

BELIZE:

**MONEY LAUNDERING AND TERRORISM (PREVENTION)
ACT, 2008**

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No. 18 of 2008

I assent,

(SIR COLVILLE N. YOUNG)

Governor-General

30th December, 2008

AN ACT to make new and improved provisions for the investigation and prosecution of money laundering, terrorism and other related crimes; to provide for the forfeiture of the proceeds of crime and terrorist property; to require reporting entities to take preventative measures to help combat money laundering and terrorist financing; and to provide for matters connected therewith or incidental thereto.

(Gazetted 31st December, 2008.)

BE IT ENACTED, by and with the advice and consent of the House of Representatives and the Senate of Belize and by the authority of the same, as follows:-

PART I

PRELIMINARY

1. This Act may be cited as the

Short title.

**MONEY LAUNDERING AND TERRORISM
(PREVENTION) ACT, 2008.**

Interpretation. 2. (1) In this Act, unless the context otherwise requires—

“account” means any facility or arrangement by which a financial institution does any one or more of the following:

- (a) accepts deposits of currency;
- (b) allows withdrawals of currency or transfers into or out of the account;
- (c) pays cheques or payment orders drawn on a financial institution by, or collects cheques or payment orders on behalf of, a person;
- (d) supplies a facility or arrangement for a safety deposit box;
- (e) accepts or holds stocks, bonds or mutual funds;

“accused” means a person charged with a serious crime, whether or not he has been convicted of the crime, and includes in the case of proceedings for a production order, monitoring order, customer information order, warrant or restraining order under this Act, a person who is about to be charged with a serious crime or is being investigated for a serious crime;

“authorized officer” means a person or class of persons designated as such by the Minister;

“beneficial owner” means the natural person who ultimately owns or controls a customer, the person on behalf of whom a transaction is conducted or the person who exercises ultimate control over a legal person or legal arrangement;

“business relationship” or **“business transaction”** means any arrangement, including opening an account, between

two or more persons where the purpose of the arrangement is to facilitate a transaction between the persons concerned and includes any related transaction between any of the persons concerned and another person;

“collective investment scheme” means a scheme, in whatever form, in pursuance of which, members of the public are invited or permitted to invest money or other assets in a portfolio, and which scheme has the following characteristics –

- (a) two or more investors contribute money or other assets to hold a participatory interest in a portfolio of the scheme through shares, units or any other form of participatory interest; and
- (b) the investors share the risk and the benefit of investment in proportion to their participatory interest in a portfolio of a scheme or on any other basis determined in the deed;

“court” means the ordinary courts in Belize where civil or criminal proceedings may be instituted, unless otherwise specified;

“credit union” means a credit union registered under the relevant law with specific powers to promote thrift, enterprise and cooperative principles among its members, to pool financial resources of its members and to provide needed lending, investment and other financial services to them;

“currency” means the coin and paper money of Belize or of a foreign country that is designated as legal tender and which is customarily used and accepted as a medium of exchange in the country of issue;

“customer” means a person or entity purchasing or using a service or commodity and includes an applicant for the services of a business and a client;

“Director” means the Director of the Financial Intelligence Unit appointed pursuant to section 4 of the Financial Intelligence Unit Act;

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“document” means any record of information and includes—

- (a) anything on which there is writing;
- (b) anything on which there are marks, figures, symbols, or perforations having meaning for persons qualified to interpret them;
- (c) anything from which sounds, images or writing can be produced, with or without the aid of anything else;
- (d) a map, plan, drawing, photograph or similar thing;

“dollar” means dollar in Belize currency, unless otherwise specified;

“financial institution” means a bank or financial institution as defined in the Banks and Financial Institutions Act or the International Banking Act, and includes brokerage firms and insurance companies;

CAP. 263.

CAP. 267.

“Financial Intelligence Unit” or “FIU” means the Financial Intelligence Unit established pursuant to section 3 of the Financial Intelligence Unit Act;

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

“freezing” means temporarily prohibiting the transfer, conversion, disposition or movement of property or temporarily assuming custody or control of property on the basis of an order issued by a court or other competent authority;

“**gift**” includes any transfer of property by a person to another person directly or indirectly –

- (a) after the commission of a serious crime by the first person; and
- (b) for a consideration the value of which is significantly less than the value of the consideration provided by the first person; and
- (c) to the extent of the difference between the market value of the property transferred and the consideration provided by the transferee.

“**Government**” means the Government of Belize;

“**identification record**” means any reliable and independent source documents, data or information or other evidence as is reasonably capable of establishing the true identity and verifying the identity of the applicant of a reporting entity, including a valid driving licence, a social security card, a valid passport and in the case of a body corporate, a certified copy of the Memorandum and Articles of Association, a certificate of incorporation together with the latest annual return to the Registrar-General or other competent authority;

“**instrumentality**” means something that is used, or intended for use, in any manner in the commission of a money laundering or terrorist financing offence;

“**insurance business**” means the assumption of the obligations of an insurer in any class of insurance business and includes reinsurance business;

“**interest**” in relation to property, means –

- (a) a legal or equitable interest in the property;
- (b) a right, power or privilege in connection with the property;

“Minister” means the Minister responsible for Finance;

“money laundering” means conduct which constitutes an offence as described under section 3;

“person” means a natural person or a legal person and includes, among others, a corporation, partnership, trust or estate, joint stock company, association, syndicate, joint venture, or other unincorporated organization or group, capable of acquiring rights or entering into obligations;

“politically exposed person” means any individual who is or has been entrusted with prominent public functions in Belize or in another country or territory, including Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations, important political party officials including family members or close associates of the politically exposed person;

“proceedings” means any procedure conducted by or under the supervision of a judge, magistrate or other competent authority, however described, in relation to any alleged or proven offence, or property derived from such an offence, and includes an inquiry, investigation, preliminary or final determination of facts;

“proceeds of crime” means any property derived, obtained or realized, directly or indirectly, as a result of or in connection with a serious crime and includes, on a proportional basis, property into which any property derived or realized directly from such offence was later converted, transformed or intermingled, as well as income, capital or

other economic gains derived or realised from such property at any time since the crime;

“property” or **“funds”** includes money, investments, holdings, possessions and assets of every kind, whether corporeal or incorporeal, movable or immovable, legal documents or instruments evidencing title, or interest in such assets, wherever situate (whether in Belize or elsewhere);

“property of or in the possession or control of any person” includes any gift made to that person;

“realizable property” means –

- (a) any property held by an accused;
- (b) any property possessed by a person to whom an accused has directly or indirectly made a gift as defined in this Act;

“reporting entity” shall mean any person whose regular occupation or business is the carrying on of –

- (a) any activity listed in the First Schedule to this Act;
- (b) any other activity defined by the Minister as such by an Order published in the *Gazette*;

First
Schedule.

“serious crime” means an offence against a provision of –

- (a) any law in Belize, for which the maximum penalty is death or imprisonment for life or other deprivation of liberty for a period exceeding 24 months; or
- (b) a law of a foreign state, in relation to acts or omissions which, had they occurred in Belize,

would have constituted an offence for which the maximum penalty is death, or imprisonment for life or other deprivation of liberty for a period exceeding 24 months,

Second
Schedule.

and includes an offence listed in the Second Schedule to this Act regardless of penalty;

Third
Schedule.

“supervisory authority” means the authority set out in column 2 of the Third Schedule who has compliance oversight over the reporting entity set out in column 1 of that Schedule.

“tainted property” means (i) property intended for use in, or used in or in connection with the commission of a serious crime; or (ii) proceeds of crime;

“terrorism” or **“terrorist act”** means:

Fourth
Schedule.

(a) an act or omission, whether committed in or outside Belize, which constitutes an offence within the scope of a counter terrorism convention listed in the Fourth Schedule to this Act; or

(b) an act, or threat of action in or outside Belize which:

(i) involves serious bodily harm to a person;

(ii) involves serious damage to property;

(iii) endangers a person’s life;

(iv) creates a serious risk to the health or safety of the public or a section of the public;

(v) involves the use of firearms or explosives;

- (vi) involves releasing into the environment or any part thereof or distributing or exposing the public or any part thereof to:
 - (a) any dangerous, hazardous, radioactive or harmful substance;
 - (b) any toxic chemical;
 - (c) any microbial or other biological agent or toxin;
- (vii) is designed or intended to disrupt any computer system or the provision of services directly related to communications infrastructure, banking or financial services, utilities, transportation or other essential infrastructure;
- (viii) is designed or intended to disrupt the provision of essential emergency services such as police, civil defence or medical services;
- (ix) involves prejudice to national security or public safety; or
- (x) involves participating in the activities of a terrorist group, including the supplying of information or material resources, or the funding of its activities in any way, with knowledge of the fact that such participation will contribute to the criminal activities of the group;

and is intended, or by its nature and context, may reasonably be regarded as being intended, to:

- (a) intimidate the public or a section of the public;
or
- (b) cause panic among the public or a section of the public;
- (c) cause indiscriminate harm or damage to persons or property;
- (d) disrupt a meeting or procession or any gathering of persons;
- (e) cause a public mischief or to commit a mischievous act;
- (f) compel a government or an international organisation to do, or refrain from doing, any act; or
- (g) destabilise or destroy the fundamental political, constitutional, economic or social structures of a country or an international organization; or
- (h) to advance or achieve a political, ideological, or religious cause;

but an act which is committed in pursuance of a protest, demonstration or stoppage of work shall be deemed not to be terrorism within the meaning of this definition, as long, and as long only, as the act is not intended to result in any harm to any person or damage to any property.

“terrorist” shall mean any natural person who:

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

- (b) participates as an accomplice in terrorist acts;
- (c) organizes or directs others to commit terrorist acts; or
- (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.

“terrorist financing” shall have the meaning given under section 68 of this Act;

“terrorist group or organization” shall mean any group of terrorists that:

- (a) commits, or attempts to commit, terrorist acts by any means, directly or indirectly, unlawfully and wilfully;
- (b) participates as an accomplice in terrorist acts;
- (c) organizes or directs others to commit terrorist acts; or
- (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;

“terrorist property” means –

- (a) proceeds from the commission of terrorism;

- (b) money or other property which has been, is being or is likely to be used to commit terrorism; or
- (c) money or other property which has been, is being, or is likely to be used by a terrorist group or terrorist; or
- (d) property owned or controlled by or on behalf of a terrorist group; or
- (e) property which has been collected for the purpose of providing support to a terrorist group or funding a terrorist act;

“transaction” shall include:

- (a) opening of an account;
- (b) any deposit, withdrawal, exchange or transfer of funds in any currency whether in cash or by cheque, payment order or other instrument or by electronic or other non physical means;
- (c) the use of a safety deposit box or any other form of safe deposit;
- (d) entering into any fiduciary relationship;
- (e) any payment made or received in satisfaction, in whole or in part, of any contractual or other legal obligation;
- (f) any payment made in respect of a lottery, bet or other game of chance;
- (g) an act or combination of acts performed for or on behalf of a client in connection with pur-

chasing, using or performing one or more services, or

- (h) such other actions as may be prescribed by the Minister by Order published in the *Gazette*;

“unit trust” means any arrangement made for the purpose or having the effect of providing, for a person having funds available for investment, facilities for the participation by the person as a beneficiary under a trust, in any profits or income arising from the acquisition, holding, management or disposal of any property pursuant to the trust.

(2) The Minister may from time to time by Order published in the *Gazette* amend any of the Schedules to this Act.

Schedules.

(3) Knowledge, intent, purpose, belief or suspicion required as an element of any offence under this Act may be inferred from objective, factual circumstances.

How to infer knowledge, etc.

(4) Any reference in this Act to a person being charged or about to be charged with a serious crime is a reference to a procedure, however described, in Belize or elsewhere, by which criminal proceedings may be commenced.

Meaning of charge in relation to a serious crime.

(5) For the purposes of this Act, a person shall be taken to be convicted of a serious offence if –

Meaning of conviction in relation to a serious crime.

- (a) the person is convicted, whether summarily or on indictment, of the offence;
- (b) the person is charged with, and found guilty of, the offence but is discharged without any conviction being recorded;
- (c) the court, with the consent of the convicted person, takes the offence, of which the person has not been found guilty, into account in

passing sentence on the person for another serious offence.

Meaning of quashing of conviction.

(6) For the purposes of this Act, a person's conviction for a serious crime shall be taken to be quashed in any case

-
- (a) where subsection 5 (a) applies, if the conviction is quashed or set aside;
- (b) where subsection 5 (b) applies, if the finding of guilt is quashed or set aside;
- (c) where subsection 5 (c) applies, if either –
 - (i) the person's conviction for the other offence referred to in that section, is quashed or set aside; or
 - (ii) the decision of the court to take the offence into account in passing sentence for that other offence is quashed or set aside;
- (d) where the Governor-General, acting on the advice of the Belize Advisory Council, grants the person a pardon in respect of the person's conviction for the offence.

Meaning of dealing with property.

(7) For the purposes of this Act, dealing with property held by any person includes, without prejudice to the generality of the expression –

- (a) where the property is a debt owed to that person, making a payment to any person in reduction or full settlement of the amount of the debt;
- (b) where the property is an interest in a partnership, doing anything to diminish the value of the partnership;

- (c) making or receiving a gift of the property; or
- (d) removing the property from Belize.

(8) In this Act, a reference to a benefit derived or obtained by or otherwise accruing to a person includes a reference to a benefit derived or obtained by, or otherwise accruing to, another person at the request or direction of the first person.

Meaning of deriving a benefit.

(9) For the purposes of this Act –

- (a) a person has benefited from an offence if the person has at any time received any payment or other reward in connection with, or derived any pecuniary advantage from, the commission of a serious offence, whether committed by that person or another person;
- (b) a person’s proceeds of crime are any payments or other rewards received by the person in connection with, and any pecuniary advantage derived by the person at any time from, the commission of a serious crime; and
- (c) the value of a person’s proceeds of crime is the aggregate of the values of the payments, rewards or pecuniary advantages received by him in connection with, or derived by him from, the commission of a serious crime.

Meaning of benefiting from the proceeds of crime.

(10) The powers of the Financial Intelligence Unit under this Act are in addition to and not in derogation from the powers of the FIU under the Financial Intelligence Unit Act, and the FIU may exercise all or any of such powers as the occasion may require.

Powers of the FIU under the FIU Act not affected.

No. 35/2002.

PART II**Money Laundering and Terrorism Prohibited**

**Offence of
money
laundering.**

3. (1) A person commits the offence of money laundering if the person knowing or having reasonable grounds to believe that any property in whole or in part, directly or indirectly, represents any person's proceeds of crime:-

- (a) converts or transfers that property for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of the crime to evade the legal consequences of his action;
- (b) conceals or disguises the true nature, source, location, disposition, movement, rights with respect to or ownership of that property;
- (c) acquires, possesses, uses or otherwise deals with that property; or
- (d) participates in, associates with or conspires to commit, attempts to commit, or aids and abets, or facilitates, counsels or procures the commission of any of the above acts.

(2) For the purpose of proving a money laundering offence under subsection (1), it shall not be necessary to prove which serious crime has been committed or who committed the crime.

**Penalty for
money
laundering.**

4. A person guilty of an offence under the provisions of section 3 of this Act, shall be punishable on conviction,

- (i) in the case of a natural person, with a fine which shall not be less than fifty thousand dollars but which may extend to two hundred and fifty thousand dollars, or with imprisonment for a term which shall not be less than five years but which may extend to ten years, or with both such fine and term of imprisonment, and,
- (ii) in the case of a legal person or other entity, with a fine which shall not be less than one hundred thousand dollars but which may extend to five hundred thousand dollars.

5. A person who commits a terrorist act shall be guilty of an offence and shall be punishable on conviction,

Offence of terrorism and penalty.

- (i) in the case of a natural person, with imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life, and
- (ii) in the case of a legal person or other entity, with a fine which shall not be less than five hundred thousand dollars but which may extend to one million dollars.

6. Where an offence under the provisions of sections 3, 5 or 68 of this Act is committed by a body of persons, whether corporate or unincorporate, every person who, at the time of the commission of the offence, acted in an official capacity for or on behalf of such body of persons, whether as director, manager, secretary or other similar officer, or was purporting to act in such capacity, shall be guilty of that offence and punished accordingly, unless he adduces evidence to show that the offence was committed without his knowledge, consent or connivance.

Offence committed by a body of persons.

**Attempts
aiding and
abetting
conspiracy.**

7. Any person who attempts or who aids, abets, counsels, or procures the commission of, or who conspires to commit, the offence of money laundering or terrorism is guilty of an offence and shall be liable to the same penalties as prescribed for money laundering and terrorism in sections 4 and 5 of this Act, as the case may be.

Tipping-off.

8. (1) It is an offence for a person who knows or suspects that an investigation into money laundering, terrorism or the proceeds of crime has been, is being, or is about to be, conducted, to divulge that fact or other information to another whereby the investigation is likely to be prejudiced.

(2) A person guilty of an offence under subsection (1) above shall be liable on conviction to a fine not exceeding fifty thousand dollars, or to imprisonment for a term not exceeding three years, or to both such fine and term of imprisonment.

**Falsification,
concealment,
etc., of
documents.**

9. (1) It is an offence for a person to falsify, conceal, destroy or otherwise dispose of or cause or permit the falsification, concealment, destruction or disposal of any document or material which is or likely to be relevant to an investigation into money laundering, terrorism or the proceeds of crime or to any order made in accordance with the provisions of this Act.

(2) A person guilty of an offence under subsection (1) above shall be liable on conviction to a fine not exceeding one hundred thousand dollars or to imprisonment for a term not exceeding five years, or to both such fine and term of imprisonment.

**Extra-
territorial
jurisdiction.**

10. Notwithstanding anything to the contrary contained in any other law, the offences created by this Act shall be investigated, tried, judged and sentenced by a court in Belize regardless of whether or not the serious offences occurred in Belize or in another territorial jurisdiction, but without prejudice to extradition where applicable in accordance with the law.

PART III

Anti-Money Laundering and Anti-Terrorism Supervision

11. (1) Without prejudice to its powers and responsibilities under the Financial Intelligence Unit Act, the Financial Intelligence Unit –

**Powers of the
Financial
Intelligence
Unit.
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- (a) shall receive, analyse and assess reports of suspicious transactions issued by reporting entities pursuant to section 17(4);
- (b) shall take appropriate action as it may consider necessary or shall forward relevant information to the appropriate law enforcement authorities, if having considered a report or other information, the Financial Intelligence Unit has reasonable grounds to suspect that the transaction involves proceeds of crime or terrorist financing;
- (c) shall send to the appropriate law enforcement authorities, any information derived from the examination or supervision of a reporting entity, if it gives the Financial Intelligence Unit reasonable grounds to suspect that a transaction involves proceeds of crime or terrorist financing;
- (d) may instruct any reporting entity to take such steps as may be appropriate, including the freezing of funds and other financial assets or economic resources of any person or entity, to facilitate any investigation, prosecution or proceeding for a money laundering offence or for terrorist financing, whether in Belize or elsewhere;

- (e) shall compile statistics and records, disseminate information within Belize or elsewhere as provided by law, make recommendations arising out of any information received, issue guidelines to reporting entities and advise the Minister accordingly;
- (f) may conduct research into trends and developments in the area of money laundering and financing of terrorism and improved ways of detecting, preventing and deterring money laundering and terrorist financing;
- (g) may educate the public and create awareness on matters relating to money laundering and terrorist financing;
- (h) shall create training requirements and provide such training for any reporting entity in respect of its identification, record-keeping and reporting obligations provided for in sections 15, 16, 17, 18 and 19 of this Act;
- (i) may consult with any relevant person, institution or organization for the purpose of exercising its powers or duties under paragraph (d), (e), (f) or (g);
- (j) is authorized to extend legal assistance to foreign jurisdictions with respect to property tracking, monitoring and forfeiture or freezing orders;
- (k) shall have the authority to request information from any reporting entities, supervisory authorities, law enforcement agencies and other domestic government agencies, for purposes of this Act without the need for agreements or

arrangements as required under subsection (1) (o);

- (l) shall periodically provide feedback to reporting entities, supervisory authorities and other relevant agencies;
- (m) may disclose any report, any information derived from such report or any other information it receives pursuant to this section to an institution or agency of a foreign state or of an international organization established by the governments of foreign states that has powers and duties similar to those of the Financial Intelligence Unit as set out in this section and sections 13 and 14 of this Act, or in the Financial Intelligence Unit Act, if on the basis of its analysis and assessment, the Financial Intelligence Unit has reasonable grounds to suspect that a report or information would be relevant to investigating proceeds of crime or investigating or prosecuting a serious crime;
- (n) may disclose any report to the supervisory authority for purposes of ensuring compliance with this Act;
- (o) may enter into any agreements or arrangements with any domestic government institution or agency regarding the exchange of information;
- (p) shall, in respect of any reporting entity, exercise the powers set out in section 21 and in relation to this, may enter the premises of any reporting entity during ordinary business hours to inspect any record kept by the reporting entity, and ask any question relating to such record, make notes and take copies of whole or any part of the record.

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(2) Every order made by the Financial Intelligence Unit pursuant to paragraph (d) of subsection (1) above for the freezing of funds or financial assets of any person shall cease to have effect after seven business days from the making of the Order, unless within such period the Financial Intelligence Unit makes an application to a Judge of the Supreme Court in Chambers for an order for the freezing of such property, and the application shall be heard by the Court as soon as practicable.

Freezing of funds connected with terrorism.

12. (1) Where the Financial Intelligence Unit has reasonable grounds for believing that the person by, for or on behalf of whom any funds are held is or may be –

- (a) a person who commits, attempts to commit, facilitates or participates in the commission of acts of terrorism, or who finances such acts,
- (b) a person controlled or owned directly or indirectly by a person in (a), or
- (c) a person acting on behalf, or at the direction, of a person in (a),

the Financial Intelligence Unit may by notice direct that those funds shall be frozen and shall not be made available to any person.

(2) A direction given under subsection (1) above shall specify either –

- (a) the period for which the direction is to have effect; or
- (b) that the direction is to have effect until it is revoked by notice under subsection (3) below.

(3) The Financial Intelligence Unit may by notice revoke a direction given under subsection (1) at any time.

(4) A notice under subsection (1) or (3) shall be given in writing to the person holding the funds in question (“the recipient”), and shall require the recipient to send a copy of the notice without delay to the person whose funds they are, or for or on whose behalf they are held (“the owner”).

(5) A recipient shall be treated as complying with that requirement if, without delay, he sends a copy of the notice to the owner at his last-known address or, if he does not have an address for the owner; he makes arrangements for a copy of the notice to be supplied to the owner at the first available opportunity.

(6) Where a direction has been given under subsection (1) above, any person by, for or on behalf of whom those funds are held may apply to the Supreme Court for the direction to be set aside; and on such application the Court may set aside the direction.

(7) A person who makes an application under subsection (6) above shall give a copy of the application and any witness statement or affidavit in support to the Financial Intelligence Unit (and to any other person by, for or on behalf of whom those funds are held), not later than seven days before the date fixed for the hearing of the application.

(8) Any person who contravenes or fails to comply with the requirements of this section shall be guilty of a money laundering offence and shall be liable to the penalties prescribed in section 4 of this Act.

13. The Financial Intelligence Unit may disclose any report or information as set out under section 11(1)(m) to an institution or agency of a foreign state or of an international

**Disclosure to
foreign
institutions
and agencies.**

organisation or body or other institution or agency established by the governments of foreign states that has powers and duties similar to those of the Financial Intelligence Unit –

- (a) on such terms and conditions as are set out in the agreement or arrangement between the Financial Intelligence Unit and that foreign state or international organisation regarding the exchange of such information under section 14; or
- (b) where such an agreement or arrangement has not been entered into between the Financial Intelligence Unit and that foreign state or international organisation or body, on such terms and conditions as may be agreed upon by the Financial Intelligence Unit and the institution or agency at the time of disclosure, where such terms and conditions shall include the following –
 - (i) restriction on the use of the report or information to purposes relevant to investigating or prosecuting a serious crime, a money laundering offence, a terrorist financing offence or an offence that is substantially similar to either offence; and
 - (ii) the stipulation that the report or information be treated in a confidential manner and not be further disclosed without the express consent of the Financial Intelligence Unit.

14. (1) With the prior approval of the Minister, the Financial Intelligence Unit may enter into an agreement or arrangement, formally or informally, with the government of a foreign state, or an international organisation or body established by the governments of foreign states regarding the exchange of reports or information between the Financial Intelligence Unit and any institution or agency of that state or organisation that has powers and duties similar to those of the Financial Intelligence Unit.

Agreements and arrangements by the Financial Intelligence Unit.

(2) The information exchanged under subsection (1) shall be information that would be relevant to investigating or prosecuting a serious crime or a money laundering or terrorist financing offence, or an offence that is substantially similar to either offence.

(3) Agreements or arrangements entered into under subsection (1) or (2) shall include the following:

- (a) restriction on the use of information to purposes relevant to financial investigations and to investigating or prosecuting a serious crime, or a money laundering offence, or a terrorist financing offence, or an offence that is substantially similar to either offence; and
- (b) the stipulation that the information be treated in a confidential manner and not be further disclosed without the express consent of the Financial Intelligence Unit.

15. (1) Reporting entities shall establish the identity and verify the identity of any customer of the reporting entity by requiring the customer to produce an identification record or such other reliable, independent source document as the Minister may prescribe.

Reporting entities to identify and verify identity of customer.

(2) The requirements of subsection (1) shall apply when –

- (a) a reporting entity establishes a business relationship;
- (b) in the absence of such a relationship, a reporting entity conducts –
 - (i) any transaction in an amount equal to or above the sum of fifteen thousand dollars or such other amount as may from time to time be prescribed by the Minister, whether conducted as a single transaction or several transactions that appear to be linked and where the amount of the transaction is unknown at the time of the transaction, the identification and verification shall be undertaken as soon as the amount becomes known or the said threshold is reached;
 - (ii) any wire transfers as set out in section 19;
- (c) there is a suspicion of money laundering or terrorist financing; or
- (d) the reporting entity has doubts about the veracity or adequacy of previously obtained customer identification data.

(3) Without limiting the generality of subsection (1), a reporting entity shall –

- (a) when establishing a business relationship, obtain information on the purpose and nature of the business relationship;
- (b) if the transaction is conducted by a natural person, adequately identify and verify his identity including information relating to:
 - (i) the person's name and address;
 - (ii) the national identity card, social security document, passport or other applicable official identifying document;
- (c) if the transaction is conducted by a legal entity, adequately identify the beneficial owner of such entity and take reasonable measures to identify and verify its ownership and control structure, including information relating to:
 - (i) the customer's name, legal form, head office address and identities of directors;
 - (ii) the principal owners and beneficiaries and control structure;
 - (iii) provisions regulating the power to bind the entity; and to verify that any person purporting to act on behalf of the customer is so authorised, and identify those persons;
- (d) have appropriate risk management systems to determine if a customer or

beneficial owner is a politically exposed person, and if so, shall –

- (i) adequately identify and verify his identity as set out in this section;
- (ii) obtain the approval of senior management before establishing a business relationship with the politically exposed person;
- (iii) take reasonable measures to establish the source of funds and source of property; and
- (iv) conduct regular enhanced monitoring of the business relationship.

(4) If it appears to a reporting entity that an applicant requesting it to enter into any business relationship or transaction, whether or not in the course of a continuing business relationship, is acting on behalf of another person, the reporting entity shall establish the true identity of any person on whose behalf or for whose ultimate benefit the applicant may be acting in the proposed transaction, whether as a trustee, nominee, agent or otherwise.

(5) Nothing in this section shall require the production of any evidence of identity where –

- (a) the customer is itself a financial institution to which this Act applies and which has been licensed or registered, and is supervised for anti-money laundering and countering the financing of terrorism measures by a regulatory authority and the reporting entity has satisfied itself as

to the adequacy of the measures to prevent money laundering and the financing of terrorism; or

- (b) there is a transaction or a series of transactions taking place in the course of a business relationship, in respect of which the applicant has already produced satisfactory evidence of identity.
- (6) (a) A bank or a financial institution shall, in relation to its cross-border correspondent banking and other similar relationships –

 - (i) adequately identify and verify respondent institutions with whom it conducts such a business relationship;
 - (ii) gather sufficient information about the nature of the business of the person or entity;
 - (iii) determine from publicly available information the reputation of the person or entity and the quality of supervision to which the person or entity is subject to;
 - (iv) assess the person's or entity's anti-money laundering and terrorist financing controls;
 - (v) obtain approval from senior management before establishing a new correspondent relationship;
 - (vi) document the responsibilities of the financial institution and the person or entity.

- (b) Where the relationship is a payable-through account, a bank or a financial institution shall ensure that the person or entity with whom it has established the relationship—
 - (i) has verified the identity of and performed on-going due diligence on such of that person's customers that have direct access to accounts of the financial institution; and
 - (ii) is able to provide the relevant customer identification data upon request to the financial institution.
- (c) Banks or financial institutions shall not maintain any business relationship with banks that do not maintain a physical presence under the laws of which they were established, unless they are part of a financial group subject to effective consolidated supervision.

(7) Where a reporting entity relies on an intermediary or third party to undertake its obligations under subsections (1), (2) or (3) or to introduce business to it –

- (a) it must be satisfied that the third party is able to provide copies of identification data and other documents relating to the obligation of due diligence under subsections (1), (2) and (3) without delay;
- (b) it shall satisfy itself that the third party or intermediary is regulated and supervised, and has measures in place to comply with the requirements set out in sections 15 and 16 of this Act.

(8) The Minister may, in consultation with the relevant supervisory authority, prescribe –

- (a) the official or identifying documents, or the reliable and independent source documents, data or information or other evidence that is required for identification or verification of any class of customers or applicants;
- (b) threshold amounts and additional circumstances in which the provisions of this section shall apply.

(9) In the case of an existing customer at the time of this Act coming into force –

- (a) a reporting entity shall verify the identity of the customer within six months from the date of commencement of this Act;
- (b) the Financial Intelligence Unit may, in special circumstances, extend the said period of six months for a further period of up to six months;
- (c) where at the end of the six months or further period of up to six months, as the case may be, a reporting entity is unable to verify the identity of a customer, the reporting entity shall terminate the business relationship with such a customer.

16. (1) Reporting entities shall establish and maintain –

- (a) records of all transactions in accordance with the requirements of subsection (3);

Other obligations of reporting entities.

- (b) where evidence of a person's identity is obtained in accordance with section 15, a record that indicates the nature of the evidence obtained, and which comprises either a copy of the evidence or such information as would enable a copy of it to be obtained;
- (c) account files and business correspondence in relation to accounts;
- (d) written reports established in accordance with section 17 of this Act.

(2) Customer accounts of a reporting entity shall be kept in the true name of the account holder.

(3) Records required under subsection (1) shall contain particulars sufficient to identify –

- (a) the name, address and occupation or, where appropriate, business or principal activity of each person –
 - (i) conducting the transaction; or
 - (ii) if known, on whose behalf the transaction is being conducted,

as well as the method used by the reporting entity to verify the identity of each such person;

- (b) the nature and date of the transaction;
- (c) the type and amount of currency involved;
- (d) the type and identifying number of any account with the reporting entity involved in the transaction;

- (e) if the transaction involves a negotiable instrument other than currency, the name of the drawer of the instrument, the name of the institution on which it was drawn, the name of the payee, if any, the amount and date of the instrument, the number, if any, of the instrument and details of any endorsements appearing on the instrument;
- (f) in the case of reports under section 17 and any other reports, the name and address of the reporting entity, and of the officer, employee or agent of the reporting entity who prepared the report.

(4) Records required under subsection (1) shall be kept by the reporting entity for a period of at least 5 years from the date the relevant business or transaction was completed, or termination of business relationship, whichever is the later.

(5) A reporting entity shall –

- (a) comply with any instruction issued to it by the Financial Intelligence Unit pursuant to section 11 (1) (d);
- (b) permit any authorized officer of the Financial Intelligence Unit to enter into any premises of the reporting entity during normal working hours and inspect the records kept pursuant to the provisions of subsection (1) of this section and make any notes or take any copies of the whole or any part of any such record and shall answer any questions of the Financial Intelligence Unit in relation to such records;

- (c) comply with the guidelines and training requirements issued and provided by the Financial Intelligence Unit in accordance with paragraph (e) or (h) of section 11 (1).

(6) The requirements set forth in subsections (1), (3) and (4) of this section shall apply in the case of casinos or licensed gaming premises only when a customer engages in a transaction equal to or above the amount of ten thousand dollars, Belize currency (or its equivalent in foreign currency) or such other sums as may from time to time be prescribed by the Minister.

(7) Every reporting entity that contravenes or fails to comply with the provisions of this section shall be liable to a fine of up to five thousand dollars by the Financial Intelligence Unit.

(8) A reporting entity aggrieved by the decision of the Financial Intelligence Unit pursuant to subsection (7) above may appeal to the Supreme Court under the provisions of Part X of the Supreme Court of Judicature Act, and for this purpose, the Financial Intelligence Unit shall be deemed to be an inferior court and the rules governing the inferior court appeals shall *mutatis mutandis* apply to every such appeal:

Provided that an appeal shall not by itself result in the suspension of the decision under appeal, but the appellant may, within the time prescribed for filing such appeal, apply to the Supreme Court for stay of execution of the order appealed from, pending the determination of such appeal.

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Reporting of suspicious transactions by reporting entities.

17. (1) Reporting entities shall pay special attention to:

- (a) all complex, unusual or large business transactions, or unusual patterns of transactions, whether completed or not,

and to insignificant but periodic transactions, that have no apparent economic or lawful purpose;

(b) business relations and transactions with persons including legal persons and arrangements, from or in jurisdictions that do not have adequate systems in place to prevent or deter money laundering or terrorist financing;

(c) electronic funds transfer that do not contain complete originator information.

(2) In relation to subsection (1), a reporting entity shall:

(a) set forth in writing the specific information regarding the transaction(s) or business relations specified in subsection (1) (a) to (c) of this section, its background and purpose to the extent known, and the identity of the persons involved; and

(b) upon request, shall make available such findings to the Financial Intelligence Unit.

(3) A reporting entity shall monitor its business relationships and the transactions undertaken throughout the course of the relationship to ensure that its obligations under section 15 are met and that the transactions conducted are consistent with the information that the reporting entity has of its customer and the profile of the customer's business.

(4) Whenever a reporting entity suspects or has reasonable grounds to suspect that any transaction, proposed transaction or attempted transaction is related to the commission of a money laundering offence or terrorist

financing offence or is related or linked to, or is to be used in connection with a terrorist act or for the financing of terrorism, or that the funds or property are the proceeds of crime, it shall as soon as possible but not later than 3 days after forming that suspicion and wherever possible before the transaction is carried out –

- (a) take reasonable measures to ascertain the purpose of the transaction, the origin and ultimate destination of the funds involved and the identity and address, of any ultimate beneficiary;
- (b) prepare a report of the transaction in accordance with subsection (5) and send the report to the Financial Intelligence Unit in such form as the Director, may from time to time, approve;
- (c) in case of reporting entities which are dealers in precious metals and dealers in precious stones and other dealers in high value goods, shall report any transactions to the Financial Intelligence Unit in accordance with this subsection whenever they engage in any cash transaction equal to or above the equivalent of fifteen thousand dollars or such other sum as may from time to time be prescribed by the Minister;
- (d) in case of reporting entities which are real estate agents and dealers in vehicles, shall report transactions in accordance with this subsection to the Financial Intelligence Unit when involved in transactions for their clients concerning the buying or

selling of real estate or vehicles of any description.

(5) A report required under subsection (4) shall –

- (a) set forth all particulars known regarding the transaction;
- (b) contain a statement of the grounds on which the reporting entity holds the suspicion; and
- (c) be signed or otherwise authenticated by the reporting entity.

(6) A reporting entity which has reported a suspicious transaction in accordance with this section shall, if requested to do so by the Financial Intelligence Unit, give such further information as requested by the Financial Intelligence Unit.

(7) (a) If the Financial Intelligence Unit, after consulting the entity that reported the transaction required to make a report under subsection (4), suspects or has reasonable grounds to suspect that a transaction or a proposed transaction may involve the proceeds of crime or a money laundering or terrorist financing offence or is related or linked to, or is to be used in connection with a terrorist act or for the financing of terrorism, it may direct the reporting entity in writing, electronically or by telephone to be followed up in writing, not to proceed with the carrying out of that transaction or proposed transaction or any other transaction in respect of the funds affected by that transaction or proposed transaction for a period as may be determined by the Financial Intelligence Unit which may not be more than five days, in order to allow the Financial Intelligence Unit –

- (i) to make necessary inquiries concerning the transaction; and

(ii) if the Financial Intelligence Unit deems it appropriate, to inform and advise a supervisory authority.

(b) For the purposes of calculating the period of five days referred to in subsection (7) (a), Saturdays, Sundays and public and bank holidays shall not be taken into account.

(8) The provisions of subsections (4), (5), (6) and (7) are applicable to:

(a) lawyers, notaries, other independent legal professionals and accountants when, on behalf of or for a client, they prepare for or engage in or carry out a transaction in relation to the following activities:

(i) buying and selling of real estate;

(ii) managing of client money, securities or other assets;

(iii) management of bank, savings or securities accounts;

(iv) organisation of contributions for the creation, operation or management of companies;

(v) creation, operation or management of legal persons or arrangements, and buying and selling of business entities;

(b) trust and company service providers, when they prepare for or engage in or

carry out a transaction for or on behalf of a client, in relation to the following activities:

- (i) acting as a formation agent of legal persons;
- (ii) acting as (or arranging for another person to act as) a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons;
- (iii) providing a registered office, business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement;
- (iv) acting as (or arranging for another person to act as) a trustee of an express trust;
- (v) acting as (or arranging for another person to act as) a nominee shareholder for another person.

(9) Nothing in this section requires any lawyer to disclose any privileged communication.

(10) For the purposes of this section, a communication is a privileged communication only if:

- (a) it is to a person who is a professional legal adviser and the disclosure falls within subsection (b).

- (b) A disclosure falls within this subsection if it is a disclosure -
- (i) by or by a representative of a client of the professional legal adviser in the course of ascertaining the legal position of the client;
 - (ii) from or through a client in connection with the performing by the legal adviser of the task of defending or representing that client in, or concerning judicial, administrative, arbitration or mediation proceedings:

Provided that a disclosure does not fall within subsection (b) if it is made with the intention of furthering a criminal purpose.

(11) Any person who knows or suspects that a report under this section is being prepared for or will be or has been sent to the Financial Intelligence Unit or any additional information requested by the Financial Intelligence Unit has been prepared or sent shall not disclose to another person, other than a court, supervisory authority or other person authorized by law, any information or other matter in relation to the report. This shall not preclude disclosures or communications regarding suspicions of money laundering or financing of terrorism between and among directors, partners, officers, principals, and employees of the reporting entity and appropriate competent authorities.

(12) No criminal, civil, disciplinary or administrative proceedings for breach of banking or professional secrecy or contract may be instituted against the reporting entity, or its directors, principals, officers, partners or employees who in good faith submit reports or provide information in

accordance with the provisions of this section. No criminal action for money laundering or financing of terrorism shall be brought against a reporting entity, or its directors, principals, officers, partners or employees in connection with the execution of a suspicious transaction where such entity or person complied with the provisions of this section.

(13) Without prejudice to any criminal and/or civil liabilities for offences connected to money laundering or terrorist financing, a reporting entity, and its directors, officers and employees, that fail to comply with the requirements of this section or who wilfully make a false or untrue report referred to above, shall be liable to a fine not exceeding fifty thousand dollars by the Financial Intelligence Unit and, in addition, the licence of such reporting entity to operate as such may be suspended or revoked by the licensing authority.

(14) A reporting entity or its directors, officers or employees aggrieved by the decision of the Financial Intelligence Unit pursuant to subsection (13) above may appeal to the Supreme Court under the provisions of Part X of the Supreme Court of Judicature Act, and for this purpose, the Financial Intelligence Unit shall be deemed to be an inferior court and the rules governing the inferior court appeals shall *mutatis mutandis* apply to every such appeal:

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Provided that an appeal shall not by itself result in the suspension of the decision under appeal, but the appellant may, within the time prescribed for filing such appeal, apply to the Supreme Court for stay of execution of the order appealed from, pending the determination of such appeal.

(15) The question whether a suspicion for the purpose of this section has been formed shall be determined objectively having regard to all the facts and surrounding circumstances.

Reporting entity to appoint a compliance officer and establish procedures, etc.

18. (1) A reporting entity shall:
- (a) appoint a compliance officer who shall be responsible for ensuring the reporting entity's compliance with the requirements of this Act;
 - (b) establish and maintain internal policies, procedures, controls and systems to:
 - (i) implement the customer identification requirements;
 - (ii) implement record keeping and retention requirements;
 - (iii) implement the monitoring requirements;
 - (iv) implement the reporting requirements under section 17;
 - (v) make its officers and employees aware of the laws relating to combating money laundering and financing of terrorism;
 - (vi) make its officers and employees aware of the procedures and policies adopted by it to deter money laundering and the financing of terrorism; and
 - (vii) screen persons before hiring them as employees;
 - (c) establish an audit function to test its anti-money laundering and combating the

financing of terrorism procedures and systems; and

(d) train its officers, employees and agents to recognize suspicious transactions.

(2) A reporting entity shall:

(a) enable any person identified in accordance with subsection (1) (a) to have reasonable access to information that may be relevant to determining whether sufficient basis exists to report the matter pursuant to section 17; and

(b) require the identified person to report the matter, pursuant to section 17, in the event that he determines that sufficient basis exists.

(3) The person identified in subsection (1) (a) shall:

(a) be a senior officer with relevant qualifications and experience to enable him to respond sufficiently well to inquiries relating to the reporting entity and the conduct of its business;

(b) be responsible for establishing and maintaining such manual of compliance procedures in relation to its business as the Financial Intelligence Unit may, from time to time, require;

(c) be responsible for ensuring compliance by staff of the reporting entity with –

- (i) this Act and any other law relating to money laundering or terrorist financing; and
 - (ii) any manual of compliance procedures established; and
- (d) act as the liaison between the reporting entity and the Financial Intelligence Unit in matters relating to compliance with this Act and any other law or directive with respect to money laundering or terrorist financing.

(4) Subsections (1) (a) and (2) do not apply to an individual who, in the course of carrying on his business, does not employ or act in association with any other person, or if all their staff and management consists of less than five persons.

Financial institutions and money transmission service providers to include originator information.

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19. (1) An institution or a person that is licensed to do business in Belize as a bank or financial institution under the Banks and Financial Institutions Act or the International Banking Act or a money transmission service provider shall verify, maintain and include accurate originator information on outgoing electronic funds transfers and related outgoing messages. Such institutions and persons when acting as an intermediary financial institution shall ensure that all originator information that accompanies the wire transfer is retained with the transfer.

(2) Originator information shall include name, place where account exists and account number (or in the absence of an account number, a unique reference number). Such information shall be set forth in the message or payment form accompanying the transfer.

(3) Subsection (1) shall not apply to an electronic funds transfer from a transaction carried out using a credit or

debit card if the credit or debit card number accompanies such transaction, unless the debit or credit card is used as a payment system to effect a money transfer in which case subsection (1) is applicable.

(4) Subsection (1) shall not apply to electronic funds transfers and settlements between financial institutions where the originator and beneficiary of the funds transfer are the financial institutions acting on their own behalf.

(5) Every person or entity that contravenes or fails to comply with the provisions of this section shall be liable to a fine of up to ten thousand dollars by the Financial Intelligence Unit.

(6) A person or entity aggrieved by the decision of the Financial Intelligence Unit pursuant to subsection (5) above may appeal to the Supreme Court under the provisions of Part X of the Supreme Court of Judicature Act, and for this purpose, the Financial Intelligence Unit shall be deemed to be an inferior court and the rules governing the inferior court appeals shall *mutatis mutandis* apply to every such appeal:

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Provided that an appeal shall not by itself result in the suspension of the decision under appeal, but the appellant may, within the time prescribed for filing such appeal, apply to the Supreme Court for stay of execution of the order appealed from, pending the determination of such appeal.

20. Without prejudice to its powers under the Financial Intelligence Unit Act, the FIU or a law enforcement agency, upon application to a Judge of the Supreme Court in Chambers *ex parte* and satisfying him that there are reasonable grounds to believe that –

FIU's power to obtain search warrants. No. 35/2002.

- (a) a reporting entity has failed to establish and maintain records as provided by section 16;
- (b) a reporting entity has failed to report any business transaction as provided by the provisions of section 17 (4); or
- (c) an officer or employee of a reporting entity is committing, has committed or is about to commit a money laundering or a terrorist financing offence,

may obtain a warrant to enter any premises belonging to, in the possession or under the control of the financial institution or any officer or employee of such institution and to search the premises and remove any document, material or other thing therein for the purposes of the Financial Intelligence Unit or law enforcement agency as ordered by the Judge and specified in the warrant.

**Role of
supervisory
authority.**

21. (1) The supervisory authority responsible for supervising each reporting entity shall supervise compliance by the entity with the requirements of sections 15, 16, 17, 18 and 19 of this Act.

(2) In accordance with the law, the supervisory authority, shall:

- (a) examine and supervise the reporting entity, and regulate and oversee effective compliance with the obligations set out in sections 15, 16, 17, 18 and 19 of this Act and any other preventative measures in relation to combating money laundering and terrorist financing, through on-site examinations, or other means;

- (b) issue instructions, guidelines or recommendations to assist the reporting entity to comply with the obligations set forth in this Act;
- (c) develop standards and/or criteria applicable to the reporting of suspicious activities that reflect other existing and future pertinent national and internationally accepted standards;
- (d) impose requirements that the reporting entity should ensure that their foreign branches and subsidiaries adopt and enforce measures consistent with this law to the extent that local laws and regulations so permit, and where the foreign branch or subsidiary is unable to adopt and observe these measures, to report the matter to the designated supervisory or regulatory authority or the competent disciplinary authority;
- (e) submit a report to the Financial Intelligence Unit, as soon as practicable but no later than three working days, any information concerning suspicious transactions, activities or facts that could be related to money laundering, the financing of terrorism or the proceeds of crime;
- (f) cooperate with agencies performing similar functions in other countries including exchange of information;
- (g) maintain statistics concerning measures adopted and sanctions imposed in the context of enforcing this Act;

- (h) adopt the necessary measures to establish fit and proper criteria for owning, controlling, or participating, directly or indirectly, in the directorship, management or operation of a financial institution or a casino or other gaming establishment.

Sanctions by
supervisory
authorities.

22. (1) Any supervisory or regulatory authority or competent disciplinary authority that discovers a breach of the obligations established under sections 15, 16, 17, 18 and 19 of this Act by a reporting entity it supervises may impose one or more of the following sanctions and measures after giving the reporting entity a reasonable opportunity to make representations on its own behalf:-

- (a) written warnings;
- (b) order to comply with specific instructions;
- (c) ordering regular reports from the reporting entity on the measures it is taking;
- (d) fine in an amount no less than five thousand dollars and no greater than twenty thousand dollars;
- (e) barring convicted individuals from employment within the sector;
- (f) replacing or restricting the powers of managers, directors or controlling owners, including the appointing of ad hoc administrator; or
- (g) recommending to the appropriate licensing authority of the reporting entity that the reporting entity's licence be suspended, restricted or withdrawn.

(2) The supervisory authority shall inform the Financial Intelligence Unit as to the sanctions imposed and may order the publication of its decision.

(3) Any supervisory or regulatory authority or the competent disciplinary authority that discovers facts likely to constitute indication of money laundering or financing of terrorism shall so inform the Financial Intelligence Unit.

23. (1) Where a person is being investigated for a serious offence, or has been charged with or convicted of a serious crime, or where the Financial Intelligence Unit or a law enforcement authority is endeavouring to trace terrorist property or funds or other property related to a serious crime, and a police officer or an authorised officer of the Financial Intelligence Unit has reasonable grounds for suspecting that any person has possession or control of –

Production orders.

- (a) a document relevant to identifying, locating or quantifying property of the person or to identifying or locating a document necessary for the transfer of property of such person; or
- (b) a document relevant to identifying, locating or quantifying tainted property in relation to the offence or to identifying or locating a document necessary for the transfer of tainted property in relation to the offence; or
- (c) a document relevant to identifying, locating or quantifying recoverable property or to identify or locating a document related to the transfer of terrorist property; or
- (d) a document related to terrorist property,

the police officer or an authorised officer of the Financial Intelligence Unit may apply *ex parte* and in writing to a judge of the Supreme Court in chambers for an order against the person suspected of having possession or control of a document of the kind referred. The application shall be supported by an affidavit.

(2) The judge may, if he considers there are reasonable grounds for so doing, make an order that the person produce to a police officer or an authorized officer of the Financial Intelligence Unit, at a time and place specified in the order, any documents of the kind referred to in subsection (1).

(3) A police officer or an authorised officer of the Financial Intelligence Unit to whom documents are produced may-

- (a) inspect the documents;
- (b) make copies of the documents; or
- (c) retain the documents for so long as is reasonably necessary for the purposes of this Act.

(4) Where a police officer or an authorised officer of the Financial Intelligence Unit retains documents produced to him, he shall make a copy of the documents available to the person who produced them.

(5) Notwithstanding any other rule of law or practice to the contrary, a person is not entitled to refuse to produce documents ordered to be produced under this section on the ground that –

- (a) the document might tend to incriminate the person or make him liable to a penalty; or

- (b) the production of the document would be in breach of an obligation of the person not to disclose the existence or contents of the document.

24. (1) Where a person produces a document pursuant to an order under this section, the production of the document, or any information, document or things obtained as a direct or indirect consequence of the production of the document is not admissible against that person in any criminal proceedings except proceedings under section 25.

Evidential value of information.

(2) For the purposes of subsection (1), proceedings on an application for a restraining order, a forfeiture order or a pecuniary penalty order are not criminal proceedings.

25.(1) Where a person is required by a production order to produce a document to a police officer or an authorised officer of the Financial Intelligence Unit, the person commits an offence against this section if he –

Failure to comply with a production order.

- (a) contravenes the order without reasonable cause; or
- (b) in purported compliance with the order, produces or makes available a document known to the person to be false or misleading in a material particular and does not so indicate to the police officer or the authorized officer of the FIU, and provide to such officer any correct document or information of which the person is in possession,

and on conviction shall be liable,

- (i) in the case of a natural person, to a fine not exceeding ten thousand dollars or to imprison-

ment for a term not exceeding two years, or to both such fine and imprisonment; and

- (ii) in the case of a legal person or other entity, to a fine which shall be not less than fifty thousand dollars but which may extend to one hundred thousand dollars.

Production orders in relation to foreign offences.

26. Where a foreign State requests assistance to locate or seize property suspected to be tainted property in respect of an offence within its jurisdiction, the provisions of section 23 shall apply with necessary modifications.

Power to search for and seize documents relevant to locating property.

27. (1) A police officer or an authorized officer of the Financial Intelligence Unit may –

- (a) enter upon land or upon or into premises;
- (b) search the land or premises for any document of the type described in section 23(1); and
- (c) seize any document found in the course of that search that the aforementioned officer believes, on reasonable grounds, to be a relevant document in relation to a serious crime:

Provided that the entry, search and seizure is made with the consent of the occupier of the land or the premises, or under a warrant issued by a court under this Act.

(2) The powers contained in subsection (1) are without prejudice to the powers of the FIU under the Financial Intelligence Unit Act.

28. (1) Where –

- (a) there are reasonable grounds to believe that a person has been charged with or convicted of a serious crime, or is or will be involved in the commission of a serious offense; or
- (b) a police officer or an authorised officer of the Financial Intelligence Unit has reasonable grounds for suspecting that there is, or may be within the next 72 hours, upon any land or upon or in any premises, a document in relation to the offence or in relation to any tainted property, realizable property or terrorist property,

Search warrant for location of documents relevant to locating property.

the police officer or an authorised officer of the Financial Intelligence Unit may make an application supported by information on oath to a magistrate or a judge for a search warrant in respect of that land or those premises.

(2) Where an application is made under subsection (1) for a warrant to search land or premises, the magistrate or judge may, subject to subsection (4) issue a warrant authorising a police officer or an authorised officer of the Financial Intelligence Unit (whether or not named in the warrant), with such assistance and by such force as is necessary and reasonable –

- (a) to enter upon the land or in or upon any premises and to search the land or premises for property of that kind; and
- (b) to seize property found in the course of the search that the police officer or the

authorized officer of the Financial Intelligence Unit believes on reasonable grounds to be property of that kind.

(3) A magistrate or judge shall not issue a warrant under subsection (2) unless he is satisfied that –

- (a) a production order has been given in respect of the document and has not been complied with;
- (b) a production order in respect of the document would be unlikely to be effective;
- (c) the investigation for the purposes of which the search warrant is being sought might be seriously prejudiced if the police officer or an authorised officer of the Financial Intelligence Unit does not gain immediate access to the document without any notice to any person; or
- (d) the document involved cannot be identified or described with sufficient particularity to enable a production order to be obtained.

(4) A warrant issued under this section shall state –

- (a) the purpose for which it is issued, including a reference to the nature of the relevant offence;
- (b) a description of the kind of documents or any tainted property, realizable property or terrorist property authorised to be seized;

- (c) a time at which the warrant ceases to be in force; and
- (d) whether entry is authorised to be made at any time of the day or night or during specified hours.

(5) If during the course of searching under a warrant issued under this section, a police officer or an authorised officer of the Financial Intelligence Unit finds –

- (a) a document that the police officer or an authorised officer of the Financial Intelligence Unit believes on reasonable grounds to relate to the relevant offence or to another serious offence; or
- (b) anything the police officer or an authorised officer of the Financial Intelligence Unit believes on reasonable grounds will afford evidence as to the commission of a criminal offence,

the police officer or an authorised officer of the Financial Intelligence Unit may seize that property or thing and the warrant shall be deemed to authorise such seizure.

(6) The powers contained in this section are without prejudice to the powers of the FIU under the Financial Intelligence Unit Act.

29. (1) A police officer or an authorized officer of the Financial Intelligence Unit may –

- (a) search a person for tainted property or terrorist property;
- (b) enter upon land or upon or into premises and search the land or premises for tainted property or terrorist property; and

No. 35/2002.

Powers to search for and seize tainted property or terrorist property.

- (c) in either case, seize any property found in the course of the search that the police officer or the authorized officer believes, on reasonable grounds, to be tainted property or terrorist property, provided that the search or seizure is made:
 - (i) with the consent of the person or the occupier of the land or premises as the case may be; or
 - (ii) under warrant issued under section 30.

(2) Where a police officer or an authorized officer of the Financial Intelligence Unit may search a person under this section, he may also search –

- (a) the clothing that is being worn by the person; and
- (b) any property in, or apparently in, the person's immediate control.

Search warrants in relation to tainted property or terrorist property.

30. (1) Where a police officer or an authorized officer of the Financial Intelligence Unit has reasonable grounds for suspecting that there is, or may be within the next 72 hours, tainted property or terrorist property of a particular kind –

- (a) on a person;
- (b) in the clothing that is being worn by a person;
- (c) otherwise in a person's immediate control; or
- (d) upon land or upon or in any premises,

the police officer or the authorized officer may lay before a magistrate an information setting out those grounds and apply for the issue of a warrant to search the person, the land or the premises as the case may be, for property of that kind.

(2) Where an application is made under subsection (1) for a warrant to search a person, land or premises, the magistrate may, subject to subsection (4), issue a warrant authorizing a police officer or the authorized officer (whether or not named in the warrant) with such assistance and by such force as is necessary and reasonable –

- (a) to search the person for property of that kind;
- (b) to enter upon the land or in or upon any premises and to search the land or premises for property of that kind; and
- (c) to seize property found in the course of the search that the police officer or the authorized officer believes on reasonable grounds to be property of that kind.

(3) A magistrate shall not issue a warrant under subsection (2) in respect of tainted property or terrorist property unless the magistrate is satisfied that there are reasonable grounds to believe that a confiscation order may be made under this Act in respect of the property.

(4) A warrant issued under this section shall state –

- (a) the purpose for which it is issued including, in respect of tainted property, a reference to the nature of the relevant offence;
- (b) a description of the kind of property authorised to be seized;

- (c) a time at which the warrant ceases to be in force; and
- (d) whether entry is authorised to be made at any time of the day or night or during specified hours.

(5) If during the course of searching under a warrant issued under this section, a police officer or the authorized officer finds –

- (a) property that the police officer or the authorized officer believes on reasonable grounds to be tainted property or terrorist property of a type not specified in the warrant, or tainted property in relation to another serious offence; or
- (b) anything the police officer or the authorized officer believes on reasonable grounds will afford evidence as to the commission of a serious offence,

the police officer or the authorized officer may seize that property or thing and the warrant shall be deemed to authorise such seizure.

Search warrants in relation to foreign offences.

31. Where a foreign State requests assistance to locate or seize property suspected to be tainted property in respect of an offence within its jurisdiction, the provisions of sections 28, 29 and 30 shall apply with necessary modifications.

Monitoring orders.

32. (1) A police officer or an authorised officer of the Financial Intelligence Unit may apply, *ex parte* and in writing to a judge or magistrate in chambers for an order (in this section called a monitoring order) directing a reporting entity to give information to a police officer or an authorised officer of the Financial Intelligence Unit. An application under this subsection shall be supported by an affidavit.

- (2) A monitoring order shall –
 - (a) direct a reporting entity to disclose information obtained by the institution about transactions conducted through an account held by a particular person with the institution;
 - (b) not have retrospective effect; and
 - (c) only apply for a period of a maximum of 3 months from the date of the making of the order.

- (3) A judge or magistrate shall not issue a monitoring order unless he is satisfied that there are reasonable grounds for suspecting that the person in respect of whose account the order is sought –
 - (a) has committed or was involved in the commission, or is about to commit or be involved in the commission of, a serious crime; or
 - (b) has benefited directly or indirectly, or is about to benefit directly or indirectly from the commission of a serious crime.

- (4) A monitoring order shall specify –
 - (a) the name or names in which the account is believed to be held; and
 - (b) the class of information that the institution is required to give.

- (5) Where a reporting entity, which has been given notice of a monitoring order, knowingly –

- (a) contravenes the order, or
- (b) provides false or misleading information in purported compliance with the order,

the reporting entity commits an offence against this section and shall be liable on conviction, in the case of a natural person, to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment; and in the case of a body corporate, to a fine not exceeding twenty thousand dollars.

Monitoring orders not to be disclosed.

33. (1) A reporting entity that is, or has been, subject to a monitoring order shall not disclose the existence or operation of the order to any person except –

- (a) an officer or agent of the reporting entity for the purpose of ensuring compliance with the order;
- (b) a legal adviser for the purpose of obtaining legal advice or representation in respect of the order; or
- (c) a police officer or an authorised officer of the Financial Intelligence Unit authorised in writing to receive the information.

(2) A person described in subsection (1) shall not disclose the existence or operation of a monitoring order except to another person described in that subsection and may do so only for the purposes of the performance of the person's duties or functions.

(3) Nothing in this section prevents the disclosure of information concerning a monitoring order for the purposes of or in connection with legal proceedings or in the course of proceedings before a court, provided that nothing in this section shall be construed as requiring a legal adviser

to disclose to any court the existence or operation of a monitoring order.

(4) A reporting entity or other person who contravenes the provisions of subsections (1) or (2) above is guilty of an offence and shall be liable on conviction, in the case of a natural person, to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and term of imprisonment, and in the case of a legal person or other entity, to a fine which shall not be less than twenty thousand dollars but which may extend to fifty thousand dollars.

34. (1) Without prejudice to the powers of the Minister responsible for telecommunications under the Belize Telecommunications Act, a police officer or an authorized officer of the Financial Intelligence Unit may, for the purpose of obtaining evidence of the commission of a money laundering offence, a terrorist financing offence or the proceeds of crime under this Act, apply, *ex parte*, to a Judge of the Supreme Court, for an interception of communications order.

Power to intercept communications and the admissibility of intercepted communications No. 16/2002.

(2) A judge to whom an application is made under subsection (1) may make an order –

- (a) requiring a communications service provider to intercept and retain a specified communication or communications of a specified description received or transmitted, or about to be received or transmitted by that communications service provider;
- (b) authorising the police officer or the authorized officer of the Financial Intelligence Unit, to enter any premises and to install on such premises, any device

for the interception and retention of a specified communication or communications of a specified description and to remove and retain such device,

if the judge is satisfied that there are reasonable grounds to believe that material information relating to –

- (i) the commission of an offence under this Act, or
- (ii) the whereabouts of the person suspected by the police officer or the Financial Intelligence Unit to have committed the offence,

is contained in that communication or communications of that description.

(3) Any information contained in a communication –

- (a) intercepted and retained pursuant to an order under subsection (2);
- (b) intercepted and retained in a foreign state in accordance with the law of that foreign state and certified by a Judge of that foreign state to have been so intercepted and retained,

shall be admissible in proceedings for a money laundering offence or terrorist financing offence or for proceedings in relation to the forfeiture of the proceeds of crime or terrorist property under this Act, as evidence of the truth of its contents notwithstanding the fact that it may contain hearsay.

35. (1) The Financial Intelligence Unit, upon application to a Judge of the Supreme Court and satisfying him that a financial institution has failed without reasonable excuse to comply in whole or in part with any obligation of reporting entities under section 16 or subsection (4) of section 17, may obtain a mandatory injunction against any or all of the officers or employees of that financial institution on such terms as the Court deems necessary to enforce compliance with such obligation.

Mandatory injunction to enforce compliance.

(2) In granting an injunction pursuant to subsection (1) of this section, the Court may order that should the financial institution or any officer or employee of that institution fail without reasonable excuse to comply with all or any of the provisions of that injunction, such financial institution, officer or employee shall pay a financial penalty in the sum and in the manner directed by the Court.

36. A person who has been convicted of a serious crime (whether in Belize or elsewhere) or of an offence under this Act, may not be eligible or licensed to carry on the business of a financial institution.

Other measures to avoid money laundering and terrorist financing.

37. A person who enters or leaves Belize with more than ten thousand dollars in cash or negotiable instruments (in Belize currency or equivalent foreign currency) shall make a declaration regarding the existence and amount of the cash or, as the case may be, negotiable instruments being carried by that person, to an authorised officer of the Financial Intelligence Unit or to any other person or authority designated by the Financial Intelligence Unit for that purpose, and every person who fails to make such a declaration or makes a false declaration commits an offence under this Act and shall be liable on summary conviction to a fine not exceeding fifty thousand dollars.

Currency reporting when entering or leaving Belize.

38. (1) A police officer or a customs officer may seize and, in accordance with this section, detain any currency which is being imported into, or exported from Belize, if –

Seizure and detention of suspicious imports or exports of currency.

- (a) the amount is not less than ten thousand dollars in Belize currency (or equivalent foreign currency); and
- (b) he has reasonable grounds for suspecting that it is –
 - (i) property derived from a serious crime;
 - (ii) intended by any person for use in the commission of a serious crime;
 - (iii) involved in money laundering or the financing of terrorism; or
 - (iv) being brought into or taken out of Belize without making the declaration required under section 37 of this Act or after making a false declaration.

(2) A police officer or a customs officer may request further information from the person carrying the cash or negotiable instruments.

(3) Currency detained under subsection (1) shall not be detained for more than 72 hours after seizure, excluding weekends and public and bank holidays unless a magistrate orders its continued detention for a period not exceeding 3 months from the date of seizure, upon being satisfied that –

- (a) there are reasonable grounds for the suspicion referred to in subsection (1)(b); and
- (b) its continued detention is justified while –

- (i) its origin or derivation is further investigated; or
- (ii) consideration is given to instituting in Belize or elsewhere criminal proceedings against any person for an offence with which the currency is connected.

(4) A magistrate may subsequently order continued detention of the currency if satisfied of the matters mentioned in subsection (3), but total period of detention shall not exceed 2 years from the date of the order made under that subsection.

(5) Subject to subsection (4), currency detained under this section may be released in whole or in part to the person on whose behalf it was imported or exported –

- (a) by order of a magistrate that its continued detention is no longer justified, upon application by or on behalf of that person and after considering any views of the Director of the Financial Intelligence Unit to the contrary; or
- (b) by an authorized officer, if satisfied that its continued detention is no longer justified.

(6) No currency detained under this section shall be released where –

- (a) an application is made under this Act for the purpose of –
 - (i) the forfeiture of the whole or any part of the currency; or

- (ii) its restraint pending determination of its liability to forfeiture; or
- (b) proceedings are instituted in Belize or elsewhere against any person for an offence with which the currency is connected,

unless and until the proceedings relating to the relevant application or the proceedings for the offence as the case may have been concluded.

(7) On being satisfied that the property represents the proceeds of crime or property to be used in the commission of a serious crime, the magistrate shall make a forfeiture order.

PART IV

Freezing and Forfeiture of Assets in Relation to Money Laundering and Terrorist Financing

**Application
for a
Restraining
Order.**

39. (1) The Director of Public Prosecutions or the Financial Intelligence Unit may apply to the Supreme Court for a restraining order against any realisable property held by the accused or specified realisable property held by a person other than the accused.

(2) An application for a restraining order may be made *ex parte* and shall be in writing and be accompanied by an affidavit stating –

- (a) where the accused has been convicted of a serious crime, the serious crime for which he was convicted, the date of the conviction, the court before which the conviction was obtained and whether an appeal has been lodged against the conviction;

- (b) where the accused has not been convicted of a serious crime, the crime for which he is charged or about to be charged, or is being investigated and the grounds for believing that the defendant committed the offence;
- (c) a description of the property in respect of which the restraining order is sought;
- (d) the name and address of the person who is believed to be in possession of the property;
- (e) the grounds for the belief that the property is tainted property in relation to the offence or that the accused derived a benefit directly or indirectly from the commission of the offence;
- (f) where the application seeks a restraining order against property of a person other than the defendant, the grounds for the belief that the property is tainted property in relation to the offence and is subject to the effective control of the accused or is a gift caught by this Act; and
- (g) the grounds for the belief that a forfeiture order or a pecuniary penalty order may be or is likely to be made under this part in respect of the property.

40. (1) Subject to this section, where the Director of Public Prosecutions or the Financial Intelligence Unit applies to the Court for a restraining order against property and the Court is satisfied that –

Restraining orders.

- (a) the accused has been convicted of a serious crime or has been charged or is about to be charged with or is being investigated for a serious crime;
- (b) where the accused has not been convicted of a serious crime, there is reasonable cause to believe that the property is tainted property in relation to an offence or that the accused derived a benefit directly or indirectly from the commission of the offence;
- (c) where the application seeks a restraining order against property of a person other than the accused, there are reasonable grounds for believing that the property is tainted property in relation to an offence and that the property is subject to the effective control of the accused or is property held by the defendant or a gift caught by this Act; and
- (d) there are reasonable grounds for believing that a forfeiture order or a pecuniary penalty order may be or is likely to be made under this part in respect of the property,

the Court may make an order –

- (i) prohibiting the defendant or any person from disposing of, or otherwise dealing with, the property or such part thereof or interest therein as is specified in the order, except in such manner as may be specified in the order; and

- (ii) at the request of the Director of Public Prosecutions or the Financial Intelligence Unit, where the Court is satisfied that the circumstances so require –
 - (a) directing the Registrar-General or such other person as the Court may appoint to take custody of the property or such part thereof as is specified in the order and to manage or otherwise deal with all or any part of the property in accordance with the directions of the Court; and
 - (b) requiring any person having possession of the property to give possession thereof to the Registrar-General or to the person appointed under sub-paragraph (i) to take custody and control of the property.

(2) An order under subsection (1) may be made subject to such conditions as the Court thinks fit and, without limiting the generality of this subsection, may make provision for meeting out of the property or a specified part of the property, any or all of the following:

- (a) the person's reasonable living expenses (including the reasonable living expenses of the person's dependants, if any) and reasonable business expenses;
- (b) the person's reasonable expenses in defending the criminal charge and any proceedings under this Part; and
- (c) a specified debt incurred by the person in good faith.

(3) Where the Registrar-General or other person appointed under subsection (1) (ii) (a) is given a direction in relation to any property, he may apply to the Court for directions on any question respecting the management or preservation of the property under his control.

(4) Subject to section 42, an application shall be served on all persons interested in the application or such of them as the Court thinks expedient and all such persons shall have the right to appear at the hearing and be heard.

(5) When the application is made on the basis that a person is being investigated or about to be charged, any order made by the Court shall lapse if the person is not charged –

- (a) where the offence is an offence against the laws of Belize, within 28 days; or
- (b) where the offence is an offence against the laws of a foreign State, within three months.

**Undertaking
by the
Government.**

41. (1) Before making an order under section 40, the Court may require the Government to give such undertakings as the Court considers appropriate with respect to the payment of damages or costs, or both, in relation to the making and execution of the order.

(2) For the purposes of this section, the Director of Public Prosecutions or the Financial Intelligence Unit may give such undertakings with respect to the payment of damages or costs or both as are required by the Court.

**Notice of
application
for
restraining
order.**

42. Before making a restraining order the Court may require notice to be given to, and may hear, any person who, in the opinion of the Court, appears to have an interest in the property, unless the Court is of the opinion that giving such notice before making the order would result in the disappearance, dissipation or reduction in value of the property.

43. A copy of a restraining order shall be served on a person affected by the order in such manner as the Court directs or as may be prescribed by rules of court.

Service of
restraining
order.

44. (1) A copy of a restraining order which affects land in Belize shall be registered with the Registrar of Lands.

Registration
of restraining
order.

(2) A restraining order is of no effect with respect to registered land unless it is registered as a caution under the Registered Land Act.

Cap. 194.

(3) Where particulars of a restraining order are registered under the Registered Land Act as a caution, a person who subsequently deals with the property shall, for the purposes of section 131 of that Act be deemed to have notice of the order at the time of the dealing.

Cap. 194.

45. (1) A person who knowingly contravenes a restraining order by disposing of or otherwise dealing with property that is subject to the restraining order commits a serious crime punishable upon conviction by –

Contravention
of restraining
order.

(a) in the case of a natural person, a fine of not less than two thousand dollars but which may extend to fifty thousand dollars or imprisonment for a period not exceeding two years or both;

(b) in the case of a legal person or other entity, a fine of not less than fifty thousand dollars but which may extend to one hundred thousand dollars.

(2) Where a restraining order is made against property and the property is disposed of, or otherwise dealt with, in contravention of the restraining order, and the disposition or dealing was not for sufficient consideration or not in favour of a person who acted in good faith and without

notice, the Director of Public Prosecutions or the Financial Intelligence Unit may apply to the Court that made the restraining order for an order that the disposition or dealing be set aside.

(3) Where the Director of Public Prosecutions or the Financial Intelligence Unit makes an application under subsection (2) in relation to a disposition or dealing, the Court may –

- (a) set aside the disposition or dealing as from the day on which the disposition or dealing took place; or
- (b) set aside the disposition or dealing as from the day of the order under this subsection and declare the respective rights of any persons who acquired interests in the property on, or after the day on which the disposition or dealing took place, and before the day of the order made under this subsection.

Duration of restraining order.

46. A restraining order remains in force until –

- (a) it is discharged, revoked or varied; or
- (b) a forfeiture order or a pecuniary penalty order, as the case may be, is made in respect of property which is the subject of the order.

Review of restraining order.

47. (1) A person who has an interest in property in respect of which a restraining order was made may, at any time, apply to the Court for an order under subsection (4).

(2) An application under subsection (1) shall not be heard by the Court unless the applicant has given to the Director of Public Prosecutions or the Financial Intelligence Unit at least 3 clear days notice in writing of the application.

(3) The Court may require notice of the application to be given to, and may hear, any person who in the opinion of the Court appears to have an interest in the property.

(4) On an application under subsection (1), the Court may revoke or vary the order or make the order subject to such conditions as the Court thinks fit. For the purposes of this subsection the Court may –

- (a) require the applicant to enter into recognisances;
- (b) vary the order to permit the payment of reasonable living expenses of the applicant, including his dependants, if any, and reasonable legal or business expenses of the applicant.

(5) An order under subsection (4) may only be made if the Court is satisfied that –

- (a) the applicant is the lawful owner of the property or is entitled to lawful possession thereof and appears to be innocent of any complicity in the commission of a serious crime or of any collusion in relation to such offence; and
- (b) the property will no longer be required for the purposes of any investigation or as evidence in any proceedings.

48. (1) The Director of Public Prosecutions or the Financial Intelligence Unit may apply to the Supreme Court that made a restraining order for an extension of the period of the operation of the order.

**Extension of
restraining
order.**

(2) Where the Director of Public Prosecutions or the Financial Intelligence Unit makes an application under

subsection (1), the Court may extend the operation of a restraining order for a specified period if it is satisfied that a forfeiture order may be made in respect of the property or part thereof or that a pecuniary penalty order may be made against the person.

**Forfeiture
order on
conviction.**

49. (1) Where, upon application by the Director of Public Prosecutions or the Financial Intelligence Unit, the Court is satisfied that a property is tainted property in respect of a serious crime of which a person has been convicted, the Court may order that specified property to be forfeited.

(2) In determining whether property is tainted property the Court may infer, in the absence of evidence to the contrary –

- (a) that the property was used in or in connection with the commission of a serious crime if it was in the person's possession at the time of, or immediately after the commission of the serious crime for which the person was convicted;
- (b) that the property was derived, obtained or realized as a result of the commission of the serious crime if it was acquired by the person before, during or within six years after the period of the commission of the serious crime of which the person was convicted, and the Court is satisfied that the income of that person from sources unrelated to criminal activity of that person cannot reasonably account for the acquisition of that property.

(3) Where the Court orders that property, other than money, be forfeited, the Court shall specify in the order the amount that it considers to be the value of the property at the time when the order is made.

(4) In considering whether a forfeiture order should be made under subsection (1) the Court shall have regard to –

- (a) the rights and interests, if any, of third parties in the property;
- (b) the gravity of the serious crime concerned;
- (c) any hardship that may reasonably be expected to be caused to any person by the operation of the order; and
- (d) the use that is ordinarily made of the property, or the use to which the property was intended to be put.

(5) Where the Court makes a forfeiture order, the Court may give such directions as are necessary or convenient for giving effect to the order.

50. (1) Subject to subsection (2), where a Court makes a forfeiture order against any property, the property vests absolutely in the Government by virtue of the order.

Effect of forfeiture order on conviction.

(2) Where property ordered to be confiscated is land –

- (a) the property vests in the Government in equity but does not vest in the Government at law until the applicable registration requirements under the Registered Lands Act or the Law of Property Act, as appropriate, have been complied with;
- (b) the Government is entitled to be registered as owner of the property;

**Cap. 194.
Cap. 190.**

- (c) the Director of Public Prosecutions and the Financial Intelligence Unit have power on behalf of the Government to do or authorise the doing of anything necessary or convenient to obtain the registration of the Government as owner, including the execution of any instrument to be executed by a person transferring an interest in property of that kind.
- (3) Where the Court makes a forfeiture order against property –
 - (a) the property shall not, except with the leave of the Court and in accordance with any directions of the Court, be disposed of, or otherwise dealt with, by or on behalf of the Government before the relevant appeal date; and
 - (b) if after the relevant appeal date, the order has not been discharged, the property may be disposed of and the proceeds applied or otherwise dealt with in accordance with the directions of the Minister of Finance.
- (4) In this section -
 - “relevant appeal date”** used in relation to a forfeiture order made in consequence of a person’s conviction of a serious crime means –
 - (a) the date on which the period allowed by rules of court for the lodging of an appeal against a person’s conviction or for the lodging of an appeal against the making of a forfeiture order expires without an appeal having been lodged, whichever is the later; or

- (b) where an appeal against a person's conviction or against the making of a forfeiture order is lodged, the date on which the appeal lapses in accordance with the rules of court or is finally determined, whichever is the later.

51. The Court may –

Voidable transfers

- (a) before making a forfeiture order; and
- (b) in the case of property in respect of which a restraining order was made and where the order was duly served –

set aside any conveyance or transfer of the property that occurred after the seizure of the property or the service of the restraining order, unless the conveyance or transfer was made for valuable consideration to a person acting in good faith and without notice.

52. (1) Where an application is made for a forfeiture order against property, a person who claims an interest in the property may apply to the Court, before the forfeiture order is made, for an order under subsection (2).

Protection of third parties.

(2) If a person applies to the Court for an order under this section in respect of property and the Court is satisfied on a balance of probabilities –

- (a) that he was not in any way involved in the commission of the serious crime; and
- (b) where he acquired the interest during or after the commission of the serious crime, that he acquired the interest –
 - (i) for sufficient consideration; and

- (ii) without knowing, and in circumstance such as not to arouse a reasonable suspicion that the property was, at the time he acquired it, property that was tainted property,

the Court shall make an order declaring that his interest shall not be affected by the forfeiture order.

(3) Subject to subsection (4), where a forfeiture order has already been made directing the forfeiture of property, a person who claims an interest in the property may, before the end of the period of 6 months commencing on the day on which the forfeiture order is made, apply under this subsection to the Court for an order under subsection (2).

(4) A person who –

- (a) had knowledge of the application for the forfeiture order before the order was made; or
- (b) appeared at the hearing of that application,

shall not be permitted to make an application under subsection (3) except with leave of the Court.

(5) A person who makes an application under subsection (1) or (3) shall give no less than 14 days written notice of the making of the application to the Director of Public Prosecutions or the Financial Intelligence Unit who shall be a party to any proceedings in the application.

(6) An applicant or the Director of Public Prosecutions or the Financial Intelligence Unit, as the case may be,

in accordance with the rules of court, may appeal against an order made under subsection (2).

(7) Any person appointed by the Court as a custodian or receiver for property shall, on application by any person who has obtained an order under subsection (2), and where the period allowed by the rules of court with respect to the making of appeals has expired and any appeal from that order has been determined –

- (a) direct that the property or part thereof to which the interest of the applicant relates, be returned to the applicant; or
- (b) direct that an amount equal to the value of the interest of the applicant, as declared in the order, be paid to the applicant.

53. (1) Where the Court makes a forfeiture order against property in reliance on a person's conviction of a serious crime and the conviction is subsequently quashed, the quashing of the conviction discharges the order.

Discharge of forfeiture order on appeal and quashing of conviction.

(2) Where a forfeiture order against property is discharged as provided for in subsection (1), or by the Court hearing an appeal against the making of the order, any person who claims to have an interest in the property immediately before the making of the forfeiture order may apply to the Registrar-General or the Registrar of Lands, as appropriate, in writing for the transfer of the interest to the person.

(3) On receipt of an application under subsection (2) the Registrar-General or the Registrar of Lands, as appropriate, shall –

- (a) if the interest is vested in the Government, give directions that the property or

part thereof to which the interest of the applicant relates be transferred to that person; or

- (b) in any other case, direct that there be paid to that person an amount equal to the interest as at the time the order is made.

(4) In the exercise of his powers under this section and section 50, the Registrar-General or the Registrar of Lands, as applicable, shall have the power to do or authorize the doing of anything necessary or convenient to effect the transfer or return of the property, including the execution of any instrument and the making of any application for the registration of an interest in the property on any appropriate register.

Payment
instead of a
forfeiture
order.

54. Where the court is satisfied that a forfeiture order should be made in respect of the property of a person convicted of a serious crime but that the property or any part thereof or interest therein cannot be made subject to such an order and, in particular –

- (a) cannot, on the exercise of due diligence, be located;
- (b) has been transferred to a third party in circumstances which do not give rise to a reasonable inference that the title or interest was transferred for the purpose of avoiding the forfeiture of the property;
- (c) is located outside Belize;
- (d) has been substantially diminished in value or rendered worthless; or
- (e) has been commingled with other property that cannot be divided without difficulty,

the Court may, instead of ordering the property or part thereof or interest therein to be forfeited, order the person to pay to the Government an amount equal to the value of the property, part or interest.

55. Where the court orders a person to pay an amount under section 54, that amount shall be treated as if it were a fine imposed upon him in respect of a conviction for a serious crime, and the Court shall –

Application of procedure for enforcing fines.

- (a) notwithstanding any other law, impose in default of the payment of that amount, a term of imprisonment –
 - (i) of one year, where the amount does not exceed one thousand dollars;
 - (ii) of two years, where the amount exceeds one thousand dollars but does not exceed three thousand dollars;
 - (iii) of three years, where the amount exceeds three thousand dollars;
- (b) direct that the term of imprisonment imposed pursuant to subsection (a) be served consecutively to any other form of imprisonment imposed on that person, which that person is then serving;
- (c) direct that the **rules** regarding the remission of sentences of prisoners serving a term of imprisonment or the rules regarding the release on parole shall not apply in relation to a term of imprisonment, imposed on a person pursuant to paragraph (a).

**Forfeiture
where a
person dies or
absconds.**

56. (1) The Director of Public Prosecutions or the Financial Intelligence Unit may apply to the court for a forfeiture order in respect of tainted property if the accused has died or absconded. If the court is satisfied that –

- (a) any property is tainted property in respect of the serious crime;
- (b) proceedings in respect of a serious crime committed in relation to that property were commenced; and
- (c) the accused charged with the offence referred to in paragraph (b) has died or absconded,

the Court may order that the property or such property as is specified by the Court in the order be forfeited.

(2) For purposes of subsection (1), sections 49, 50, 51 and 52 shall apply with such modifications as are necessary to give effect to this section.

(3) For the purposes of subsection (1), a person is deemed to have absconded if reasonable attempts to arrest the person pursuant to the warrant have been unsuccessful during the period of six months commencing on the day the warrant was issued, and the person shall be deemed to have so absconded on the last day of that period.

**Pecuniary
penalty order
on conviction.**

57. (1) Subject to this section, where the Director of Public Prosecutions or the Financial Intelligence Unit applies to the Court for a pecuniary penalty order against a person in respect of that person's offence, the Court shall, if it is satisfied that the person has benefited from that offence, order him to pay to the Government an amount equal to the

value of his benefit from the offence or such lesser amount as the Court certifies in accordance with section 60 (2) to be the amount that might be realised at the time the pecuniary penalty order is made.

(2) The Court shall assess the value of the benefits derived by a person from the commission of an offence in accordance with sections 58, 59, 60, and 61.

(3) The Court shall not make a pecuniary penalty order under this section –

(a) until the period allowed by the rules of court for the lodging of an appeal against conviction has expired without such appeal having been lodged; or

(b) where an appeal against conviction has been lodged, until the appeal lapses in accordance with the rules of court or is finally determined, whichever is the later date.

58. (1) Where a person obtains property as the result of, or in connection with the commission of a serious crime, his benefit is the value of the property so obtained.

Rules for determining benefit and assessing value.

(2) Where a person derived an advantage as a result of or in connection with the commission of a serious crime, his advantage shall be deemed to be a sum of money equal to the value of the advantage so derived.

(3) The Court, in determining whether a person has benefited from the commission of a serious crime or from the offence taken together with other serious crimes shall, unless the contrary is proved, deem –

- (a) all property appearing to the Court to be held by the person on the day on which the application is made; and
- (b) all property appearing to the Court to be held by the person at any time –
 - (i) within the period between the day the serious crime, or the earliest serious crime, was committed and the day on which the application is made; or
 - (ii) within the period of 6 years immediately before the day on which the application is made, whichever is the longer,to be property that came into the possession or under the control of the person by the reason of the commission of that serious crime or those serious crimes for which the person was convicted;
- (c) any expenditure by the person since the beginning of that period to be expenditure met out of payments received by him as a result of, or in connection with, the commission of that serious crime or those serious crimes; and
- (d) any property received or deemed to have been received by the person at any time as a result of, or in connection with the commission by him of that serious crime or those serious crimes as property received by him free of any interest therein.

(4) Where a pecuniary penalty order has been previously made against a person, in assessing the value of any benefit derived by him from the commission of the serious crime, the Court shall leave out of account any of the benefits that are shown to the Court to have been taken into account in determining the amount to be recovered under that order.

(5) If evidence is given at the hearing of the application that the value of the person's property at any time after the commission of the serious crime exceeded the value of the person's property before the commission of the offence, then the Court shall, subject to subsection (6), treat the value of the benefit as being not less than the amount of that excess.

(6) If, after evidence of the kind referred to in subsection (5) is given, the person satisfies the court that the whole or part of the excess was due to causes unrelated to the commission of the serious crime, subsection (5) does not apply to the excess or, as the case may be, that part.

59. (1) Where –

(a) a person has been convicted of a serious crime and the Director of Public Prosecutions or the Financial Intelligence Unit tenders to the court a statement as to any matters relevant to –

(i) determining whether the person has benefited from the offence or from any other serious crime of which he is convicted in the same proceedings or which is taken into account in determining his sentence; or

(ii) an assessment of the value of the person's benefit from the offence or any other serious crime of which he

Statements relating to benefit from commission of serious crimes.

is convicted in the same proceedings
or which is taken into account; and

- (b) the person accepts to any extent an allegation in the statement,

the court may, for the purposes of so determining or making that assessment, treat his acceptance as conclusive of the matters to which it relates.

- (2) Where –

- (a) a statement is tendered under subsection (1)(a); and

- (b) the court is satisfied that a copy of that statement has been served on the person,

the court may require the person to indicate to what extent he accepts each allegation in the statement and so far as he does not accept any allegation, to indicate any matters he proposes to rely on.

- (3) Where the person fails in any respect to comply with a requirement under subsection (2), he may be treated for the purposes of this section as having accepted every allegation in the statement other than –

- (a) an allegation in respect of which he complied with the requirement; and

- (b) an allegation that he has benefited from the serious crime or that any property or advantage was obtained by him as a result of or in connection with the commission of the offence.

(4) Where –

- (a) the person tenders to the court a statement as to any matters relevant to determining the amount that might be realised at the time the pecuniary penalty order is made; and
- (b) the Director of Public Prosecutions or the Financial Intelligence Unit accepts to any extent any allegation in the statement,

the court may, for the purposes of that determination, treat the acceptance of the Director of Public Prosecutions or the Financial Intelligence Unit, as the case may be, as conclusive of the matters to which it relates.

(5) An allegation may be accepted or a matter indicated for the purposes of this section either –

- (a) orally before the court; or
- (b) in writing in accordance with rules of court.

(6) An acceptance by a person under this section that he received any benefits from the commission of a serious crime is admissible in any proceedings for any crime.

60. (1) Subject to subsection (2), the amount to be recovered in a person's case under a pecuniary penalty order shall be the amount which the court assesses to be the value of that person's benefit from the serious crime or if more than one, all the offences in respect of which the order may be made.

**Amount
recovered
under
pecuniary
penalty order.**

(2) Where the court is satisfied as to any matter relevant for determining the amount which might be realised at the time the pecuniary penalty order is made, whether by acceptance under section 59 or otherwise, the court may issue a certificate giving its opinion as to the matters concerned, and shall do so if satisfied that the amount that might be realised at the time the pecuniary penalty order is made is less than the amount it assesses to be the value of the person's benefit from the offence, or if more than one, all the offences in respect of which the pecuniary penalty order may be made.

Variation of pecuniary penalty order.

61. Where –

- (a) the court makes a pecuniary penalty order against a person in relation to a serious crime; and
- (b) in calculating the amount of the pecuniary penalty order, the court took into account a forfeiture order of the property or a proposed forfeiture order in respect of the property; and
- (c) an appeal against forfeiture or a forfeiture order is allowed or the proceedings from the proposed forfeiture order terminate without the proposed forfeiture order being made;

the Director of Public Prosecutions or the Financial Intelligence Unit may apply to the court for a variation of the pecuniary penalty order to increase the amount of the order by the value of the property not so forfeited and the court may, if it considers it appropriate to do so, vary the order accordingly.

Lifting the corporate veil.

62. (1) In assessing the value of benefits derived by a person from the commission of a serious crime, the court

may treat as property of the person any property that, in the opinion of the court, is subject to the effective control of the person whether or not he has –

- (a) any legal or equitable interest in the property; or
- (b) any right, power or privilege in connection with the property.

(2) Without prejudice to the generality of subsection (1), the court may have regard to –

- (a) shareholdings in, debentures over or directorships in any company that has an interest, whether direct or indirect, in the property, and for this purpose the court may order the investigation and inspection of the books of a named company;
- (b) any trust that has any relationship to the property;
- (c) any relationship whatsoever between the persons having an interest in the property or in companies of the kind referred to in paragraph (a) or trust of the kind referred to in paragraph (b), and any other persons.

(3) Where the court, for the purposes of making a pecuniary order against a person, treats particular property as the person's property pursuant to subsection (1), the court may, on application by the Director of Public Prosecutions or the Financial Intelligence Unit make an order declaring that the property is available to satisfy the order.

(4) Where the court declares that property is available to satisfy a pecuniary penalty order –

- (a) the order may be enforced against the property as if the property were the property of the person against whom the order is made; and
- (b) a restraining order may be made in respect of the property as if the property were property of the person against whom the order is made.

(5) Where the Director of Public Prosecutions or the Financial Intelligence Unit makes an application for an order under subsection (3) that property is available to satisfy a pecuniary penalty order against a person –

- (a) the Director of Public Prosecutions or the Financial Intelligence Unit, as the case may be, shall give written notice of the application to the person and to any person who the Director of Public Prosecutions or the Financial Intelligence Unit has reason to believe may have an interest in the property; and
- (b) the person and any person who claims an interest in the property may appear and adduce evidence at the hearing.

**Enforcement
of pecuniary
penalty order.**

63. Where the court orders a person to pay an amount under a pecuniary penalty order, the provisions of section 55 shall apply with such modifications as the court may determine for the purpose of empowering the court to impose a term of imprisonment on a person in default of compliance by him with a pecuniary penalty order.

**Discharge of
pecuniary
penalty order.**

64. A pecuniary penalty order is discharged –

- (a) if the conviction of the serious crime or crimes in reliance on which the order was made is or is deemed to be quashed and no conviction for the crime or crimes is substituted;
- (b) if the order is quashed on appeal; or
- (c) on the satisfaction of the order by payment of the amount due under the order.

65. (1) The measures and sanctions referred to in sections 39 and 49 shall apply without prejudice to the rights of *bona fide* third parties.

**Rights of
bona fide third
parties.**

(2) Proper notifications shall be made so that all those claiming legitimate legal interest in property, proceeds or instrumentalities may appear in support of their claims.

(3) A third party's lack of good faith may be inferred, at the discretion of the court or other competent authority, from the objective circumstances of the case.

(4) The court or other competent authority shall return the property, proceeds or instrumentalities to the claimant, when it has been demonstrated to its satisfaction that:-

- (a) the claimant has a legitimate legal interest in the property, proceeds or instrumentalities;
- (b) no participation, collusion or involvement with respect to the money laundering offence or the terrorist financing offence which is the subject of the proceedings can be imputed to the claimant;

- (c) the claimant lacked knowledge and was not intentionally ignorant of the illegal use of the property, proceeds or instrumentalities or if he had knowledge, did not freely consent to its illegal use;
- (d) the claimant did not acquire any right in the property, proceeds or instrumentalities from a person proceeded against under circumstances that give rise to a reasonable inference that any right was transferred for the purpose of avoiding the eventual subsequent forfeiture of the property, proceeds or instrumentalities, and
- (e) the claimant did all that could reasonably be expected to prevent the illegal use of the property, proceeds or instrumentalities.

**Immunity
from action.**

66. No liability shall be incurred by, and no suit, legal proceedings or other action, administrative or otherwise, shall be commenced, brought or instituted against any supervisory authority, the Director of Public Prosecutions, the Director, Financial Intelligence Unit, the Minister or any of their agents for any act done or omitted to be done in good faith:

- (a) in the performance or intended performance of any function or duty; or
- (b) in the exercise or intended exercise of any power,

under this Act or Regulations made hereunder.

**Seizure and
detention of
terrorist cash.**

67. (1) Where the Financial Intelligence Unit has reasonable grounds to suspect that any cash –

- (a) is intended to be used for the purposes of terrorism;
- (b) belongs to, or is held on trust for, a terrorist organisation; or
- (c) is or represents property obtained through acts of terrorism,

it may seize the cash.

(2) The Financial Intelligence Unit may seize the cash, even if it reasonably suspects part only of the cash to be terrorist cash, where it is not reasonably practicable to seize that part only of the cash.

(3) The Financial Intelligence Unit may exercise its powers under subsection (1), whether or not any proceedings have been brought for an offence in connection with the terrorist cash.

(4) The Financial Intelligence Unit shall, as soon as is reasonably practicable, apply to a Judge in Chambers for a detention order with respect to the cash seized under subsection (1).

(5) The Judge in Chambers shall not make an order for detention of the cash unless he is satisfied that there are reasonable grounds for suspecting that the cash –

- (a) is intended to be used for the purposes of terrorism;
- (b) consists of resources of a terrorist organisation; or
- (c) is or represents property obtained through terrorists activities.

(6) Subject to subsection (8), any order made under subsection (5) shall remain valid for a period of 90 days, and may be renewed for further periods of 90 days by the Judge in Chambers, until production of the cash before the court in proceedings against any person for an offence with which the cash is connected.

(7) Any cash detained under this section shall be deposited by the Financial Intelligence Unit in an interest-bearing account.

(8) The cash, with the interest, may be released by order of the Judge in Chambers –

(a) where the conditions under subsection (5) are no longer met; or

(b) where no proceedings are brought in Belize or elsewhere against any person for an offence relating to the detained cash.

(9) For the purposes of this section, “cash” means –

(a) coins and notes in any currency;

(b) postal orders;

(c) traveller’s cheques;

(d) banker’s drafts;

(e) bearer bonds and bearer shares; or

(f) such other monetary instruments as the Minister may, by notice published in the *Gazette*, specify.

68. (1) Any person who by any means, directly or indirectly, wilfully provides or collects funds or other property, with the intention that they should be used or in the knowledge that they are to be used in whole or in part:

Terrorist financing.

Fourth Schedule.

(a) to commit an act or omission, whether in Belize or outside Belize, which constitutes an offence within the scope of a counter terrorism Convention listed in the Fourth Schedule to this Act; or

(b) to commit any act intended to cause the death of or serious bodily injury to any civilian or any other person not taking an active part in the hostilities in a situation of armed conflict when the purpose of such act, by its nature and context, is to intimidate a population or compel a government or international organization to perform or refrain from performing an act of any kind;

(c) by a terrorist; or

(d) by a terrorist organization,

commits an offence and shall be liable to the same penalties as prescribed in section 5 of this Act for the offence of terrorism.

(2) Every person who –

(a) organises or directs others to commit; or

(b) attempts to commit; or

(c) conspires to commit; or

- (d) participates as an accomplice to a person committing, or attempting to commit; or
- (e) aids, abets, facilitates, counsels or procures the commission of,

an offence under subsection (1) commits an offence under this Act and shall be liable to the same penalties as prescribed in subsection (1) of this section.

(3) An offence under subsection (1) is committed irrespective of the occurrence of a terrorist act or whether the funds have been used to commit such an act.

(4) The Minister may, from time to time by order published in the Gazette, publish a list of terrorists and terrorist organisations but until such time as an Order is made under this section, the list of terrorists and terrorist organisations contained in the Second Schedule to the Security Council Resolution 1617 (2005) (Enforcement) Order, 2006, as amended, shall have effect for the purposes of this Act.

S.I. 32/2006.

Related offences in relation to terrorist financing.

69. Any person who –

- (a) solicits, receives, provides or possesses money or other property; or
- (b) enters into, or becomes concerned in, an arrangement as a result of which money or other property is made available or is to be made available,

for the purposes of terrorism, or for a terrorist organisation, commits an offence and is liable on conviction to the same penalties as prescribed in subsection (1) of section 68.

70. (1) Any person who enters into, or becomes concerned in, an arrangement which facilitates the retention or control by, or on behalf of, another person, of terrorist property, in any manner, including –

Dealing in terrorist property.

- (a) concealment;
- (b) removal from the jurisdiction; or
- (c) transfer to any other person,

commits an offence and is liable on conviction to the same penalties as prescribed in subsection (1) of section 68.

(2) It shall be a defence for a person charged under subsection (1) to prove that he did not know and had no reasonable cause to suspect that the arrangement is related to terrorist property.

71. (1) Where the Financial Intelligence Unit has reason to believe or suspects that a reporting entity holds an account or property on behalf of a terrorist or terrorist organisation, it shall issue a written directive to the reporting entity in Belize requiring it to restrain or freeze any account or other property held by that reporting entity on behalf of terrorist or terrorist organization and the reporting entity shall comply with such a directive.

Directives.

(2) Subject to subsection (3), a directive given by the Financial Intelligence Unit pursuant to subsection (1) shall be effective for 3 months unless earlier revoked by the Financial Intelligence Unit.

(3) The Supreme Court may, upon the application of the Director of Public Prosecutions or the Financial Intelligence Unit, order the extension of a restraining or a freeze direction issued pursuant to subsection (1), if the

Court is satisfied that the account or other property is owned by or on behalf of a terrorist or terrorist organization.

(4) The Financial Intelligence Unit may revoke any directive issued under subsection (1) and shall notify the reporting entities accordingly.

(5) Where the Financial Intelligence Unit decides to revoke a directive which has been extended by the Supreme Court under subsection (3), it shall notify the Supreme Court accordingly and the Supreme Court shall revoke the extension order.

(6) Revocation of a directive or extension order shall not affect the validity of any action taken on the basis of the direction or the order prior to revocation.

(7) A person affected by a directive issued under subsection (1) may apply to the Supreme Court for a revocation of the direction in relation to him.

(8) The Supreme Court shall revoke the directive in relation to the applicant under subsection (7) if satisfied that the account or other property or the person's interest in it is not owned by or on behalf of a terrorist or terrorist organisation.

(9) It shall be a defence against any action brought against a supervisory authority or any person who complies with a direction issued under subsection (1) that the issuance of the direction or the compliance therewith was in accordance with the provisions of this section.

(10) No person shall be held liable in any court for or with respect to anything done or omitted to be done in good faith in accordance with this section.

**Application
for forfeiture
order.**

72. The Director of Public Prosecutions or the Financial Intelligence Unit may apply to the Supreme Court for a forfeiture order against terrorist property.

73. Where the Director of Public Prosecutions or the Financial Intelligence Unit applies under section 72 for a forfeiture order:

Notice of Application.

- (a) he or it shall give no less than seven days written notice of the application only to any person who is known to own or control directly or indirectly, wholly or jointly [or have an interest in] the terrorist property in respect of which the application is being made;
- (b) the person and any other person who claims an interest in the property may appear and produce evidence at the hearing of the application; and
- (c) The Supreme Court may, at any time before the final determination of the application, direct the Director of Public Prosecutions or the Financial Intelligence Unit (as the case may be) to:
 - (i) give notice of the application to any person who, in the opinion of the Court, appears to have an interest in the property;
 - (ii) publish in the *Gazette* or a newspaper published and circulating in Belize, a notice of the application.

74. (1) Where, upon application by the Director of Public Prosecutions or the Financial Intelligence Unit, the Court is satisfied, on a balance of probabilities, that property to which the application relates is terrorist property, the Court shall order that specified property to be forfeited.

Forfeiture order for terrorist property.

(2) Notwithstanding subsection (1), if a person claiming an interest in the property to which an application relates satisfies the Court that he –

- (a) has an interest in the property;
- (b) has, in the circumstances, exercised reasonable care to ensure that the property is not terrorist property; and
- (c) is not a member of a terrorist group,

the Court shall order that the interest of that person shall not be affected by the forfeiture order, and the Court shall declare the nature and extent of the interest in question.

(3) If a person obtains an interest in property after it becomes terrorist property, no order shall be made under subsection (2) in respect of that interest unless the person is a *bona fide* purchaser for value, without reason to suspect that the property is terrorist property.

(4) Where the Court makes a forfeiture order, the Court may give such directions as are necessary or convenient for giving effect to the order.

Effect of forfeiture order in respect of terrorist property.

75. (1) Subject to subsection (2), where the Supreme Court makes a forfeiture order against any property, the property vests absolutely in the Government by virtue of the order.

(2) Where property ordered to be forfeited is real property –

- (a) the property vests in Government in equity only and not at law until the applicable registration requirements have been complied with;

- (b) the Government is entitled to be registered as owner of the property;
- (c) the Director of Public Prosecutions or the Financial Intelligence Unit has power on behalf of the Government to do or authorise the doing of anything necessary or convenient to obtain the registration of Government as owner, including the execution of any instrument to be executed by a person transferring an interest in property of that kind.

PART V

International Cooperation

76. (1) The Supreme Court, a supervisory authority or other competent authority shall cooperate with a superior court or other competent authority of another State, taking the appropriate measures to provide assistance in matters concerning money laundering offences, terrorist financing offences and other serious crimes, in accordance with this Act, and within the limits of their respective legal systems.

**Assistance to
foreign
countries.**

(2) The Supreme Court or other competent authority may receive a request from a superior court or other competent authority of another State to identify, trace, freeze, seize or forfeit the property, proceeds, or instrumentalities connected to money laundering offences, terrorist financing offences and serious crimes, and may take appropriate actions to provide the widest range of assistance, including those contained in Parts III and IV of this Act.

(3) A final judicial order or judgment that provides for the forfeiture of property, proceeds or instrumentalities connected to a money laundering offence, terrorist financing offence or other serious offence, issued by a court or other

competent authority of another State, may be recognized by judicial authorities in Belize as evidence that the property, proceeds or instrumentalities referred to by such order or judgment is subject to forfeiture in accordance with the law. A court in Belize may treat such order or judgment as evidence in any proceedings to obtain a forfeiture order under the laws of Belize.

(4) The Supreme Court, a supervisory authority or other competent authority may receive and take appropriate measures with respect to a request from a superior court or other competent authority of another State, for assistance related to civil, criminal, or administrative investigation, prosecution or proceedings, as the case may be, involving a money laundering offence, terrorist financing offence or other serious offence, or the proceeds of any such offence, or violations of any provisions similar to those set out in this Act. Such assistance may include providing original or certified copies of relevant documents and records, including those of financial institutions and government agencies, obtaining testimony or statements in Belize; facilitating the voluntary presence or availability in the requesting State of persons, including those in custody, to give testimony, locating or identifying persons, service of documents, examining objects and places; executing searches and seizures; providing information and evidentiary items; restraining property or undertaking other provisional measures; and identifying or tracing proceeds or instrumentalities of crime. A treaty or other agreement shall not be necessary for the Supreme Court or other competent authority to provide assistance under this section, and dual criminality shall not be required.

(5) Any provisions referring to bank secrecy or confidentiality shall not be an impediment to the provision of assistance to a requesting State. The Supreme Court, upon request for information from the judicial or other competent authorities of another State, may order a bank or other

financial institution to produce information otherwise protected by bank secrecy or confidentiality.

(6) The Financial Intelligence Unit may take such action as may be appropriate including directing the freezing of funds and other financial assets or economic resources of any person to comply with or give effect to a resolution of the Security Council of the United Nations adopted under Chapter VII of the United Nations Charter:

Provided that if the Security Council takes any subsequent decision which has the effect of postponing, suspending or canceling the operation of such resolution, in whole or in part, any order made by the Financial Intelligence Unit pursuant to that resolution shall cease to have effect or its operation shall be postponed or suspended, in whole or in part, as the case may be, in accordance with that decision.

PART VI

Miscellaneous

77. Money laundering, terrorism and terrorist financing offences shall be extraditable offences. They shall be deemed to be offences for which extradition from Belize may take place under any law or treaty to which Belize is a party relating to extradition or the rendition of fugitives.

**Money
laundering
and terrorist
financing to
be
extraditable
offences.**

78. There is hereby established a special fund to be known as the Belize Confiscated and Forfeited Assets Fund (hereinafter referred to as “the Fund”).

**Establishment
of the Fund.**

79. (1) There shall be credited to the Fund:

**Receipts and
Disbursements.**

(a) all moneys derived from the fulfilment of confiscation and forfeiture orders and from

settlements of confiscation and forfeiture claims;

- (b) any sums of money allocated to the Fund from time to time by parliamentary appropriation;
- (c) any voluntary payment, grant or gift made by any person for the purposes of the Fund;
- (d) any income derived from the investment of any amount standing to the credit of the Fund; and
- (e) any sharing of confiscated or forfeited property and funds received from other States.

(2) **The Minister of Finance** may authorise payments out of the Fund to –

- (a) pay the administrative expenses of the Financial Intelligence Unit;
- (b) compensate victims who suffered losses as a result of serious crimes, terrorism or other unlawful activity;
- (c) satisfy a compensation order made under this Act;
- (d) enable the appropriate law enforcement agencies to continue their fight against serious crimes, terrorism and other unlawful activities;
- (e) share forfeited property with foreign States;
- (f) rehabilitation of drug users;

- (g) public education on the dangers of drug abuse;
- (h) satisfy a compensation order relating to the lifting of a restraint;
- (i) pay expenses relating to the recovery, management and disposition of property including mortgages and liens against relevant property and the fees of receivers, trustees, managers or other professionals providing assistance; and
- (j) pay the costs associated with the administration of the Fund, including the costs of external audits.

(3) The Fund shall be annually audited by an external auditor approved by the Minister.

80. (1) The **Minister of Finance** shall table a report in the National Assembly, that shall be made publicly available, not later than the first sitting of the House after the expiry of 90 days from the close of the fiscal year detailing –

Annual
report to
National
Assembly.

- (a) the amounts credited to the Fund;
- (b) the investments made with the amounts credited to the Fund; and
- (c) the payments made from the Fund, including the specific purpose for which each payment was made and to whom it was made.

(2) The report referred to in subsection (1) above shall be prepared by the Director, Financial Intelligence Unit, and shall be submitted to the Minister not later than 1st May in every year.

Secrecy obligations overridden. CAP.4.

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

Disclosure protected.

82. It shall not be unlawful for any person to make any disclosure in compliance with this Act.

General penalty for non-compliance.

83. Every financial institution or other person who fails to comply with any direction or instruction given by the Financial Intelligence Unit or a supervisory authority under this Act shall be guilty of an offence and shall, unless a penalty is specifically provided elsewhere, be liable on summary conviction to a fine not exceeding twenty-five thousand dollars or to imprisonment for a term not exceeding three years, or to both.

Investigation and prosecution of offences.

84. (1) No prosecution in respect of any offence committed under this Act or the Regulations made thereunder shall be instituted except by, or with the consent in writing of, the Director of Public Prosecutions or the Financial Intelligence Unit:

Provided that this subsection shall not prevent the arrest, or the issue or execution of a warrant for the arrest, of any person in respect of such an offence, or the remand in custody or on bail of any person charged with such an offence, notwithstanding that the necessary consent to the institution of proceedings for the offence has not been obtained.

(2) All offences under this Act shall be tried summarily without the consent of the accused unless

otherwise directed by the Director of Public Prosecutions. If no contrary direction is received by the court at the time of arraignment or trial, the court shall proceed to summary trial without making any further enquiries in that respect.

(3) In the investigation and prosecution of offences under this Act, or in the obtaining of ancillary and interim orders from the court, or in the taking of any other measures referred or provided by this Act, the Director of Public Prosecutions, the Director, Financial Intelligence Unit and the Commissioner of Police shall coordinate their activities and render one another all such assistance as may be required for giving full effect to the provisions and purposes of this Act.

85. All prosecutions, actions, suits or other proceedings brought for any offence, or for the recovery of any fines, penalties or forfeitures, under this Act or the Regulations made thereunder, shall be brought within five years next after the date the offence was committed or the cause of action accrued or the facts giving rise to such offence came to the knowledge of the Director of Public Prosecutions or the Financial Intelligence Unit.

Limitation of proceedings.

86. (1) The Minister may make Regulations for the better carrying out of the provisions of this Act and for prescribing anything that needs to be prescribed.

Regulations.

(2) All Regulations made under subsection (1) shall be subject to negative resolution.

87. This Act shall come into force on a day to be appointed by the Minister by Order published in the *Gazette*.

Commencement.

88. (1) On the coming into force of this Act, the Money Laundering (Prevention) Act shall stand repealed.

Repeal of Chapter 104.

(2) Notwithstanding subsection (1) above, any investigation, prosecution, legal proceeding or remedy in respect of any offence committed or any liability incurred

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under the Money Laundering (Prevention) Act may be instituted, continued or enforced, and the penalty, forfeiture or punishment may be imposed, as if the said Act had not been repealed.

FIRST SCHEDULE
(Section 2)

Activities and businesses subject to this Act

1. Acceptance of deposits and other repayable funds from the public.
2. Lending, including consumer credit, mortgage credit, factoring (with or without recourse) and financing of commercial transactions.
3. Financial leasing.
4. Transfer of money or value.
5. Money and currency changing (such as casa de cambio).
6. Pawning.
7. Issuing and administering means of payment (such as credit and debit cards, traveller's cheques, money orders, bankers drafts and electronic money).
8. Issuing financial guarantees and commitments.
9. Trading for own account or for account of customers in money market instruments (such as cheques, bills, certificates of deposit, derivatives), foreign exchange, financial futures and options, exchange and interest rate instruments, transferable securities and commodity futures trading.
10. Credit unions.

11. Participation in securities issues and the provision of financial services related to such issues.
12. Advice to undertakings on capital structure, industrial strategy and related questions, and advice and services relating to mergers and the purchase of undertakings.
13. Portfolio management and advice whether individual or collective.
14. Safekeeping and administration of securities.
15. Safe keeping and administration of cash or liquid securities on behalf of other persons.
16. Otherwise investing, administering or managing funds or money on behalf of other persons.
17. Gambling houses.
18. Casinos.
19. Internet Casinos or Online Gaming
20. Buying or selling of gold bullion.
21. Insurance business.
22. Venture risk capital.
23. Unit trusts.
24. A trust or company service provider not otherwise covered by this schedule, which as a business, provides any of the following services to third parties:

- a.* acting as a formation agent of legal persons;
 - b.* acting as (or arranging for another person to act as) a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons;
 - c.* providing a registered office; business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement;
 - d.* acting as (or arranging for another person to act as) a trustee of an express trust;
 - e.* acting as (or arranging for another person to act as) a nominee shareholder for another person.
- Cap. 267. 25. International (or Offshore) banking business as defined in the International Banking Act.
26. Lawyers, notaries, other independent legal professionals, accountants, auditors and tax advisers, when they prepare for or carry out transactions for their clients concerning the following activities:
- a.* buying and selling of real estate;
 - b.* managing of client money, securities or other assets;

- c.* management of bank, savings or securities accounts;
 - d.* organisation of contributions for the creation, operation or management of companies;
 - e.* creation, operation or management of legal persons or arrangements, and buying and selling of business entities.
27. Dealing in real estate when the persons dealing are involved in transactions concerning the buying and selling of real estate.
28. Dealing in precious metals and dealing in precious stones.
29. Dealing in vehicles.
30. Engaging in international financial services as defined in the International Financial Services Commission Act. Cap. 272.

SECOND SCHEDULE

[Section 2]

Serious Offences

Murder, manslaughter, dangerous and grievous bodily harm

Kidnapping, illegal restraint and hostage-taking

Robbery

Theft involving more than \$10,000.00

Terrorism including terrorist financing and related offences

Drug Trafficking and related offences

Blackmail

Counterfeiting

Extortion

False accounting

Forgery

Fraud

Smuggling

Trafficking in human beings and migrant smuggling

Illicit trafficking in stolen and other goods

Corruption and bribery

Environmental offences

Piracy

Participation in criminal gangs

Sexual exploitation of women and children

THIRD SCHEDULE*(Section 2)**Supervisory authorities*

No.	Reporting Entity that carries on the following activity or business	Supervisory authority
1	Acceptance of deposits and other repayable funds from the public.	Central Bank of Belize
2	Lending, including consumer credit, mortgage credit, factoring (with or without recourse) and financing of commercial transactions.	Central Bank of Belize
3	Financial leasing.	Central Bank of Belize
4	Transfer of money or value.	Central Bank of Belize
5	Money and currency changing (such as casa de cambio).	Central Bank of Belize/International Financial Services Commission
6	Pawning.	Ministry of Finance
7	Issuing and administering means of payment (such as credit and debit cards, traveller's cheques, money orders, bankers drafts and electronic money).	Central Bank of Belize
8	Issuing financial guarantees and commitments.	Central Bank of Belize/ Supervisor of Insurance
9	Trading for own account or for account of customers in money market instruments (such as cheques, bills, certificates of deposit, derivatives), foreign exchange, financial futures and options, exchange and interest rate instruments, transferable securities and commodity futures trading.	Central Bank of Belize/ International Financial Services Commission
10	Credit unions.	Central Bank of Belize

11	Participation in securities issues and the provision of financial services related to such issues.	Central Bank of Belize
12	Advice to undertakings on capital structure, industrial strategy and related questions, and advice and services relating to mergers and the purchase of undertakings.	Central Bank of Belize
13	Portfolio management and advice whether individual or collective.	Central Bank of Belize/ International Financial Services Commission
14	Safekeeping and administration of securities.	Central Bank of Belize/ International Financial Services Commission
15	Safe keeping and administration of cash or liquid securities on behalf of other persons.	Central Bank of Belize/ International Financial Services Commission
16	Otherwise investing, administering or managing funds or money on behalf of other persons.	Central Bank of Belize/ International Financial Services Commission
17	Gambling houses.	Financial Intelligence Unit
18	Casinos.	Financial Intelligence Unit
19	Internet Casinos or Online Gaming.	Financial Intelligence Unit
20	Buying or selling of gold bullion.	Central Bank of Belize
21	Insurance business – Domestic.	Supervisor of (Domestic) Insurance
22	International insurance business	Supervisor of International Insurance
23	Venture risk capital	Central Bank of Belize
24	Unit trusts	Central Bank of Belize

25	<p>A trust or company service provider not otherwise covered by this schedule, which as a business, provides any of the following services to third parties:</p> <ul style="list-style-type: none"> a. acting as a formation agent of legal persons; b. acting as (or arranging for another person to act as) a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons; c. providing a registered office; business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement; d. acting as (or arranging for another person to act as) a trustee of an express trust; e. acting as (or arranging for another person to act as) a nominee shareholder for another person. 	International Financial Services Commission
26	International (or Offshore) banking business as defined in the International Banking Act.	Central Bank of Belize
27	Lawyers, notaries, other independent legal professionals, accountants, auditors and tax advisers, when they prepare for or carry out transactions for	Financial Intelligence Unit

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	<p>their client concerning the following activities:</p> <ul style="list-style-type: none"> a. buying and selling of real estate, b. managing of client money, securities or other assets, c. management of bank, savings or securities accounts, d. organization of contributions for the creation, operation or management of companies, or e. creation, operation or management of legal persons or arrangements, and buying and selling of business entities. 	
28	Dealing in real estate when the persons dealing are involved in transactions concerning the buying and selling of real estate.	Financial Intelligence Unit
29	Dealing in precious metals and dealing in precious stones.	Financial Intelligence Unit
30	Dealing in vehicles	Financial Intelligence Unit
31	Engaging in international financial services as defined in the International Financial Services Commission Act.	Financial Intelligence Unit/International Financial Services Commission
32	Any other activity not covered by any of the above activities.	Financial Intelligence Unit

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FOURTH SCHEDULE*(Section 2)**Counter Terrorism Conventions*

1. Convention on Offences and certain Other Acts committed on Board Aircraft signed at Tokyo on 14th September 1963;
2. Convention for the Suppression of Unlawful Seizure of Aircraft done at the Hague on 16th December 1970;
3. Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, done at Montreal on 23rd September 1971;
4. Convention on the Prevention and Punishment of Crimes Against Internationally Protected Person, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14th December 1973;
5. International Convention against the taking of Hostages, adopted by the General Assembly of the United Nations on 17th December 1979;
6. Convention on the Physical Protection of Nuclear Material, adopted at Vienna on 3rd March 1980;
7. Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of unlawful Acts against the Safety of Civil Aviation, done at Montreal on 24th February 1988;

8. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10th March 1988;
9. Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, done at Rome on 10th March 1988;
10. Convention of the Marking of Plastic Explosives for the Purposes of Detention, signed at Montreal, on 1st March 1991;
11. International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15th December 1997; and
12. International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations on 9th December 1999.

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