

**PROCEEDS OF CRIMES (CIVIL CONFISCATION)
(AMENDMENT) BILL, 2020**

(Bill No. 27 of 2020)

OBJECTS AND REASONS

The Proceeds of Crimes (Civil Confiscation) Act, 2008 (Cap 298) (POCCCA) was enacted to put in place a regime of civil confiscation which will provide a statutory process whereby the benefits from criminal conduct will be identified in a court process, frozen and then ultimately transferred to the Republic of Seychelles on the civil standard of proof. The POCCCA was last amended by Act 10 of 2017.

The Financial Action Task Force (FATF), an inter-governmental body established in 1989 by the Ministers of the member jurisdictions has set out the standards to promote effective implementation of the measures for combating money laundering activities. The Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG), a regional body has been, *inter alia*, tasked by the FATF to oversee the implementation of FATF Recommendations in the Region. The said ESAAMLG evaluated the steps taken for implementation of FATF recommendations and submitted its Mutual Evaluation Report (MER) in September, 2018. In the said MER, the ESAAMLG observed various short comings in different legislations covering the recommendations of the FATF. In furtherance of the said MER, FATF Recommendations and other related reports, the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020) (AML Act, 2020) was enacted to meet the observations made by the ESAAMLG in its MER.

In view of the enactment of the AML Act, 2020 (Act 5 of 2020), the other procedural laws, which are the tools for implementing the said AML Act are required to be harmonized to sync with the provisions of the new AML Act. Accordingly, it is proposed to amend the POCCCA, to harmonise the provisions with the new AML Act.

The Proceeds of Crimes (Civil Confiscation) (Amendment) Bill, 2020 was presented to the 6th National Assembly and lapsed on the dissolution of the 6th National Assembly. This Bill seeks to amend sections, 2, 4 and 5 and repeal sections 25 and 26 of the Proceeds of Crimes (Civil Confiscation) Act, 2008 (Cap.298) on the same lines of lapsed Bill.

Dated this 16th day of November, 2020.

**FRANK D.R. ALLY
ATTORNEY GENERAL**

**PROCEEDS OF CRIME (CIVIL CONFISCATION)
(AMENDMENT) BILL, 2020.**

(Bill No. 27 of 2020)



A BILL

FOR

AN ACT to amend the Proceeds of Crime (Civil Confiscation) Act (*Cap. 298*).

ENACTED by the President and the National Assembly.

1. This Act may be cited as the Proceeds of Crime (Civil Confiscation) (Amendment) Act, 2020 and shall come into operation on such date as the Minister may by notice in the *Gazette*, appoint.

Short title and commencement

Amendment of
Cap 26

2. The Proceeds of Crime (Civil Confiscation) Act (Cap. 298) is hereby amended as follows —

(a) in section 2 —

(i) for the definition of “criminal conduct”, the following definition shall be substituted —

‘ “criminal conduct” shall have the same meaning assigned to it in section 3(9) of the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020);’;

(ii) for the definition of “benefit from criminal conduct”, the following definition shall be substituted —

‘ “benefit from criminal conduct” shall have the same meaning assigned to it in section 3(9) of the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020);’;

(iii) for the definition of “property”, the following definition shall be substituted —

‘ “property” shall have the same meaning assigned to it in section 3(9) of the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020);’;

(b) in section 4, after subsection (8), the following subsection shall be added —

“(9) Where a restraint order, a forfeiture order or a pecuniary penalty order under the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020), is made that relates to any property that is the subject of an interim order, or an interlocutory order, that is in force, the interim order or the interlocutory order shall —

- (a) if it relates only to that property, stand discharged; or
 - (b) if it relates also to the other property, stand varied by the exclusion from it of that property.”;
- (c) in section 5, after subsection (6), the following subsection shall be added —

“(6A) Where the Court in a disposal order has specified that the property be transferred to the Republic, the receiver appointed on behalf of the Republic may sell or otherwise dispose of the property transferred to the Republic under this section as the Minister may direct, and any proceeds of such a disposition and any moneys transferred to it under this section shall be paid into the Consolidated Fund.”;

- (d) Repealing sections 25 and 26.