referred to as the “principal Act”) is amended

- (a) in subsection (4), by deleting the words “a fine not exceeding \$150,000 or to a term of imprisonment not exceeding 2 years or both”, and substituting the words “a fine not exceeding \$200,000 or to a term of imprisonment not exceeding 3 years, or both”; and
- (b) in the closing paragraph of subsection (7), by deleting the words “one hundred thousand dollars” and substituting the figure “\$150,000”.

Section 28 amended

3. Section 28 of the principal Act is amended in subsection (8)(b) by deleting the words “14 years” and substituting the words “10 years”.

Section 29 amended

4. Section 29 of the principal Act is amended

- (a) by repealing subsections (2), (3) and (4); and
- (b) in subsection (11)(b), by deleting the figure “500,000” and substituting the figure “\$750,000”.

Section 30 amended

5. Section 30 of the principal Act is amended in subsection (4)(b) by deleting the words “14 years” and substituting the words “10 years”.

Section 30A amended

6. Section 30A of the principal Act is amended in subsection (10)(a) by deleting the figure “\$150,000” and substituting the figure “\$200,000”.

Section 31 amended

7. Section 31 of the principal Act is amended, by inserting after subsection (6), the following new subsection

“(6A) A person does not commit an offence under subsection (1), (2) or (3) if the disclosure of information was made in accordance with information sharing obligations under a financial group’s group-wide programmes against money laundering and terrorist financing as prescribed in section 53A of the Anti-money Laundering and Terrorist Financing Code of Practice, Revised Edition 2020.”.

Section 34B amended

8. Section 34B of the principal Act is amended in subsection (5)
- (a) in paragraph (a), by deleting the figure “\$10,000” and substituting the figure “\$50,000”; and
 - (b) in paragraph (b), by deleting the figure “\$25,000” and substituting the figure “\$100,000”.

New section 35A inserted

9. The principal Act is amended by inserting immediately after section 35, the following new section:

“Account monitoring orders

- 35A. (1) For the purposes of this section
- (a) “financial institution” means a relevant person carrying on relevant business as defined in regulation 2 (1) of the Anti-money Laundering Regulations, Revised Edition 2020; and
 - (b) an account monitoring order is an order of a court that a financial institution specified in an application for the order shall provide information of the description specified in the application to the Agency or a police officer.

(2) The Minister may, by an Order published in the Gazette, provide for a class of persons to cease to be a financial institution for the purposes of this section.

(3) An institution which ceases to be a financial institution for the purposes of this section (whether by virtue of subsection (2) or otherwise) shall continue to be treated as a financial institution for the purposes of any requirement under this section to provide information which relates to a time when the institution was a financial institution.

(4) A court may, on application made to it by the Agency or a police officer, make an account monitoring order if satisfied that

- (a) the order is sought for the purposes of a money laundering investigation;
- (b) the tracing of money laundering property is desirable for the purposes of the investigation; and
- (c) the order will enhance the effectiveness of the investigation.

(5) The application for an account monitoring order shall state that the order is sought against the financial institution specified in the application with respect to information which

- (a) relates to an account or accounts held at the financial institution by the person specified in the application (whether solely or jointly with another person); and
- (b) is of the description so specified.

(6) The application for an account monitoring order may specify information relating to

- (a) all accounts held by the person specified in the application for the order at the financial institution so specified;
- (b) a particular description, or particular descriptions, of accounts so held; or
- (c) a particular account, or particular accounts, so held.

(7) The period specified in an account monitoring order shall not exceed 90 days beginning with the day on which the order is made.

(8) An application for an account monitoring order may be made ex parte to a judge in Chambers.

(9) The description of information specified in an application for an account monitoring order may be varied by the Agency or the police officer who made the application or any other police officer.

(10) An application to discharge or vary an account monitoring order may be made to the court by

- (a) the Agency,
- (b) the police officer who made the application for the order or any other police officer, or
- (c) any person affected by the order

and the court may, if it deems it fit, discharge or vary the order.

(11) An account monitoring order has effect notwithstanding any restriction on the disclosure of information (however imposed).

(12) A statement made by a financial institution in response to an account monitoring order may not be used in evidence against it in criminal proceedings, save

- (a) in the case of proceedings for contempt of court;
- (b) in the case of proceedings where the financial institution has been convicted of an offence; or
- (c) on a prosecution for an offence where, in giving evidence, the financial institution makes a statement that is inconsistent with its statement relating to the account monitoring order.

(13) A statement by a financial institution as it relates to subsection (12)(c) may not be used against it unless

- (a) evidence relating to the statement is adduced, or
- (b) a question relating to the statement is asked,

by or on behalf of the financial institution in the proceedings arising out of the prosecution.”.

Section 36 amended

10. Section 36 of the principal Act is amended in subsection (1) by deleting the words “as defined in section 31(7)”.

Section 37 amended

11. Section 37 of the principal Act is amended in subsection (1) by deleting the words “as defined in section 31(7)”.

Passed by the House of Assembly this 9th day of March, 2023.

(Sgd.) Corine N. George-Massicote,
Speaker.

(Sgd.) Phyllis Evans,
Clerk of the House of Assembly.