



REPUBLIC OF SEYCHELLES

CHAPTER 298

PROCEEDS OF CRIME (CIVIL CONFISCATION) ACT

Revised Edition
showing the law as at 31 May 2024

This is a revised edition of the law, prepared by the Seychelles Law Commission under the authority of the Law Commission Act, 2022.

This edition contains a consolidation of the following laws—

PROCEEDS OF CRIME (CIVIL CONFISCATION) ACT

Act 19 of 2008 .. in force 8 September 2008

S.I. 67 of 2008

Amended by Acts: 10 of 2017 .. in force 5 July 2017
27 of 2020 .. in force 16 December 2020 (S.I. 161 of 2020)
10 of 2021 .. in force 1 April 2021
26 of 2021 .. in force 16 July 2021
29 of 2022 .. in force 30 December 2022

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SEE STATUTORY INSTRUMENTS BOOKLET



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CHAPTER 298
PROCEEDS OF CRIME (CIVIL CONFISCATION) ACT

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CHAPTER 298**PROCEEDS OF CRIME (CIVIL CONFISCATION) ACT**

*(Acts 19 of 2008, 10 of 2017, 27 of 2020, 10 of 2021 and 29 of 2022
and S.I. 67 of 2008)*

AN ACT TO ENABLE THE SUPREME COURT TO MAKE ORDERS IN CIVIL PROCEEDINGS FOR THE PRESERVATION AND, WHERE APPROPRIATE, THE DISPOSAL OF THE PROCEEDS OF CRIMINAL CONDUCT, AND TO PROVIDE FOR RELATED MATTERS.

Commencement

[8 September 2008]

Short title

1. This Act may be cited as the Proceeds of Crime (Civil Confiscation) Act.

Interpretation

2. In this Act—

“**act**” includes an omission;

(Substituted by Act 10 of 2017)

“**the Act**” means the Proceeds of Crime (Civil Confiscation) Act, Cap. 298;

(Substituted by Act 10 of 2017)

“**applicant**” means the Government of Seychelles;

(Substituted by Act 10 of 2017)

“**benefit from criminal conduct**” shall have the same meaning assigned to it in section 2 of the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020;

(Substituted by Act 27 of 2020)

“**court**” means the Supreme Court;

(Substituted by Act 10 of 2017)

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

(Substituted by Act 27 of 2020)

“**dealing**”, in relation to property in the possession or control of a person, includes—

(Substituted by Act 10 of 2017)

- (a) where a debt is owed to that person, making a payment to any person in reduction of the amount of the debt;
- (b) removing the property from the Republic; and
- (c) in the case of property held for the person by another person, paying or releasing or transferring it to the person or to any other person;

- “disposal order”** means an order made under section 5;
(Substituted by Act 10 of 2017)
- “interest”**, in relation to property, includes a right;
(Substituted by Act 10 of 2017)
- “interim order”** means an order under section 3;
(Substituted by Act 10 of 2017)
- “interlocutory order”** means an order under section 4;
(Substituted by Act 10 of 2017)
- “Minister”** means the Minister responsible for internal affairs;
(Substituted by Act 10 of 2017)
- “officer of Customs”** includes a police officer who performs the functions of controlling imports or exports;
(Substituted by Act 10 of 2017)
- “property”** shall have the same meaning assigned to it in section 2 of the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020;
(Substituted by Act 27 of 2020)
- “Republic”** means the Republic of Seychelles;
(Substituted by Act 10 of 2017)
- “respondent”** means a person in respect of whom an application for an interim order or an interlocutory order has been made or in respect of whom such an order has been made and includes any person who, but for this Act, would become entitled, on the death of the first-mentioned person, to any property to which such an order related being an order that is in force and is in respect of the person;
(Substituted by Act 10 of 2017)
- “specified property”** means property the subject of an application to Court or an order made by Court under this Act.
(Substituted by Act 10 of 2017)

Interim order

3. (1) Where on an *ex parte* application to Court in that behalf by the applicant, it appears to the Court, on evidence, including evidence admissible by virtue of section 9, tendered by the applicant, that—

- (a) a person is in possession or control of—
- (i) specified property and that the property constitutes directly or indirectly, benefit from criminal conduct; or
 - (ii) specified property that was acquired, in whole or in part, with or in connection with property that, directly or indirectly, constitutes benefit from criminal conduct; and

- (b) the value of the property or the total value of the property referred to in subparagraphs (i) and (ii) of paragraph (a) is not less than SCR50,000,

the Court may make an interim order prohibiting the person specified in the order or any person having notice of the making of the order from disposing of, or otherwise dealing with the whole or any part of the property or diminishing its value during the period of 30 days from the date of the making of the order.

- (2) An interim order—

- (a) may contain such conditions and restrictions as the Court considers necessary or expedient; and
- (b) shall provide for notice of it to be given to the respondent and any other person who appears to be affected by it, unless the Court is satisfied that it is not reasonably possible to ascertain his whereabouts.

(3) Where an interim order is in force, the Court, on application to it in that behalf by the respondent or any other person claiming to have an interest in any of the property concerned may, if it is shown to the satisfaction of the Court, that—

- (a) the property concerned or a part of it is not property to which subparagraph (i) or (ii) of subsection (1)(a) applies; or
- (b) the total value of the property to which subparagraphs (i) and (ii) of subsection (1)(a) apply is less than SCR50,000,

the Court shall, discharge or, as may be appropriate, vary the order.

(4) The Court shall, on application to it, in that behalf at any time by the applicant discharge an interim order.

(5) Subject to subsections (3) and (4), an interim order shall continue in force until the expiration of the period of 30 days from the date of its making and shall then lapse, unless an application for the making of an interlocutory order in respect of any of the property concerned is brought during that period and if such an application is brought, the interim order shall lapse upon—

- (a) the determination of the application for the interlocutory order;
- (b) the expiration of the ordinary time for bringing an appeal from the determination of the interlocutory order; or
- (c) if such an appeal is brought, the determination or abandonment of it or of any further appeal or the expiration of the ordinary time for bringing any further appeal,

whichever is the latest.

- (6) Notice of an application under this section shall be given—

- (a) in case the application is made under subsection (3) by the respondent or other person making the application to the applicant;

- (b) in case the application is made under subsection (4) by the applicant to the respondent, unless the Court is satisfied that it is not reasonably possible to ascertain his whereabouts; and
 - (c) in case of an application made under either subsection (3) or (4), to any other person in relation to whom the Court directs that notice of the application be given.
- (7) An application under subsection (1) shall—
- (a) specify the name, address and national identity number (if known) of the respondent;
 - (b) set out the particulars of the property in respect of which the interim order is sought;
 - (c) specify the grounds as to why the interim order is sought; and
 - (d) be supported by an affidavit verifying the matters set out in the application other than in cases of urgency when the application may be grounded on oral evidence but an affidavit containing the evidence upon which the interim order shall have been granted shall be filed without delay.
- (8) Oral evidence may be adduced during an application made under this section if the Court shall so require or permit.

Interlocutory order

4. (1) Where, on an *inter partes* application to Court, in that behalf by the applicant, it appears to the Court, on evidence, including evidence admissible by virtue of section 9, tendered by the applicant, that—

- (a) a person in possession or control of—
 - (i) specified property and that the property constitutes, directly or indirectly, benefit from criminal conduct; or
 - (ii) specified property that was acquired, in whole or in part, with or in connection with property that, directly or indirectly, constitutes benefit from criminal conduct; and
- (b) the value of the property or the total value of the property referred to in subparagraphs (i) and (ii) of paragraph (a) is not less than SCR50,000,

the Court shall make an interlocutory order prohibiting the person specified in the order or any other person having notice of the making of the order from disposing of or otherwise dealing with the whole or any part of the property, or diminishing its value, unless it is shown to the satisfaction of the Court on evidence tendered by the respondent or any other person, that—

- (i) the particular property does not constitute, directly or indirectly, benefit from criminal conduct and was not acquired, in whole or in part, with or in connection with property that,

directly or indirectly, constitutes benefit from criminal conduct; or

- (ii) the total value of all the property to which the order would relate is less than SCR50,000:

Provided that the Court shall not make the order if it is satisfied that there would be a risk of injustice to any person (the onus of establishing which shall be on that person), and the Court shall not decline to make the order in whole or in part to the extent that there appears to be knowledge or negligence of the person seeking to establish injustice, as to whether the property was as described in subsection (1)(a) when becoming involved with the property.

(2) An interlocutory order—

- (a) may contain such conditions and restrictions as the Court considers necessary or expedient; and
- (b) shall provide for notice of it to be given to the respondent and any other person as directed by the Court, who appears to be affected by it unless the Court is satisfied that it is not reasonably possible to ascertain the whereabouts of the respondent or that person.

(3) Where an interlocutory order is in force, the Court, on application to it in that behalf at any time by the respondent or any other person claiming an interest in any of the property concerned, may—

- (a) if it is shown to the satisfaction of the Court, that the property or any part of the property is property to which subsection (1)(a) does not apply; or
- (b) that the order causes any other injustice to any person (the onus of establishing which shall be on that person), discharge or, as may be appropriate, vary the order, in whole or in part to the extent that there appears to be knowledge or negligence of the person seeking to establish injustice, as to whether the property was as described in subsection (1)(a) when becoming involved with the property.

(4) The Court shall, on application to it in that behalf at any time by the applicant, discharge an interlocutory order.

(5) Subject to subsections (3) and (4), an interlocutory order shall continue in force until—

- (a) the determination of an application for a disposal order in relation to the property concerned;
- (b) the expiration of the ordinary time for bringing an appeal from that determination; or
- (c) if such an appeal is brought, when the appeal is determined or abandoned,

whichever is the latest, and shall then lapse.

(6) Notice of an application under this section shall be given—

- (a) if the application is made under subsection (1) or (4), by the applicant to the respondent, unless the Court is satisfied that it is not reasonably possible to ascertain his whereabouts;
 - (b) if the application is made under subsection (3), by the respondent or other person making the application to the applicant; and
 - (c) in the case of an application made under either subsection (1) or (4), to any other person in relation to whom the Court directs that notice of the application be given.
- (7) An application made under subsection (1) shall—
- (a) specify the name, address and national identity number (if known) of the respondent;
 - (b) set out the particulars of the property in respect of which the interlocutory order is sought;
 - (c) specify the grounds on which the interlocutory order is sought; and
 - (d) be supported by an affidavit verifying the matters set out in the application.
- (8) Oral evidence may be adduced during an application made under this section if the Court shall so require or permit.
- (9) Where a restraint order, a forfeiture order or a pecuniary penalty order under the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020, is made that relates to any property that is the subject of an interim order, or an interlocutory order, that is in force, the interim order or the interlocutory order shall—
- (a) if it relates only to that property, stand discharged; or
 - (b) if it relates also to the other property, stand varied by the exclusion from it of that property.
- (Substituted by Act 27 of 2020)*

Disposal order

5. (1) Subject to subsection (2), where an interlocutory order has been in force for not less than 12 months in relation to specified property and there is no appeal pending before the Court in respect of the interlocutory order, the Court, on application to it in that behalf by the applicant, may make a disposal order directing that the whole or a specified part of the property be transferred, subject to such terms and conditions as the Court may specify, to the Republic or to such other person as the Court may determine and such transfer shall confer absolute title free from any claim of any interest therein or encumbrances to the Republic or such person.

(2) No application may be made by the applicant for a disposal order while—

- (a) an application made under section 4(3); or

- (b) an appeal against an order made under the application referred to in paragraph (a); or
- (c) an appeal against any order made under section 4,

is pending, and so that after such application under section 4(3) and any appeal shall have been disposed of, the 12 month period shall be calculated from the making of the order under section 4, unless the Court for good cause shall otherwise determine.

(3) Subject to subsections (8) and (10), the Court shall make a disposal order in relation to any property, the subject of an application under subsection (1) unless it is shown to its satisfaction by the respondent or any person claiming any interest in the property, that the property does not constitute, directly or indirectly, proceeds of criminal conduct and was not acquired, in whole or in part, with or in connection with property that, directly or indirectly, constitutes proceeds of criminal conduct.

(4) The applicant shall give notice to—

- (a) the respondent unless the Court is satisfied that it is not reasonably possible to ascertain his whereabouts; and
- (b) such other person, (if any) as the Court may direct,

of an application under this section.

(5) The application shall—

- (a) specify the name, address and national identity number (if known) of the respondent;
- (b) set out the particulars of the property in respect of which the disposal order is sought; and
- (c) be supported by an affidavit verifying the grounds in which the disposal order is sought.

(6) A disposal order shall operate to deprive the respondent of his rights (if any) in or to the property to which it relates and, upon the making of the order, the property shall stand transferred to the Republic or other person specified in the order.

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

(Inserted by Act 27 of 2020)

(7) In any proceedings under subsection (1), before deciding whether to make a disposal order, the Court shall give any person who the Court believes to have an interest in the property or any part of it, an opportunity to be heard and to show cause, why the order should not be made.

(8) The Court, if it considers it appropriate to do so in the interest of justice on the application of the respondent or, if the whereabouts of the respondent cannot be ascertained, on its own initiative, may adjourn the hearing of an application made under subsection (1) for a period not exceeding 3 months as it considers reasonable.

(9) The Court shall not make a disposal order if it is satisfied that there would be a serious risk of injustice to any person (the onus of establishing which shall be on that person) and the Court shall not decline to make the order in whole or in part to the extent that there appears to be knowledge or negligence of the person seeking to establish injustice, as to whether the property was as described in section 4(1)(a) when becoming involved with the property.

(10) For the purposes of this section and section 4, ‘injustice’ shall not include hardship to the respondent or any other person claiming under him.

(Amended by Act 10 of 2017)

Ancillary orders and provisions in relation to certain profits or gains, etc.

6. (1) At any time while an interim order or an interlocutory order is in force, the Court may, on application to it in that behalf by the applicant, make such orders as it considers necessary or expedient to enable the interim or interlocutory order to have full effect.

(2) An interim order, an interlocutory order, a disposal order or an order made under subsection (1) may be expressed to apply to any profit or gain or interest, dividend or other payment or any other property payable or arising, after the making of the order, in connection with any other property to which the order relates.

Order in relation to property, the subject of interim order or interlocutory order

7. (1) At any time while an interim order or an interlocutory order is in force, the Court may, on application to it in that behalf by the respondent or any other person affected by the order, make such orders as it considers appropriate in relation to any of the property concerned if it considers it essential to do so for the purpose of enabling—

- (a) the respondent to discharge reasonable living and other necessary expenses including legal expenses in or in relation to proceedings under this Act, incurred or to be incurred by or in respect of the respondent and his dependants; or
- (b) the respondent or the other person to carry on a lawful business, trade, profession or other occupation to which any of that property relates.

(2) An order made under this section may contain such conditions and restrictions as the Court considers necessary or expedient for the purpose of protecting the value of the property concerned and avoiding any unnecessary diminution thereof.

(3) Notice of an application under this section shall be given by the person making the application to the applicant and to any other person to whom the Court directs that notice of the application be given.

Receiver

8. (1) Where an interim order or an interlocutory order is in force, the Court may at any time appoint a receiver—

- (a) to take possession of any property to which the order relates;
- (b) in accordance with the Court's directions, to manage, keep possession or dispose of, or otherwise deal with any property in respect of which he is appointed,

subject to such exemptions and conditions (if any) as may be specified by the Court, and may require any person having possession or control of property in respect of which the receiver is appointed to give possession of it to the receiver.

(2) Where a receiver takes any action under this section in relation to property which is not property the subject of an interim order or an interlocutory order being action which—

- (a) he would be entitled to take if it were such property;
- (b) he believes, and having reasonable grounds for believing, he is entitled to take in relation to that property,

no action shall lie against him for anything done in good faith in the discharge of any functions under this Act.

(3) On any sale of property by a receiver appointed under this section, the purchaser shall receive a good and valid title and the property shall vest absolutely in the purchaser and as regards land, the purchaser shall be entitled to be registered as the owner in any relevant register if lands without further requisition or enquiry and without encumbrance save as is contained in the document of sale.

(4) On sale of property by a receiver appointed under this section, any right, title or interest of any person therein, shall stand extinguished and the right, title or interest shall be transferred and be limited to the proceeds of such sale.

Provisions in relation to evidence and proceedings under this Act

9. (1) Where a police officer states in proceedings under section 3 or 4 on affidavit or, if the Court so permits or directs, in oral evidence, that he believes, that—

- (a) the respondent is in possession or control of specified property and that the property constitutes, directly or indirectly, benefit from criminal conduct; or
- (b) the respondent is in possession or control of specified property and that the property was acquired, in whole or in part, with or in connection with property that, directly or indirectly, constitutes benefit from criminal conduct; and

- (c) the value of the property or as the case may be the total value of the property referred to in both paragraphs (a) and (b) is not less than SCR50, 000,

then, if the Court is satisfied that there are reasonable grounds for the belief aforesaid, the statement shall be evidence of the matters referred to in paragraph (a) or in paragraph (b) or in both paragraphs (a) and (b), as may be appropriate, and of the value of the property.

(Amended by Act 10 of 2017)

(2) The applicant shall not make an application under section 3 or 4 or submit evidence of his belief described in this section, except after reasonable enquiries and investigations and on the basis of credible and reliable information that he has reasonable grounds for suspecting—

- (a) the respondent is in possession or control of specified property and that the property constitutes, directly or indirectly, benefit from criminal conduct; or
- (b) the respondent is in possession or control of specified property and that the property was acquired, in whole or in part, with or in connection with property that, directly or indirectly, constitutes benefit from criminal conduct, and that the value of the property or as the case may be the total value of the property referred to in subsection (1)(a) and (b) is not less than SCR50, 000.

(3) The standard of proof required to determine any question arising under this Act, other than proceedings for an offence contrary to section 23 shall be that applicable to civil proceedings.

(4) Proceedings under this Act, other than proceedings for an offence contrary to section 23 may, if any party to the proceedings so requests and the Court considers it proper, be heard otherwise than in public.

(5) The Court may, if it considers it appropriate to do so, prohibit the publication of such information as it may determine, in relation to proceedings under this Act other than proceedings of an offence contrary to section 23, including information in relation to applications for the making or refusal of, and the contents of orders under this Act and the persons to whom they relate.

Affidavit specifying property and income of respondent

10. At any time during proceedings under section 3 or 4 or while an interim order or an interlocutory order is in force, the Court may by order direct the respondent to swear and deliver to the applicant within such time as the Court may order an affidavit specifying either or both of the following—

- (a) the property of which the respondent is in possession or control;
- (b) the income, and the sources of the income, of the respondent during such period (not exceeding 10 years) ending on the date of the application for the order as the Court may specify,

and so that the averments of the deponent in any such affidavit shall not be used in evidence against the respondent in any criminal proceedings.

Registration of interim orders and interlocutory orders

11. (1) Where an interim order or an interlocutory order is made, the Registrar of the Supreme Court shall, unless the Court orders otherwise, serve the order on the Registrar General or any other public officer who is required under any written law to maintain public records relating to properties in Seychelles, where any of the property affected by the order falls within the scope of such properties.

(2) Upon receipt of an interim or an interlocutory order, the Registrar General shall—

- (a) where the property consists of land which is registered under the Land Registration Act, enter a restriction under the Land Registration Act in the register, in respect of the land in terms of the interim or the interlocutory order under this Act;
- (b) where the property consists of land falling under the Mortgage and Registration Act, enter a conspicuous note in the repertoire of the respondent and the owner of any land to the effect that the land is the subject of an interim or an interlocutory order under this Act, giving the date of the order and the terms of any restriction or conditions of the interim or the interlocutory order;
- (c) where the property belongs to a body corporate incorporated under any written law administered by the Registrar General, enter a conspicuous note in the register or records of the body corporate recording the existence of the interim or the interlocutory order, giving the date of the order and the terms of any restriction or condition of the prohibition order.

(3) Where an order has been served under subsection (1) and the order is varied or discharged, the Registrar of the Supreme Court shall provide the Registrar General with notice to that effect and the Registrar General shall thereupon cause any entry made under subsection (2) to be varied or cancelled, as the case may require.

(4) A restriction or a note entered pursuant to subsection (2) or (3) shall be deemed to be sufficient notice to all persons of the interim or the interlocutory order and any dealing, transaction, encumbering, seizure or sequestration of the property and for purposes contrary to the interim or the interlocutory order shall be null and of no effect.

Bankruptcy of respondent, etc.

12. (1) Where a person who is in possession or control of property is adjudicated bankrupt, property subject to an interim order, an interlocutory order, or a disposal order, made before the order adjudicating the person bankrupt, is excluded from the property of the bankrupt for the purposes of the Bankruptcy and Insolvency Act.

(2) Where a person has been adjudicated bankrupt, the powers conferred on the Court by section 3, 4 or 5 shall be exercised in relation to the property of the bankrupt unless the Court shall otherwise determine.

Property subject to interim order, interlocutory order or disposal order dealt with by Official Assignee

13. (1) Without prejudice to the generality of any provision of any other written law where—

- (a) the Official Assignee appointed under the Bankruptcy and Insolvency Act, seizes or disposes of any property in relation to which his functions are not exercisable because it is subject to an interim order, an interlocutory order or a disposal order; and
- (b) at the time of the seizure or disposal he believes, and has reasonable grounds for believing, that he is entitled (whether in pursuance of an order of a Court or otherwise) to seize or dispose of that property,

he shall—

- (i) not be liable to any person in respect of any loss or damage resulting from the seizure or disposal, except in so far as the loss or damage is caused by his negligence in so acting; and
- (ii) have a lien on the property, or the proceeds of its sale, for such of his expenses as were incurred in connection with the bankruptcy or other proceedings in relation to which the seizure or disposal purported to take place and for so much of his remuneration as may reasonably be assigned for his acting in connection with those proceedings.

(2) Where the Official Assignee incurs expenses in respect of the property mentioned in subsection (1)(a) and in so doing does not know and has no reasonable grounds to believe that the property was subject to an order under this Act, he shall be entitled (whether or not he has seized or disposed of that property so as to have a lien) to payment of those expenses.

Winding-up of a company in possession or control of property, the subject of interim order, interlocutory order or disposal order

14. (1) Where property, the subject of an interim order, an interlocutory order or a disposal order made before the relevant time is in the possession or control of a company and an order for the winding-up of the company has been made or a resolution has been passed by the company for a voluntary winding-up the functions of the liquidator shall not be exercisable in relation to the property.

(2) Where, in the case of a company, an order for its winding-up has been made or such a resolution has been passed, the powers conferred by section 3, 4 or 5 on the Court, or by section 8 on a receiver, shall not be exercised after the relevant time in relation to any property held by the company in relation to which the functions of the liquidator are exercisable—

- (a) so as to inhibit him from exercising those functions for the purpose of distributing any property held by the company to the company's creditors, so that the liquidator shall give 30 days' notice to the Attorney-General of his intention to make a distribution and shall

not make any distribution until the period of 30 days shall have expired, and so that the Court or a receiver may exercise the powers conferred on them under this Act in respect of the proposed distribution or any portion thereof;

(Amended by Act 10 of 2017)

(b) so as nothing in this section shall prevent the payment out of any expenses, including the remuneration of the liquidator or any provisional liquidator properly incurred in the winding-up of the property.

(3) In this section—

“**company**” means any company which may be wound up under the Companies Act 1972;

“**relevant time**” means—

- (a) where no order for winding-up of the company has been made, the time of the passing of the resolution for voluntary winding-up;
- (b) where such an order has been made and, before the presentation of the petition for the winding-up of the company by the Court, such a resolution had been passed by the company, the time of the passing of the resolution; and

in any other case where such an order has been made, the time of the making of the order.

Immunity from proceedings

15. No action or proceeding of any kind shall lie against a financial institution or other similar institution or any other person in any Court in respect of any act done or omission made in compliance with an order of the Court under this Act.

Seizure of certain property

16. (1) Where an order made under this Act is in force, a police officer, an officer of Customs or an assets agent may, for the purpose of preventing any property, the subject of the order being removed from the Republic, seize the property.

(2) Property seized under this section shall be dealt with in accordance with the directions of the Court.

Compensation

17. (1) Where—

- (a) an interim order is discharged or lapses and an interlocutory order in relation to the matter is not made or, if made, is discharged (otherwise than pursuant to section 4(1) or section 19);
- (b) an interlocutory order is discharged (otherwise than pursuant to section 4(3) or section 19) or lapses and a disposal order in relation

to the matter is not made or, if made, is discharged (otherwise than pursuant to section 5(10) or section 19),

the Court on application to it in that behalf by a person who shows to the satisfaction of the Court that—

- (i) he is owner of or has an interest in any property to which an order referred to in paragraph (a) or (b) relates; and
- (ii) the property does not constitute, directly or indirectly, proceeds of criminal conduct or was not acquired, in whole or in part, with or in connection with property that, directly or indirectly, constitutes proceeds of criminal conduct, (the burden of proof of which shall be discharged by the applicant for compensation); and
- (iii) he has suffered loss or injury,

the Court may award to the person such compensation payable by the Government as the Court considers just in the circumstances in respect of the loss or injury incurred by the person by reason of the order concerned but so that no compensation shall be paid to a person who is a member of a terrorist group or in circumstances where it appears to the Court to do so would be manifestly unjust.

(Amended by Act 10 of 2017)

(2) The Government shall be given notice of, and be entitled to be heard in any proceedings under this section.

(Amended by Act 10 of 2017)

Exclusion of limitation periods

18. For the avoidance of doubt, it is hereby declared that no period of limitation laid down by any written law shall apply in relation to proceedings under this Act.

Consent orders

19. Where in relation to any property—

- (a) proceedings have been commenced seeking orders under this Act; and
- (b) an application is made to Court with the consent of all the parties concerned,

the Court may pursuant to that consent, make any order it may make under this Act and, as regards a disposal order, it may make the disposal order subject to such terms and conditions as it may specify.

Definition

20. For the avoidance of doubt, in addition to the ordinary meaning of that phrase, a person shall be deemed for the purposes of this Act to be ‘in possession or control of property’ notwithstanding that it, or any part of it—

- (a) is lawfully in the possession of the police, an assets agent, officer of Customs or any other person, having been lawfully seized or otherwise taken or restrained;
- (b) is subject to an interim order or interlocutory order or any other order of the Court which—
 - (i) prohibits any person from disposing of or otherwise dealing with the property or diminishing its value;
 - (ii) contains any conditions or restrictions in that regard, or is to the like effect; or
- (c) is subject to a lease, the subject of a trust or otherwise occupied by another person or is inaccessible,

and references in this Act to the ‘possession or control of property’ shall be construed accordingly.

Court procedure

21. A respondent who is served with an application for an interlocutory order or a disposal order shall not be entitled to further particulars, inspection, disclosure or discovery prior to filing and delivering and an affidavit setting out the evidence intended to be adduced by him as contemplated in section 4(1)(b), which affidavit shall be filed within 21 days of the service of the application on him unless the Court shall have for good cause otherwise determined.

Appeals

22. For the avoidance of doubt an appeal from an order made under this Act, other than an interim order shall lie to the Court of Appeal.

Offence of unlawful communication

23. (1) Subject to this section, it shall be an offence to communicate with a police officer or a state counsel with the intention of wrongfully influencing the making of any decision that any of those persons might make in their respective official capacities including, but not limited to any decision to withdraw or not to initiate proceedings under this Act.

(Amended by Act 10 of 2017)

(2) If a person referred to in subsection (1) becomes of opinion that a communication is in breach of that subsection, it shall be the duty of that person not to entertain the communication further.

(3) This section does not apply to—

- (a) communications made by a person who is a respondent in proceedings or believes he is likely to be a respondent in proceedings under this Act or a defendant in criminal proceedings; or
- (b) communications made by a person involved in the matter either personally or as legal or medical advisor to a person involved in the matter or as a social worker or a member of the family of a person involved in the matter.

(4) A person who commits an offence under this section is liable on conviction, to a fine of level 6 on the standard scale or to imprisonment for a term of 5 years or to both such fine and term of imprisonment.

(Amended by Act 26 of 2021)

Rules of Court

24. The Chief Justice may make rules of Court, not inconsistent with this Act, to regulate the procedure before the Court in respect of any matter under this Act.

25. *(Repealed by Act 27 of 2020)*

26. *(Repealed by Act 27 of 2020)*
