

I assent,



CUTHBERT M SEBASTIAN

Governor-General.

28th February, 2011.

SAINT CHRISTOPHER AND NEVIS

No. 2 of 2011

AN ACT to amend the Proceeds of Crime Act, Cap. 4.28.

[Published 28rd February 2011, Extra Ordinary Gazette No. 10 of 2011.]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the National Assembly of Saint Christopher and Nevis, and by the authority of the same as follows:

1. Short title.

This Act may be cited as the Proceeds of Crime (Amendment) Act, 2011.

2. Interpretation.

In this Act, “Act” means the Proceeds of Crime Act, Cap 4.28.

3. Amendment of section 7.

The Act is amended in section 7 thereof by replacing subsection (5) thereof as follows:

“ (5) (a) Any order made under subsection (4) shall authorise the continued detention of the money to which it relates for such period, not exceeding~~six months~~, beginning with the date of the order, as may be specified in the order.

(b) Where the Magistrate, is satisfied in respect of the grounds referred to in subsection (4) paragraphs (a) and (b), the Magistrate may thereafter, by order, authorise the further detention of the money on the following conditions

- (i) no period of detention specified in such an order shall exceed two years beginning with the date of the order; or
- (ii) until prosecution is completed in the matter in question.

4. Insertion of new section 7A.

The Act is amended by inserting immediately after section 7 the following new section 7A.

“Application to Magistrate to forfeit seized money.

7A. (1) Notwithstanding the provisions of section 7 subsection 8 and Part IV of this Act, an application for the forfeiture of any money seized pursuant to section 7 may be made to a Magistrate upon the application of the Director of Public Prosecutions.

(2) The Director of Public Prosecutions shall give at least fourteen days notice of an application made pursuant to subsection (1) to the person from whom the money was seized or to any other person that the Director of Public Prosecutions believes may have an interest in the money.

(3) Any person notified under subsection (2) as well as any other person who claims to have an interest in the seized money is entitled to appear and to give evidence at the hearing of the application, but the absence of any such person shall not prevent the court from making a forfeiture order.

(4) Upon hearing an application made pursuant to subsection (1) and upon being satisfied that the seized money is:

- (a) the proceeds of some form of unlawful activity or is intended for use in money laundering, drug trafficking or any other form of unlawful activity; or
- (b) an instrumentality of an offence, whether or not a person has been convicted of that offence;

the Court may, subject to subsection (5), order that all or part of the money be forfeited to the Government of Saint Christopher and Nevis.

(5) In considering whether to make an order under subsection (4) in respect of the forfeiture of all or part of the seized money, the Court may have regard to

- (a) the use ordinarily made, or intended to be made of the money; and
- (b) the claim of any third party to an interest in the money, where such party is able to show to the satisfaction of the Court that the party was not involved or aware of any unlawful use or purpose with which the money may have been associated.

(6) Any party to an application for forfeiture under subsection (1) may appeal to the High Court by way of rehearing within thirty days of any order having been made pursuant to subsection (4).

CURTIS A. MARTIN

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Speaker

.....Passed by the National Assembly this 9th day of February, 2011.

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JOSÉ LLOYD

GOVERNMENT PRINTERY
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Clerk of the