



ANGUILLA

**PROCEEDS OF CRIME (AMENDMENT) ACT, 2009**

Published by Authority

I Assent

Alistair Harrison  
Governor

25/9/09

ANGUILLA

No. 18/2009

**PROCEEDS OF CRIME (AMENDMENT) ACT, 2009**

An Act to amend the Proceeds of Crime Act, 2009 and to make consequential amendments to the Anguilla Foundations Act, 2008.

[Gazetted: 30 September 2009] [Commencement: Section 12]

ENACTED by the Legislature of Anguilla

**Interpretation**

1. In this Act, the “Principal Act” means the Proceeds of Crime Act, 2009 (No. 13 of 2009).

**Amendment of section 1**

2. Section 1 of the Principal Act is amended—

- (a) in the definition of “defendant” by inserting after the word “means” the words “except in Part 3”;
- (b) in the definition of “money laundering”;
  - (i) by deleting paragraphs (b) and (c), and
  - (ii) in paragraph (d), by deleting “paragraph (a), (b) or (c)” and substituting “paragraph (a)”;
- (c) in the definition of “Money Laundering Reporting Officer”, by deleting “person carrying on relevant business” and substituting “service provider”; and
- (d) by inserting the following definition after the definition of “tainted gift”—

“terrorist financing” means—

  - (a) conduct referred to in—
    - (i) sections 3, 4, 5(9) and 6 of the Terrorism (United Nations Measures) (Overseas Territories) Order 2001;

- (ii) sections 7, 8(9) and 9 of the Al-Qa'ida and Taliban (United Nations Measures) (Overseas Territories) Order 2002;
  - (iii) sections 6, 7, 8 and 9 of the Anti-terrorist Financing Order; or
- (b) wilfully providing or collecting funds by any means, directly or indirectly, with the knowledge or intention that they are to be used or should be used in full or in part to facilitate the commission of terrorist acts, or to any persons or entities acting on behalf of, or at the direction of a person who finances terrorism;”.

**Amendment of section 6**

3. Section 6(2) of the Principal Act is amended—

- (a) in paragraph (a), by deleting “section 29” and substituting “section 13(5) or 29”; and
- (b) in paragraph (b), by deleting “section 81 or 90” and substituting “section 74, 81, 90, 109(2) or 112”.

**Amendment of section 35**

4. Section 35 of the Principal Act is amended in subsection (1)(a)(ii) by inserting after “Magistrate’s Court”, the words “in respect of an offence or offences”.

**Amendment of section 61**

5. Section 61 of the Principal Act is amended—

- (a) by deleting subsection (3) and substituting the following subsection—

“(3) Property belonging to a person (“the owner”) is not tainted property if—

  - (a) the unlawful conduct concerned is not the unlawful conduct of the owner; and
  - (b) where paragraph (a) applies, the owner does not give his consent, express or implied, to the property being used in, or in connection with, the unlawful conduct concerned.”; and
- (b) in subsection (4), by deleting “is used” and substituting “has been used”.

**Amendment of section 118**

6. Section 118 of the Principal Act is amended by deleting subsection (5) and substituting the following subsection—

- “(5) For the purposes of this section—
- “terrorist financing disclosure” has the meaning specified in the Anti-money Laundering and Terrorist Financing Regulations, 2009; and
- “constable” has the meaning specified in the Anti-terrorist Financing Order, but excludes the Reporting Authority.”.

**Amendment of section 159**

7. Section 159 of the Principal Act is amended—

- (a) in subsection (1), by deleting “The Commission” and substituting “Subject to subsection (4), the Commission”; and
- (b) in subsection (9), by deleting “Anti-Money Laundering Regulations” and substituting “Anti-money Laundering and Terrorist Financing Regulations, 2009”; and
- (c) in subsection (3), by deleting “The Commission” and substituting “Subject to subsection (4), the Commission”.

**Amendment of section 162**

8. Section 162(2) of the Principal Act is amended by deleting “subsection (3)” and substituting “section 163”.

**Amendment of section 167**

9. Section 167 of the Principal Act is amended by inserting the following subsection after subsection (3)—

“(4) Section 68(2) of the Anguilla Foundations Act, 2008 is amended by deleting “Money Laundering Reporting Authority Act, Anti-Money Laundering Regulations” and substituting “Proceeds of Crime Act, 2009, the Anti-money Laundering and Terrorist Financing Regulations, 2009, the Anti-money Laundering and Terrorist Financing Code, 2009”.

**Amendment of Schedule 5**

10. Schedule 5 to the Principal Act is amended in paragraph 4(2), by deleting “old legislation” and substituting “former legislation”.

**Citation**

11. This Act may be cited as the Proceeds of Crime (Amendment) Act, 2009.

**Coming into force and validation**

12. This Act is retroactive and comes into force on 17 July 2009, and everything done on or after that date that would have been valid had this Act been in force is validated and declared to have been lawfully done.

*Speaker*

Passed by the House of Assembly this 22<sup>nd</sup> day of September, 2009.

*Clerk of the House of Assembly*

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