

OBJECTS AND REASONS

This Bill would, on the repeal of the *Transnational Organized Crime (Prevention and Control) Act, 2011*, provide for the continuation of the Criminal Assets Recovery Fund which consists of the proceeds of crime which have been confiscated by order of a court of law.

Arrangement of Sections

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BARBADOS

A Bill entitled

An Act to provide for the continuation of the Criminal Assets Recovery Fund on the repeal of the *Transnational Organized Crime (Prevention and Control) Act, 2011*.

ENACTED by the Parliament of Barbados as follows:

Short title

1. This Act may be cited as the *Criminal Assets Recovery Fund, Act 2016*.

Interpretation

2. In this Act,

“Fund” means the Criminal Assets Recovery Fund;

“seized assets” means property, including money, derived from criminal conduct and seized by order of a court.

Criminal Assets Recovery Fund

3. The Criminal Assets Recovery Fund, established under the *Transnational Organized Crime (Prevention and Control) Act, 2011* (Act 2011-3), shall continue in existence under this Act on the repeal of that Act.

Resources of the Fund

4. There shall be paid into the Fund

- (a) the proceeds of any seized assets recovered under a forfeiture or confiscation order pursuant to
 - (i) the *Proceeds of Crime Act*, Cap. 143;
 - (ii) the *Money Laundering and Financing of Terrorism (Prevention and Control) Act*, Cap. 129;
 - (iii) the *Anti-Terrorism Act*, Cap. 158;
 - (iv) the *Trafficking in Persons Prevention Act, 2016* (Act 2016-); and
 - (v) the proceeds of any seized assets recovered under a forfeiture or confiscation order pursuant to any other Act;
- (b) any moneys voted for the purpose by Parliament;

- (c) any sums paid to the Government of Barbados by a foreign state recovered from seized assets whether under a treaty or a bilateral agreement which makes provision for the sharing of such assets; and
- (d) any moneys received from any other source for the purposes specified in section 6.

Administration of Fund

5. The Fund shall be administered by the Accountant-General under the control and direction of the Attorney-General.

Application of the resources of the Fund

6. The resources of the Fund shall be applied towards the following purposes:

- (a) to satisfy an obligation of the Government of Barbados to a foreign state pursuant to a treaty or a bilateral agreement which makes provision for the sharing of seized assets;
- (b) the payment of restitution, compensation or costs awarded under the
 - (i) the *Proceeds of Crime Act*, Cap. 143;
 - (ii) the *Money Laundering and Financing of Terrorism (Prevention and Control) Act*, Cap. 129;
 - (iii) the *Anti-Terrorism Act*, Cap. 158;
 - (iv) the *Trafficking in Persons Prevention Act, 2016* (Act 2016-); or
 - (v) any other Act to which section 4 (a) (v) applies;
- (c) to defray any expenses incurred in respect of the administration of the
 - (i) the *Proceeds of Crime Act*, Cap. 143;
 - (ii) the *Money Laundering and Financing of Terrorism (Prevention and Control) Act*, Cap. 129;

- (iii) the *Anti-Terrorism Act*, Cap. 158;
 - (iv) the *Trafficking in Persons Prevention Act, 2016* (Act 2016-); or
 - (v) any other Act to which section 4 (a) (v) applies; and
- (d) to defray any expenses incurred in respect of the implementation of any measures relating to the prevention, detection and investigation of criminal activity.

Insufficient funds

- 7.(1) Where at any time the resources of the Fund are insufficient to make the payments referred to in section 6, those obligations shall be met from such sums as Parliament may vote for the purpose.
- (2) Any sum voted by Parliament pursuant to subsection (1) shall be repaid out of the Fund as soon as practicable and paid into the Consolidated Fund.

Investment of funds

8. Where in the opinion of the Attorney-General it is appropriate to do so, he may direct that such sums from the Fund as he determines are to be invested in such manner as he may decide.

Accounts

- 9.(1) The Accountant-General shall, in relation to the Fund,
- (a) maintain adequate financial and other records; and
 - (b) prepare a statement of accounts in respect of each financial year.
- (2) The accounts of the Fund shall be audited at least once every financial year by the Auditor-General.

Reports

10.(1) The Accountant-General shall prepare quarterly reports of the economic activity of the Fund and shall deliver the reports to the Attorney-General not later than 21 days following the end of each quarter.

(2) The Attorney-General shall, as soon as practicable after receiving a report referred to in subsection (1), cause a copy to be laid in both Houses.

Read three times and passed the House of Assembly this
day of _____, 2016.

Speaker

Read three times and passed the Senate this _____ day of
, 2016.

President

Criminal Assets Recovery Fund, Act 2015

EXPLANATORY MEMORANDUM

SUMMARY

This Bill would on the repeal of the *Transnational Organized Crime (Prevention and Control) Act, 2011*, provide for the continuation of the Criminal Assets Recovery Fund which consists of the proceeds of crime which have been confiscated by order of a court of law.

The establishment of the Fund and the rules governing the disposal of the Funds are necessary for the purposes of good governance and proper administration. Secondly, the Bill implements Articles 12, 13 and 14 of the *Convention Against Transnational Organized Crime* by providing for a regime of forfeiture and the disposal of the funds so forfeited. Providing for these matters in a separate Bill recognizes the fact that the Fund relates to all proceeds of crime and not only to transnational organized crime.

Clause 1: Short title

This clause provides for the short title.

Clause 2: Interpretation

This clause provides definitions for the terms used in the Bill.

Clause 3: Criminal Assets Recovery Fund

This clause provides for the continuation of the Fund after the repeal of the *Transnational Organized Crime (Prevention and Control) Act, 2011*.

Clause 4: Resources of the Fund

This clause specifies the sources of forfeited property which are to be placed in the Fund.

Clause: 5 Administration of Fund

This clause provides that the Fund is to be administered by the Accountant-General.

Clause 6: Application of the resources of the Fund

This clause specifies the purposes to which the resources in the Fund should be applied.

Clause 7: Insufficient funds

This clause requires any short fall in the Fund to be supplemented from the Consolidated Fund for the application of the purposes specified in clause 6.

Clause 8: Investment of funds

This clause permits the Attorney-General to invest the resources of the Fund.

Clause 9: Accounts

This clause requires the Accountant-General to keep proper records with respect to the Fund. It also requires the Auditor-General for the purpose of accountability to audit the Fund.

Clause 10: Reports

This clause requires the Accountant-General to prepare quarterly reports with respect to the Fund for submission to the Attorney-General for the purposes of good administration. It also requires the Attorney-General to lay the reports in Parliament as a matter of record and for the purposes of transparency.