



BERMUDA

PROCEEDS OF CRIME (DESIGNATED COUNTRIES AND TERRITORIES)
AMENDMENT ORDER 2014

BR 78 / 2014

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The Minister responsible for justice, in exercise of the power conferred by section 53 of the Proceeds of Crime Act 1997, makes the following Order:

Citation

1 This Order, which amends the Proceeds of Crime (Designated Countries and Territories) Order 1998 (the “principal Order”), may be cited as the Proceeds of Crime (Designated Countries and Territories) Amendment Order 2014.

Amends Article 2

2 Article 2 of the principal Order is amended in the definition of “the Act” by inserting after the words “Parts I, III” the word “, IV”.

Amends Schedule 1

3 Schedule 1 to the principal Order is amended by inserting the following in its proper alphabetical order—

Designated Country

“Philippines, Republic of the

Appropriate Authority

The Department of Justice”.

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Amends Schedule 2

4 Schedule 2 to the principal Order is amended—

- (a) by deleting paragraph 18 and substituting the following—
- “18 (1) Sections 37 to 39 shall apply subject to the provisions of section 6 of the Criminal Justice (International Co-operation) (Bermuda) Act 1994 (Bermudian evidence for use overseas), as modified by section 37(12) of the Act, having been complied with.
- (2) Sections 40 to 53 shall be omitted.”; and

- (b) by inserting after paragraph 19 the following—

“19A For section 58 there shall be substituted—

“Duty of confidentiality: police officers

58 (1) Except for the purpose of the performance of his duties or the exercise of his functions or when lawfully required to do so by any court or under the provisions of any enactment, no police officer shall disclose any information or matter, including any information or matter concerning an external confiscation order, which has been obtained by him in the performance of his duties or the exercise of his functions under this Act without the consent of the person to whom it relates (and if different) the person from whom it was received as aforesaid.

(2) A police officer who contravenes this section shall be guilty of an offence and shall be liable on summary conviction to a fine of \$50,000 or to imprisonment for two years or to both.”

19AA After section 58 there shall be inserted—

“Duty of confidentiality: persons other than police officers

58A (1) Except as provided in this section, no person who under or for the purposes of this Act receives from any person any information or matter, including any information or matter concerning—

- (a) a request for assistance;
- (b) the compliance with any such request;
- (c) an external confiscation order,

shall disclose such information or matter without the consent of the person to whom it relates (and if different) the person from whom it was received as aforesaid.

(2) This section does not apply to a person who

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discloses information necessary to give effect to a request for assistance or when lawfully required to do so by any court or under the provisions of any enactment, or to information which at the time of the disclosure has already been made available to the public from other sources, or to information in the form of a summary or collection of information so framed as not to enable information relating to any particular person to be ascertained from it.

(3) A person who contravenes subsection (1) shall be guilty of an offence and shall be liable on summary conviction to a fine of \$50,000 or to imprisonment for two years or to both.”.

Amends Schedule 3

5 Schedule 3 to the principal Order is amended by deleting section 58 and substituting the following sections—

“Duty of confidentiality: police officers

58 (1) Except for the purpose of the performance of his duties or the exercise of his functions or when lawfully required to do so by any court or under the provisions of any enactment, no police officer shall disclose any information or matter, including any information or matter concerning an external confiscation order, which has been obtained by him in the performance of his duties or the exercise of his functions under this Act without the consent of the person to whom it relates (and if different) the person from whom it was received as aforesaid.

(2) A police officer who contravenes this section shall be guilty of an offence and shall be liable on summary conviction to a fine of \$50,000 or to imprisonment for two years or to both.

Duty of confidentiality: persons other than police officers

58A (1) Except as provided in this section, no person who under or for the purposes of this Act receives from any person any information or matter, including any information or matter concerning—

- (a) a request for assistance;
- (b) the compliance with any such request;
- (c) an external confiscation order,

shall disclose such information or matter without the consent of the person to whom it relates (and if different) the person from whom it was received as aforesaid.

(2) This section does not apply to a person who discloses information necessary to give effect to a request for assistance or when lawfully required to do so by any court or under the provisions of any enactment, or to information which at the time of the disclosure has

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already been made available to the public from other sources, or to information in the form of a summary or collection of information so framed as not to enable information relating to any particular person to be ascertained from it.

(3) A person who contravenes subsection (1) shall be guilty of an offence and shall be liable on summary conviction to a fine of \$50,000 or to imprisonment for two years or to both.”.

Amends Appendix

6 The Appendix to the principal Order is amended—

(a) by inserting the following in its proper alphabetical order—

| <u>Designated Country</u> | <u>Point at which proceedings are instituted</u> |
|-------------------------------|--|
| “Philippines, Republic of the | when an information or complaint has been filed in respect of an offence”; |

(b) by deleting the entry relating to the United States of America and substituting the following—

| <u>Designated Country</u> | <u>Point at which proceedings are instituted</u> |
|---------------------------|--|
| “United States of America | when an indictment, information or complaint has been filed in respect of an offence”. |

Made this 18th day of September 2014

Minister of Legal Affairs