

A BILL

entitled

PROCEEDS OF CRIME AMENDMENT ACT 2011

WHEREAS it is expedient to extend Part VI of the Proceeds of Crime Act 1997;

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

Citation

1 This Act may be cited as the Proceeds of Crime Amendment Act 2011.

Amends section 50

2 In section 50 of the Proceeds of Crime Act 1997 (seizure and detention of cash imported or exported)—

- (a) in the heading, delete "imported or exported"; and
- (b) delete subsection (1) and substitute—

"(1) A police officer may seize and detain, in accordance with this Part—

- (a) any cash which is being imported into or exported from Bermuda;
- (b) any cash which is found pursuant to a search made in anticipation of or following the arrest of a person for drug trafficking or a relevant offence; and
- (c) any cash found by the officer in the execution of his duties in a case not falling within paragraphs (a) or (b),

if the officer has reasonable grounds for suspecting that the cash directly or indirectly represents any person's proceeds of criminal conduct or is intended by any person for use in any criminal conduct.

(1A) A police officer who seizes cash under subsection (1)(c) must, as soon as practicable, obtain the written permission of an officer of the rank of inspector or above to detain the cash in accordance with this section."

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EXPLANATORY MEMORANDUM

This Bill seeks to extend the police power to seize cash and, following magistrates' court proceedings, for the cash to be detained and forfeited under Part VI of the Proceeds of Crime Act 1997 ("the principal Act"). Currently Part VI applies only to cash (defined as coins and bank-notes in any currency and negotiable instruments) which is being imported into or exported from Bermuda and which a police officer has reasonable grounds for suspecting directly or indirectly represents any person's proceeds of criminal conduct, or is intended by any person for use in any criminal conduct ("the reasonable grounds test"). This Bill would allow the power to be exercised in addition where the cash is found pursuant to a search made in anticipation of or following the arrest of a person for drug trafficking or a relevant (ie indictable) offence and the reasonable grounds test is satisfied. This Bill would also allow the power to be exercised where a police officer finds cash in the execution of his duties in any other case if the reasonable grounds test is satisfied, but in such a case a senior police officer must authorise in writing the detention of the cash as soon as practicable.

Clause 1 is self-explanatory.

Clause 2 replaces the heading and inserts new subsections (1) and (1A) of section 50 of the principal Act so as to make the necessary amendments.