

L.N. 284 of 2018

**CRIMINAL CODE
(CAP. 9)**

Asset Recovery Bureau (Amendment) Regulations, 2018

IN EXERCISE of the powers conferred by article 700 of the Criminal Code, the Minister for Justice, Culture and Local Government, has made the following regulations:-

1. The title of these regulations is the Asset Recovery Bureau (Amendment) Regulations, 2018, and these regulations shall be read and construed as one with the Asset Recovery Bureau Regulations, hereinafter referred to as "the principal regulations".

Citation.

S.L. 9.23.

2. Regulation 6 of the principal regulations shall be amended as follows:

Amends
regulation 6 of
the principal
regulations.

(a) in sub-regulation (1) thereof:

(i) paragraph (a) shall be substituted by the following new paragraph:

"(a) be entrusted with the proper and efficient tracing, collection, storage, preservation, management and disposal, either in whole or in part, of proceeds of crime or property the value of which corresponds to such or proceeds, in favour of government;"

(ii) paragraph (c) shall be substituted by the following new paragraph:

"(c) administer, sell, transfer, exchange, dispose of in whatever manner and deposit in the consolidated fund any money the value whereof corresponds to such property recovered from proceeds of crime;"

(iii) paragraph (d) shall be substituted by the following new paragraph:

"(d) redeem, withdraw and cash any proceeds and property deriving from criminal conduct;"

(iv) paragraph (f) shall be substituted by the following new paragraph:

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"(f) institute such proceedings to recover proceeds of crime and to dispose of such property in favour of government;"

(b) in sub-regulation (2) thereof, the words "the Criminal Court." shall be substituted by the words "a court of criminal judicature."; and

(c) in sub-regulation (3) thereof, the words "Bureau." shall be substituted by the words "Bureau in terms of any Memorandum of Understanding between the Registrar and the Bureau.".

Amends
regulation 7 of
the principal
regulations.

3. Regulation 7 of the principal regulations shall be amended as follows:-

(a) in sub-regulation (2) thereof:

(i) paragraph (a) shall be substituted by the following new paragraph:

"(a) the identification of the proceeds of crime, wherever situated, which derive or are suspected to derive, directly or indirectly, from criminal conduct;"

(ii) paragraph (b) shall be substituted by the following new paragraph:

"(b) the taking of appropriate action in terms of law to deprive or to deny a person of the proceeds of crime or the benefit of such proceeds of crime, in whole or in part, as may be appropriate; and"

(b) in sub-regulation (3) thereof:

(i) in paragraph (c) the words "the Criminal Court" shall be substituted by the words "a court of criminal judicature"; and

(ii) in paragraph (d) the words "the Criminal Court." shall be substituted by the words "a court of criminal judicature.".

Amends
regulation 8 of
the principal
regulations.

4. Regulation 8 of the principal regulations shall be amended as follows:-

(a) sub-regulation (1) thereof shall be substituted by the following new sub-regulation:

"(1) Without prejudice to the provisions under any law

relating to the issue of an investigation order, for the purposes of an investigation into whether a person has benefited from proceeds of crime deriving from criminal conduct or which such person is in receipt of, or controls, such proceeds of crime, the Director may apply to a Magistrate for an order under this regulation in relation to making available any particular material or material of a particular description."; and

(b) paragraph (a) of sub-regulation (2) thereof shall be substituted by the following new paragraph:

"(a) that there are reasonable grounds for suspecting that the person has benefited from such proceeds of crime or is in receipt of, or controls, such proceeds of crime; and".

5. Sub-regulation (1) of regulation 9 of the principal regulations shall be substituted by the following new sub-regulation:-

Amends
regulation 9 of
the principal
regulations.

"(1) For the purposes of an investigation into whether a person has benefited from proceeds of crime deriving from criminal conduct or is in receipt of or controls such proceeds of crime, the Director may apply to a Magistrate for an order under this regulation in relation to obtaining information regarding any trust in which the person may have an interest or with which he may be otherwise connected.".

6. Regulation 31 of the principal regulations shall be substituted by the following new regulation:-

Substitutes
regulation 31 of
the principal
regulations.

"31. The Bureau may delegate to any natural or legal person any of its functions in relation to the administration and management of any property or proceeds in relation to which an attachment, freezing or confiscation order has been issued.".

7. Regulation 32 of the principal regulations shall be substituted by the following new regulation:-

Substitutes
regulation 32 of
the principal
regulations.

"32. The provisions of articles 23D, 673, 676, 677, 678, 679 and 685A, of the Criminal Code, the provisions of articles 5 and 11A of the Prevention of Money Laundering Act and the provisions of articles 22A and 22AB of the Dangerous Drugs Ordinance shall, *mutatis mutandis* apply to these regulations and any reference therein to the Registrar shall be construed as a reference to the Bureau.".

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Cap. 373.
Cap. 101.

8. In sub-regulation (1) of regulation 33 of the principal regulations the words "instrumentalities that have been seized" shall be substituted with the words "property in relation to which an

Amends
regulation 33 of
the principal
regulations.

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attachment, freezing or confiscation order has been issued".
