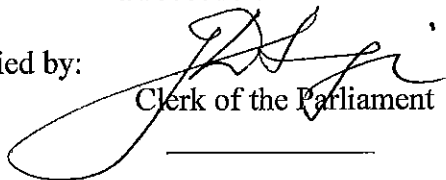


Examined and certified by:

  
 Clerk of the Parliament

In the name and on behalf of Her Majesty Queen Elizabeth the Second I hereby assent to  
 this Act this 23<sup>rd</sup> day of June 2017


  
 Queen's Representative

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### An Act to amend the Proceeds of Crime Act 2003.

#### The Parliament of the Cook Islands enacts as follows—

- 1 Title**  
This Act is the Proceeds of Crime Amendment Act 2017.
- 2 Commencement**  
This Act comes into force on the day after the date on which it receives the assent of the Queen's Representative.
- 3 Principal Act amended**  
This Act amends the Proceeds of Crime Act 2004.
- 4 Definitions**
  - (1) The definition of **defendant** in section 3(1) is amended by omitting “; and, for proceedings for a restraining order, includes a person who is likely to be charged with a serious offence”.

- (2) The definition of **proceeds** in section 3(1) is repealed and the following definition substituted—

“**proceeds of an offence**, in relation to property, means any property, whether located in the Cook Islands or elsewhere, that is derived, obtained or realised, directly or indirectly, from or through the commission of a serious offence, and includes (without limitation)—

“(a) any property into which such property is converted, transformed, or intermingled, whether in full or in part; and

“(b) any interest, income, capital gains, or other economic gains derived or realised from the use of such property”.

- (3) The definition of **realisable property** is repealed.
- (4) The definition of **tainted property** in section 3(1) is repealed and the following definition substituted—

“**tainted property** means any of the following property, whether located in the Cook Islands or elsewhere—

“(a) any proceeds of an offence:

“(b) property that is or has been used in or in connection with the commission of a serious offence:

“(c) property that is intended to be used, or is allocated to be used, in or in connection with the commission of a serious offence.

- (5) The following definition is inserted in section 3(1) in its appropriate alphabetical location—

“**suspect**, in relation to a restraining order under Part 3, means any person who there are reasonable grounds to suspect has committed a serious offence”.

**5 Section 6 repealed**

Section 6 is repealed.

**6 Section 10 repealed**

Section 10 is repealed.

**7 Section 30 amended**

Paragraph (a) of section 30(1) is repealed and the following paragraph substituted—

“(a) the values at that time of all property held by the person, less—

“(i) the total amounts payable under any obligation having priority at that time; and

“(ii) any amount against which a forfeiture order is in force or is proposed to be made under this or any other Act; and”

**8 Section 48 amended**

Section 48 is repealed and the following section substituted—

“(1) The Solicitor-General may apply to the Court for a restraining order against—

“(a) any property of a defendant or suspect (other than property against which a forfeiture order is in force or is proposed to be made under this or any other Act); or

- “(b) property, held by someone other than the defendant or suspect, that is—
  - “(i) tainted property;
  - “(ii) under the effective control of the defendant or suspect.
- “(2) An application for a restraining order may be made *ex parte*.
- “(3) The application must be in writing and be accompanied by an affidavit stating—
  - “(a) that the Solicitor-General knows or suspects that the relevant offence occurred no more than 6 years before the date of the application; and
  - “(b) if the application relates to property of a person other than the defendant or suspect, that the Solicitor-General knows or suspects that the property is—
    - “(i) tainted property; and
    - “(ii) under the effective control of the defendant or suspect; and
  - “(c) the grounds on which the Solicitor-General knows or suspects the matters in paragraphs (a) and (b).

**9 Section 50 amended**

- (1) Subsection (1) of section 50 is repealed and the following subsection substituted—

- “(1) The Court may make a restraining order against property if it is satisfied that—
  - “(a) the property is—
    - “(i) property of a defendant or suspect (other than property against which a forfeiture order is in force or is proposed to be made under this or any other Act); or
    - “(ii) property, held by someone other than a defendant or suspect, that is tainted property and under the effective control of the defendant or suspect; and
  - “(b) if the order relates to property of, or under the effective control of, a defendant, that the defendant has either been convicted of, or charged with, a serious offence; and
  - “(c) if the order relates to property of, or under the effective control of, a suspect, that the suspect is likely to be charged with a serious offence within the period that the restraining order applies.”

- (2) Section 50(3) is amended by omitting “the defendant” and substituting “a person”.

**10 Section 51 repealed**

Section 51 is repealed.

**11 Section 53 amended**

Section 53(2)(e) is amended by inserting “or the suspect” after “defendant”.

**12 Section 57 amended**

Section 57(1)(a) is amended by inserting “or suspect” after “defendant”.

**13 Section 58 amended**

Section 58(5) is amended by repealing paragraph (a) and substituting the following paragraph—

- “(a) if the order is made against a suspect, when the Court, on application by the suspect, cancels the order on the grounds that all investigations of the suspect for a serious offence have ceased; or”

**14 Section 60 amended**

(1) Section 60(1) is amended by repealing paragraphs (a) and (b) and substituting the following paragraphs—

- “(i) any property held by the defendant (other than property against which a forfeiture order is in force or is proposed to be made under this or any other Act); or  
“(ii) property, held by someone other than the defendant, that is tainted property and under the effective control of a defendant.

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This Act is administered by the Crown Law Office.

Printed under the authority of the Cook Islands Parliament—2017.

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