

BELIZE:

**MONEY LAUNDERING AND TERRORISM (PREVENTION)
(AMENDMENT) ACT, 2016**

ARRANGEMENT OF SECTIONS

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No. 7 of 2016

I assent,

(SIR COLVILLE N. YOUNG)

Governor-General

14th April, 2016.

AN ACT to amend the Money Laundering and Terrorism (Prevention) Act, No 18 of 2008; to provide for measures to ensure compliance with international standards and obligations in relation to money laundering and terrorist financing and implementation of UN Security Council Resolutions; and to provide for matters connected therewith or incidental thereto.

(Gazetted 16th April, 2016)

BE IT ENACTED, by and with the advice and consent of the House of Representatives and Senate of Belize and by the authority of the same, as follows:

1. This Act may be cited as the

Short title.

**MONEY LAUNDERING AND TERRORISM
(PREVENTION) (AMENDMENT) ACT, 2016,**

18 of 2008.
4 of 2013.

and shall be read and construed as one with the Money Laundering and Terrorism (Prevention) Act, which is hereinafter referred to as the principal Act.

Amendment of
section 2.

2. The principal Act is amended in section 2 as follows –

(a) by inserting the following definitions in alphabetical order –

“act” and “action” include omission;

“offence” means conduct which—

(a) if it occurs in Belize, is unlawful under the criminal law of Belize; or

(b) if it occurs in a country other than Belize—

(i) is unlawful under the criminal law applying in that country, and

(ii) if it occurred in Belize, would be unlawful under the criminal law of Belize;

“stored value instrument” means an instrument in the form of a prepaid card or other portable device, for which prefunded value is recorded on the instrument, or on a remote database which must be accessed for payment authorization;

“terrorist cash” means cash that is terrorist property;”.

(b) in the definition of “accused”—

(i) by deleting the words “a serious crime” wherever they appear and replacing them with the words “an offence”;

- (ii) by deleting the words “the crime” and replacing them with the words “the offence”;
 - (iii) by deleting the phrase “customer information order,”;
 - (iv) by inserting immediately before the word “warrant” the word “search”;
- (c) by deleting the definition of “cash” and replacing it with the following definition—

“cash” includes the following, regardless of the type of currency—

- (a) notes and coins in circulation as a medium of exchange;
 - (b) postal orders;
 - (c) cheques of any kind, including travellers’ cheques;
 - (d) bankers’ drafts;
 - (e) bearer bonds and bearer shares;
 - (f) stored value instruments;
 - (g) such other monetary instruments as the Minister may, by notice published in the *Gazette*, specify;”;
- (d) by deleting the definition of “gift” and replacing it with the following—

“gift” includes any transfer of property by a person to another person, directly or indirectly,

after the commission of an offence by the first person—

- (a) for no consideration; or
- (b) for consideration the value of which is significantly less than the value of the property transferred and to the extent of the difference between the market value of the property transferred and the consideration provided by the transferee.
- (e) by deleting the definition of “instrumentality”;
- (f) by deleting the definition of “proceeds of crime” and replacing it with the following definition—

““proceeds of crime” has the meaning given in section 2B;”
- (g) in the definition of “realizable property”, by deleting the words “held by” and replacing them with the phrase “held by, or on behalf of,”;
- (h) by deleting the definition of “serious crime”;
- (i) by deleting the definition of “tainted property” and replacing it with the following definition—

““tainted property” means, subject to subsection (9A), property that—

 - (a) has been used in, or in connection with, an offence or is intended to be used in, or in connection with, an offence; and
 - (b) is, or is derived from, the proceeds of crime;”;

- (j) by replacing the definition of “terrorism” with the following definition—

““terrorism” and “terrorist act” have the meaning given in section 2C;”;

- (k) by replacing the definition of “terrorist” with the following definition—

““terrorist” means any individual who—

- (a) wilfully commits, or attempts to commit, a terrorist act by any means, whether directly or indirectly;
- (b) participates as an accomplice to a terrorist act;
- (c) organizes, directs, recruits or trains others to commit a terrorist act;
- (d) contributes to the commission of a terrorist act by a group of persons acting with a common purpose where the contribution is made intentionally and with the aim of furthering a terrorist act or with the knowledge of the intention of the group to commit a terrorist act;
- (e) is listed by the Minister under the authority of section 68; or
- (f) is designated by, or under the authority of the United Nations Security Council under Chapter VII of the Charter of the United

Nations, including in accordance with Security Council Resolution 1267(1999) or 2253 (2015) or the successor resolutions of either or designated by a country or supranational jurisdiction pursuant to Security Council Resolution 1373 (2001) or its successor resolutions;”;

- (l) by replacing the definition of “terrorist group or organisation” with the following definition—

“ “terrorist organisation” means any group of terrorists that—

- (a) wilfully commits, or attempts to commit, a terrorist act by any means, whether directly or indirectly;
- (b) participates as an accomplice to a terrorist act;
- (c) organizes, directs, recruits or trains others to commit a terrorist act;
- (d) contributes to the commission of a terrorist act by a group of persons acting with a common purpose where the contribution is made intentionally and with the aim of furthering a terrorist act or with the knowledge of the intention of the group to commit a terrorist act;
- (e) is listed by the Minister under the authority of section 68; or

(f) is designated by, or under the authority of the United Nations Security Council under Chapter VII of the Charter of the United Nations, including in accordance with Security Council Resolution 1267(1999) or 2253 (2015) or the successor resolutions of either or designated by a country or supranational jurisdiction pursuant to Security Council Resolution 1373 (2001) or its successor resolutions;”;

(m) by replacing the definition of “terrorist property” with the following definition—

““terrorist property” has the meaning given in section 2D;”;

(n) by inserting the following subsection after subsection (9)—

“(9A) Property belonging to a person (“the owner”) that would, but for the following paragraphs, be tainted property, is not tainted property if—

(a) the offence concerned was not committed by the owner; and

(b) the owner does not give his consent, express or implied, to the property being used in, or in connection with, the offence concerned.”.

3. The principal Act is amended by inserting the following sections immediately after section 2A—

Insertion of sections 2B, 2C and 2D.

“Meaning of
“proceeds of
crime”.

2B. (1) Property is the proceeds of crime if it constitutes a person’s benefit from an offence or it represents such a benefit, in whole or part and whether directly or indirectly.

(2) For the purposes of subsection (1)—

- (a) a person benefits from an offence if he obtains property as a result of or in connection with the offence;
- (b) if a person benefits from an offence, his benefit is the value of the property obtained as a result of or in connection with the offence;
- (c) if a person derives a pecuniary advantage as a result of or in connection with an offence, he is to be taken to obtain, as a result of or in connection with the offence, a sum of money equal to the value of the pecuniary advantage; and
- (d) it is immaterial—
 - (i) who committed the offence;
 - (ii) who benefited from the offence; or

(iii) whether the offence occurred before or after the commencement date.

(3) References to property obtained or a pecuniary advantage derived in connection with an offence include references to property obtained or a pecuniary advantage derived in both that connection and some other connection.

Meaning of
“terrorism”
and “terrorist
act”.

2C. (1) In this Act “terrorism” and “terrorist act” mean the action or threat of action where—

(a) the action—

(i) constitutes an offence within the scope of a counter terrorism convention listed in the Fourth Schedule; or

(ii) falls within subsection (2);

(b) subject to subsection (3), the use or threat of action is intended, or by its nature and context, may reasonably be regarded as being intended, to—

(i) influence the government of any country or part of a country, or an international organisation; or

communications, banking or financial services;

(ii) the provision of essential emergency services such as police, civil defence or medical service or other essential services such as utilities or transportation;

(f) involves the unlawful seizure of aircraft in flight;

(g) involves unlawful violence against the safety of maritime navigation;

(h) involves participating in the activities of a terrorist organisation, including the providing information, operational support or technical assistance, providing or receiving training to facilitate commission of terrorist acts or recruiting for such training; or

(i) involves travel for the purpose of planning, preparing or carrying out any action referred to in paragraphs (a) to (h).

(3) The use or threat of action falling within subsection (2) which involves the use of firearms or explosives is terrorism or a terrorist act whether or not any condition of paragraph (1)(b) is met.

(4) In this section—

(a) “action” includes action outside Belize;

(b) reference to any person or property is a reference to any person or property wherever situated;

- (c) reference to the public includes a reference to the public of any country other than Belize
- (d) reference to an action taken for the purposes of terrorism includes action taken for the benefit of a terrorist organisation.

Meaning of
“terrorist
property”.

2D. (1) In this Act “terrorist property” means—

- (a) property intended or allocated to be used in any way for the purposes of terrorism;
- (b) proceeds of the commission of an act of terrorism;
- (c) proceeds of an act carried out for the purposes of terrorism;
- (d) property owned, jointly or individually, or controlled, directly or indirectly, by or on behalf of a terrorist organisation, terrorist or person who finances terrorism;
- (e) any property derived or generated from any property referred to in paragraphs (a) to (d).

(2) In subsection (1)—

- (a) reference to proceeds of an act include reference to any property which wholly or partly, directly or indirectly, represents the benefit obtained as a result of or in connection the act, including payment or other reward made in relation with the act; and
- (b) reference to property owned or controlled by or on behalf of a terrorist organisation includes reference to any property applied or made available, or is to be applied or made available, for use by the organisation.”.

4. The principal Act is amended in section 3—

Amendment of section 3.

- (a) in subsection (1A)(c), by deleting the words “law relating to serious crime or” and replacing them with the words “provision of criminal law or of law relating to”;
- (b) by deleting subsection (2) and replacing it with the following subsection—

“(2) For the purpose of proving a money laundering offence under subsection (1) it is sufficient to prove that—

- (a) the property was derived from conduct of a specific kind or

kinds and that conduct is unlawful; or

- (b) the circumstances in which the property was handled were such as to give rise to an irresistible inference that the property could only be derived from unlawful conduct.”.

Amendment of section 15.

5. The principal Act is amended in section 15—

- (a) in subsection (6A), by deleting paragraph (d) and replacing it with the following paragraph—

“(d) terminate a business relationship when the reporting entity is unable to undertake ongoing monitoring with respect to the relationship.”; and

- (b) by deleting subsection (9).

Amendment of section 16.

6. The principal Act is amended in section 16, by deleting subsection (6).

Amendment of section 17.

7. The principal Act is amended in section 17—

- (a) by inserting the following subsection immediately after subsection (2)—

“(2A) The requirements set forth in subsections (1) and (2) apply to any casino or licensed gaming premises in relation to any transaction equal to or above the amount of six thousand dollars in Belize currency (or its equivalent in foreign currency) or such other sum as may be prescribed by the Minister by notice published in the *Gazette*.”;

- (b) by deleting subsection (6) and replacing it with the following subsection—

“(6) When a report has been made in accordance with this section, the Financial Intelligence Unit may, by written notice, require any person to provide information within a period specified in the notice, for the purpose of clarifying or amplifying information disclosed to the Financial Intelligence Unit.”.

8. The principal Act is amended in section 20(3)(b), by deleting the words “a criminal offence” and replacing them with the words “an offence”.

Amendment of section 20.

9. The principal Act is amended in section 23(1), by deleting the words “a serious offence” and “a serious crime” wherever they appear and replacing them with the words “an offence”.

Amendment of section 23.

10. The principal Act is amended by deleting section 36.

Deletion of section 36.

11. The principal Act is amended by deleting section 37.

Deletion of section 37.

12. The principal Act is amended by deleting section 37A.

Deletion of section 37A.

13. The principal Act is amended in section 38—

Amendment of section 38.

- (a) in paragraphs (a) and (b) of subsection (1), by deleting the words “a serious offence” and “a serious crime” wherever they appear and replacing them with the words “an offence”;

- (b) in paragraph (d) of subsection (1), by deleting the phrase “under section 37 of this Act” and replacing

it with the phrase “under section 51A or 77A of the Customs Regulation Act, Cap. 49”;

- (c) in subsection (4A), by deleting the phrase “at the earliest opportunity” and replacing it with the phrase “as soon as practicable”;
- (d) by deleting subsection (7) and replacing it with the following—

“(7) On being satisfied that cash detained under this section represents the proceeds of crime or property that has been used in, or in connection with, an offence or is intended to be used in, or in connection with, an offence, the magistrate shall make a forfeiture order.”.

Amendment of section 39.

14. The principal Act is amended in section 39(2), paragraphs (a) and (b), by deleting the phrase “convicted of a serious crime, the serious crime for which” and replacing it with the phrase “convicted of an offence, the offence for which”.

Amendment of section 49.

15. The principal Act is amended in section 49—

- (a) in subsections (1), by deleting the words “a serious crime” and replacing them with the words “an offence”;
- (b) in subsection (2)(a), by deleting the words “a serious crime” and “the serious crime”, and replacing them with the words “an offence” and “the offence”, respectively;
- (c) in subsections (2)(b) and 4(b), by deleting the words “the serious crime”, wherever they appear, and replacing them with the words “the offence”.

16. The principal Act is amended in section 56—

Amendment of
section 56.

- (a) in paragraph (a) of subsection (1), by deleting the words “the serious crime” and replacing them with the words “the offence”;
- (b) in paragraph (b) of subsection (1), by deleting the words “a serious crime” and replacing them with the words “an offence”;
- (c) in subsection (3), by deleting the phrase “reasonable attempts to arrest the person pursuant to the warrant” and replacing it with the phrase “reasonable attempts to serve or arrest the person pursuant to a notice or warrant”.

17. The principal Act is amended in section 58—

Amendment of
section 58.

- (a) in subsections (1), (2), by deleting the words “a serious crime” and replacing them with the words “an offence”;
- (b) in subsection (3)—
 - (i) in the chapeau, by deleting the words “a serious crime” and “serious crimes” and replacing them with the words “an offence” or “offences”, respectively;
 - (ii) in paragraph (b)(i), by deleting the words “the serious crime” and “earliest serious crime” and replacing them with the words “the offence” or “earliest offence”, respectively may be;
 - (iii) in the tail of paragraph (b) and in paragraphs (c) and (d), by deleting the words “that serious crime or those serious crimes” and replacing them with the words “that offence or those offences”;

- (c) in subsections (4), (5) and (6), by deleting the words “the serious crime” and replacing them with the words “an offence”.

Amendment of section 59.

18. The principal Act is amended in section 59—

- (a) in the marginal note and subsection (6), by deleting the words “serious crime” and “a serious crime” and replacing them with the words “an offence”;
- (b) in subsection (1)(a)—
 - (i) in the chapeau, by deleting the words “a serious crime” and replacing them with the words “an offence”;
 - (ii) in subparagraphs (i) and (ii), by replacing the words “other serious crimes” with the words “other offence”;
- (c) in subsection (3)(b), by deleting the words “the serious crime” and replacing them with the words “an offence”.

Amendment of section 64.

19. The principal Act is amended in section 64 by deleting paragraph (a) and replacing it with the following paragraph—

“(a) if the conviction of an offence or offences in reliance on which the order was made is or is deemed to be quashed and no conviction for the offence or offences is substituted;”.

Amendment of section 68.

20. The principal Act is amended in section 68 by deleting subsection (1) and replacing it with the following two subsections—

“(1) Any person who by any means, directly or indirectly, wilfully provides or collects funds or

other property, with the intention that they should be used, or in the knowledge that they are to be used, in whole or in part in or outside of Belize—

(a) by any person to—

(i) plan, prepare or commit a terrorist act;

(ii) provide or receive training related to terrorism; or

(iii) travel for the purposes referred to in subparagraph (i) or (ii); or

(b) by a terrorist or terrorist organisation for any purpose;

commits an offence and shall be liable to the same penalties as prescribed in section 5 of this Act for the offence of terrorism.

(1A) A purpose referred to in paragraph (1)(b) includes the following—

(a) recruitment, training, travel and payment of salaries, taxes or other expenses;

(b) the provision of the general subsistence and maintenance of a terrorist organisation or a terrorist, including food, water, clothing, lodging, public utilities, equipment or other support for the infrastructure of a terrorist organisation;

- (c) equipment or other goods used to promote the ideology of a terrorist organisation or a terrorist.”.

Amendment of section 74.

21. The principal Act is amended in section 74(2)(c), by deleting the words “terrorist group” and replacing them with the words “terrorist organisation”.

Amendment of section 75A.

22. The principal Act is amended in section 75A—

- (a) in the definition of “criminal conduct”, by deleting the words “a serious crime” wherever they occur and replacing them with the words “an offence”;
- (b) in the definition of “external order”, by deleting the words “serious crime” and replacing them with the words “an offence”.

Amendment of section 75F.

23. The principal Act is amended in section 75F, by deleting the words “any serious crime” and replacing them with the words “any offence”

Replacement of “a serious crime”.

24. The principal Act is amended by deleting the words “a serious crime” or “serious crimes” and replacing them with the words “an offence” or “offences”, as the case may be, in the following provisions—

- (a) section 2—
- (i) in subsection (4);
- (ii) in subsection (6);
- (iii) in subsection (9), paragraphs (b) and (c);
- (b) section 11(1)(m);
- (c) section 13(b)(i);

- (d) section 14, subsection (2) and paragraph (3)(a);
- (e) section 27(1)(c);
- (f) section 28(1)(a);
- (g) section 32(3), paragraphs (a) and (b)
- (h) section 40(1), paragraph (a), wherever they appear, and paragraph (b);
- (i) section 45(1);
- (j) section 47(5)(a);
- (k) section 50(4), in the definition of “relevant appeal date”;
- (l) section 53(1);
- (m) section 54, in the chapeau;
- (n) section 55, in the chapeau;
- (o) section 61(a);
- (p) section 62(1);
- (q) section 79(2), paragraphs (b) and (d);
- (r) Sixth Schedule—
 - (i) section 2(1)(b), wherever it appears;
 - (ii) section 4(3)(a);
 - (iii) section 29—

(A) subsection (1), paragraph (b);

(B) subsection (2).

Replacement
of “the serious
crime”.

25. The principal Act is amended by deleting the words “the serious crime” and replacing them with the words “the offence” in the following provisions—

(a) section 52(2), paragraphs (a) and (b);

(b) section 60(1);

(c) Sixth Schedule, section 29(1)(a).

Replacement
of “a serious
offence”.

26. The principal Act is amended by deleting the words “a serious offence” or “serious offences” and replacing them with the words “an offence” or “offences”, as the case may be, in the following provisions—

(a) section 2—

(i) in subsection (5), in the chapeau;

(ii) in paragraph (9)(a);

(b) section 10;

(d) section 30(5)(b).

Replacement
of “another
serious
offence”.

27. The principal Act is amended by deleting the words “another serious crime” and replacing them with the words “another offence” in the following provisions—

(a) section 2(5)(c);

(b) section 28(5)(a);

(c) section 30(5)(b).

28. The principal Act is amended in the First Schedule by deleting item 18 and replacing it with the following—

Amendment of First Schedule.

“18. Casinos and licensed gaming premises.”.

29. The principal Act is amended by deleting the Second Schedule.

Deletion of Second Schedule.

30. The International Financial Services Practitioners (Code of Conduct) Regulations are amended in Regulation 2 by deleting the definition of “criminal activity” and replacing it with the following—

Consequential amendment.

““criminal activity” means conduct which—

- (a) if it occurs in Belize, is unlawful under the criminal law of Belize; or
- (b) if it occurs in a country other than Belize—
 - (i) is unlawful under the criminal law applying in that country, and
 - (ii) if it occurred in Belize, would be unlawful under the criminal law of Belize.