

**No. 7 of 2025**

**VIRGIN ISLANDS**  
**PROCEEDS OF CRIMINAL CONDUCT (AMENDMENT) ACT, 2025**  
**ARRANGEMENT OF SECTIONS**

**SECTION**

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I ASSENT

(Sgd.) Daniel Pruce,  
Governor.  
10<sup>th</sup> April, 2025

**VIRGIN ISLANDS**

**No. 7 of 2025**

AN ACT TO AMEND THE PROCEEDS OF CRIMINAL CONDUCT ACT, REVISED EDITION 2020 TO ADDRESS CERTAIN DEFICIENCIES IDENTIFIED IN THE CARIBBEAN FINANCIAL ACTION TASK FORCE (CFATF) FOURTH ROUND MUTUAL EVALUATION REPORT IN RELATION TO COMPLIANCE WITH INTERNATIONAL STANDARDS ON MONEY LAUNDERING AND TERRORIST FINANCING AND FOR RELATED MATTERS.

[Gazetted 17<sup>th</sup> April, 2025]

ENACTED by the Legislature of the Virgin Islands as follows:

**Short title and commencement**

1. (1) This Act may be cited as the Proceeds of Criminal Conduct (Amendment) Act, 2025.

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

**Section 2 amended**

2. Section 2 of the Proceeds of Criminal Conduct Act, Revised Edition 2020, (hereinafter referred to as the “principal Act”) is amended in subsection (1), by inserting, in the appropriate alphabetical sequence, the following definition:

““financial institution” means a relevant person carrying on relevant business as defined in regulation 2(1) of the Anti-money Laundering Regulations, Revised Edition 2020;”;

“senior police officer” means a police officer of the rank of Superintendent or above;”.

### **Section 16 amended**

3. Section 16 of the principal Act is amended in subsection (1), by repealing paragraph (a) and substituting the following paragraphs:

- “(a) a criminal investigation has been started in the Territory with regard to an offence and there is reasonable cause to believe that a person who is the subject of that investigation, has benefited from that person’s alleged criminal conduct; or
- (aa) proceedings for an offence to which this Act applies have been instituted against a person for that offence;”.

### **Section 17 amended**

4. Section 17 of the principal Act is amended by inserting after subsection (3), the following subsections:

“(3A) Without prejudice to subsection (3), a restraint order may apply to all property reasonably suspected of being linked to money laundering, terrorist financing or a predicate offence, including property held by third parties.

(3B) For the purposes of subsection (3A), a restraint order may extend to prohibit the transfer or further disposition of property, including in instances where such property has been transferred to third parties subsequent to the issuance of the order.”.

### **Section 28 amended**

5. Section 28 of the principal Act is amended in subsection (8)

- (a) in paragraph (a), by deleting the words “a term not exceeding 2 years or to a fine not exceeding \$250,000” and substituting the words “a term not exceeding 8 years or to a fine not exceeding \$500,000”; and
- (b) in paragraph (b), by deleting the words “a term not exceeding 14 years or to a fine not exceeding \$500,000” and substituting the words “a term not exceeding 20 years or to a fine not exceeding \$1,500,000”.

### **Section 29 amended**

6. Section 29 of the principal Act is amended in subsection (11)

- (a) by deleting the words “a term not exceeding 2 years or to a fine not exceeding, \$250,000” and substituting the words “a term not exceeding 8 years and a fine not exceeding \$500,000”; and
- (b) by deleting the words “a term not exceeding 14 years or to a fine not exceeding \$750,000” and substituting the words “a term not exceeding 20 years and a fine not exceeding \$1,500,000”.

### **Section 30 amended**

7. Section 30 of the principal Act is amended in subsection (4)

- (a) by deleting the words “a term not exceeding 2 years or to a fine not exceeding, \$250,000” and substituting the words “a term not exceeding 8 years and a fine not exceeding \$500,000”; and
- (b) by deleting the words “a term not exceeding 14 years or to a fine not exceeding \$500,000” and substituting the words “a term not exceeding 20 years and a fine not exceeding \$1,500,000”.

### **Section 30A amended**

#### **8. Section 30A of the principal Act is amended**

- (a) in subsection (10)
  - (i) by deleting the words “a fine not exceeding \$150,000, imprisonment for a term not exceeding 3 years,” and substituting the words “a term not exceeding 8 years and a fine not exceeding \$500,000”; and
  - (ii) by deleting the words “a fine not exceeding \$500,000 or imprisonment for a term not exceeding 5 years” and substituting the words “a term not exceeding 20 years and a fine not exceeding \$1,500,000”;
- (b) in subsection (11) by deleting the words “to a fine not exceeding \$150,000 or imprisonment for a term not exceeding 3 years” and substituting the words “a term not exceeding 8 years and a fine not exceeding \$500,000”.

### **Section 31 amended**

#### **9. Section 31 of the principal Act is amended in subsection (9)**

- (a) by deleting the words “a term not exceeding 2 years or to a fine not exceeding \$250,000” and substituting the words “a term not exceeding 8 years and a fine not exceeding \$500,000”; and
- (b) by deleting the words “a term not exceeding 5 years or to a fine not exceeding \$500,000” and substituting the words “a term not exceeding 20 years and a fine not exceeding \$1,500,000”.

### **Sections 31A to 31AE inserted**

**10.** The principal Act is amended by inserting after section 31, the following new Part:

#### **“INVESTIGATIONS**

#### **DIVISION 1 - PRODUCTION ORDERS**

#### **Production orders**

**31A.** (1) Notwithstanding section 36, a Judge in Chambers may, on an application by a senior police officer, make a production order if that Judge is satisfied that each of the requirements for the making of the order is fulfilled.

(2) For the purposes of this Part, a “production order” is an order either

- (a) requiring the person whom the application for the order specifies as appearing to be in possession or control of material to produce the material to a police officer for that person to take away; or
- (b) requiring that person to give a police officer access to the material,

within the period stated in the order.

(3) The application for a production order shall state that

- (a) a person specified in the application is subject to a confiscation investigation or a money laundering investigation; or
- (b) property specified in the application is subject to a civil recovery investigation; and
- (c) the order is sought for the purposes of the investigation; and
- (d) the order is sought in relation to material, or material of a description, specified in the application; and
- (e) a person specified in the application appears to be in possession or control of the material.

(4) The period stated in a production order shall be a period of 7 days beginning with the day on which the order is made, unless it appears to the Judge by whom the order is made that a longer or shorter period would be appropriate in the particular circumstances.

(5) Where a Judge makes a production order under this section, the order need not be served on the person who is under investigation.

### **Requirements for making of production order**

**31B.** A Judge, in order to grant a production order, shall be satisfied that

- (a) there are reasonable grounds for suspecting that
  - (i) in the case of a confiscation investigation, the person whom the application for the order specifies as being subject to the investigation has benefited from that person’s criminal conduct;
  - (ii) in the case of a civil recovery investigation, the property which the application for the order specifies as being subject to the investigation is recoverable property or associated property; and
  - (iii) in the case of a money laundering investigation, the person whom the application for the order specifies as being subject to the investigation has committed a money laundering offence;
- (b) there are strong grounds for believing that the person whom the application specifies as appearing to be in possession or

control of the material so specified is in possession or control of it;

- (c) there are reasonable grounds for believing that the material is likely to be of substantial value, whether or not by itself, to the investigation for the purposes of which the order is sought; and
- (d) there are reasonable grounds for believing that it is in the public interest for the material to be produced or for access to it to be given, having regard to
  - (i) the benefit likely to accrue to the investigation if the material is obtained; and
  - (ii) the circumstances under which the person whom the application specifies as appearing to be in possession or control of the material holds it.

### **Order to grant entry**

**31C.** (1) Where a Judge makes a production order requiring a person to give a police officer access to material on any premises the Judge may, on an application

- (a) made to that Judge by a police officer; and
- (b) specifying the premises,

make an order to grant entry in relation to the premises.

(2) An order to grant entry is an order requiring any person who appears to a police officer to be entitled to grant entry to the premises, to allow that police officer to enter the premises to obtain access to the material.

### **Production order confers no right to privileged material**

**31D.** (1) A production order shall

- (a) not require a person to produce, or give access to, privileged material;
- (b) not require a person to produce, or give access to, excluded material; and
- (c) have effect in spite of any restriction on the disclosure of information however imposed.

(2) Privileged material is any material which the person would be entitled to refuse to produce on grounds of legal professional privilege.

(3) A police officer may take copies of any material which is produced, or to which access is given, in compliance with a production order and such material may be retained for so long as it is necessary to retain it (in its original form) in connection with the investigation for the purposes of which the order was made.

(4) Notwithstanding subsection (3), where a senior police officer has reasonable grounds for believing that

- (a) the material may need to be produced for the purposes of any legal proceedings; and
- (b) it might otherwise be unavailable for those purposes,

it may be retained until the proceedings are concluded.

### **Computer information**

**31E.** (1) This section applies if any of the material specified in an application for a production order consists of information contained in a computer.

(2) Where a production order is an order

- (a) requiring a person to produce the material to a police officer for that police officer to take away, it has effect as an order to produce the material in a form in which it can be taken away by that police officer and in which it is visible and legible; and
- (b) requiring a person to give a police officer access to the material, it has effect as an order to give that police officer access to the material in a form in which it is visible and legible.

(3) For the purposes of this section, “computer” has the same meaning assigned in section 2(1) of the Computer Misuse and Cybercrime Act, No. 9 of 2014.

### **Government entities**

**31F.** (1) A production order may be made in relation to material in the possession or control of a government entity.

(2) An order made in accordance with subsection (1) may require any officer of the entity (whether named in the order or not) who may, for the time being, be in possession or control of the material to comply with it and such order shall be served as if the proceedings were civil proceedings against the entity.

(3) Where an order contains such a requirement

- (a) the person on whom it is served shall take all reasonable steps to bring it to the attention of the officer concerned; and
- (b) any other officer of the entity who is in receipt of the order shall also take all reasonable steps to bring it to the attention of the officer concerned.

(4) Where the order is not brought to the attention of the officer concerned within the period stated in the order, the person on whom it is served shall report the reasons for the failure to the Judge that issued the order.

(5) For the purposes of this section,

“government entity” includes

- (a) a Ministry, department, or division of the Ministry; or
- (b) such other body as the Minister of Finance may prescribe for the purposes of this section;

“officer” includes the Permanent Secretary, or any other senior person within the government entity by whosoever name called;

(6) For the avoidance of doubt, the Cabinet Office, House of Assembly and National Security Council do not fall within the definition of a government entity.

### **Supplementary: production orders and orders to grant entry**

**31G.** (1) An application for a production order or an order to grant entry may be made *ex parte* to a Judge in Chambers.

(2) Provision may be made by rules of court for the practice and procedure to be followed in connection with proceedings relating to production orders and orders to grant entry.

(3) An application to discharge or vary a production order or an order to grant entry may be made to the High Court by the person who applied for the order or any person affected by the order.

(4) The High Court may discharge or vary a production order or an order to grant entry.

(5) Where a police officer or a customs officer applies for a production order or an order to grant entry, an application to discharge or vary the order need not be by the same police officer or customs officer but that officer must be of the same rank or above.

(6) References to a person who applied for a production order or an order to grant entry shall be construed accordingly.

## **DIVISION 2 - SEARCH AND SEIZURE WARRANTS**

### **Search and seizure warrants**

**31H.** (1) Notwithstanding any other provision in this Act or any other enactment, the High Court may, on an application made to it by a senior police officer, issue a search and seizure warrant under this section if the High Court is satisfied that either of the requirements for the issuing of the warrant set out in subsection (3) is fulfilled.

(2) For the purposes of this section, a search and seizure warrant is a warrant authorising an appropriate person

- (a) to enter and search the premises specified in the application for the warrant; and
- (b) to seize and retain any material found there which is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the application is made.

(3) An application for a search and seizure warrant shall state that

- (a) a person specified in the application is subject to a confiscation investigation or a money laundering



investigation or the property specified in the application is subject to a civil recovery investigation; or

- (b) the warrant is sought for the purposes of the investigation and
  - (i) the warrant is sought in relation to the premises specified in the application; and
  - (ii) the warrant is sought in relation to material specified in the application, or that there are reasonable grounds for believing that there is material falling within section 31I (2), (3) or (4) on the premises.

- (4) The requirements for the issue of a search and seizure warrant are
  - (a) that a production order made in relation to material has not been complied with and there are reasonable grounds for believing that the material is on the premises specified in the application for the warrant; or
  - (b) that section 31I is satisfied in relation to the warrant.

(5) For the purposes of this section and section 31I, an “appropriate person” is a police officer or a customs officer or a person employed by the Agency for the purpose of receiving reports under this Act. Requirements where production order not available.

**31I.** (1) Where there is no production order the High Court may for the reasons stated in subsection (2) issue a search and seizure warrant if the conditions set out in section 31B are satisfied.

- (2) The reasons under subsection (1) are
  - (a) that it is not practicable to communicate with any person against whom the production order could be made;
  - (b) that it is not practicable to communicate with any person who would be required to comply with an order to grant entry to the premises; or
  - (c) that the investigation might be seriously prejudiced unless an appropriate person is able to secure immediate access to the material.

(3) In the case of a confiscation investigation, material falls within this subsection if it cannot be identified at the time of the application but it

- (a) relates to the person specified in the application, the question whether that person has benefited from that person’s criminal conduct or any question as to the extent or whereabouts of that person’s benefit from that person’s criminal conduct; and
- (b) is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the warrant is sought.

(4) In the case of a civil recovery investigation, material falls within this subsection if it cannot be identified at the time of the application but it

- (a) relates to the property specified in the application or to

- (i) the question whether it is recoverable property or associated property;
  - (ii) the question as to who holds any such property;
  - (iii) any question as to whether the person who appears to hold any such property holds other property which is recoverable property; or
  - (iv) any question as to the extent or whereabouts of any property mentioned in this paragraph; and
  - (b) is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the warrant is sought.
- (5) In the case of a money laundering investigation, material falls within this subsection if it cannot be identified at the time of the application but it
- (a) relates to the person specified in the application or the question whether that person has committed a money laundering offence; and
  - (b) is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the warrant is sought.

### **Warrant confers no right to privileged material**

**31J.** (1) A search and seizure warrant does not confer the right to seize privileged or excluded material.

(2) Privileged material is any material which a person would be entitled to refuse to produce on grounds of legal professional privilege.

### **Further provisions: civil recovery**

**31K.** (1) An application for a search and seizure warrant sought for the purposes of civil recovery investigations may be made *ex parte* to a Judge in Chambers and such warrant may be issued subject to conditions.

(2) A warrant

- (a) shall continue in force until the end of the period of one month starting with the day on which it is issued; and
- (b) authorises the person it names to require any information
  - (i) which is held in a computer; and
  - (ii) is accessible from the premises specified in the application for the warrant; and
  - (iii) which the named person believes relates to any matter relevant to the investigation,

to be produced in a form in which it can be taken away and in which it is visible and legible.

(3) Where the Commissioner of Police gives written authority for a police officer to accompany the person a warrant names when executing it and a warrant is issued the authorised officers have the same powers under the warrant as the named person.

(4) A warrant may include provision authorising a person who is exercising powers under it to do such reasonable things which are not specified in the warrant, and need to be done in order to give effect to it.

(5) Copies may be taken of any material seized under a warrant.

(6) Material seized under a warrant may be retained in its original form for so long as it is necessary to retain it in connection with the investigation for the purposes of which the warrant was issued.

(7) Notwithstanding subsection (6), if the Commissioner of Police has reasonable grounds for believing that the material seized may have to be produced for the purposes of any legal proceedings, and the material might otherwise be unavailable for those purposes, it may be retained until the proceedings are concluded.

### DIVISION 3 - DISCLOSURE ORDERS

#### **Disclosure orders**

**31L.** (1) The High Court may, on an application made to the High Court by a gazetted police officer, make a disclosure order if the High Court is satisfied that each of the requirements set out in section 31M for the making of the order is fulfilled.

(2) A disclosure order is an order authorising a gazetted police officer to give to any person the gazetted police officer considers has relevant information, notice in writing requiring that person to do, with respect to any matter relevant to the investigation for the purposes of which the order is sought, any or all of the following:

- (a) answer questions, either at a time specified in the notice or at once, at a place so specified;
- (b) provide information specified in the notice, by a time and in a manner so specified; or
- (c) produce documents, or documents of a description, specified in the notice, either at or by a time so specified or at once, and in a manner so specified.

(3) An application for a disclosure order shall not be made in relation to a money laundering investigation.

(4) The application for a disclosure order shall state that

- (a) a person specified in the application is subject to a confiscation investigation and the order is sought for the purposes of the investigation; or

(b) property specified in the application is subject to a civil recovery investigation and the order is sought for the purposes of the investigation.

(5) For the purposes of this Part, “relevant information” is information (whether or not contained in a document) which the gazetted police officer considers to be relevant to the investigation.

(6) A police officer shall produce a copy of the disclosure order to the person named therein as evidence of that police officer’s authority and failing which, the person is not bound to comply.

(7) Where a Judge makes a disclosure order under this section, the order need not be served on the person who is under investigation.

(8) For the purposes of this section, “gazetted police officer” has the same meaning as in section 2 of the Police Act, Revised Edition 2013.

### **Requirements for the making of disclosure order**

**31M.** The High Court may make a disclosure order if

- (a) there are reasonable grounds for suspecting that
  - (i) in the case of a confiscation investigation, the person specified in the application for the order has benefited from that person’s criminal conduct; or
  - (ii) in the case of a civil recovery investigation, the property specified in the application for the order is recoverable property or associated property;
- (b) there are reasonable grounds for believing that information which may be provided in compliance with a requirement imposed under the order is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the order is sought; and
- (c) there are reasonable grounds for believing that it is in the public interest for the information to be provided, having regard to the benefit likely to accrue to the investigation if the information is obtained.

### **Offences: failure to comply with disclosure order**

**31N.** (1) A person commits an offence if without reasonable excuse that person fails to comply with a requirement imposed on that person under a disclosure order.

(2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding \$4,000 or imprisonment for a term not exceeding 6 months, or to both.

(3) A person commits an offence if, in purported compliance with a requirement imposed on that person under a disclosure order, that person

- (a) makes a statement which that person knows to be false or misleading in a material particular; or

- (b) recklessly makes a statement which is false or misleading in a material particular.
- (4) A person who commits an offence under subsection (3) is liable
  - (a) on summary conviction to a fine not exceeding \$4,000 or to imprisonment for a term not exceeding 6 months, or to both; or
  - (b) on conviction on indictment, to a fine not exceeding \$10,000, to imprisonment for a term not exceeding 2 years, or to both.

### **Statements: disclosure orders**

**31O.** (1) A statement made by a person in response to a requirement imposed on that person under a disclosure order may not be used in evidence against that person in criminal proceedings.

- (2) Subsection (1) does not apply
  - (a) in the case of proceedings under Part 4;
  - (b) on a prosecution for an offence under section 31N(1) or (3)
  - (c) on a prosecution for an offence of perjury or making false statements; or
  - (d) on a prosecution for some other offence where, in giving evidence, the person makes a statement inconsistent with the statement mentioned in subsection (1).

(3) A statement may not be used by virtue of subsection (2)(d) against a person unless the evidence relating to it is adduced or a question relating to it is asked by that person or on that person's behalf in the proceedings arising out of the prosecution.

(4) For the purposes of subsection (2), a reference to Part 4 is a reference to the Part of this Act titled "ENFORCEMENT, ETC., OF CONFISCATION ORDERS".

### **Disclosure orders confer no right to privileged information**

**31P.** (1) A disclosure order shall not confer the right to require a person to answer any privileged question, provide any privileged information or produce any privileged document.

(2) A privileged question is a question which the person would be entitled to refuse to answer on grounds of legal professional privilege.

(3) Privileged information is any information which the person would be entitled to refuse to provide on grounds of legal professional privilege.

(4) A disclosure order shall not confer the right to require a person to produce excluded material and has effect notwithstanding any restriction on the disclosure of information however imposed.

(5) A police officer of or above the rank of Inspector may take copies of any documents produced in compliance with a requirement to produce them which is imposed under a disclosure order and documents so produced may be retained in their original form for so long as it is necessary to retain them

in connection with the investigation for the purposes of which the order was made.

(6) Notwithstanding subsection (5), where the Commissioner of Police has reasonable grounds for believing that the documents may have to be produced for the purposes of any legal proceedings, and they might otherwise be unavailable for those purposes they may be retained until the proceedings are concluded.

(7) For the purposes of this Part, “excluded material” means

- (a) personal records which a person has acquired or created in the course of any trade, business, profession or other occupation or for the purposes of any paid or unpaid office and which that person holds in confidence;
- (b) human tissue or tissue fluid which has been taken for the purposes of diagnosis or medical treatment and which a person holds in confidence; or
- (c) journalistic material which a person holds in confidence and which consists of documents and of records other than documents.

### **Supplementary: applications for disclosure orders**

**31Q.** (1) An application for a disclosure order may be made *ex parte* to a Judge in chambers.

(2) Rules of court may provide for the practice and procedure to be followed in proceedings relating to disclosure orders.

(3) An application to discharge or vary a disclosure order may be made to the High Court by the Commissioner of Police or any person affected by the order.

(4) The High Court may discharge or vary a disclosure order.

(5) Subsections (2) to (4) do not apply to orders made for the purposes of a civil recovery investigation.

## **DIVISION 4 - CUSTOMER INFORMATION ORDERS**

### **Customer information orders**

**31R.** (1) The High Court may, on an application made to that High Court by a senior police officer, make a customer information order, if the High Court is satisfied that each of the requirements set out in subsection (3) for the making of the order is fulfilled.

(2) For the purposes of this Part, a “customer information order” is an order that a financial institution covered by the application for the order shall, on being required to do so by notice in writing given by a senior police officer, provide any such customer information as it has relating to the person specified in the application.

(3) The application for a customer information order shall state that

- (a) a person specified in the application is subject to a confiscation investigation or a money laundering investigation; or
  - (b) property specified in the application is subject to a civil recovery investigation and a person specified in the application appears to hold the property;
  - (c) the order is sought for the purposes of the investigation; and
  - (d) the order is sought against the financial institution or financial institutions specified in the application.
- (4) An application for a customer information order may specify
- (a) all financial institutions;
  - (b) a particular description, or particular descriptions, of financial institutions; or
  - (c) a particular financial institution or particular financial institutions.
- (5) A financial institution which is required to provide information under a customer information order shall provide the information to a senior police officer in such manner, and at or by such time, as a senior police officer requires.
- (6) Where a financial institution on which a requirement is imposed by a notice given under a customer information order requires the production of evidence of authority to give the notice, it is not bound to comply with the requirement unless evidence of the authority has been produced to it.
- (7) Where the High Court makes a customer information order under this section, the order need not be served on the person who is under investigation.
- (8) For the avoidance of doubt, nothing in this section limits any power under any enactment to obtain information referred to in this section or its provision on a voluntary basis.

### **Meaning of customer information**

**31S.** (1) For the purposes of this Part, “customer information”, in relation to a person and a financial institution, is information whether the person holds, or has held, an account or accounts at the financial institution whether solely or jointly with another and information as to

- (a) the matters specified in subsection (2), if the person is an individual; and
  - (b) the matters specified in subsection (3), if the person is a company or limited liability partnership or a similar body incorporated or otherwise established outside the Territory.
- (2) The matters referred to in subsection (1)(a) are
- (a) the account number or numbers;
  - (b) the person’s full name;
  - (c) the person’s date of birth;

- (d) the person's most recent address and any previous addresses;
  - (e) the date or dates on which that person began to hold the account or accounts and, if that person has ceased to hold the account or any of the accounts, the date or dates on which that person did so;
  - (f) such evidence of that person's identity as was obtained by the financial institution under or for the purposes of any legislation relating to proceeds of crime;
  - (g) the full name, date of birth and most recent address, and any previous addresses, of any person who holds, or has held, an account at the financial institution jointly with that person; and
  - (h) the account number or numbers of any other account or accounts held at the financial institution to which that person is a signatory and details of the person holding the other account or accounts.
- (3) The matters referred to in subsection (1)(b) are
- (a) the account number or numbers;
  - (b) the person's full name;
  - (c) a description of any business which the person carries on;
  - (d) the country or territory in which the person is incorporated or otherwise established and any number assigned to it under the BVI Business Companies Act, Revised Edition 2020, or corresponding legislation of any country or territory outside the Territory;
  - (e) the person's registered office, and any previous registered offices, under the BVI Business Companies Act, Revised Edition 2020, or anything similar under corresponding legislation of any country or territory outside the Territory;
  - (f) the person's registered office, and any previous registered offices, under the Partnership Act, Revised Edition 2020, or anything similar under corresponding legislation of any country or territory outside the Territory;
  - (g) the date or dates on which the person began to hold the account or accounts and, if it has ceased to hold the account or any of the accounts, the date or dates on which it did so;
  - (h) such evidence of the person's identity as was obtained by the financial institution under or for the purposes of any legislation relating to the proceeds of crime; and
  - (i) the full name, date of birth and most recent address and any previous addresses of any person who is a signatory to the account or any of the accounts.
- (4) The Cabinet, on the advice of the Financial Services Commission, may by order provide for information of description specified in the order to be customer information or no longer to be customer information.



- (5) For the purposes of this Part, “money laundering” is an act which
  - (a) constitutes an offence to which this Act applies or any other offence under any other enactment similar or connected to the offences referred to in this paragraph; or
  - (b) would constitute an offence specified or a type referred to in paragraph (a), if done in the Territory.

### **Requirements for making of customer information order**

**31T.** The High Court may make a customer information order if it is satisfied that

- (a) in the case of a confiscation investigation, there are reasonable grounds for suspecting that the person specified in the application for the order has benefited from that person’s criminal conduct;
- (b) in the case of a civil recovery investigation, there are reasonable grounds for suspecting that
  - (i) the property specified in the application for the order is recoverable property or associated property; and
  - (ii) the person specified in the application holds all or some of the property;
- (c) in the case of a money laundering investigation, there are reasonable grounds for suspecting that the person specified in the application for the order has committed a money laundering offence;
- (d) in the case of any investigation, there are reasonable grounds for believing that customer information which may be provided in compliance with the order is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the order is sought; and
- (e) in the case of any investigation, there are reasonable grounds for believing that it is in the public interest for the customer information to be provided, having regard to the benefit likely to accrue to the investigation if the information is obtained.

### **Offences: failure to comply with customer information order**

**31U.** (1) A financial institution commits an offence if, without reasonable excuse, it fails to comply with a requirement imposed on it under a customer information order.

(2) A financial institution which commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding \$10,000.

(3) A financial institution commits an offence if, in purported compliance with a customer information order, it makes a statement which it knows to be false or misleading in a material particular.

(4) A financial institution which commits an offence under subsection (3) is liable on summary conviction, to a fine not exceeding \$15,000 or on conviction on indictment, to a fine not exceeding \$50,000.

### **Statements: customer information orders**

**31V.** (1) A statement made by a financial institution in response to a customer information order may not be used in evidence against it in criminal proceedings.

(2) Subsection (1) does not apply

(a) in the case of proceedings under Part 4 of this Act;

(b) on a prosecution for an offence under section 31T (1) or (3);  
or

(c) on a prosecution for some other offence where, in giving evidence, the financial institution makes a statement inconsistent with the statement mentioned in subsection (1).

(3) A statement may not be used by virtue of subsection (2)(c) against a financial institution unless evidence relating to it is adduced or a question relating to it is asked by or on behalf of the financial institution in the proceedings arising out of the prosecution.

(4) For the purposes of subsection (2), a reference to Part 4 is a reference to the Part of this Act titled “ENFORCEMENT, ETC., OF CONFISCATION ORDERS”.

### **Disclosure of information**

**31W.** A customer information order has effect notwithstanding any restriction on the disclosure of information however imposed.

### **Supplementary: applications for customer information orders**

**31X.** (1) An application for a customer information order may be made *ex parte* to a Judge in Chambers.

(2) Rules of court may provide for the practice and procedure to be followed in proceedings relating to customer information orders.

(3) An application to discharge or to vary a customer information order may be made to the High Court by the person who applied for the order or any person affected by the order.

(4) Upon the hearing of an application, the High Court may discharge or vary the order.

(5) Where a senior police officer or a customs officer authorised by the Commissioner of Customs applies for a customer information order, an application to discharge or vary the order does not have to be made by the same senior police officer or customs officer but that senior police officer or customs officer must be of the same rank or above; and references to a person who applied for a customer information order shall be construed accordingly.

(6) A police officer or a customs officer may not make an application for a customer information order or an application to vary such an order unless

that person is a senior police officer or a customs officer authorised to do so by the Commissioner of Customs.

## DIVISION 5 - ACCOUNT MONITORING ORDERS

### **Account monitoring orders**

**31Y.** (1) The High Court may, on an application made to the High Court by a senior police officer, or customs officer authorised by the Commissioner of Customs, make an account monitoring order if the High Court is satisfied that each of the requirements set out in subsection (3) for the making of the order is fulfilled.

(2) An account monitoring order is an order that the financial institution specified in the application for the order shall, for the period stated in the order, provide account information of the description specified in the order to a senior police officer in the manner, and at or by the time or times, stated in the order.

- (3) An application for an account monitoring order shall state that
- (a) a person specified in the application is subject to a confiscation investigation or a money laundering investigation; or
  - (b) property specified in the application is subject to a civil recovery investigation and a person specified in the application appears to hold the property;
  - (c) the order is sought for the purposes of the investigation; and
  - (d) the order is sought against the financial institution specified in the application in relation to account information of the description so specified.

(4) Account information is information relating to an account or accounts held at the financial institution specified in the application by the person so specified whether held solely or jointly with another.

(5) An application for an account monitoring order may specify information relating to

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

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

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

(8) An institution which ceases to be a financial institution for the purposes of this section (whether by virtue of subsection (7) or otherwise) shall

continue to be treated as a financial institution for the purposes of any requirement under this section to provide information which relates to a time when the institution was a financial institution.

### **Requirements for making of account monitoring order**

**31Z.** The High Court may make an account monitoring order if it is satisfied that

- (a) in the case of a confiscation investigation, there are reasonable grounds for suspecting that the person specified in the application for the order has benefited from that person's criminal conduct;
- (b) in the case of a civil recovery investigation, there are reasonable grounds for suspecting that
  - (i) the property specified in the application for the order is recoverable property or associated property; and
  - (ii) the person specified in the application holds all or some of the property;
- (iii) in the case of a money laundering investigation, there are reasonable grounds for suspecting that the person specified in the application for the order has committed a money laundering offence;
- (c) in the case of any investigation, there are strong grounds for believing that account information which may be provided in compliance with the order is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the order is sought; or
- (d) in the case of any investigation, there are strong grounds for believing that it is in the public interest for the account information to be provided, having regard to the benefit likely to accrue to the investigation if the information is obtained.

### **Statements: account monitoring orders**

**31AA.** (1) A statement made by a financial institution in response to an account monitoring order may not be used in evidence against it in criminal proceedings.

(2) Subsection (1) does not apply

- (a) in the case of proceedings under Part 4;
- (b) in the case of proceedings where the financial institution has been convicted of an offence;
- (c) in the case of proceedings for contempt of court; or
- (d) on a prosecution for an offence where, in giving evidence, the financial institution makes a statement inconsistent with the statement mentioned in subsection (1).

(3) A statement may not be used by virtue of subsection (2)(c) against a financial institution unless evidence relating to it is adduced or a question

relating to it is asked by or on behalf of the financial institution in the proceedings arising out of the prosecution.

(4) For the purposes of subsection (2), a reference to Part 4 is a reference to the Part of this Act titled “ENFORCEMENT, ETC., OF CONFISCATION ORDERS”.

### **Applications**

**31AB.** An application for an account monitoring order may be made *ex parte* to a Judge in Chambers.

### **Disclosure of information**

**31AC.** An account monitoring order has effect notwithstanding any restriction on the disclosure of information however imposed.

### **Supplementary: account monitoring orders**

**31AD.** (1) Provision may be made by rules of court for the practice and procedure to be followed in connection with proceedings relating to account monitoring orders.

(2) An application to discharge or vary an account monitoring order may be made to the High Court by the person who applied for the order or any person affected by the order.

(3) The High Court may vary or discharge an account monitoring order.

(4) Where a senior police officer or a customs officer authorised by the Commissioner of Customs applies for an account monitoring order, an application to discharge or vary the order does not have to be made by the same senior police officer or customs officer but that officer must be of the same rank or above; and references to a person who applied for an account monitoring order shall be construed accordingly.

## **DIVISION 6 - EVIDENCE OVERSEAS**

### **Evidence overseas**

**31AE.** (1) This section applies where there is an investigation concerning a matter arising under this Act and there is reason to believe that there may be evidence located outside of the Territory.

(2) The High court, on the application of the Director of Public Prosecutions or a person subject to the investigation. may issue a letter of request if the High Court thinks that there is evidence in a country or territory outside the Territory of the commission of a criminal offence, criminal conduct or unlawful conduct and that such person has benefited from that person’s criminal conduct or there is evidence of the extent or whereabouts of that person’s benefit from that person’s criminal offence, criminal conduct or unlawful conduct.

(3) A letter of request is a letter requesting assistance from outside the Territory for such evidence as is specified in the letter for use in the investigation.

(4) If the Attorney General believes it is appropriate to do so the Attorney General may forward a letter received under subsection (2)

(a) to the High Court or tribunal which is specified in the letter and which exercises jurisdiction in the place where the evidence is to be obtained; or

(b) to an authority recognised by the Government of the country or territory concerned as the appropriate authority for receiving letters of request,

but in a case of urgency the person issuing the letter of request may send it directly to the High Court or tribunal mentioned in paragraph (a).

(5) Evidence obtained in pursuance of a letter of request shall not be used by any person other than the Director of Public Prosecutions or a person subject to the investigation or for any purpose other than that for which it is obtained.

(6) Subsection (5) does not apply if the authority mentioned in subsection (4)(b) consents to the use.

(7) For the purposes of this section, evidence includes documents and other articles.

(8) Rules of court may provide for the practice and procedure to be followed in connection with proceedings relating to the issue of letters of request by the High Court under this section.

### **Right to legal advice etc**

**31AF.** A police officer or customs officer as the case may be, shall advise a person prior to that person being served with any order under this Part of that person's right

(a) to remain silent; or

(b) to be advised, at that person's own expense by a legal practitioner of that person's choice."

### **Section 33A inserted**

**11.** The principal Act is amended by inserting after section 33, under the Part heading entitled "Miscellaneous Provisions", the following section:

#### **"Assistance to foreign countries**

**33A.** (1) The competent authority shall, as soon as practicable, cooperate with the competent authority of another country on matters concerning money laundering offences, subject to this Act and the law of that country.

(2) The competent authority may, upon request by a court or other competent authority of another country, take steps to identify, trace, freeze, seize, or forfeit property, proceeds or instrumentalities connected to money laundering offences including

- (a) laundered property originating from money laundering activities;
- (b) proceeds derived, directly or indirectly, from criminal conduct;
- (c) instrumentalities used or intended for use in money laundering, predicate offences, or terrorist financing; or
- (d) property of corresponding value linked to such activities,

and shall act without undue delay on urgent requests.

(3) Without prejudice to subsection (2), the competent authority shall, where practicable, acknowledge and begin processing urgent requests within 24 hours or such other time specified in guidelines made under this Act in respect of the sharing of information and the cooperation with foreign law enforcement, prioritising cases involving transnational crime, terrorism financing, proliferation financing or serious financial crime.

(4) A final judicial order or judgment for the forfeiture of property, proceeds, or instrumentalities linked to money laundering offences, issued by a court or other competent authority of another country, may be received in evidence and may be used as proof that the property, proceeds, or instrumentalities identified in the order or judgment may be subject to forfeiture under the laws of the Territory.

(5) The competent authority may provide assistance on a request by a court or competent authority of another country in connection with a criminal investigation or prosecution for a money laundering offence, or other relevant offence, in that country.

(6) Assistance under this section may include providing original or certified copies of documents and records, including those of financial institutions and government agencies, provided that no information relating to a client account shall be disclosed unless the client is the subject of a criminal investigation related to money laundering.

(7) The Attorney General may, in response to a request from another country, assist in

- (a) obtaining testimony;
- (b) facilitating the presence or availability of persons, including those in custody, to give evidence;
- (c) locating or identifying persons;
- (d) serving documents;
- (e) conducting searches and seizures;
- (f) providing information and evidence; and
- (g) making provisional measures.

(8) The Attorney General or other designated authority, upon receipt of a request for mutual legal assistance under subsection (1), shall ensure that the appropriate measures are in place to respond to such requests promptly, including

(a) the use of electronic means to facilitate rapid communication and coordination between the relevant authorities and the requesting country; and

(b) ensuring that mutual legal assistance is provided in a timely manner, subject to any limitations imposed by written law.

(9) The Attorney General or other designated authority may cooperate with the competent authority of another country if the law of that country provides reciprocal assistance not less favourable than that available under the laws of the Territory.

(10) If a person refuses to provide information as required by subsection (5), the Attorney General may apply to the High Court for an order compelling the person to provide the information.

(11) For the purposes of subsection (2), identifiable property includes

(a) financial assets, funds, or other economic resources; and

(b) tangible or intangible assets such as real estate, vehicles, vessels, or equivalent assets of value.”.

#### **Section 34B amended**

**12.** Section 34B of the principal Act is amended by repealing subsection (5) and substituting the following subsection:

“(5) A person who commits an offence under this section is liable

(a) on summary conviction, to a fine not exceeding \$250,000 or to imprisonment for a term not exceeding 5 years or both; or

(b) on conviction on indictment, to a fine not exceeding \$500,000 or to imprisonment for a term not exceeding 15 years or both.”.

#### **Sections 34C and 34D inserted**

**13.** The principal Act is amended by inserting after section 34B the following sections:

##### **“Actions prejudicing confiscation orders**

**34C.** (1) Without prejudice to any other provision of this Act, where any person engages in a transaction, transfer, or other action involving property subject to confiscation under this Act, intending to frustrate, defeat or otherwise prejudice the Government’s ability to freeze, seize or recover the property, that transaction, transfer or action shall be voidable in accordance with the procedures set out in this section.

(2) The Director of Public Prosecutions or the Agency may apply to the High Court for an order to temporarily suspend or freeze any transaction, transfer or dealing involving property if it appears likely to frustrate confiscation proceedings.

(3) The High Court may issue an order under subsection (2) to remain effective until the conclusion of proceedings or further court order.



(4) Where property subject to a confiscation order has been transferred to a third party, it shall remain subject to confiscation if the High Court is satisfied that

- (a) the transfer was intended to frustrate recovery; and
- (b) the third party knew, or reasonably should have known, of the pending or likely confiscation at the time of transfer.

(5) Upon notification by the Director of Public Prosecutions or the Agency that property is subject to confiscation, no person shall dispose of, transfer, or otherwise diminish the value of the property in a way that could prejudice the Government's ability to seize, freeze, or recover the property.

(6) Any action in violation of subsection (5) shall be voidable by the High Court upon application by the Director of Public Prosecutions or the Agency.

(7) The Director of Public Prosecutions or the Agency may apply to the High Court for an order requiring any person in possession of information relevant to a transaction under this section to disclose such information.

(8) A person who fails to comply with a disclosure order under subsection (6) is liable to the penalties for non-disclosure as prescribed by this Act.

#### **Contravention of restraint order**

**34D.** (1) A person or any director of a legal person who knowingly contravenes a restraint order by disposing of or otherwise dealing with property that is subject to the restraint order commits an offence and is liable upon conviction on indictment to imprisonment for a period not exceeding 15 years or to a fine or both; or if the person is a legal person to a fine not exceeding \$1,500,000.

(2) Where a restraint order is made against a property and the property is disposed of or otherwise dealt with in contravention of the restraint order, and the disposition was for insufficient consideration or the purchaser did not act in good faith, the prosecutor may apply to the High Court for an order that the disposition or dealing be set aside.”.

#### **Section 35A repealed**

**14.** The principal Act is amended by repealing section 35A.

Passed by the House of Assembly this 28<sup>th</sup> day of February, 2025.

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

(Sgd.) Bethsaida Smith-Hanley,  
Clerk of the House of Assembly.