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GRENADA

ACT NO. 18 OF 1999

I assent,



DANIEL CHARLES WILLIAMS

Governor-General.

19th July, 1999.

An Act to make provision for the prevention and prohibition of money laundering and to provide for matters connected therewith or incidental thereto.

[Gazetted 23rd July, 1999].

Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Grenada, and by the authority of the same follows:

1. This Act may be cited as the

Short title.

MONEY LAUNDERING (PREVENTION) ACT, 1999

2.— (1) In this Act—

Interpretation

“account” means any facility or arrangement through which a financial institution accepts deposits or allows withdrawals and includes a facility or arrangement for—

(a) a fixed term deposit; and

(b) a safety deposit box;

"benefit" is to be construed in accordance with section 4 (1) of the Proceeds of Crime Act;

"business transaction" means any arrangement, including opening an account, between two or more persons where the purpose of the arrangement is to facilitate a transaction between the persons concerned and includes any related transaction between any of the persons concerned and another person;

"business transaction record" includes, where relevant to a business transaction—

(a) the identification of all the persons party to that transaction;

(b) a description of that transaction sufficient to identify its purpose and method of execution;

(c) the details of any account used for that transaction, including bank, branch and sort code; and

(d) the total value of that transaction;

"Competent Authority" means the Director of Public Prosecutions and includes any person authorized by him in writing in that behalf;

"confiscation order" has the meaning assigned to it by section 3 of the Proceeds of Crime Act;

“document” means any record of information, and includes—

- (a) anything on which there is writing;
- (b) anything on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them;
- (c) anything from which sounds, images or writings can be reproduced with or without the aid of anything else; or
- (d) a map, plan, drawing or photograph.

“financial institution” means any person whose regular occupation or business is the carrying on of—

- (a) any activity listed in the First Schedule; or First Schedule.
- (b) any other activity defined by the Minister of Finance by an order amending the First Schedule;

“forfeiture order” has the meaning assigned to it by section 3 of the Proceeds of Crime Act; Cap. 4, Vol. 1
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“freezing” means temporarily prohibiting the transfer, conversion, disposition or movement of property or temporarily assuming custody or control of property pursuant to an order by a court;

“identification record” means—

- (a) in the case of a body corporate, the details—

- (i) of the certificate of incorporation of such body corporate, duly notarised where such body corporate is incorporated outside Grenada;
 - (ii) of the most recent annual return of such body corporate filed with the Registrar, duly notarised where such body corporate is incorporated outside Grenada; and
 - (iii) of every officer of such body corporate;
- (b) in the case of a natural person, sufficient documentary evidence to prove to the satisfaction of a financial institution that such person is who that person claims to be;

and for this purpose "person" includes any nominee, agent, beneficiary or principal of such person in relation to a business transaction;

"instrumentality" means a thing that is used in or intended for use in any manner in the commission of the offence of money laundering;

"interest" in relation to property, has the meaning assigned to it by section 3 of the Proceeds of Crime Act;

"money laundering" means—

- (a) engaging, directly or indirectly, in a transaction that involves property that is the proceeds of crime, knowing or believing the same to be the proceeds of crime; or

- (b) receiving, possessing, managing, investing, concealing, disguising, disposing of or bringing into Grenada any property that is the proceeds of crime, knowing or believing same to be the proceeds of crime;

“officer” in relation to a body corporate, has the meaning assigned to it by Act section 543 of the Companies Act; No. 35 of 1994.

“proceeds of crime” means any property or benefit that is derived, obtained or realised, directly or indirectly by any person from the commission of a scheduled offence;

“property” means real or personal property of every description, whether situated in Grenada or elsewhere and whether tangible or intangible and includes an interest in any such real or personal property;

“Registrar” has the meaning assigned to it by section 543 of the Companies Act; Act No. 35
of 1994.

“scheduled offence” means any of the offences specified in the Second Schedule, and includes— Second
Schedule.

- (a) the offence of conspiring to commit any of those offences;
- (b) the offence of aiding, abetting, counselling or procuring, or being in any way knowingly concerned in, the commission of any of those offences;

- (c) the offence of attempting to commit any of those offences;
- (d) the offence of inciting another person to commit any of those offences;

"Supervisory Authority" means the Supervisory Authority appointed under section 11;

"transaction" includes the receiving or making of a gift.

(2) Knowledge, intent, purpose, belief or suspicion required as an element of any offence under this Act may be inferred from objective, factual circumstances.

PART II

MONEY LAUNDERING PROHIBITED

3.— (1) Any person who, after the commencement of this Act, engages in money laundering commits an offence.

(2) An offence under subsection (1) includes—

- (a) an attempt to commit such offence;
- (b) conspiring to commit such offence;
- (c) aiding, abetting, counselling or procuring, or being in any way knowingly concerned in, the commission of such offence; or
- (d) inciting another person to commit such offence;

4. Where an offence under section 3 is committed by a body of persons, whether incorporated or unincorporated, every person who, at the time of the commission of such offence, acted in an official capacity for or on behalf such body of persons, whether as director, manager, secretary, or other officer, or was purporting to act in such capacity, commits the like offence unless it is shown that the conduct constituting that offence took place without such person's knowledge or consent, or that such person exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

Offence committed by a body corporate.

5. A person who commits an offence under the provisions of section 3 is liable, on conviction or indictment thereof, to a fine of one million dollars or to imprisonment for twenty-seven years, or to both such fine and imprisonment.

Penalty for money laundering.

6.—(1) Any person who knows or has reason to believe or suspect that an investigation into money laundering is taking place or about to take place, and discloses any information likely to prejudice such investigation to another person, commits an offence.

Tipping off.

(2) A person who commits an offence such as is described in subsection (1) is liable, on summary conviction thereof, to a fine of five hundred thousand dollars or to imprisonment for a term of five years, or to both such fine and imprisonment.

7.—(1) Any person who falsifies, conceals, destroys, disguises or otherwise disposes of or causes or permits the falsification, concealment, destruction, disguise or disposal of any document or material which is relevant, or likely to be relevant, to an investigation into money laundering or to any order made pursuant to, or in accordance with, the provisions of this Act, commits an offence.

Falsification, concealment, etc. of document.

(2) A person who commits an offence such as described in subsection (1) shall be liable, on summary conviction thereof, to a fine of five hundred thousand dollars or to imprisonment for a term of five years, or to both such fine and imprisonment.

PART III

POWERS OF INVESTIGATION

8.—(1) A police officer, above the rank of Sergeant, may for the purposes of an investigation into an offence of money laundering under this Act, apply to a Magistrate for a warrant to search specified premises.

(2) If a Magistrate is satisfied on information on oath given by a police officer referred to in subsection (1) that—

- (a) there is reasonable ground for suspecting that an offence under this Act has been or is being committed and that evidence of the commission of the offence may be found at any premises in the information or in any vehicle, vessel or aircraft so specified in the information; or
- (b) any computer, computer disk, record voucher document, cash or securities, which may relate to an offence under this section, may be found on any premises, or in a vehicle, vessel or aircraft specified in the information,

he may grant a search warrant authorizing the police officer referred to in subsection (1) together with other police officers to enter the premises specified in the information or, as the case may be, any premises upon which the vehicle, vessel or aircraft so specified may be, at any time within one month from the date of the warrant; to search the premises or as the case may be, the vehicle, vessel or aircraft.

(3) The police officer referred to in subsection (1) or any other officer accompanying him may search any premises, vehicle, vessel or aircraft may search every person who is found in or whom he has reasonable grounds to believe to have recently left or to be about to enter such premises, vehicle, vessel or aircraft, as the case may be and may seize any computer, computer disk, records, vouchers, documents, cash or securities found in the possession or under the control of such person or in such premises or in such vehicle, vessel or aircraft.

(4) Where a police officer referred to in subsection (1) is granted a search warrant to enter any premises, vehicle, vessel or aircraft, he may use such force as is reasonably necessary for the purpose of executing the warrant.

(5) No female person shall, in pursuance of a warrant issued under this section, be searched except by a female police officer.

(6) A person who obstructs or in any way hinders a police officer in the execution of a warrant issued under this section or section 10 commits an offence and shall be liable on summary conviction to a fine of ten thousand dollars or imprisonment for one year or to both such fine and imprisonment.

9. Where an application for a warrant under section 8 is refused, a police officer referred to in section 8(1) may apply to a Judge in Chambers for such warrant.

10. Where a police officer has entered premises in the execution of a warrant issued under this section, he may seize and retain any material, which is likely to be of substantial value, whether by itself or together with other material, to the investigation for the purpose of which the warrant was issued.

PART IV

ANTI-MONEY LAUNDERING SUPERVISION

11. The Minister of Finance shall appoint a person or a group of persons to constitute an authority to be known as the "Supervisory Authority" to supervise financial institutions in accordance with the provisions of this Act.

12. The Supervisory Authority—

- (a) shall receive the reports issued by financial institutions pursuant to the provisions of section 15 (2);
- (b) shall send any such report to the competent authority if, having considered the report, the Supervisory Authority also has reasonable grounds to believe that an offence of money laundering has been, is being, or is about to be committed;
- (c) or a person authorized by the Supervisory Authority for such a purpose, may enter into the premises of any financial institution

during normal working hours to inspect any business transaction record kept by that financial institution pursuant to section 14 (a) and ask any questions relevant to such record, and make any notes or take copies of the whole or any part of any such record;

- (d) shall send to the competent authority any information derived from an inspection carried out pursuant to paragraph (c), if it gives the Supervisory Authority reasonable grounds to believe that an offence of money laundering has been, is being, or is about to be committed;
- (e) shall destroy any note or copy thereof made or taken pursuant to the provisions of paragraph (c) within three years of an inspection, except where any such note or copy has been sent to the competent authority;
- (f) may instruct any financial institution to take such steps as may be appropriate to facilitate any investigation anticipated by the Supervisory Authority following a report or investigation made under this section;
- (g) may compile statistics and records, disseminate information within or outside Grenada, make recommendations arising from any information received, issue guide-lines to financial institutions and advise the Minister of Finance and the Attorney General concerning any matter relating to money laundering; and

- (h) shall establish training requirements and provide such training for any financial institution in respect of the business transaction record-keeping and reporting obligations as provided under sections 14 (a) and 15 (2) respectively.

13. The Permanent Secretary of the Ministry of Finance may issue a Code of Practice for the purpose of giving practical guidance with respect to any requirements of this Act.

14. A financial institution shall—

- (a) keep a business transaction record of any business transaction for a period of seven years following the termination of the business transaction so recorded;
- (b) comply with any instruction issued to it by the Supervisory Authority pursuant to section 12 (f);
- (c) permit the Supervisory Authority or its authorized representative, upon request to enter into any premises of such financial institution during normal working hours and inspect the records kept pursuant to paragraph (a), and to make any notes or take copies of the whole or any part of any such records and shall answer any question of the Supervisory Authority in relation to such records; and

- (d) comply with the guide-lines issued and training requirements established by the Supervisory Authority in accordance with paragraphs (g) and (h) respectively of section 12.

15.— (1) A financial institution shall pay special attention to all complex, unusual or large business transactions, or unusual patterns of transactions, whether completed or not, and to insignificant but periodic transactions which have no apparent economic or lawful purpose.

Reporting of
suspicious
business
transactions.

(2) Upon reasonable suspicion that any transaction such as described in subsection (1) could constitute or be related to money laundering, a financial institution shall promptly report such transaction to the Supervisory Authority.

(3) A financial institution shall not notify any person other than a court, the competent authority or other person authorized by law, that information has been requested by or furnished to a court or the Supervisory Authority.

(4) Where a report such as referred to in subsection (2) is made in good faith, a financial institution that makes such report and any employee, director, manager, secretary or other officer of such financial institution shall be exempted from any criminal, civil or administrative liability, as the case may be, for making such a report or otherwise complying with the provisions of this section, or for breach of any restriction on disclosure of information.

(5) A financial institution or any employee, director, manager, secretary or other officer of such financial institution who, acting as such, wilfully fails to comply with the requirements of this section, or who wilfully makes a false or falsified report in purported compliance with the requirements of this section, commits an offence and shall be liable on summary conviction to a fine of two hundred and fifty thousand dollars and, in addition the licence of that financial institution to operate as such may be revoked by the Magistrate.

(6) Without prejudice to any criminal or civil liability for an offence relating to money laundering, a financial institution or any employee, director, manager, secretary or other officer of such financial institution who fails to comply with the requirements of this section commits an offence, and is liable on summary conviction thereof to a fine of one hundred thousand dollars and, in addition, the licence of such financial institution to operate as such may be suspended or revoked.

(7) The question whether a reasonable suspicion for the purpose of subsection (2) has been formed shall be determined objectively having regard to all the facts and surrounding circumstances.

16. Where upon application to a Judge by the Supervisory Authority the Judge is satisfied that there are reasonable grounds for believing that—

- (a) a financial institution has failed to keep a business transaction record as required by section 14 (a);
- (b) a financial institution has failed to report any business transaction as required by section 15 (2); or

- (c) an employee, director, manager, secretary or other officer of a financial institution has committed, is committing or is about to commit the offence of money laundering,

such Judge may issue a search warrant authorising the Supervisory Authority, with the assistance of a police officer, to enter any premises belonging to, or in the possession or under the control of, that financial institution or any employee; director, manager, secretary or other officer of that financial institution, and to search any such premises and remove any document, material or other thing therein for the purposes of the Supervisory Authority as ordered by the Judge and specified in such search warrant.

17. Where upon application to a Judge by the Supervisory Authority the Judge is satisfied that—

Property tracking and monitoring orders.

- (a) there are reasonable grounds for believing that a person has committed, is committing or is about to commit the offence of money laundering; and
- (b) it is necessary to determine whether any property belongs to, or is in the possession or under the control of that person,

such Judge may make an order—

- (a) that any document relevant to—
- (i) identifying, locating or quantifying any such property; or
- (ii) identifying or locating any document necessary for the transfer of any such property, and

belonging to, or in the possession or under the control of that person, should be delivered forthwith to the Supervisory Authority;

- (b) that a financial institution forthwith produce to the Supervisory Authority all information obtained by such financial institution about any business transaction conducted by or for that person with the financial institution during such period before or after the date of the order as the Judge directs.

18.—(1) Where upon application to a Judge by the Supervisory Authority the Judge is satisfied that a financial institution has failed without reasonable excuse to comply in whole or in part with any of the requirements of sections 14 and 15 (2), such Judge may grant a mandatory injunction against any or all of the employees, directors, managers, secretaries and other officers of that financial institution, in such terms as the Judge deems necessary to enforce compliance with the said requirements.

(2) In granting an injunction under subsection (1), the Judge may order that in the event that a financial institution or any employee, director, manager, secretary or other officer of such financial institution fails without reasonable excuse to comply with all or any of the terms of that injunction, that financial institution or any such employee, director, manager, secretary or other officer shall pay a pecuniary penalty in the sum and in the manner directed by the Judge not exceeding two hundred and fifty thousand dollars.

19.—(1) The Minister of Finance may revoke the licence issued to a financial institution licensed to engage in offshore banking, insurance, trust or betting business if an employee or officer of that institution—

- (a) is convicted of an indictable offence or an offence under this Act after the issue of such licence;
- (b) failed to disclose any conviction, whether in Grenada or elsewhere, at the time of the application for the licence;
- (c) is the subject of any criminal investigation whether in Grenada or elsewhere and whether before or after the grant of the licence.

(2) In this section "indictable offence" has the meaning assigned to it by section 3 of the Criminal Code.

20. A person who leaves Grenada with more than one hundred thousand dollars in cash or negotiable bearer instruments, in Eastern Caribbean currency or equivalent foreign currency, without first having declared the same to the Supervisory Authority commits an offence and is liable on summary conviction thereof, to a fine of one hundred thousand dollars.

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Currency
declaration, etc

PART V

FREEZING, FORFEITURE AND CONFISCATION OF ASSETS IN RELATION TO MONEY LAUNDERING

21.—(1) Where a person has been charged or is about to be charged with the offence of money laundering under this Act, the Competent Authority may make an application to a Judge for a restraining order in accordance with subsection (2) freezing any property in the possession or under the control of that person which is alleged or suspected, on reasonable grounds, to be the proceeds of crime, wherever such property may be.

Restraining
order.

(2) An application under subsection (1) may be made *ex parte* to a Judge in Chambers and shall be accompanied by an affidavit sworn to by the competent authority or any other person deposing to the following matters—

- (a) the offence or matter under investigation;
- (b) the person who is believed to be in possession of the property;
- (c) a description of the property; and
- (d) the grounds for the belief that an order of forfeiture may be made under this Act;

(3) Where the Judge to whom an application for a restraining order is made under subsection (1) is satisfied that there are reasonable grounds for believing that there exists any property in respect of which an order of forfeiture may be made under this Act, the Judge may make an order—

- (a) prohibiting any person from disposing of, or otherwise dealing with any interest in, that property specified in the order otherwise than in such manner as may be specified in such order; and
- (b) at the request of the competent authority, where the Judge is of the opinion that the circumstances so require—

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- (i) appointing a person to take control of, and to manage or otherwise deal with, all or part of that property in accordance with the directions of the Judge; and
 - (ii) requiring any person having possession of that property to give possession of the property to the person appointed under subparagraph (i).

(4) The Judge, in making an order under subsection (3), may give directions as to the disposal of the property in question for the purpose of—

- (a) determining any dispute as to the ownership of the property or any part thereof;
- (b) the proper administration of the property during the period of freezing;
- (c) the payment of debts owed to creditors prior to such order; and
- (d) payment of moneys to that person for the reasonable subsistence of that person and his family.

(5) An order made under subsection (3) shall provide for notice to be given to persons affected by the order in such manner as the Judge directs or as may be prescribed by rules of court.

(6) An order made under this section shall cease to have effect at the end of the period of forty-eight hours following the hour such order was made, if the person against whom the order was made has not been charged with the offence of money laundering under this Act within that period.

(7) Any person to whom notice of an order made under subsection (3) is given in accordance with this section and who, while such order is in force, contravenes or fails to comply with such order, commits an offence and, without prejudice to any penalty or sanction provided for or available under any other law, is liable on summary conviction thereof, to a fine of five thousand dollars or to a term of imprisonment for five years, or to both such fine and imprisonment.

22.—(1) Subject to subsection (2), where a person is convicted of the offence of money laundering under this Act, the court which convicts such person shall order that any property derived from, or instrumentalities connected with, or related to, the offence should be forfeited or confiscated and, for this purpose, the court may make a forfeiture order or confiscation order.

(2) Part II of the Proceeds of Crime Act, incorporating sections 5 to 24 thereof, shall apply, *mutatis mutandis*, in relation to the making of a forfeiture order or confiscation order under subsection (1).

23. The provisions of sections 21 and 22 shall only apply to property coming into the possession or under the control of a person after the coming into operation of this Act.

PART VI

MISCELLANEOUS

24. Money laundering is an offence for the purpose of any law relating to extradition or the rendition of fugitive offenders.

Money laundering an extradition offence.

25. Subject to the provisions of the Constitution, the provisions of this Act shall have effect notwithstanding any obligation as to secrecy or other restriction upon the disclosure of information imposed by any law or otherwise.

Secrecy obligations overridden.

26. It shall not be unlawful for any person to make any disclosure in compliance with the provisions of this Act.

Disclosure protected.

27.—(1) No prosecution in respect of any offence committed under this Act or the regulations made thereunder shall be instituted except with the consent in writing of the Director of Public Prosecutions.

Prosecution of offences.

(2) All offences under this Act shall be tried on indictment unless otherwise—

(a) provided in this Act; or

(b) directed by the Director of Public Prosecutions.

28. A prosecution for an offence or other proceeding instituted under this Act or the regulations made under this Act shall be instituted within six years from the date such offence was committed or the cause of action accrued, as the case may be.

Limitation of proceedings.

ations.

29.—(1) The Minister of Finance may make regulations prescribing any matter necessary or convenient to be prescribed for giving effect to the provisions of this Act and for its due administration.

(2) Regulations made under subsection (1) may, subject to such conditions, limitations, exceptions and qualifications, if any, as may be prescribed, extend the application of any Act so as to enable Grenada to take appropriate measures to cooperate with any foreign State specified in such regulations in matters concerning or relating to money laundering, and such Act shall apply accordingly.

(3) Any regulations made under subsection (1) shall be subject to negative resolution of the House of Representatives.

(4) A fine of one hundred thousand dollars or imprisonment for two years may be attached to regulations made under subsection (1).

eral penalty .

30. A person who commits an offense under this Act for which no penalty is specified shall be liable on summary conviction to a fine of two hundred and fifty thousand dollars or imprisonment for a term of five years, or both.

n commencement.

31. This Act shall come into operation on such date as may be designated by the Governor-General by proclamation.

"FIRST SCHEDULE

Section (2)

ACTIVITIES OF FINANCIAL INSTITUTIONS

1. "Banking business" as defined in the Banking Act; Act No. 40
of 1993.
2. "Offshore banking business" as defined in the Offshore Banking Act; Act No. 39
of 1996.
3. Venture risk capital business;
4. Money transmission services;
5. Issuing and administering means of payments (e.g., credit cards, travellers' cheques and bankers' drafts);
6. Guarantees and commitments;
7. Trading for own account or for account of customers in—
 - (a) money market instruments (e.g., cheques, bills, certificates of deposits, commercial paper, etc.);
 - (b) foreign exchange;
 - (c) financial and commodity-based derivative instruments (e.g. futures, options, interest rate and foreign exchange instruments, etc.);
 - (d) transferable or negotiable instruments;
8. Money broking;
9. Money lending and pawning;
10. Money exchange (e.g., *case de cambio*);
11. Insurance business (transactions in or outside of Grenada);

12. Real property business transactions;
13. Credit unions business transactions;
14. Building societies business transactions;
15. Trust business (in or outside of Grenada)
16. Offshore betting under the International Betting Act, 1998.

SECOND SCHEDULE

(section 2)

OFFENCES

1. The commission in Grenada of any offence under the Drug Abuse (Prevention and Control) Act.

2. The commission in Grenada of any offence which is punishable with imprisonment for a term of five years or any greater punishment.

3. An act that—

(a) occurred outside Grenada; and

(b) would, if it had occurred in Grenada, have constituted an offence under the Drug Abuse (Prevention and Control) Act.

4. An act that—

(a) occurred outside Grenada; and

(b) would, if it had occurred in Grenada, have constituted an offence which is punishable with imprisonment for a term of five years or any greater punishment.

Passed by the House of Representatives this 28th day of May, 1999.

ABEL NEWTON
Clerk to the House of Representatives.

Passed by the Senate this 24th day of June, 1999.

ABEL NEWTON
Clerk to the Senate.

GRENADA
