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1 AN ACT

2
3 to amend Sections 203, 205, 216, 238, 243, 245, 246, 258, and 263 of the Proceeds of Crime
4 Act, 2002 in order to improve the Act and to ensure compliance with international anti-
5 money laundering and combating the financing of terrorism standards.

6
7 BE IT ENACTED BY THE NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS:

8
9 Section 1. Short Title

10 This Act may be cited as the Proceeds of Crime (Amendment) Act, 2011.

11 Section 2. Amendments

12 (1) Section 203 is amended to read as follows:

13 **§203. Purpose.**

14 The purpose of this Act is to provide for the forfeiture and confiscation of the
15 proceeds of crime, property used or intended to be used in the commission of a serious
16 offense, or property of corresponding value.

17
18 (2) Section 205(1)(c)(iii) is amended to read as follows:

19 **§205. Interpretation.**

20 (1)(c) “covered property” means:

21 (iii) any property captured under this Act that is held by a third person.

22
23 (3) Section 205 Subsection (1)(p) is amended to read as follows:

24 **§205 Interpretation.**

25 (1)(p) “tainted property” means:

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1 (i) property used, or intended to be used, in the commission of a serious
2 offense, or in connection with the commission of a serious offense;

3 (ii) proceeds of crime, as defined in paragraph (k) of this section; or

4 (iii) property of corresponding value.
5

6 (4) Section 216 Subsection (1)(b) is amended to read as follows:

7 **§216 Application for confiscation order or pecuniary penalty order.**

8 (1)(b) a pecuniary penalty order against the defendant in respect of benefits
9 derived by the defendant from the commission of the offense; provided, however, such
10 application must be made within 2 years of the date the defendant was convicted of the
11 serious offense.
12

13 (5) Section 238(1)(a) is amended to read as follows:

14 **§238 Restraining orders.**

15 (1)(a) the defendant has been convicted of a serious offense, or has been charged
16 or is about to be charged with a serious offense, or is under investigation for a serious
17 offense.
18

19 (6) Section 243(2) is amended to read as follows:

20 **§243. Duration of restraining order.**

21 (2) the period of 2 years from the date on which it is made or such later time as
22 the High Court may determine; or

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1 (7) Section 245(1) is amended to read as follows:

2 **§245. Extension of restraining orders.**

3 (1) The Attorney General may apply to the High Court that entered a restraining
4 order for an extension of the period of the operation of the order.

6 (8) Section 246(1) is amended to read as follows:

7 **§246. Realization of covered property.**

8 (1) Where:

9 (a) a pecuniary penalty order is made;

10 (b) all conditions of the order have been met; and

11 (c) the order is not discharged, the High Court may, on an application by
12 the Attorney General, exercise the powers conferred upon the High Court by this
13 section with respect to covered property.

15 (9) Section 258(1) is amended to read as follows:

16 **§258 Production orders.**

17 (1) Where an individual has been charged, or is about to be charged with, or
18 convicted of a serious offense, and a police officer has probable cause to believe that any
19 person has possession or control of:

20 (a) a document relevant to identifying, locating or quantifying property of
21 the defendant, or to identifying or locating a document necessary for the transfer
22 of property of the defendant; or

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1 (b) a document relevant to identifying, locating or quantifying tainted
2 property in relation to the offense, or to identifying or locating a document
3 necessary for the transfer of tainted property in relation to the offense, the police
4 officer may apply ex parte and in writing to a judge for an order against the
5 person suspected of having possession or control of a document of the kind
6 referred. The application shall be supported by an affidavit.

7

8 (10) Section 263(1) is amended to read as follows:

9 **§263. Search warrant for location of documents relevant to locating property.**

10 (1) Where:

11 (a) an individual has been charged, or is about to be charged, with or
12 convicted of a serious offense; or

13 (b) The police officer has probable cause to believe that there is, or may be
14 within the next 72 hours, upon any land or upon or in any premises, a document
15 of the type described in subsection 258(1) in relation to the offense; the police
16 officer may make application ex parte supported by sworn affidavit to a judge for
17 a search warrant in respect of that land or those premises.

18 Section 3. **Effective Date**

19 This Act shall take effect on the date of certification in accordance with the
20 Constitution and the Rules of Procedures of the Nitijela.

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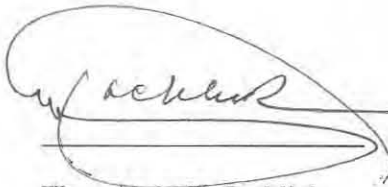
CERTIFICATE

I hereby certify:

1. That Nitijela Bill No: 83 was passed by the Nitijela of the Republic of the Marshall Islands on the 1st day of March, 2011; and
2. That I am satisfied that Nitijela Bill No: 83 was passed in accordance with the relevant provisions of the Constitution of the Republic of the Marshall Islands and the Rules of Procedures of the Nitijela.

I hereby place my signature before the Clerk this 18th day of March, 2011

Attest:



Hon. Alvin T. Jacklick

Speaker

Nitijela of the Marshall Islands



Gary Ueno

Clerk

Nitijela of the Marshall Islands