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PENAL CODE (AMENDMENT) ACT, 2020

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No. 33 of 2020

PENAL CODE (AMENDMENT) ACT, 2020

AN ACT TO AMEND THE PENAL CODE

[Date of Assent - 9th December, 2020]

Enacted by the Parliament of The Bahamas

1. Short title.

This Act, which amends the Penal Code (*Ch. 84*), may be cited as the Penal Code (Amendment) Act, 2020.

2. Amendment of section 357A of the principal Act.

Section 357A of the principal Act is amended —

- (a) by the renumbering of the section as subsection “(1)”; and
- (b) by the insertion immediately after subsection (2) of the following new subsection (1) —
 - “(2) Subsections (2) – (4) of section 357B shall apply *mutatis mutandis* to this section.” .

3. Insertion of new section 357B into the principal Act.

The principal Act is amended by the insertion, immediately after section 357A of the following new section —

“357B. Intent to defraud a foreign government.

- (1) Any person, who with intent to defraud the government of a foreign jurisdiction, directly or indirectly by any action or omission in The Bahamas —
 - (a) willfully makes, delivers, or causes, false or fraudulent information to be made to a person employed in the service of the government of that foreign jurisdiction, relating to the collection of money for the purposes of general revenue of that government of a foreign jurisdiction;

- (b) willfully omits information, required by the law of that foreign jurisdiction to be provided to a person employed in the service of the government of that foreign jurisdiction, relating to the collection of money for the purposes of general revenue of that government of a foreign jurisdiction; or
 - (c) willfully obstructs, hinders, intimidates or resists a person employed in the service of the government of that foreign jurisdiction in the collection of money for the purposes of general revenue of that government of a foreign jurisdiction,
commits an offence and is liable —
 - (i) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding one hundred thousand dollars or to both such fine and imprisonment; or
 - (ii) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine not exceeding five hundred thousand dollars or to both such fine and imprisonment;
- (2) A court shall order to be forfeited to the Crown, in addition to any other penalty provided by this section —
 - (a) any property which has been used in the commission of, or in connection with an offence under this section; or
 - (b) any property received or possessed by any person as a result or product of any offence under this section,
whether or not any person has been convicted of such offence.
- (3) In this section —
 - (a) an allegation made in proceedings for an offence under this section, that monies in relation to general revenue were owed to the government of that foreign jurisdiction by the defendant, and not paid as required by the law of that foreign jurisdiction, shall be presumed to be true, unless evidence to the contrary is provided by the defendant;
 - (b) an allegation made in proceedings for an offence under this section, that information in relation to general revenue, as required by the law of that foreign jurisdiction to be provided to that government of a foreign jurisdiction, by the defendant, was not so provided, shall be presumed to be true, unless evidence to the contrary is provided by the defendant;
- (4) For the avoidance of doubt, the onus shall be on the defendant to prove that any monies owed, or information required to be provided

in relation to general revenue, were respectively lawfully paid or provided to the government of that foreign jurisdiction, as required by the law of that foreign jurisdiction.”.