

2013

**MONEY LAUNDERING
(PREVENTION) (AMENDMENT)**

ACT 8

189

COMMONWEALTH OF DOMINICA

ACT NO. 8 OF 2013

I assent



E.T. WILLIAMS
President

21st May, 2013

**AN ACT TO PROVIDE FOR THE AMENDMENT OF
THE MONEY LAUNDERING (PREVENTION)
ACT, ACT NO. 8 OF 2011.**

BE IT ENACTED by the Parliament of the Commonwealth of
Dominica as follows –

(Gazetted 23rd May, 2013.)

1. This Act may be cited as the –

Short title.

**MONEY LAUNDERING (PREVENTION)
(AMENDMENT) (NO.2) ACT, 2013.**

Interpretation
Act No. 8 of 2011.

2. In this Act “the Act” means the Money Laundering Prevention Act 2011.

Repeal and replacement
of section 29.

3. Section 29 of the Act is repealed and replaced by the following—

“**29.**(1) The Director of Public Prosecutions may make an application to the Court for an order to freeze -

(a) property of, or in the possession or under the control of a person charged or who is about to be charged or is being investigated for a money laundering offence;

(b) any property possessed by a person to whom a person referred to in paragraph (a) has directly or indirectly made a gift.

(2) An application under subsection (1) may be made without notice.

(3) In this section “gift “ includes any transfer of property by a person to another person directly or indirectly –

(a) after the commission of a money laundering offence 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;

(c) to the extent of the difference between the market value of the property transferred and the consideration provided by the transferee.”

4. Section 30 of the Act is amended –Amendment of
section 30.

- (a) in subsection (1) by deleting the words “the property of, or in the possession or under the control of that person.” and substituting the words “the property referred to in section 29(1)(a) and (b).”;
- (b) in subsection (3) by deleting the words “against whom” and substituting the words “referred to in section 29(1)(a) and in relation to whom”.

5. Section 36 of the Act is amended-Amendment of
section 36.

- (a) in subsection (2) –
 - (i) in paragraphs (a) and (b) by deleting the word “or”;
 - (ii) in paragraph(c) by deleting the full-stop appearing after the word “otherwise” and substituting a semicolon;
 - (iii) by inserting the following new paragraphs after paragraph(c) –
 - (d) “all money recovered under a confiscation forfeiture or recovery order made under the Proceeds of Crime Act;
 - (e) any monies required to be paid into the fund by any other enactment.”;
- (b) by deleting subsection (3) and substituting the following –
 - “(3)The Minister of Finance may authorise payment out of the Fund –

- (a) to pay any compensation awarded under this Act or the Proceeds of Crime Act;
- (b) to satisfy an obligation of the State to a foreign state in respect of confiscated assets, whether under a treaty or arrangement providing for mutual assistance in criminal matters or otherwise;
- (c) to share forfeited property with another state;
- (d) to pay the cost of any forensic accountant;
- (e) to cover costs associated with administration of the Fund;
- (f) toward contributing to Dominica's payment obligations under the Regional Security System;
- (g) to facilitate capacity building and particularly to supplement the resources allocated under the budget-
 - (i) to the Financial Intelligence Unit;
 - (ii) to the Dominica Police Force;
 - (iii) to the Customs;
 - (iv) to the Dominica Coastguard;
 - (v) to the Office of the Director of Public Prosecutions; and
 - (vi) to the Chambers of the Attorney General;
- (h) to supplement the resources allocated under the budget towards management and disposal of

frozen, restrained, confiscated, forfeited or recovered assets and to Magistrates' Courts;

- (i) to supplement the resources allocated under the budget to projects relating to drug prevention and the treatment and rehabilitation of drug addicts;
- (j) to supplement the resources allocated under the budget to projects relating to public education in relation to drugs and drug addiction;
- (k) 10% to the Consolidated Fund.

(4) The Minister shall -

- (a) authorise payments out of the Fund for the purpose of subsection (3)(a) to (f) before authorising payments for the purposes of subsection (3)(g) to (k); and
- (b) endeavour to authorise payments out of the Fund for the purposes of subsection 3(g) to (k) on a six month basis.

6. The Act is amended by inserting the following new sections 36A, 36B and 36C after section 36 -

Insertion of section 36A, 36B, and 36C.

"Administration of the fund.

36A. (1) The Minister of Finance may, with the approval of Cabinet, invest monies of the Fund that, at any time are not required to be paid out of the Fund under section 36(3).

(2) Income earned from investments made under subsection (1) shall be part of the Fund.

Preparation of
financial
statements.

36B.(1) The Minister shall —

(a) keep proper records of the money paid into and out of the Fund and of investments made pursuant to section 36(3); and

(b) ensure that —

(i) all money received is properly brought to account;

(ii) all payments are correctly made and properly authorised;

(2) The financial records kept under subsection (1) shall —

(a) be sufficient to show and explain all transactions relating to the Fund;

(b) enable the financial position of the Fund to be determined with reasonable accuracy at any time; and

(c) be sufficient to enable financial statements to be prepared and audited in accordance with this section.

(3) Within two months after the end of each financial year, the Minister shall prepare —

(a) financial statements containing —

(i) a statement of the assets of the Fund at the end of the financial year; and

- (ii) a statement of the money received into the Fund and the payments made out of the Fund during the financial year;
- (b) such other financial statements for the financial year as may be determined by the Minister of Finance; and
- (c) proper and adequate explanatory notes to the financial statements prepared under paragraphs (a) and (b).

Statements and
annual report.

36C. (1) The Minister shall cause the financial statements prepared under section 36B to be audited and certified by the Director of Audit annually within three months after the end of the financial year.

(2) The Director of Audit shall prepare a report of his audit of the financial statements of the Fund in accordance with the Audit Act.

(3) The Minister of Finance shall, as soon as reasonably practicable after their receipt, lay a copy of the audited financial statements, together with the auditor's report, before the House of Assembly.”.

7. The schedule to the Act is amended in Part II by inserting the following new item 17 -

Amendment of the
Schedule.

“**17.** Lawyers and accountants when they prepare for or carry out transactions for a client in relation to the following activities -

- (a) buying and selling of real estate;

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- (b) managing client money, securities or other assets;
 - (c) managing bank, savings or securities accounts;
 - (d) organization 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.”.

Passed in the House of Assembly this 16th day of May, 2013.

VERNANDA RAYMOND (MRS.)
Clerk of the House of Assembly (Ag.)

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