

A BILL

AN ACT to provide for the establishment of the Civil Asset Recovery and Management Agency for the recovery of criminal property through the use of the remedies of restriction in dealings with civil assets restriction and forfeiture of criminal property and the management of criminal property, and unexplained wealth orders and matters incidental thereto

Enactment ENACTED by the Parliament of Trinidad and Tobago as follows:

PART I

PRELIMINARY

Short title 1. This Act may be cited as the Civil Asset Recovery, Management and Unexplained Wealth Act, 2018.

Commencement 2. This Act shall come into operation on such date as is fixed by the President by Proclamation.

Interpretation 3. (1) In this Act, unless the context otherwise requires –
 “Agency” means the Civil Asset Recovery and Management Agency established under section 8;

 “associated property” means in relation to criminal property that is recoverable under this Act, that part of the property which is not recoverable and-

- (a) is an interest in the recoverable property;
- (b) is any other interest in the property in which the recoverable property subsists;
- (c) the share of the other owner of the property where it is held in common ownership; or
- (d) the remainder of a larger part of the property which is not a separate part;

 “cash” includes coins and notes in any currency, postal orders, cheques of any kind including travellers’ cheques, bankers’ drafts, bearer bonds, bearer shares and bearer negotiable instruments and other bearer negotiable instruments in any currency;

 “civil asset recovery” means the restriction or forfeiture of criminal property or the use of an Unexplained Wealth Order under this Act;

“Civil Asset Forfeiture Payment Order” means an order made by the High Court under section 47;

“consent order” means an order made by the High Court under section 48(1);

“criminal conduct” means conduct which-

- (a) constitutes an offence in Trinidad and Tobago; or
- (b) if it occurs in a country outside of Trinidad and Tobago-
 - (i) would constitute an offence in that country; and
 - (ii) if committed in Trinidad and Tobago would constitute an offence in Trinidad and Tobago;

“criminal property” means property,-

- (a) which constitutes a benefit to a person from criminal conduct or represents such benefit, in whole or in part and whether directly or indirectly; and
- (b) in which the alleged offender knows or suspects that it constitutes or represents a benefit and for which it is immaterial who carried out the conduct or who benefitted from the conduct;

“excepted joint owner” means a person who has an interest in property which is not recoverable under this Act;

“IFRS” means the International Financial Reporting Standards as adopted from time to time by the International Accounting Standards Board;

“instrumentality of crime” or “instrumentalities includes-

- (a) any property used or intended to be used, in a manner, wholly or in part in, or in connection with the commission of a criminal offence; and
- (b) property that is used, intended or allocated for use in the financing of terrorism or terrorists acts or by terrorist organizations;

“listed asset” means an item of property that falls within one of the following descriptions of property:

- (a) precious metals including gold, silver or platinum whether in a manufactured or unmanufactured state;
- (b) precious stones including diamonds, rubies, sapphires, or emeralds whether in a treated or untreated state;

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- (c) watches;
- (d) artistic works falling under section 5 of the Copyright Act;
- (e) computers and electronics;
- (f) face-value vouchers, which are in a physical form which represents the right to receive goods or services to the value of the amount stated on it; and
- (g) postage stamps;

“Preliminary Unexplained Wealth Order” means an order of the High Court under section 58 by which the defendant is required to appear before the High Court for a determination to be made as to whether an Unexplained Wealth Order should be made;

“property” means assets, of any kind whether tangible or intangible, moveable or immovable, listed assets and includes cash;

“Property Manager” means the person appointed under section 17;

“recoverable property” means criminal property, terrorist property or an instrumentality of a crime;

“Seized Assets Fund” means the Fund established under section 58 of the Proceeds of Crime Act;

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“specified offence” has the meaning assigned to it by section 2 of the Proceeds of Crime Act;

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“terrorist act” has the meaning assigned to it by section 2 of the Anti-Terrorism Act;

“terrorist organization” has the meaning assigned to it by section 2 of the Anti-Terrorism Act;

“terrorist property” has the meaning assigned to it by section 2 of the Anti-Terrorism Act;

“Trustee” means the Civil Asset Trustee or a Deputy Civil Asset Trustee; and

“Unexplained Wealth Order” means an order of the High Court made under section 62 by which the defendant is required to pay to the State the assessed difference between the total

value of the wealth of the defendant and the lawfully acquired wealth of the defendant.

(2) References in this Act to a person disposing of his property includes a reference to his -

- (a) divesting of –
 - (i) a part of the property;
 - (ii) the property under a will, disposition, intestacy or operation of law; or
 - (iii) the property where he gave unexecuted consideration which became executed consideration;
- (b) granting an interest in it through mortgage, conveyance, gift or otherwise; or
- (c) making a payment to a person in respect thereof.

Application 4. Upon the coming into force of this Act, this Act shall apply to all criminal property, irrespective of whether or not the criminal conduct relative to the criminal property occurred before or after the coming into force of this Act.

Standard of proof 5. The standard of proof required to determine any question under this Act as to whether criminal property should be subject to civil asset recovery shall be that applicable in civil proceedings.

Orders *in rem* 6. Property Restriction Orders and Civil Asset Forfeiture Orders under this Act are orders *in rem* against assets believed to be criminal property, terrorist property or instrumentalities of crime.

Criminal property which may be recovered 7. (1) Property which is criminal property, terrorist property or an instrumentality of crime (hereinafter referred to as “recoverable property”) is recoverable under this Act.

(2) Recoverable property may be recovered–

- (a) in the case of criminal property or terrorist property obtained through criminal conduct, from the person who obtained the property through the criminal conduct; and
- (b) in the case of an instrumentality from any person who had the instrumentality for the purposes of, or with the intent of using the instrumentality for criminal conduct.

(3) Where recoverable property–

- (a) is disposed of, the recoverable property continues to represent the criminal property, terrorist property or instrumentality may be followed into the hands of the person who obtained it; and
- (b) is converted, the property into which it was converted is recoverable under this Act.

(4) Where recoverable property of a person is mixed with other property, whether the recoverable property is his property or belongs to another person, the portion of the mixed property which is attributable to the criminal property, terrorist property or instrumentality represents the property obtained through criminal conduct, a terrorist act or the instrumentality.

(5) For the purposes of subsection (4), criminal property, terrorist property or an instrumentality of a person is mixed with other property, if it is used—

- (a) to increase funds held in a bank account;
- (b) in part payment for the acquisition of an asset;
- (c) for the restoration or improvement of land;
- (d) by a person holding a leasehold interest in land to acquire the freehold; or
- (e) in such other manner so as to vest in another person an interest in the criminal property, terrorist property or instrumentality.

(6) Where a person who has criminal property or terrorist property obtains further property consisting of profits accruing in respect of the criminal property or terrorist property, those profits may be recovered under this Act.

(7) Recoverable property ceases to be recoverable under this Act—

- (a) if it is vested, forfeited or otherwise disposed of, under this Act;
- (b) if pursuant to a judgment in civil proceedings, the defendant makes payment to the claimant or the claimant otherwise obtains property from the defendant;
- (c) if the claim of the claimant is based on the criminal conduct of the defendant;

- (d) if civil proceedings have commenced and the property obtained by the claimant would be recoverable property;
 - (e) if the property is the subject of proceedings in the High Court for which a trustee has been appointed; or
 - (f) while a forfeiture applies to the recoverable property, whether made under this Act or any other written law.
- (8) If a person grants an interest in recoverable property belonging to him, the interest is also to be treated as obtained through criminal conduct.

PART II

CIVIL ASSET RECOVERY AND MANAGEMENT AGENCY

Establishment of
Civil Asset
Recovery and
Management
Agency

8. (1) There is hereby established an Agency to be known as the Civil Asset Recovery and Management Agency (hereinafter referred to as “the Agency”) which shall be responsible for the recovery, management and disposal of criminal property, terrorist property or an instrumentality under this Act.

(2) The Agency shall be a body corporate.

Composition of
Agency

9. (1) The Agency shall comprise of a Civil Asset Trustee and two Deputy Civil Asset Trustees.

(2) The Civil Asset Trustee and one of the Deputy Civil Asset Trustees shall be attorneys-at-law of at least ten years standing appointed by the Judicial and Legal Services Commission with experience and qualifications in any of the areas set out in subsection (3).

(3) The second Deputy Trustee shall be a person who possess qualifications and experience in –

- (a) asset recovery;
- (b) asset management; or
- (c) finance or audit,

and shall be appointed by the President on the advice of the Prime Minister and Leader of the Opposition.

(4) In the event the Prime Minister and Leader of the Opposition cannot agree on the joint advice, the President shall appoint the second Deputy Trustee after consultation with the Prime Minister and Leader of the Opposition.

(5) For the purposes of subsection (3)(c), a person shall have at least ten years' experience and possesses qualifications in finance and audit.

(6) Where a Civil Asset Trustee or Deputy Civil Asset Trustee under subsection (2) is temporarily absent or incapable of performing his duties due to illness or other cause, the Judicial and Legal Services Commission shall appoint a person possessing the same qualifications and experience to act in the place of that Civil Asset Trustee or Deputy Civil Asset Trustee during the period of the vacancy or the period of absence or temporary incapacity.

(7) Where the Deputy Trustee appointed under subsection (3) is temporarily absent or incapable of performing his duties due to illness or other cause, the President may on the advice of the Prime Minister and Leader of Opposition appoint a person possessing the qualifications and experience set out in subsection (3) to act in the place of that Deputy Trustee during the period of the vacancy or the period of absence or temporary incapacity.

(8) In the event that the Prime Minister and Leader of the Opposition cannot agree on the joint advice for the purposes of subsection (7), the President shall appoint a Trustee after consultation with the Prime Minister and Leader of the Opposition.

(9) During the period of a vacancy, where two Trustees of the Agency are present those Trustees shall constitute the Agency and all actions taken by them during that period are deemed to have been taken as if all Trustees were present.

(10) A person appointed to fill a vacancy shall hold office as a Trustee for the unexpired term of his predecessor.

10. (1) The Civil Asset Trustee shall be appointed for a term not exceeding seven years and shall be eligible for reappointment.

Tenure and
remuneration of
Trustees

(2) A Deputy Civil Asset Trustee shall be appointed for a term not exceeding six years and shall be eligible for reappointment.

(3) The Salaries Review Commission under section 141 of the Constitution shall review the salaries and other conditions of service of the Civil Asset Trustee and the Deputy Civil Asset Trustees.

(4) The salary, remuneration and other conditions of the Trustees shall not be altered to their disadvantage after their appointment and during their tenure of office and such salary, remuneration and allowances of the Trustees shall be a charge on the Consolidated Fund.

Disqualification
of a Trustee

11. No person is qualified to be appointed as Civil Asset Trustee or Deputy Civil Asset Trustee if that person-

- (a) is an undischarged bankrupt; or
- (b) has at any time had a record of a criminal conviction for any indictable or summary offence which carries a term of imprisonment of five years.

Resignation of
Trustee

12. (1) The Civil Asset Trustee may at any time resign from office by notice in writing addressed to the President.

(2) A Deputy Civil Asset Trustee may resign at any time from office by notice in writing addressed to the President, through the Civil Asset Trustee.

Revocation of
appointment

13. The President may at any time revoke the appointment of a Trustee if the Trustee –

- (a) is declared bankrupt in accordance with the laws of Trinidad and Tobago or any other country;
- (b) becomes of unsound mind;
- (c) is for whatever reason incapable of performing or unable to perform his duties as a member;
- (d) is convicted of an indictable offence or is sentenced to imprisonment for a term of six months or more;
- (e) has become a person who would be disqualified for appointment pursuant to section 11; or
- (f) misbehaves in office or, brings his office into disrepute; or
- (g) for any other reasonable cause.

14. (1) The functions of the Agency shall be—

- (a) to secure the detention, custody or preservation of any criminal property, terrorist property or instrumentality vested in it under a Civil Asset Restriction Order, Civil Asset Forfeiture Order, or seized or forfeited to the State under any written law;
- (b) to manage criminal property, terrorist property or instrumentality vested in it under a Civil Asset Restriction Order, Civil Asset Forfeiture Order or an Unexplained Wealth Order or seized or forfeited by the State under any written law; and
- (c) in the case of criminal property, terrorist property or instrumentality other than cash or money, to realize the value of the criminal property vested in it under a Civil Asset Forfeiture Order or seized or forfeited by the State under any written law as far as practicable, in the manner best calculated to maximize the amount payable to the Seized Asset Fund.

(2) In exercising its functions under this Act, the Agency shall have the following powers:

- (a) to remove, take possession of and preserve, store or manage criminal property, terrorist property or instrumentality for the length of time or the term it determines proper and in accordance with the Civil Asset Restriction Order or Civil Asset Forfeiture Order;
- (b) comply with the terms of any order to which the property is subject including an order to comply with environmental, industrial, labour or property standards or to pay taxes, utility charges or other charges;
- (c) to incur expenditure for the purpose of -
 - (i) acquiring any part of the criminal property or any interest in it, which is not vested in it; and
 - (ii) discharging any liabilities, or extinguishing any rights to which the criminal property is subject;
- (d) to manage criminal property including -
 - (i) selling or otherwise disposing of assets comprising the criminal property which are perishable or which ought to be disposed of before their value diminishes;

- (ii) where the criminal property comprises assets of a trade or business, carrying on or arranging for another to carry on, the trade or business; and
- (iii) incurring capital expenditure in respect of the criminal property;
- (e) to sell criminal property or any part of it or interest in it;
- (f) to start, carry on or defend any legal proceedings in respect of the criminal property;
- (g) to make arrangements for insurance of the criminal property;
- (h) to destroy criminal property that has little value, particularly in relation to the cost of storage;
- (i) to destroy contraband or criminal property that is inherently dangerous;
- (j) to donate property for humanitarian purposes if it cannot be sold, despite reasonable efforts, after a year; and
- (k) to share information with, and receive information from, law enforcement authorities.
- (l) for the purpose or in connection with the exercise of any of its functions to –
 - (i) hold property;
 - (ii) enter into contracts;
 - (iii) sue and be sued;
 - (iv) employ agents;
 - (v) execute a power of authority, deed or other instrument; and
 - (vi) power to do any other act which is necessary

Disclosure of
interest

15. (1) A Trustee who has any actual apparent or reasonably foreseeable conflict of a direct or indirect interest in a matter under consideration by the Agency shall disclose the fact of his interest in writing at the earliest opportunity and shall not participate in the consideration of the matter.

(2) A person to whom this section applies who recklessly and knowingly fails to comply with subsection (1) commits an offence and is liable on summary conviction to a fine of five hundred thousand dollars and to imprisonment for a term of five years unless he proves to the satisfaction of the High Court that he did not know that—

- (a) the matter in which he had an interest was the subject of consideration by the Agency; or
- (b) he had an interest in the matter under consideration by the Agency.

Immunity of
Trustee

16. (1) A Trustee shall not be held personally liable for anything done, omitted to be done or permitted to be done in good faith in the course of the operations of the Agency under this Act.

(2) No civil or criminal proceedings shall lie against a Trustee who, in good faith, discloses information as permitted under this Act.

(3) Any sum of money, damages or cost recovered against the Agency for anything done or omitted to be done or permitted to be done in good faith in the course of the operations of the Agency shall be paid out of such monies as may be appropriated by Parliament.

Property Manager

17. (1) There shall be a Property Manager of the Agency who shall have responsibility for taking possession of, preserving, managing, disposing of, or otherwise dealing with any property which is the subject to any proceedings under this Act.

(2) The Property Manager under subsection (1) shall be appointed by the President in his own discretion or a period of time as determined in his instrument of appointment.

(3) The Salaries Review Commission shall set the terms and condition of the Property Manager which shall not to be altered to his disadvantage after his appointment and during his term of office.

(4) Subject to any limits contained in any order of a High Court in relation to any property subject of the order, the Property Manager shall have the powers of a receiver.

(5) In exercising his powers as receiver, the Property Manager may-

- (a) remove;
- (b) take possession of;
- (c) preserve;
- (d) manage;
- (e) modify;
- (f) store;
- (g) sell or otherwise dispose of; and
- (h) deal with,

the property in any manner that he thinks appropriate and proper.

(6) In removing, taking possession of, preserving, storing and managing property, the Property Manager may do so for the length of time and on the terms that he considers proper.

(7) The Property Manager may request information from and receive information from relevant authorities in exercising his functions under this Act.

(8) The Property Manager may in respect of property subject of an order under this Act-

- (a) insure the property;
- (b) destroy the property that has little value, where the cost of storage is high;
- (c) allow for the destruction of property that is inherently dangerous;
- (d) donate property for humanitarian purposes; and
- (e) make provision for the property to be used by the State.

Liability of
Property Manager

18. No action or other proceeding may be commenced against any party in respect of the actions of the Property Manager for any act done in good faith in the performance or intended performance of any duty under this Part, or in the exercise or intended exercise of any power under this Act or for any neglect or default in the performance or exercise in good faith of any such duty or power.

Staff and experts
of Agency

19. (1) The Agency may employ such persons as it considers necessary for the due and efficient performance of its functions under this Act on such terms and conditions as are agreed upon between the Agency and the person and shall be guided by any guidelines for contractual employment issued by the Chief Personnel Officer, from time to time.

(2) The Agency may engage experts, advisers and consultants to assist in the conduct of its responsibilities under the Act.

(3) The use of an adviser, expert or consultant shall not relieve the Agency of its functions under this Act and Regulations made hereunder.

(4) An employee of the Agency shall not be held personally liable for anything done, omitted to be done or permitted to be done in good faith during the operations of the Agency under this Act.

(5) An employee or expert engaged by the Agency shall fully disclose in writing any actual, apparent or reasonably foreseeable conflict of a direct or indirect interest he may have with the activities of the Agency.

(6) An employee whose direct or indirect interest is likely to be affected in any way, on any matter under subsection (1), shall as soon as possible after the relevant facts come to his knowledge, disclose in writing to the Civil Asset Trustee the nature of the interest.

(7) An employee who recklessly and knowingly fails to comply with subsection (5) commits an offence and is liable on summary conviction to a fine of five hundred thousand dollars and to imprisonment for a term of five years unless he proves to the satisfaction of the High Court that he did not know that -

- (a) the matter in which he had an interest was the subject of consideration by the Agency; or
- (b) he had an interest in the matter under consideration by the Agency.

(8) Where an expert, adviser or consultant engaged by the Agency fails to comply with subsection (5), he commits an offence and is liable to a fine of five hundred thousand dollars.

(9) Before any employee, expert, adviser or consultant commences duty under this Act, he shall take the Oath of Office and Secrecy set out in Schedule I.

Schedule I

PART III

FINANCIAL PROVISIONS

Civil Asset
Recovery and
Management
Fund

20. (1) There is hereby established a fund to be known as “the Civil Asset Recovery and Management Fund”.

(2) The monies in the Fund shall comprise-

- (a) money appropriated by Parliament for the purposes of the Agency;
- (b) any money and property paid or provided to the Agency and fees, subsidies, donations, gifts, charges, rent, interest and

other income derived from the investment of the funds of the Agency;

- (c) any money derived from the disposal of, or dealing with real or personal property held and owned by the Agency;
- (d) monies borrowed by the Agency with the approval of the Minister for the purpose of meeting any of its obligations and for discharging its functions;
- (e) monies from the Seized Asset Fund used to defray the cost of management of criminal property, terrorist property and instrumentalities; and
- (f) all other monies lawfully received by, or made available to the Agency with the approval of the Minister.

Funds of the
Agency

21. (1) The money in the Fund shall be applied in defraying the following expenditure:

- (a) the acquisition of property by the Agency in the course of performing its functions or exercising its powers;
- (b) the remuneration and allowances of Trustees;
- (c) the remuneration, allowances, advances, loans, pensions and gratuities payable to staff, experts, advisers and consultants;
- (d) contributions to a pension fund plan;
- (e) capital and operating expenses, including maintenance and insurance of the property of the Agency;
- (f) management of criminal property under the control of the Agency;
- (g) starting, carrying on and defending any legal proceedings; and
- (h) any other expenditure authorized by the Agency in the performance of its functions.

(2) The Agency, may in accordance with IFRS, make provision for future expenditure in any category referred to in subsection (1).

(3) Where monies from the Seized Asset Fund are insufficient to manage criminal property under the control of the Agency, the balance shall be defrayed out of the Consolidated Fund.

Estimates of
expenditure

22. (1) The Agency shall prepare a budget in accordance with IFRS or in such other form as the Minister may direct for each financial year and the Authority shall submit estimates so prepared to the Treasury not later than the

deadline date stipulated by the Minister, having first obtained approval of the estimates of expenditure from the Minister.

(2) The Agency shall, at such time as the Minister directs, furnish him with any further information in relation to estimates he may require.

(3) Subject to the provisions of the Constitution and the Exchequer and Audit Act, the estimates of expenditure, as approved by the Minister, shall be the expenditure budget of the Agency for the financial year to which it pertains.

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Financial year

23. (1) The financial year of the Agency shall be the period of twelve months beginning on the first day of October in any year to the thirtieth day of September in the following year, but the period from the date of commencement of this Act to the end of September next following shall be deemed to be the first financial year.

(2) The Agency may, with the approval of the Minister, vary its financial year.

Accounts

24. (1) The Agency shall cause to be kept proper accounts and records of transactions and affairs of the Agency and shall do all things necessary to ensure that –

- (a) all monies received are properly brought to account;
- (b) all payments out of its money are correctly made and properly authorized; and
- (c) adequate control is maintained over the property and over the incurring of liabilities by the Agency.

(2) Within three months after the end of each financial year the Agency shall cause to be prepared, in respect of that year-

- (a) a report setting out the activities of the Agency; and
- (b) financial statements prepared in accordance with IFRS,

and a copy of such report and financial statements shall be forwarded to the Minister and shall be laid in Parliament as soon as possible thereafter.

(3) Where the standards included in IFRS are inappropriate or inadequate for any type of accounting method, the Comptroller of Accounts may provide such instructions as may be necessary.

Audit of accounts

25. (1) The accounts of the Agency are public accounts for the purposes of section 116 of the Constitution.

(2) On completion of an audit of the Agency, the Auditor General or an auditor authorized by him to undertake the audit, as the case may be, shall immediately draw to the attention of the Minister and the Board any irregularity disclosed by the audit, which, in the opinion of the Auditor General or the auditor is of sufficient importance to justify so doing.

(3) For the purpose of an audit conducted pursuant to this Act, the Exchequer and Audit Act shall apply as if an audit referred to in this Part is one to which that Act applies.

(4) As soon as the accounts of the Agency have been audited, the Auditor General shall submit his report in accordance with section 116 of the Constitution and shall simultaneously forward a copy of the said report to the Minister.

(5) Nothing in this section precludes the Auditor General or an auditor engaged by the Agency or the Minister with responsibility for finance from performing a management or comprehensive audit of the activities of the Agency.

Borrowing from
the Government

26. The Minister may, on behalf of the Government, out of money appropriated by the Parliament for that purpose, lend money to the Agency on such terms and conditions as he determines in writing.

Annual report

27. The Agency shall submit a report annually to Parliament within three months after the end of the calendar year on the activities of the Authority for

the previous year commencing one year after the coming into operation of this Act.

Realized proceeds

Applying
realizable
proceeds

28. (1) The Agency shall make out of the sums which represent the realized proceeds of property which are vested in the Agency under a Civil Asset Forfeiture Order or which it obtained pursuant to a Civil Asset Forfeiture Order-

- (a) first, any payment required to be made by it by virtue of section 47;
- (b) next, any payment of legal expenses which are payable under this subsection in pursuance of provision under sections 38(4)(b) and 44(4)(b);
- (c) any fees payable to a liquidator or receiver of a company appointed by, or supervised by the High Court; and
- (d) any sums which remain to be paid to the Agency.

(2) Sums under subsection (1)(d) shall be paid into the Seized Asset Fund after the period-

- (a) referred under section 42(3) has expired or the application for compensation has been determined; or
- (b) within which an appeal may be made or if a person appealed after the appeal has been determined whichever is the later.

PART IV

CIVIL ASSET RECOVERY

Interpretation of
certain words and
phrases in Part IV

29. For the purposes of this Part-

“FIU” means the “Financial Intelligence Unit of Trinidad and Tobago” established under the Financial Intelligence Unit of Trinidad and Tobago Act; and

“property lawfully obtained” means property that has been acquired through legitimate activities and includes property acquired by inheritance or other legitimate transfer.

Referral of matters to the Director of Public Prosecutions

30. (1) Where during the course of a criminal investigation a police officer has reasonable grounds to suspect that the offence involves recoverable property he may forward an investigative report to the Director of Public Prosecutions.

(2) Where upon receipt of an investigative report under subsection (1), the Director of Public Prosecutions is of the view that there is insufficient evidence to pursue criminal charges for a specified offence but there is sufficient evidence that the property is recoverable property and an application should be made for the recoverable property to be forfeited to the State, he may refer the matter to the Agency.

Agency to require equity valuation for a company

31. (1) Prior to an application for a Property Restriction Order under section 32 or a Civil Asset Forfeiture Order under section 39, the Agency shall as far as possible have-

- (a) an equity valuation done for the company which will be subject to an order under this Part, to accurately determine the debt load and equity of the company; and
- (b) a valuation of any other asset which is to be the subject of the Order.

(2) Where it is not possible to conduct an equity valuation or valuation prior to an application for a Property Restriction Order or a Civil Asset Forfeiture Order, the Agency shall as soon as possible after the Property Restriction Order or the Civil Asset Forfeiture Order is made, cause to have done-

- (a) an equity valuation done for the company to accurately determine the debt load and equity of the company; and
- (b) a valuation of any other asset which is to be the subject of the Order.

Property Restriction Orders

Application for Property Restriction Order

32. (1) Upon referral of a matter by the Director of Public Prosecutions under section 30, the Agency shall apply to the High Court in the prescribed form for an order to be known as "the Property Restriction Order" to prohibit a person

from dealing with recoverable property until such time as an application can be made to forfeit the recoverable property under this Act.

(2) Where the recoverable property is money which is held in an account in a financial institution, the money may be all or part of the credit balance of the account.

(3) The Civil Asset Trustee shall, in making an application to the High Court under this Part take into consideration –

- (a) whether the recoverable property can be identified; and
- (b) that evidence of criminal conduct is to be assessed at the civil standard.

(4) An application under subsection (1) shall be accompanied by an affidavit from the investigating police officer.

(5) An application under subsection (1) or (2) may be made *ex parte* and without notice.

(6) The hearing of an application for a Property Restriction Order may be heard *in camera*.

Grant of Property
Restriction Order

33. (1) Where an application is made under section 32(1) and the High Court is satisfied that there are reasonable grounds to believe that the property is criminal property, instrumentalities of crime or terrorist property, the High Court may make a Property Restriction Order.

(2) Where the High Court has made a Property Restriction Order, the High Court may, at any time, direct the Agency-

- (a) to take possession of any recoverable property; and
 - (b) to manage or otherwise deal with any property in respect of which it is appointed, subject to such exception and conditions as may be specified by the High Court,
- and may require any person having possession of property in respect of which the Agency is appointed under this section to give possession of it to the Agency.

(3) Within fourteen days of a Property Restriction Order being granted, or such other period as the High Court may direct, notice of the order shall be served on all persons known to the Agency and any person claiming up to have

an interest in the property affected by the order, and such other person as the High Court may direct.

(4) Where the High Court is satisfied that a Property Restriction Order has been applied for or made in respect of any property in respect of which proceedings are pending, the High Court may either stay the proceedings or allow them to continue on such terms as it thinks fit.

(5) The High Court in making a Property Restriction Order under this section may –

- (a) exclude specified property or property described in the Property Restriction Order from the Property Restriction Order;
- (b) otherwise make exclusions on the prohibitions on dealing with the property to which the Property Restriction Order applies; or
- (c) make such other order as it sees fit in the interest of justice

(6) Where the High Court makes a Property Restriction Order, under this section, the State, the Agency or any other agency of the State shall not use the property subject of the Property Restriction Order for the use of the State or the Agency or any agency of the State.

(7) The Remedies of Creditor's Act shall apply in relation to a Property Restriction Order as they apply in relation to orders issued or made for the purpose of enforcing judgments and registering a memorandum of *lis pendens*.

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Variation or
setting aside of
Property
Restriction Order

34.(1) The High Court may at any time vary or set aside a Property Restriction Order on an application made by-

- (a) the Agency; or
- (b) any person affected by the order.

(2) Before varying or setting aside a Property Restriction Order the High Court shall give any person who may be affected by its decision an opportunity to be heard.

(3) The power under subsection (1), to vary a Property Restriction Order shall include the power to make exclusions from the prohibition on making withdrawal payments from the account to which the Property Restriction Order

applies for the purpose of enabling a person by, or for whom the account is operated-

- (a) to meet his reasonable living expenses;
- (b) to carry on any trade, business, profession or occupation; or.

(4) Where the High Court makes an exclusion for the purpose of enabling a person to meet legal expenses, that person has incurred or may incur in respect of proceedings under this Part, the High Court shall ensure that the exclusion-

- (a) is limited to reasonable legal expenses that the person has reasonably incurred or that the person reasonably incurs; and
- (b) specifies the total amount that may be released for legal expenses in pursuance of the exclusion.
- (c) and other matter the High Court sees just in the circumstances.

(5) Where the High Court makes an order under this section and while the order is in effect-

- (a) the High Court may stay any action, execution or other legal process in respect of the property to which the order applies; and
- (b) no distress may be levied against the property to which the order applies except with the leave of the High Court and subject to such terms as the High Court may impose.

(6) For the purposes of subsection (3), "reasonable living expenses" includes -

- (a) mortgage or rent payments;
- (b) allowances for food, medicine and medical treatment;
- (c) any payments due as a result of an order of the High Court;
- (d) provision for the reasonable living expenses of dependents including educational expenses; and
- (e) provision for taxes, insurance premiums and public utilities

Requirement of
defendant under a
Property
Restriction Order

35. For the purposes of the execution of a Property Restriction Order granted under section 23, the High Court may require the persons to whom the Property Restriction Order applies to bring the property and any documents relating to the property which are in his possession or control to such place as may be specified by the Agency or to place it in the custody of the Agency and to do anything he or he is reasonably required to do by the Agency for the preservation of the property or the documents.

Third party rights

36. (1) Where the High Court has made a Property Restriction Order, it may, at any time, upon application by -

- (a) anyone with an interest in the property;
- (b) anyone who claims an interest in the property; or
- (c) the Agency,

make any further order in respect of the recoverable property including an order to revoke the Property Restriction Order or to carry out the order, where it appears to the High Court to be in the interest of justice to do so.

(2) In considering an application under subsection (1), the applicant shall satisfy the Court that—

- (a) he was deprived of the property he claims or of property which it represents by unlawful conduct;
- (b) the property he was deprived of was not property recoverable under this Act immediately before he was deprived of it; and
- (c) he has a legal or equitable interest in the property claims.

Notice of Property
Restriction Order

37. Where the High Court has made a Property Restriction Order, the order shall authorize the Agency to —

- (a) give notice of the orders to public or private institutions; and
- (b) publish a notice of the Property Restriction Order in the *Gazette* and for two days within a two-week period in two newspapers in daily circulation in Trinidad and Tobago.

Further provision
re: Property
Restriction Order

38. (1) Where a High Court has made a Property Restriction Order, the High Court may, at any the time thereafter, make any further order that it considers appropriate.

(2) A further order under subsection (1) may include an order —

- (a) that the recoverable property or any part of the recoverable property specified in the Property Restriction Order shall be seized, taken into possession, delivered up for safe keeping or otherwise secured by the Agency;
- (b) that the recoverable property or part of the recoverable property specified in the Property Restriction Order shall be dealt with in a particular manner including by an encumbrance on recoverable property ordered by the High Court in favour of the Agency;
- (c) to appoint the Agency as receiver, or a receiver of the Court's choosing to take custody and control of the property or a part of the property that is specified in the Property Restriction Order and to manage or otherwise deal with the whole or any part of the property in accordance with any directions of the High Court;
- (d) authorizing a police officer to seize any other recoverable property to prevent the recoverable property from being removed from Trinidad and Tobago; or
- (e) for the preservation, management or disposition of the recoverable property or part of the recoverable property specified in the Property Restriction Order as the High Court considers appropriate.

(3) Where a Property Restriction Order is being made, the High Court may in the order—

- (a) make provision for meeting out of the property or a specified part of the property, reasonable living expenses, including but not limited to-
 - (i) mortgage or rent payments;
 - (ii) allowances for food, medicine and medical treatment;
 - (iii) any payments due as a result of an order of the High Court;
 - (iv) provision for the reasonable living expenses of dependents including educational expenses; or
 - (v) provision for taxes, insurance premiums and public utilities;
- (b) make provision for reasonable expenses, including expenses incurred in defending a criminal charge or any proceedings connected thereto and any proceedings under this Act;
- (c) make provision for expenses necessary to enable a person to carry on any trade, business, profession or occupation;

- (d) make provision for fees or service charges for routine holding or maintenance of frozen funds or other financial assets or economic resources;
- (e) make the person to whom the property relates subject to any other condition that the High Court considers reasonable;
- (f) indicate into which account held in a financial institution any excess cash shall be placed; or
- (g) prohibit the person to whom the property relates from possessing or controlling cash in excess of an amount to be prescribed by the Judge.

(4) Where the High Court makes an exclusion for the purpose of enabling a person to meet legal expenses that person has incurred or may incur in respect of proceedings under this Part, the High Court shall ensure that the exclusion-

- (a) is limited to reasonable legal expenses that the person has reasonably incurred or that the person reasonably incurs; and
- (b) specifies the total amount that may be released for legal expenses in pursuance of the exclusion.

(5) Where provisions are made under subsection (3)(a), (b) or (c), and unrecoverable assets exist from which provision for financial arrangements can be made for those provisions, no financial arrangement shall be made out of the recoverable property.

(6) The Agency may at any time after making a Property Restriction Order, apply to the High Court for the Property Restriction Order to be varied.

Expiration of a
Property
Restriction Order

39. A Property Restriction Order issued under section 33 or a further order issued under section 38 expires ninety days after the date on which notice of the order is given under section 37-

- (a) unless an application for a Civil Asset Forfeiture Order under section 43 has been made; or
- (b) the Property Restriction Order is revoked before its expiration date.

Requirement to
inform agencies
of Property
Restriction Order

40. (1) Where the Agency makes an application for a Property Restriction Order under section 32 in respect of land, the Agency shall be treated as a person interested in any land to which the application relates or to which a Property Restriction Order made on the application relates and the Agency may apply to the Court for an order to require the Registrar General to restrict or prohibit dealings with the land.

(2) The Registrar General may, on an Order being granted under subsection (1), enter the restriction in the relevant Register.

(3) Where the Agency makes an application for a Property Restriction Order under section 32 in respect of a motor vehicle, the Agency shall be treated as a person interested in the motor vehicle to which the application relates or to which a Property Restriction Order made on the application relates and the Agency may apply to the Court for an Order to require the Commissioner of Transport prohibit or restrict dealings with the motor vehicle.

(4) The Commissioner of Transport may, on an application made under subsection (1), enter the restriction in the relevant Register.

(5) Where the Agency makes an application for a Property Restriction Order under section 32 in respect of a ship, the Agency shall be treated as a person interested in the ship to which the application relates or to which a Property Restriction Order made on the application relates and the Agency may apply to the Court for an order to the agency responsible for registration of ships in Trinidad and Tobago to restrict or prohibit dealings with the ship.

Enforcement
abroad of
Property
Restriction Order

41. Where a Property Restriction Order is granted under section 33 in respect of property that is not located in Trinidad and Tobago, the Attorney General may request the assistance of the country where the property is located to-

- (a) prohibit any person from dealing with the property; or
- (b) assist in managing the property including securing its detention, custody or preservation.

42. (1) If, in the case of property to which a Property Restriction Order has at any time applied, the High Court does not, in the course of the proceedings, determine that the property is recoverable under this Act, the person to whom the property belongs may make an application to the High Court for compensation.

(2) Subsection (1) shall not apply where, the High Court-

- (a) has made an order under section 36 in respect of the property;
or
- (b) makes a consent order under section 48.

(3) If a High Court has made a decision by which no Property Restriction Order can be made in respect of the property, the application for compensation shall be made—

- (a) within three months beginning with the date of the decision or
- (b) if an application is made for leave to appeal, with the date on which the application is withdrawn or refused or
- (c) if the application is granted, on which the proceedings on appeal are concluded.

(4) If the proceedings in respect of the property have been discontinued, the application for compensation shall be made within the period of three months beginning with the discontinuance.

(5) If the High Court is satisfied that the applicant has suffered loss as a result of the Property Restriction Order, it may require the Agency to pay compensation to the applicant.

(6) If, but for section 46(2), any right mentioned there would have operated in favour of, or become exercisable by, any person, that person may within the period of three months beginning with the order under that section, apply to the High Court for compensation under this section.

(7) If the High Court is satisfied that, in consequence of the operation of section 44, the right of pre-emption, right of return or other similar right cannot subsequently operate in favour of the applicant or become exercisable by him, the High Court may require the agency to pay compensation to the applicant.

(8) The amount of compensation to be paid under this section is the amount the High Court thinks reasonable, having regard to the loss suffered and any other relevant circumstances.

CIVIL ASSET FORFEITURE ORDER

Application for a
Civil Asset
Forfeiture Order

43. (1) Where a Property Restriction Order has been made under section 33 and the Agency is satisfied that an order should be made to forfeit the property specified to the Property Restriction Order, the Agency may apply to the High Court for an order (hereinafter referred to as a “Civil Asset Forfeiture Order”).

(2) A Civil Asset Forfeiture Order is an order *in rem* against assets believed to be recoverable property which removes the legal ownership in the property and vests it in the State.

(3) An application for a Civil Asset Forfeiture Order may be made in respect of recoverable property into which original proceeds have been converted whether by sale or otherwise.

(4) An application for a Civil Asset Forfeiture Order shall be supported by an affidavit from the investigating police officer relative to the application which may contain, unless the High Court otherwise directs, statements of information of belief with the sources and grounds thereof.

(5) A Civil Asset Forfeiture Order may be made *ex parte*.

Grant of a Civil
Asset Forfeiture
Order

44. (1) The High Court may, where it is satisfied that on the balance of probabilities that the recoverable property should be forfeited, grant a Civil Asset Recovery Order to forfeit such property.

(2) In order to satisfy the High Court under subsection (1) that the property is -

(a) criminal property, it is not necessary to show that the property is derived directly or indirectly, in whole or in part, from a particular offence, or that any person has been charged in relation to the particular offence, only that it is criminal property;

(b) an instrumentality, it is not necessary to show that the property was used or intended to be used to commit a

particular offence, or that any person has been charged in relation to the particular offence, only that it was used or intended to be used to commit an offence; and

(c) terrorist property, it is not necessary to show that-

- (i) the property was derived from a specific terrorist act;
- (ii) the property has been, or is being, or is intended to be used by a terrorist or a terrorist organization, to commit a specific terrorist act, as long as it is shown that it has been, is being or is intended to be used by some terrorist organization or to commit some terrorist act;
- (iii) the property is owned or controlled by, or on behalf of a specific a terrorist or terrorist organization, as long as it is shown to be owned or controlled by, or on behalf of some terrorist organization;
- (iv) the property has been provided or collected for the purpose of supporting a terrorist or a specific terrorist organization or funding a specific terrorist act, as long as it is shown to have been provided or collected for the purpose of providing support to some terrorist organization or funding some terrorist act; or
- (v) any person has been charged in relation to any matter under subparagraph (i), (ii) or (iii) provided that always the evidence reveals that the property is connected to terrorism however evidenced.

(3) Property may be found to be recoverable property under subsection (1) even if a person was acquitted of any offence, charges were withdrawn before a verdict was returned or if the proceedings were stayed.

(4) Without prejudice to the generality of subsection (1), the High Court in making a Civil Asset Forfeiture Order may make it subject to such conditions and exceptions as the High Court considers fit, and may in particular-

- (a) make provision for meeting out of the property or a specified part of the property, reasonable living expenses, including but not limited to -
 - (i) mortgage or rent payments;
 - (ii) allowances for food, medicine and medical treatment;

- (iii) any payment due as a result of an order of the High Court;
- (iv) provision for the reasonable living expenses of dependents including educational expenses; and
- (v) provision for taxes, insurance premiums and public utilities;
- (b) make provision for reasonable expenses, including expenses incurred in defending any legal proceedings including any proceedings under this Act;
- (c) make provision for expenses necessary to enable a person to carry on any trade, business, profession or occupation; or
- (d) be made subject to any other condition that the High Court considers reasonable.

(5) Where provisions are made under subsection (4)(a), (b) or (c), and unrecoverable assets exist from which provision for financial arrangements can be made for those provisions, no financial arrangement shall be made out of the recoverable property.

(6) A Civil Asset Forfeiture Order may apply to all criminal property, instrumentalities of crime or terrorist property whether the property –

- (a) is described in the order or not; or
- (b) was transferred to the person subject of an order after the making of the order.

(7) A Civil Asset Forfeiture Order shall provide for notice to be given to persons affected by the order.

(8) A Civil Asset Forfeiture Order –

- (a) may be discharged or varied in relation to any property; and
- (b) shall be discharged on the conclusion of the proceedings or application in question.

(9) An application for a Civil Asset Forfeiture Order may be made where a person now deceased committed the conduct on which the application for the order is based.

(10) An application for the discharge or variation of a Civil Asset Forfeiture Order may be made by any person who has interest in the property subject of the order

(11) The High Court shall not make a Civil Asset Forfeiture Order, if it is satisfied that the right of the Agency to recover the recoverable property has been satisfied by a previous Civil Asset Forfeiture Order or an order under section 48.

(12) Where the High Court has made a Civil Asset Forfeiture Order, the order shall authorize the Agency to publish a notice of the Asset Forfeiture Order in the *Gazette* and for two days within a two-week period and in two newspapers in daily circulation in Trinidad and Tobago.

(13) Subject to subsection (11), the High Court where it is satisfied that a Civil Asset Forfeiture Order may be made in respect of two or more related items of recoverable property, however, the making of the Civil Asset Forfeiture Order in respect of both or all of them is not required in order to satisfy the right of the Agency to recover recoverable property, the High Court may make a Civil Asset Forfeiture Order in relation to some of the related items of property or a part of any of the related items of the recoverable property.

(14) Property forfeiture under subsection (1) shall be dealt with in accordance with the direction of the High Court.

Notice of grant of
Civil Asset
Forfeiture Order

45. Where a Civil Asset Forfeiture Order is granted under section 44, the High Court shall authorize the Agency to –

- (a) give notice of the orders to public or private institutions;
- (b) give notice to all persons known to the person making the claim that have an interest in the property specified in the Civil Asset Forfeiture Order;
- (c) publish a notice of the Civil Asset Recovery Order in two newspapers in daily circulation in Trinidad and Tobago; and
- (d) publish the Civil Asset Forfeiture Order on the website of the Agency.

Rights of
pre-emption

46. (1) A Civil Asset Forfeiture Order is to have effect in relation to any property despite any provision, of whatever nature, which would otherwise prevent, penalize or restrict the vesting of the property.

(2) A right of pre-emption, right of return or other similar right does not operate or become exercisable so as to frustrate the vesting of any property in the State under a Civil Asset Forfeiture Order.

(3) Once property has been vetted in the State under a Civil Asset Forfeiture Order, a right of pre-emption right or return or other similar right cannot operate or be exercisable in respect of the property.

(4) For the purposes of this section, “a right of return” means any right under a provision for the return or reversion of property in specified circumstances.

Agreements about
associated
property and joint
property

47.(1) Where a Civil Asset Forfeiture Order has been made in respect of property, the person who –

- (a) holds the associated property; or
- (b) is an excepted joint owner,

shall, where the Agency agrees, apply to the High Court for a Civil Asset Forfeiture Payment Order to allow for a payment to the Agency and to allow for the vesting, creating or extinguishing of any interest in the property.

(2) The amount of payment shall be the amount that the Agency and the applicant under subsection (1) agree which represents-

- (a) property which is associated with the recoverable property and is specified or described in the application;
- (b) associated property which does not belong to the defendant, where the claim form or the application has been served on the person to whom the property belongs or the High Court has dispensed with service; and
- (c) the recoverable property belonging to joint owners or one of the owners is an excepted joint owner.

(3) Where a Civil Asset Forfeiture Payment Order is made under subsection (1), and the Agency is subsequently of the view that the applicant has suffered loss as a result of the Civil Asset Forfeiture Order, the Agency may apply to the High Court to reduce the amount of the payment to an amount that the Agency and the applicant agree is reasonable, having regard to that loss and any other relevant circumstances.

(4) The High Court where it is satisfied upon an application under subsection (3) that the amount to be paid should be reduced, may amend the Civil Asset Forfeiture Payment Order made under subsection (1).

(5) Where there is no agreement under subsection (1) and the High Court thinks it just and equitable to do so, the High Court may by Order-

- (a) vest associated property in the Agency;
- (b) extinguish the interest of the excepted joint owner; or
- (c) sever the interest of the excepted joint owner.

(6) An amended Civil Asset Forfeiture Payment Order under subsection (4) may provide for either or both of the following:

- (a) for the Agency to pay an amount to a person who holds the associated property or who is the excepted joint owner; and
- (b) for the creation of interest in favour of that person or the imposition of liabilities or conditions in relation to the property vested in the Agency.

(7) In making a Civil Asset Forfeiture Payment Order under subsection (5) or (6), the High Court shall take into consideration-

- (a) the rights of any person who holds the associated property or who is an excepted joint owner and the value to him of that property or as the case may be of his share including any value which cannot be assessed in term of money; and
- (b) the interest of the Agency in receiving the realized proceeds of the property.

Staying of
proceedings and
other options of
the High Court

48. (1) The High Court may make an order staying any proceedings for a Civil Asset Recovery Order on terms agreed by the parties for the disposal of the proceedings, if each person, to whom the property which is the subject of the proceedings or the agreement, is a party to both the proceedings and the agreement.

(2) An order under subsection (1) (hereinafter referred to a "consent order") may, as well as staying the proceedings –

- (a) make provision for any property which may be recoverable under this Act to cease to be recoverable; and
- (b) make any further provision which the High Court thinks appropriate.

SPECIFIC REQUIREMENTS FOR CERTAIN TYPES OF PROPERTIES

Real property

49. (1) Where land which is the subject of a Property Restriction Order is subject to government rates and taxes or encumbered as security for mortgages or loans, the Property Restriction Order should provide that the person to whom the property relates or other occupant of the land is required to maintain up to date payments of taxes and other debts that have the potential to encumber the land with a lien.

(2) Where the person to whom the property relates or other occupant of the land fails to pay rates, taxes and loan payments in respect of the property, the Agency shall inform the High Court of such failure.

(3) The Agency may, in making an application for a Property Restriction Order, enter into an agreement with the person to whom the property relates or other occupant of the land to grant continued occupancy, conditional on the payment of the expenses and that grants the Agency the immediate right to take possession and evict the occupants if the conditions are not met.

(4) Where the Agency is required to evict the occupants under subsection (3), the Agency may lease the property at a rate that is sufficient to meet expenses or to sell the asset and use the proceeds to pay outstanding debts.

(5) Taxes and liens will take priority over a Civil Asset Forfeiture Order made under this Act.

Cash,
accounts
financial
instruments

bank
and

50. (1) Prior to an application for a Civil Asset Forfeiture Order in respect of stocks, bonds and brokerage accounts, the Agency shall ensure that the asset is valued and determines how best to preserve the value of the asset.

(2) Cash or bank accounts restrained under this Act and placed into the possession of the Agency by the High Court under a Property Restraint Order shall be preserved by the Agency in an interest-bearing account until a Civil Asset Forfeiture Order is made under this Act.

(3) Financial instruments such as cashier cheques, money orders, certificates, deposits, stocks, bonds and brokerage accounts may also be seized with procedures taken to preserve or redeem their value.

Motor vehicles,
airplanes or boats

51. (1) Where the Agency is required to maintain a motor vehicle, airplane or boat under a Property Restriction Order or a Civil Asset Forfeiture Order, the Agency shall maintain the motor vehicle, airplane or boat in a secure, appropriate storage facility.

(2) The Agency may, with the permission of the High Court under a Property Restriction Order or a Civil Asset Forfeiture Order dispose of by sale and in accordance with Regulations made under this Act, any motor vehicle airplane or boat seized so as to obtain the best value possible.

(3) The Agency may with the permission of the High Court under a Property Restriction Order, permit the owner of the motor vehicle airplane or boat to retain use of the motor vehicle airplane or boat during the course of the Civil Asset Forfeiture proceedings with the posting of a bond by the owner guaranteeing the payment of an amount equivalent to its value at the time the case was initiated.

Companies

52. (1) The Agency may apply to ask the High Court for permission in the relevant order for the current manager of the business which is the subject of an order to continue the operations under the control of a business manager contracted by the Agency or appointed by the High Court.

(2) The Agency or appointed or contracted manager under subsection (2) is required to take immediate control of bank accounts, accounting systems and records, important business data, valuable stocks and valuable plant and equipment.

(3) Where a manager is appointed or contracted under subsection (2), he shall send regular reports on the performance of the business to the Agency.

(4) Where the business is the subject of an Order under this Part is assessed to be of little value, the Agency, shall include the business in the relevant order but decide not to undertake the financial risks associated with the continued operation, and may instead close the operations or sell the business and place the proceeds in an interest-bearing account to be supervised by the Agency.

Listed assets

53. Where listed assets, subject to a Property Restriction Order or Civil Asset Forfeiture Order detained or realized under this Act represents only part of the listed assets which are subsequently detained or realized, a reference to the cost incurred in storing or insuring the listed assets as required by Regulations made under this Act, includes a reference to storing or insuring the entire listed assets.

Perishable and
depreciating assets

54. Where a Property Restriction Order or a Civil Asset Forfeiture Order is made in respect of perishable or depreciating assets, the Agency may sell the perishable or rapidly depreciating asset and place the proceeds in an interest bearing account to be supervised by the Agency.

PART V

UNEXPLAINED WEALTH ORDERS

Application for
Order for a
declaration

55. (1) The FIU, the Board of Inland Revenue, a customs officer or a police officer attached to the branch of the Police Service responsible for financial investigations (hereinafter referred to as “the applicant”) may apply to the High Court for leave to apply for an order (“in this Part hereinafter referred to as a Preliminary Unexplained Wealth Order”), requiring a person to file a declaration and answer questions as required in relation to his assets.

(2) Where an application for leave has been granted under subsection (1), the applicant may apply to the High Court for a Preliminary Unexplained Wealth

Order, requiring a person to file a declaration and answer questions as required in relation to his assets.

(3) An application under subsection (2) shall be accompanied by an affidavit stating-

- (a) the identity of the defendant;
- (b) that the applicant reasonably suspects that the total wealth of the defendant exceeds the value of his lawfully obtained wealth; and
- (c) that the applicant has reasonable grounds to suspect that any property is owned by the defendant or is under his effective control.

(4) An application under subsection (2) may be made *ex parte*.

Form of
declaration
Schedule 2

56. A declaration under section 55(1) shall be in the form set out as Form 1 in Schedule 2.

False declaration

57. A person who knowingly and wilfully makes a statement which is false in any material particular on the declaration form under section 55 commits an offence and is liable on summary conviction to a fine of one hundred thousand dollars and to imprisonment of twenty years.

Grant of a
Preliminary
Unexplained
Wealth Order

58. (1) Where the High Court is satisfied that there are reasonable grounds to suspect that the total wealth of the defendant exceeds the value of his wealth that was lawfully obtained, it may make a Preliminary Unexplained Wealth Order, requiring the defendant to file a declaration and appear before the High Court to answer questions relative to his assets for the High Court to decide whether to make an Unexplained Wealth Order.

(2) Where a Preliminary Unexplained Wealth Order has been made under this section, a notice of the making of the order shall be served on the defendant.

Application to
revoke a
Preliminary
Unexplained
Wealth Order

59. (1) Where the High Court makes a Preliminary Unexplained Wealth Order under section 58, the defendant may, within twenty-eight days of notice

of the order under section 56(2), apply to the High Court for the order to be set aside or discharged.

(2) Where an application is made under this section, the High Court may order an *inter partes* hearing date within fourteen days.

(3) Where an application is made under this section, the defendant under subsection (1) shall provide the FIU, the Board of Inland Revenue, the customs officer who made the application, the Registrar General or the police officer who made the application under section 55(1) with-

- (a) written notice of the application; and
- (b) a copy of any documents supporting the application.

(4) Where an application is made under this section, the **defendant** under subsection (1) may appear and adduce evidence.

(5) The applicant under section 55(1) may appear and adduce evidence at the hearing of any application made under this section and shall give the defendant a copy of any document or material it proposes to rely on opposing the application.

(6) The notice and copies of any evidence or pleadings under this section shall be given no later than seven days before the hearing of the application.

Revocation of
Preliminary
Unexplained
Wealth Order

60. Where an application has been made to revoke a Preliminary Unexplained Wealth Order, the High Court may revoke the order if it is satisfied that there are no grounds on which the order could be maintained.

Application for an
Unexplained
Wealth Order

61. (1) The applicant may apply to the High Court for an Unexplained Wealth Order.

(2) An application under subsection (1) shall be accompanied by-

- (a) an affidavit setting out the reasons why an Unexplained Wealth Order should be made; and
- (b) documents in support of the application.

62. (1) Where the High Court has made a Preliminary Unexplained Wealth Order, which had not been revoked, in relation to a defendant and on the basis of the affidavit and documents submitted, is satisfied that-

- (a) on a balance of probabilities that any part of the wealth of the defendant was not lawfully obtained or held; or
- (b) particular property is held by, or subject to the effective control of the defendants,

it may make an Unexplained Wealth Order.

(2) It does not matter for the purposes of subsection (1)(b)-

- (a) whether or not there are other persons who also hold the property; or
- (b) whether the property was obtained by the defendant before or after the coming into force of this Act.

(3) Where the High Court makes an order under this section, the order shall specify that the defendant is liable to pay into the Seized Assets Fund an amount being the “unexplained wealth amount” of the defendant, equal to the amount that the High Court is satisfied does not represent the lawfully acquired property of the defendant.

(4) In proceedings under this section the burden of proving the wealth of the defendant is lawfully acquired lies on the defendant.

(5) When considering the issues under subsection (1), the High Court may have regard to information not included in the Preliminary Unexplained Wealth Order.

(6) An order under subsection (1) may be enforced against the property as if the property were the property of the defendant.

(7) An order that restricts the right of the defendant or any named person to deal with the property identified in this section may be made, upon application of the applicant under section 55(1), if the High Court is satisfied that the property would not be available to the FIU, the Board of Inland Revenue, the Registrar General, the Commissioner of Valuations, a customs officer or a police officer under section 55(1) without such restriction.

(8) When considering the amount of an Unexplained Wealth Order the High Court shall deduct an amount equal to the value, at the time of the making

of the order, of any property the defendant forfeited under a Property Restriction Order under section 33, a Civil Asset Forfeiture Order under section 44, or a Confiscation Order or Forfeiture Order under the Proceeds of Crime Act.

(9) The FIU, the Board of Inland Revenue, the customs officer or the police officer under section 55(1) shall not, unless the High Court gives leave, apply for an Unexplained Wealth Order against any person if-

- (a) an application has previously been made for an Unexplained Wealth Order in relation to that person; and
- (b) the application has been finally determined on the merits.

(10) Leave shall not be granted under subsection (9) unless the High Court is satisfied that -

- (a) the wealth to which the new application relates was identified only after the first application was determined; or
- (b) the evidence became available only after the first application was determined; and
- (c) it is in the interest of justice to give the leave.

Third party claims

63. (1) If the applicant under section 54(1) applies for an Unexplained Wealth Order in respect of a particular property, he or it as applicable shall give written notice of the application to-

- (a) the defendant who is subject to the application for the Unexplained Wealth Order; and
- (b) any other person whom he or it has reason to believe may have an interest in the property.

(2) The defendant, and any person who claims an interest in the property, may appear and adduce evidence at the hearing of the application.

Enforcement of
Unexplained
Wealth Order

64. (1) An amount payable by the defendant into the Seized Assets Fund under an Unexplained Wealth Order is a civil debt due by the defendant to the State.

(2) An Unexplained Wealth Order against the defendant may be enforced as if it were an order made in civil proceedings instituted by the applicant under section 55(1) against the defendant to recover a debt due by him to the State.

(3) An Unexplained Wealth Order is for all purposes to be treated as a judgment debt.

(4) If an Unexplained Wealth Order is made after the death of a defendant, the Order is exercisable against the estate of the defendant.

PART VI

PROPERTY OUTSIDE OF TRINIDAD AND TOBAGO

Declaration of
treaty in force

65. (1) Where a treaty has been concluded between Trinidad and Tobago and any other territory in relation to the provision of mutual assistance for the purposes of this Act, the Attorney General may by Order, subject to negative resolution of Parliament, declare that the treaty shall have the force of law in Trinidad and Tobago subject to such limitations, conditions, exceptions or qualifications as may be specified in the Order.

(2) The Attorney General shall not make an Order under subsection (1), unless the treaty provides for the determination by either party to the Treaty.

(3) An Order made under subsection (1), shall recite or embody the terms of the treaty and shall not remain in force for any longer period than the treaty.

(4) In this section, “treaty” means any Convention, Treaty, Agreement or Arrangement for the time being in force between Trinidad and Tobago and any other territory.

Reciprocal
sharing of
proceeds
agreement

66. (1) The Attorney General may enter into an agreement with the government of any foreign State for the reciprocal sharing of the proceeds or disposition of—

(a) property forfeited or disposed of under this Act; or

(b) property forfeited or disposed of by a foreign State,

in circumstances where agencies of that foreign State, or of Trinidad and Tobago, as the case may be, have participated in the forfeiture or disposal of the property.

(2) Where proceeds are received by Trinidad and Tobago under an agreement under this section, the proceeds shall be deposited into the Seized Assets Fund.

(3) Where there exists no agreement for the reciprocal sharing of proceeds of, or disposition of property forfeited or disposed of under this Act and a request is made from a foreign State in respect of the return of property or proceeds from property may approach the High Court for an Order to allow the return of the property or sharing of the proceeds of property forfeited or disposed of under this Act.

Assistance in
relation to
certain orders

67. (1) Where a Property Restriction Order, a Civil Asset Forfeiture Order or an Unexplained Wealth Order has been made and the property to which those orders apply is suspected on reasonable grounds to be in a country with which Trinidad and Tobago has a treaty under section 66, then, subject to subsection (3), a request may be transmitted by the Attorney General requesting that the order concerned be enforced in accordance with the laws of that country, and seeking the assistance of that country to that end.

(2) Assistance under subsection (1) may include-

- (a) securing the detention, custody or preservation of the property;
- (b) in the case of money, ensuring that it is applied in accordance with the laws of that country; and
- (c) in the case of property other than money, ensuring that the property is realized and the proceeds applied in accordance with the laws of that country.

(3) In any case where a request to a country under this section has been accepted, the Agency shall inform the relevant authority for that country if the concerned Property Restriction Order, Civil Asset Forfeiture Order or Unexplained Wealth Order is thereafter varied or ceases to have effect.

(4) A request shall not be made under this section for the enforcement of an Unexplained Wealth Order if the amount specified in the order or the total value of the property required to satisfy the order is less than twenty-five thousand dollars or such other amount as may be prescribed by Minister by Order.

(5) Assistance that may also be requested under this section is assistance in obtaining outside of Trinidad and Tobago relevant evidence specified in the request including evidence to establish-

- (a) the property to which the order applies is property which is recoverable under this Act or associated property;
- (b) the property is recoverable under this Act in relation to the same criminal conduct and, if it is, who holds it; or
- (c) other property is recoverable property in relation to the same unlawful conduct, and if it is, who holds it.

(6) The Agency shall in requesting assistance under this section, make the request to the Attorney General with a view to it being forwarded to –

- (a) a court or tribunal which is specified in the request and which exercises jurisdiction in the place where the evidence is to be obtained;
- (b) the government of the country concerned; or
- (c) the authority recognised by the government of the country concerned as the appropriate authority for receiving request for assistance of that kind.

PART VII

ASSET MANAGEMENT

Property manager
to be appointed to
manage property

67. (1) Where the Civil Asset Trustee applies for a Property Restriction Order or a Civil Asset Forfeiture Order under this Act, he may also apply for the Property Manager to be appointed to manage the property relative to the Property Restriction Order or a Civil Asset Forfeiture Order.

(2) The Property Manager may act notwithstanding the prior appointment of a trustee or receiver in respect of any property.

(3) The Property Manager may be assisted in his duties by any person appointed by the Civil Asset Trustee for the purpose.

(4) The Property Manager may request information from and receive information from relevant authorities in exercising his functions under this Act.

Duties of Property
Manager

68. (1) Where the Property Manager takes control of property pursuant to a High Court order, he shall as soon as practicable after the order is issued, prepare and file with the High Court and the Attorney General, a report identifying the location of the property.

Schedule 2

(2) A report under subsection (1) shall be in the form set out as Form 2 in Schedule 2.

(3) The Property Manager will initiate and maintain detailed records of all property restrained, seized and forfeited under this Act.

(4) Records under subsection (3) shall include the value of any property under the management of the Property Manager at the time of the restraint or seizure, disposition and in the case of sale, the value realized.

(5) Where the property is no longer at the place where it was reported to be located under subsection (1), or the property has been sold, the Property Manager shall file with the High Court and the Attorney General, a report identifying the new location of the property and the value realized.

Liability of
Property Manager

69. No action or other proceeding may be commenced against any party in respect of the actions of the Property Manager for any act done in good faith in the performance or intended performance of any duty under this Part, or in the exercise or intended exercise of any power under this Act or for any neglect or default in the performance or exercise in good faith of any such duty or power.

PART VIII

MISCELLANEOUS

Confidentiality

70. (1) Trustees of the Agency, the Property Manager employees of the Agency and every person concerned with the administration of this Act including experts engaged under section 19(2) shall treat documents, information or other matters related to the administration of this Act, as secret and confidential except disclosures –

- (a) made by the Agency, or any other person pursuant to the provisions of this Act or any Regulations made hereunder; and
- (b) which the Agency considers necessary in the discharge of its functions.

(2) Subject to subsection (1), a person has the right to request that any proprietary or confidential documents, information or matter provided or submitted to the Agency is kept as confidential and secret by the Agency.

(3) A Trustee, the Property Manager, employee of the Agency or any person concerned with the administration of the Act, who discloses documents, information or any other matter relevant to the administration of this Act in contravention of this section commits an offence and is liable –

- (a) on summary conviction to a fine of one hundred thousand dollars or to imprisonment for three years; and
- (b) on conviction on indictment to a fine of one hundred and fifty thousand dollars and to imprisonment for five years.

Regulations

72. (1) The Attorney General may make regulations for the purpose of giving effect to anything required to be done under this Act.

(2) Regulations made under subsection (1), shall be subject to negative resolution of Parliament.

(3) Notwithstanding the generality of subsection (1), the Attorney General may make regulations for-

- (a) the procedure for the-
 - (i) storage of –
 - (A) precious metals, jewels and artwork;
 - (B) motor vehicles, boats and airplanes;
 - (C) seized cash, banks accounts and financial instruments; and
 - (D) agricultural products, livestock;
 - (ii) for the management or disposal of-
 - (A) motor vehicles, boats and airplanes;
 - (B) seized cash, banks accounts and financial instruments;
 - (C) real property; and
 - (D) agricultural products, livestock and farms; or

- (iii) for the procedure for the exchange of information, evidence and property under an agreement made under section 64;
- (b) the making of any forms required to be made under this Act; and
- (c) prescribing the form and content of registers required for the purposes of this Act.

Chap. 3:01

(4) Notwithstanding section 63 of the Interpretation Act, Regulations made under this section may prescribe penalties for breaches of those Regulations of up to five hundred thousand dollars.

Consequential
amendments
Schedule II

73. The Acts listed in the First Column of the table set out in Schedule III are amended to the extent set out in the Second Column of that table.

SCHEDULE I

(Section 17)

CIVIL ASSET RECOVERY AND MANAGEMENT AGENCY

OATH OF OFFICE AND SECRECY

I, AB, solemnly and sincerely swear that I will conscientiously and to best of my ability discharge the duties of my office and that I will treat all documents and all records and information relating thereto in the Civil Asset Recovery and Management Agency as secret and confidential and I shall not disclose or communicate to any unauthorised person or allow any such person to have access to any such document, reports and record. So help me God.

Justice of the Peace

SCHEDULE II

[Section 31(1)]

FORM A

APPLICATION FOR A PROPERTY RESTRICTION ORDER

REPUBLIC OF TRINIDAD AND TOBAGO

IN THE MATTER OF AN APPLICATION BY

..... **FOR A PROPERTY**

[Name of Officer]

RESTRICTION ORDER PURSUANT TO SECTION 31(1) OF THE CIVIL ASSET

FORFEITURE, MANAGEMENT AND UNEXPLAINED WEALTH ACT, 2018.

A.B. - Applicant

v.

C.D – Interested Party

The applicant hereby applies for a
[Name of Officer]
Property Restriction Order pursuant to section 31(1) of the Civil Asset Forfeiture, Management and
Unexplained Wealth Act, 2018 in respect of the following property of
.....:

[Name]

on the following grounds:

- [Briefly state* 1.
particulars of 2.
grounds] 3.

and I therefore have reason to believe that the property directly or indirectly represents criminal property,
instrumentalities of crime or terrorist property and its restriction is justified.

(Signed).....

Applicant

.....
Date

FORM B

APPLICATION FOR A CIVIL ASSET FORFEITURE ORDER

REPUBLIC OF TRINIDAD AND TOBAGO

IN THE MATTER OF AN APPLICATION BY

..... FOR A CIVIL ASSET

[Name of Officer]

FORFEITURE ORDER PURSUANT TO SECTION 41(1) OF THE CIVIL ASSET

FORFEITURE, MANAGEMENT AND UNEXPLAINED WEALTH ACT, 2018.

A.B. - Applicant

v.

C.D – Interested Party

The applicant hereby applies for a
Civil Asset Forfeiture Order pursuant to section 41(1) of the Civil Asset Forfeiture, Management and
Unexplained Wealth Act, 2018 in respect of the following property of
.....:

.....

..... [Name]

on the grounds that the property directly or indirectly represents criminal property, instrumentalities of
crime or terrorist property.

[Briefly state
particulars of
grounds] 1.
2.
3.

(Signed).....
Applicant

.....
Date

FORM C

APPLICATION FOR AN UNEXPLAINED WEALTH ORDER

REPUBLIC OF TRINIDAD AND TOBAGO

IN THE MATTER OF AN APPLICATION BY

..... [Name of Officer] FOR AN UNEXPLAINED
WEALTH ORDER PURSUANT TO SECTION 53(1) OF THE CIVIL ASSET
FORFEITURE, MANAGEMENT AND UNEXPLAINED WEALTH ACT, 2018.

A.B. - Applicant

v.

C.D – Interested Party

The applicant of hereby
applies for an Unexplained Wealth Order pursuant to section 53(1) of the Civil Asset Forfeiture,
Management and Unexplained Wealth Act, 2018 to require
..... of to
[Name] [Address]
file a declaration and answer questions in relation to his assets.

(Signed).....

Applicant

.....
Date

SCHEDULE II

(Section 56(1))

FORM 1

DECLARATION OF ASSETS

PART I IDENTIFICATION SECTION

NAME OF DECLARANT:										
HOME ADDRESS OF DECLARANT:										OFFICE ADDRESS OF DECLARANT:
Date of Birth:		YYYY	MM	DD	Telephone (Home):					Telephone (Office):
					Fax:					Fax:
NIS Number:					E-mail:					E-mail:
					NAME OF DECLARANT'S SPOUSE (SURNAME, OTHER NAMES):					HOME ADDRESS OF DECLARANT'S SPOUSE:
NAMES OF DECLARANT'S DEPENDENT CHILDREN (SURNAME, OTHER NAMES) 1. 2. 3.										OFFICE ADDRESS OF DECLARANT'S SPOUSE (if applicable):

4.	
5.	

PART II
DETAILS OF INCOME (OF DECLARANT, SPOUSE AND DEPENDENT CHILDREN)

I. INCOME FROM EMPLOYMENT—GOVERNMENT/NON-GOVERNMENT (Include receipts from any Ministry, Dept., Board, Agency, etc.)

Name and Address of Employer	Recipient's Name (Declarant/Spouse/Dependent Child)	Title of Office	Gross Annual Earnings \$

2. INCOME FROM TRADE, PROFESSION OR VOCATION (Please state Net Income—after deduction of expenses)

Name and Address of Business	Nature of Business	Recipient's Name (Declarant/Spouse/Dependent Child)	Annual Net Income \$

3. INCOME FROM PROPERTY (Please state Net Income—after deduction of expenses)

Address and Description of Property	Tenant's Name	Recipient's Name (Declarant/Spouse/Dependent Child)	Annual Net Income \$

4. INTEREST INCOME

Name and Address of Organisation/Persons from whom Interest Received	Recipient's Name (Declarant/Spouse/Dependent Child)	Annual Income \$

5. DIVIDEND INCOME (from shares and stock)

Name and Address of Organisation from which Dividend Received	Recipient's Name (Declarant/Spouse/Dependent Child)	Annual Income \$

6. GAINS/PROFITS

Description of any Assets Sold	In Whose Name Held (Declarant/Spouse/Dependent Child)	Purchase Price and Additional Capital Expenditure (a) \$	Expenses Relative to Sale (b) \$	Proceeds of Sale (c) \$	Gains/Profits [c - (a + b)] \$

7. OTHER BENEFITS FROM EMPLOYMENT (including but not limited to Housing and Travelling)

Name and Address of Employer	Recipient's Name (Declarant/Spouse/Dependent Child)	Description of Benefit	Value \$
June 31 th , 2018			53

8. OTHER INCOME (not herein previously declared—including but not limited to receipts by way of commissions, bonuses, pensions, trust, annuities.

Source of Income and Address	Recipient's Name ((Declarant/Spouse/Dependent Child)	Description of Income	Value \$

PART III
DETAILS OF ASSETS
(OF DECLARANT, SPOUSE AND DEPENDENT CHILDREN)

1. REAL PROPERTY

1.1 LAND AND BUILDINGS (including townhouses and condominiums)

Address and Description of Property including Land and Floor Areas	In Whose Name Held (Declarant/Spouse/Dependent Child)	Date of Acquisition	Original Cost \$	Cost of Additions \$	Estimated Value as at date of declaration

3. UNIT TRUST AND MUTUAL FUNDS

Name and Address of Institution	In Whose Name Held (Declarant/Spouse/Dependent Child)	Number of Units Held	Value \$Value as at date of declaration

4. CASH AND VALUABLES HELD IN SAFETY DEPOSIT BOXES

Name and Address of Institution	Description of Cash/Valuables	In Whose Name Held (Declarant/Spouse/Dependent Child)	Value \$

5. LIFE INSURANCE POLICIES

Company	Type of Policy	In Whose Name Held (Declarant/Spouse/Dependent Child)	Annual Premium Paid \$	Sum Assured \$	Cash Surrender Value \$

6. COMPANY SHARES AND STOCK
6.1 COMPANY SHARES AND STOCK [(Quoted), i.e., Traded on the Stock Exchange]

Name of Company	Stock Units/ Shares Held	In Whose Name Held (Declarant/Spouse/Dependent Child)	Value \$Market Value as at date of declaration

June 31th, 2018

7. INVESTMENT IN PARTNERSHIPS, JOINT VENTURES AND OTHER BUSINESSES

Name and Address of Company or Business	Nature of Business	Percentage Ownership	In Whose Name Held (Declarant/Spouse/Dependent Child)	Investment as at date of declaration

8. OTHER ASSETS 8.1 MOTOR VEHICLES

Make and Model	Registration Number	Purchase Price \$	In Whose Name Held (Declarant/Spouse/Dependent Child)	Sum Assured \$	Estimated Value as at date of declaration

8.2 MONEY LOANED

Name and Address of Borrower	Amount Lent \$	Date Lent	Name of Lender (Declarant/Spouse/Dependent Child)	Balance Due as at date of declaration

8.3 GOVERNMENT AND CORPORATE BONDS

Issuing Organization	In Whose Name Held (Declarant/Spouse/Dependent Child)	Date of Purchase	Interest Rate	Maturity Date	Estimated Value as at date of declaration

8.4 CREDIT UNIONS

Name and Address of Credit Union	Type of Account (Shares/Savings/Fixed Deposit)	In Whose Name Held (Declarant/Spouse/Dependent Child)	Account Number	Balance Due as at date of declaration

8.5. ANY OTHER ASSETS (not herein previously declared— including but not limited to Boats, Jewelry, Paintings, Coin Collections, etc.)

Description	Location	In Whose Name Held (Declarant/Spouse/Dependent Child)	Value as at date of declaration

**PART V
DECLARATION**

I declare that I have given a full return of the particulars, as are known to me, of the income from every source whatsoever, and of the assets and liabilities, of my spouse, my dependent children and myself, required to be filed in accordance with the provisions of the Civil Asset Recovery, Management and Unexplained Wealth Act, 2018.

Dated this day of....., 20.....

.....
Signature of Declarant

FORM 2

STATUS REPORT ON PROPERTY

NAME OF PROPERTY MANAGER: _____

DATE: _____

DATE OF ORDER: _____

PRESIDING JUDGE: _____

TYPE OF PROPERTY:	DESCRIPTION OF PROPERTY:	VALUE OF PROPERTY:	LOCATION OF PROPERTY:

SIGNATURE

DATE

SCHEDULE III

(Section 73)

CONSEQUENTIAL AMENDMENTS

First Column

Second Column

Written Laws

Extent of Amendments

The Proceeds of Crime Act, Chap. 11:27

The Proceeds of Crime Act is amended-

(a) in section 58A-

- (i) in paragraph (g), by deleting the word “and”;
- (ii) in paragraph (h), by deleting the word “.” and substituting the words “; and”;

(iii) by inserting after paragraph (h), the following new paragraph:

“(i) cash or proceeds of the sale of any property, real or personal forfeited to the State under the Civil Asset Recovery and Management Agency Act.”;

(b) in section 58B, by inserting after subsection (2) the following new subsection:

“(3) The Civil Asset Recovery and Management Agency shall be responsible for managing property under subsection (1) or (2) until it is sold and where it is to be sold, the Civil Asset Recovery and Management Agency shall be responsible for managing the sale on behalf of the State.”;

(c) in section 58C, by inserting after subsection (2) the following new subsection:

“(3) The Civil Asset Recovery and Management Agency shall be responsible for managing property under subsection (1) or (2) until it is sold and where it is to be sold, the Civil Asset Recovery and Management

Agency shall be responsible for managing the sale on behalf of the State.”;

(d) in section 58E-

- (i) in paragraph (c), by deleting the word “and”;
- (ii) in paragraph (f), by deleting the word “.” and substituting the words “; and”; and
- (iii) by inserting after paragraph (f), the following new paragraph:

“(g) use by the Civil Asset Recovery and Management Agency established under section 6 of the Civil Asset Recovery and Management Agency Act in the performance of its functions.”; and

(e) in section 58M-

- (i) in paragraph (b), by deleting the words “; and”;
- (ii) in paragraph (c), by deleting the word “.” and substituting the words “; and”; and
- (iii) by inserting after paragraph (c), the following new paragraph:

“(d) the management and control of the Civil Asset Recovery and Management Fund established under section 16 of the Civil Asset Recovery and Management Agency Act.”.

Passed in the House of Representatives this

day of

, 2018.

Clerk of the House

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the House of Representatives and at the final vote thereon in the House has been supported by the votes of not less than three-fifths of all the members of the House, that is to say, by the votes of members of the House.

Clerk of the House

I confirm the above.

Speaker

Passed in the Senate this day of , 2018.

Clerk of the Senate

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the Senate and at the final vote thereon in the Senate has been supported by the votes of not less than three-fifths of all the members of the Senate, that is to say, by the votes of Senators.

Clerk of the Senate

I confirm the above.

President of the Senate.

