

CHAPTER 621

PROCEEDS OF CRIME ACT

AN ACT to provide for the identification, tracing, freezing and confiscation of proceeds of crime including laundered property, income and other benefits derived from such proceeds held by criminal defendants, property that is the proceeds of, or used in, or intended or allocated for use in the financing of terrorism, terrorist acts or terrorist organisations, for the setting up of the Asset Recovery Bureau as a body, independent of the Government, for the said purpose, for non-conviction based confiscation of proceeds of crime and other matters consequential or ancillary thereto.

12th March, 2021*

[ACT V of 2021](#), as amended by [Act LXVIII of 2021](#).

ARRANGEMENT OF ACT

		Articles
Part I	Preliminary	1 - 5
Part II	The Asset Recovery Bureau	6 - 27
Part III	The Civil Court (Asset Recovery Section)	28 - 32
Part IV	Orders	33 - 37
Part V	Special Procedures before the Civil Court (Asset Recovery Section)	38 - 42
Part VI	Non-conviction Based Confiscation	43 - 53
Part VII	International Cooperation	54 - 56
Part VIII	Regulations, Offences and Penalties	57 - 63
Part IX	Transitory Provisions	64

Schedule

PART I

Preliminary

1. The short title of this Act is the Proceeds of Crime Act. Short title .
2. (1) In this Act, unless the context otherwise requires: Interpretation.

"Board" means the Board of the Bureau established by article 7;

"Bureau" means the Asset Recovery Bureau established by article 6;

"category of cases" and "cases of any category" mean both actions *in personam* as well as actions *in rem* as provided for under this Act;

"Civil Court (Asset Recovery Section)" means the section of the Civil Court established in Part III;

*See Legal Notice [98 of 2021](#).

"confiscation" means taking or seizing a property by order of the competent authority that deprives the owner of his title, entirely or in part, for no compensation;

"Director" means the Director of the Bureau, and includes a member of the Directorate staff duly authorised by the Director and a contractor of the Bureau acting under the instructions of the Director;

"Minister" means the Minister responsible for justice;

"owner" means a person with an ownership or secured interest in property. "Owner" does not include a nominee who despite having legal title, does not exercise dominion and control over the property consistent with the rights of the true owner. "Owner" also does not include an unsecured creditor with a cause of action against the property owner or his estate but no interest in specific property;

"property" means all assets of any kind, tangible or intangible, moveable or immoveable, corporeal or incorporeal, and includes virtual assets and legal documents or instruments evidencing title to, or interest in, such assets, as well as one's entire patrimony;

"suspect" means a person suspected to have committed a relevant offence;

"virtual asset" means a digital representation of value that can be digitally traded, or transferred, and can be used for payment or investment purposes.

(2) (a) Where it is provided in this Act that an action may be instituted by "the Government" such action may be instituted by the Asset Recovery Bureau and the Commissioner of Police acting either individually or collectively provided that nothing in this sub-article shall be interpreted as allowing the filing of more than one action on the same claim by different applicants. The Asset Recovery Bureau and the Commissioner of Police may conclude a memorandum of understanding between them in order to determine the types of cases which shall be pursued by each or by more than one of them.

(b) In this Act unless the context otherwise requires, any reference to "a person" shall be deemed to be a reference to any person whether physical or moral, and includes a reference to an association or body of persons, whether corporate or incorporate and whether that association, body or other grouping is for a transitory period, or for a particular end, or otherwise.

3. (1) "Proceeds of crime" means any economic advantage or other benefit derived directly or indirectly from a relevant offence, including but not limited to any property or interest in property that would not have been obtained or retained but for the commission of the offence.

Proceeds of crime, facilitating property, and property subject to confiscation.

(2) Proceeds of crime may consist of any kind of property of any description and of whatsoever nature, whether movable or immovable, corporeal or incorporeal irrespective of whether such property is situated in Malta or otherwise and irrespective of by whom such property is held, and includes any subsequent reinvestment or transformation of proceeds.

(3) Proceeds of crime means the gross proceeds of a relevant offence without credit or deduction for any costs incurred in committing the offence or taxes paid or owing.

(4) "Facilitating property" means any property used or intended to be used to commit or to facilitate the commission of a relevant offence, such as by making the offence less difficult to commit or more or less free from obstruction or hindrance.

(5) "Property involved in money laundering" includes any proceeds of crime that are the subject of the money laundering transaction, any property commingled with the proceeds of crime at the time the money laundering transaction occurs, any property in which the proceeds of crime are invested or for which they are exchanged in the course of the money laundering offence, and any property used to facilitate the money laundering offence.

(6) "Property subject to confiscation" includes the proceeds of crime, facilitating property, and all property involved in a money laundering offence.

4. A "relevant offence" is any offence under any law, and not being an offence of an involuntary nature, liable to the punishment of imprisonment or detention for a maximum term of at least one (1) year unless otherwise provided for in another Part of this Act.

Relevant offence.

5. (1) The confiscation of the proceeds of crime under this Act shall not extinguish any liability of any person committing an offence from any liability for the payment of damages to any person as compensation for any loss suffered by such person as a consequence of an offence.

Liability for civil damages.

(2) Without prejudice to the provisions of this Act, any proceedings commenced before the coming into force of this Act in accordance with any other law or regulations shall continue to be governed and regulated by the provisions of that law or regulations.

Relation to other laws.

(3) When a law provides for the confiscation of assets of the accused as a consequence of a conviction, the provisions of such law

shall continue to apply in respect of such confiscation to the exclusion of the provisions of this Act, so however that the provisions of this Act shall nevertheless apply in respect of property which constitutes proceeds of crime and which is not subject to confiscation under any said law.

PART II

The Asset Recovery Bureau

Establishment of
the Asset Recovery
Bureau.

6. (1) There shall be established a body, independent of the Government, to be known as the Asset Recovery Bureau.

(2) Subject to the provisions of this Act and of any other law, it shall be the function of the Bureau to trace and identify proceeds of crime and any other property subject to confiscation, and to take action for their confiscation as well as their proper administration and disposal, and to assist other law enforcement and regulatory authorities in the fight against crime.

(3) The Bureau shall be a body having a distinct legal personality from that of the Government and shall be capable subject to the provisions of this Act to enter into contracts, to hold and dispose of property of any kind for the purpose of its functions, to sue and be sued and to enter into all such other transactions as are incidental or conducive for the proper performance of its functions.

(4) In the exercise of its functions under this Act, the Bureau shall not be subject to any direction or control by any person, authority or body.

(5) The Bureau shall consist of a Board and of a Directorate.

(6) The legal and judicial representation of the Bureau shall vest in the Chairperson:

Provided that the Board of the Bureau may appoint the Director or any one or more of the members of the Directorate staff to appear in the name and on behalf of the Bureau in any judicial proceedings and in any act, deed, contract or instrument or other document whatsoever.

(7) Any document purporting to be an instrument made or issued by the Bureau and signed by the Chairperson on behalf of the Bureau shall be received in evidence, and shall unless the contrary is proved, be deemed to be an instrument made or issued by the Bureau.

Board of the
Bureau.

7. (1) The Board of the Bureau shall consist of a Chairperson appointed by the Cabinet of Ministers, after consultation with the Leader of the Opposition, from among persons who have held the office of Judge or Magistrate, or who have held senior positions in the public service of Malta, and four (4) other members as follows:

- (a) the Commissioner of Police or his representative;
- (b) the Commissioner for Revenue or his representative;
- (c) the Chief Executive Officer of the Court Services Agency or his representative;
- (d) the Director of the Financial Intelligence Analysis Unit or his representative.

(2) One of the members of the Board of the Bureau shall be appointed by the Minister as Deputy Chairperson. The Deputy Chairperson shall have all the powers and perform all duties of the Chairperson during the absence of the Chairperson or during any period where the Chairperson cannot perform his function for any other cause, or during any vacancy in the office of the Chairperson.

(3) The Board may act notwithstanding any vacancy in its composition or during the absence of any of its members as long as the Chairperson or the Deputy Chairperson and any two (2) other members are present.

(4) A person shall not be qualified to be appointed, or to continue to hold office, as a member of the Board if he is:

- (a) interdicted or incapacitated;
- (b) has been declared bankrupt; or
- (c) has been found guilty of an offence in Malta or abroad other than:
 - (i) an offence of an involuntary nature; or
 - (ii) an offence liable to the punishment established for contraventions.

(5) For the purpose of paragraph (c) of sub-article (4) of this article a person who has been found guilty of an offence as specified in that paragraph shall still be disqualified to hold office notwithstanding that any punishment awarded has been suspended or such person has been conditionally released or put under probation without the infliction of any penalty or such person has been sentenced according to the [Probation Act](#) without the infliction of any penalty.

Cap. 446.

(6) The Chairperson and the Deputy Chairperson shall be appointed for a term of five (5) years and may be reappointed.

(7) Where a member of the Board holds office as the representative of another person as provided in paragraphs (a) to (d) of sub-article (1), such member shall be so appointed for a period of five

(5) years but may be reappointed.

(8) The Chairperson, the Deputy Chairperson and the other members of the Board, including such other members as are mentioned in sub-article (7) hereof shall discharge their duties in accordance with their own individual judgement and shall not be subject to the direction or control of any other person or authority.

(9) The members of the Board shall receive such remuneration as the Minister may determine upon their appointment.

(10) A member of the Board may not be removed from office, except by the President acting on the advice of the Cabinet of Ministers on grounds or inability to perform his function (whether arising from infirmity of body or mind or any other cause) or proved misbehaviour.

(11) The Minister shall appoint a person being an advocate or a legal procurator to act as Secretary to the Board.

(12) The minutes, discussions, deliberations and decisions of the Board shall be treated as confidential and shall not be disclosed except:

- (a) when authorised to do so under any of the provisions of this Act;
- (b) for the purpose of the performance of duties or the exercise of functions under this Act; and
- (c) to any competent entity, court or tribunal.

Functions of the Board.

8. (1) The Board shall be responsible to establish the policy to be adopted by the Bureau in the exercise of its functions under this Act.

(2) The Board shall be responsible to ensure that the Bureau carries out its functions in accordance with this Act and in accordance with any policy established by it.

(3) The Board may from time to time, if it thinks fit, make general rules for the guidance of the Directorate in the exercise of its functions under this Act, and may at any time revoke or vary such rules:

Provided that nothing in this sub-article shall be construed as authorising the said Board from giving directions with regard to the conduct of any investigation or other function of the Bureau in any particular case.

(4) The Board shall also verify and approve the accounts of the Bureau and the draft estimates and the financial plans of the Bureau,

prepared by the Director before their final submission to the Minister in accordance with this Act.

(5) The Board shall be kept informed by the Director on the general running of the Bureau and the said Director shall moreover inform the said Board of the general outcome of investigations and operations concluded by the Bureau.

9. (1) The Directorate of the Bureau shall consist of the Director who shall be the Chief Executive Officer of the Bureau, a Deputy Director and such other officers and employees of the Bureau as may be engaged by the Bureau from time to time. The Directorate.

(2) The Director shall be in charge of the overall management and executive action of the Bureau and shall keep the Board informed on the general running of the Bureau and of the general outcome of investigations and operations concluded by the Bureau.

(3) The Director shall be appointed by the Minister, after consultation with the Board, for such period and on such terms as the Minister may, in consultation with the Board, determine.

(4) The Deputy Director and the other officers and employees of the Directorate shall be selected by the Director and engaged by the Bureau in accordance with such procedures and on such terms as the Board may from time to time determine.

(5) The Deputy Director and the other officers and employees of the Directorate (hereinafter collectively referred to as the directorate staff) shall as far as possible be selected from among:

(a) members of the Executive Police, nominated and designated by the Commissioner of Police;

(b) officers in the departments falling under the headship of the Commissioner for Revenue nominated and designated by the Commissioner for Revenue; and

(c) public officers.

(6) The Bureau may also act through such contractors as it may from time to time engage:

Provided that such contractors shall at all times act in accordance with such instructions as may be given to them by the Director.

(7) The Director and the Directorate staff shall for all purposes of the [Criminal Code](#) be considered as public officers, and shall be afforded all protection and may incur all liability as such. Cap. 9.

(8) The Director and the Directorate staff shall, subject to any

contrary provision in this Act or in any other law, abide by any code of ethics applicable to public officers:

Provided that nothing in this sub-article may be deemed to preclude the Board to make further rules regulating the conduct of the Director and of the Directorate staff to supplement any such Code of Ethics.

Meetings of the Board.

10. (1) The Board shall meet at least ten (10) times a year so however that the Board shall ensure that the period of time between one meeting and another shall not exceed six (6) weeks. Other meetings of the Board shall be convened as may be necessary.

(2) The Secretary to the Board shall take minutes of decisions at its meetings. The minutes shall be signed by the Secretary and the Chairperson.

(3) The meeting of the Board shall be chaired by the Chairperson or in his absence the Deputy Chairperson.

(4) Decisions of the Board shall be adopted by a simple majority of votes of the members present and voting, and in the event of an equality of votes the Chairperson, or where the meeting is presided by the Deputy Chairperson, the Deputy Chairperson shall have and exercise a second or casting vote. The quorum at Board meetings shall consist of three (3) members.

(5) The Director shall be entitled to attend the meetings of the Board and to take part in the discussions. The Board may invite any other member of the Directorate staff to attend meeting of the Board and to participate in the discussions. The Director and any member of the Directorate staff taking part in any discussion of the Board of the Bureau shall not have a vote in the meetings in which they participate:

Provided that the Chairperson may, if he considers it proper so to do, at any time exclude the Director or any member of the Directorate staff invited to attend at a meeting of the Board from any meeting or part thereof.

(6) Any participation in a meeting of the Board of a person not entitled to be present shall not invalidate the proceedings of the meeting nor shall such proceedings be invalidated if it is subsequently discovered that a person acted in good faith as a member and a defect in his appointment or qualification is afterwards discovered.

(7) A week's notice shall be given to the members of the Board of any meeting thereof:

Provided that in case where an urgent situation arises and decisions are to be taken forthwith, decisions taken by at least two (2) members of the Board, one of whom being the Chairperson or the Deputy Chairperson, shall be valid as if taken by a meeting of the

Board regularly convened with proper notice.

(8) Subject to the other provisions of the this Act, the Board shall regulate its own proceedings.

11. Without prejudice to the other provisions of this Act, the appointment of officers and other employees of the Bureau shall be made by the Bureau. The terms and conditions of employment shall be established by the Bureau with the concurrence of the Minister.

Staff appointments.

12. The Bureau shall appoint and employ, at such remuneration and upon such time terms and conditions as it may, in accordance with articles 9 and 11, determine, such officers and employees of the Bureau as may from time to time be necessary for the due and efficient discharge of the functions of the Bureau.

Appointment and functions of officers and employees of the Bureau.

13. (1) The Prime Minister may, at the request of the Bureau, from time to time direct that any public officer shall be detailed for duty with the Bureau in such capacity and with effect from such date as may be specified in the Prime Minister's direction.

Detailing of public officers for duty with the Bureau.

(2) The period during which a direction as aforesaid shall apply to any officer specified therein, shall, unless the officer retires from the public service, or otherwise ceases to hold office at an earlier date, or unless a different date is specified in such direction, cease to have effect after one (1) year from the effective date of such direction unless the direction is revoked earlier by the Prime Minister.

14. (1) Where any officer is detailed for duty with the Bureau under any of the provisions of article 13, such officer shall, during the time in which such direction has effect in relation to him, be under the administrative authority and control of the Bureau but he shall for other intents and purposes remain and be considered and treated as a public officer.

Status of public officers detailed for duty with the Bureau.

(2) Without prejudice to the generality of the foregoing, an officer detailed for duty as aforesaid:

(a) shall not during the time in respect of which he is so detailed:

(i) be precluded from applying for a transfer to a department of the Government in accordance with the terms and conditions of service attached to the appointment under the Government held by him at a date on which he is so detailed for duty; or

(ii) be so employed that his remuneration and conditions of service are less favourable than those which are attached to the appointment under the Government held by him at the date aforesaid or which would have become attached to such appointment, during the said period, had such officer not been detailed for duty with the Bureau; and

Cap. 93.
Cap. 58.

(b) shall be entitled to have his service with the Bureau considered as service with the Government for the purposes of any pension, gratuity, or benefit under the [Pensions Ordinance](#) and the [Widows and Orphans' Pensions Act](#) and of any other right or privilege to which he would be entitled, and liable to any liability to which he would be liable, but for the fact of his being detailed for duty with the Bureau.

(3) Where an application is made as provided in sub-article (2)(a)(i) the same consideration shall be given thereto as if the applicant had not been detailed for service with the Bureau.

(4) The Bureau shall pay to the Government such contributions as may from time to time be determined by the Minister responsible for finance in respect of the cost of pensions and gratuities earned by an officer detailed for duty with the Bureau as aforesaid during the period in which he is so detailed.

Offer of permanent
employment with
the Bureau to
public officers
detailed for duty
with the Bureau.

15. (1) The Bureau may, with the approval of the Prime Minister, offer to any officer detailed for duty with the Bureau under any of the provisions of article 12 permanent employment with the Bureau at a remuneration and on terms and conditions not less favourable than those enjoyed by such officer at the date of such offer.

(2) The terms and conditions comprised in any offer made as aforesaid shall not be deemed to be less favourable merely because they are not in all respects identical with or superior to those enjoyed by the officer concerned at the date of such offer, if such terms and conditions, taken as a whole, in the opinion of the Prime Minister offer substantially equivalent or greater benefits.

Cap. 93.
Cap. 58.

(3) Every officer who accepts permanent employment with the Bureau offered to him under the provisions of sub-article (1) shall for all purposes other than those of the [Pensions Ordinance](#) and of the [Widows and Orphans' Pensions Act](#), and saving the provisions of sub-article (6), be deemed to have ceased to be in service with the Government and to have entered into service with the Bureau on the date of his acceptance, and for the purposes of the said Ordinance and of the said Act, so far as applicable to him, service with the Bureau shall be deemed to be service with the Government within the meanings thereof respectively.

(4) Every such officer as aforesaid who, immediately before accepting permanent employment with the Bureau, was entitled to benefit under the [Widows and Orphans' Pensions Act](#) shall continue to be so entitled to benefit thereunder to all intents as if his service with the Bureau were service with the Government. Cap. 58.

(5) The Bureau shall pay to the Government such contributions as may from time to time be determined by the Minister responsible for finance in respect of the cost of pensions and gratuities earned by an officer who has accepted performance of employment with the Bureau as aforesaid during the period commencing on the date of such officer's acceptance.

(6) (a) For the purposes of this article posts and salary grades with the Bureau shall be classified in the most nearly corresponding grades and incremental levels in the service under the Government of Malta by reference to job description, skills, responsibilities and other analogous factors.

(b) The classification referred to in paragraph (a) shall be carried out by a board composed of a chairman appointed by the Ministry responsible for finance and two (2) other members, one appointed by the Ministry responsible centrally for personnel policies in the public service and one appointed by the Bureau. The classification shall be subject to the final approval of the Minister responsible for finance.

(c) Such classification shall take place within three (3) months of any adjustment of salaries of employees in Government service and, or, of employees of the Bureau.

(d) No post shall be classified in a grade higher than that of a Grade 3 in the service of the Government or such other grade that the Minister responsible for finance may from time to time by notice in the Gazette determine.

(e) Without prejudice to article 113 of the [Constitution](#), no person may, following a classification as aforesaid, be entitled to rights under the said [Pensions Ordinance](#) less favourable than those to which he would have been entitled prior to such classification. Cap. 93.

16. (1) In the exercise of his functions under this Act, the Director and any member of the Directorate staff, authorised by him, shall have power to seek from any person or authority any information with regard to any person or with regard to any matter, and the person in possession of such information shall notwithstanding the provision of any law to the contrary be obliged to give the Director or any such member all information so requested: Right of the Bureau to acquire information.

Provided that:

(a) no advocate or legal procurator may be compelled

to disclose information derived from the professional confidence which the parties themselves shall have placed in their assistance and, or, advice;

(b) no clergyman may be questioned on any matter or circumstance that may have come to his knowledge under the seal of confession or *loco confessionis*:

Provided further that where any person or authority has acquired information from any person or authority in any State other than Malta through the operation of any treaty or arrangement with such other State to which Malta is a party, and such treaty or arrangement provides that any information passed through the operation of such treaty or arrangement may not be divulged to any other person except with the consent of the person passing the information requested, the person from whom the information is requested may withhold the information if such consent is not given.

(2) The information referred to under sub-article (1) hereof shall be provided within not more than thirty (30) days of receipt of the request:

Provided that upon good cause being shown to the Director, such period may be extended by the Director for such further period or periods as the Director may deem reasonable.

Prosecution to
inform the Bureau.

17. When a person is charged before a Court of Criminal Jurisdiction in Malta, with a relevant offence:

(a) that has an economic, financial, monetary and/or pecuniary dimension;

(b) where proceeds of crime allegedly subsist; or

(c) which is inextricably linked to that provided in paragraph (b),

it shall be the duty of the prosecuting officer to inform the Bureau, as soon as practicable and in any case not later than the lapse of one (1) week of such person being charged, and to keep the Bureau informed of the progress of the procedures against such person, in particular of any conviction or acquittal and of any appeal and the result thereof.

Prosecution to
liaise with Bureau
for the issue of
orders under this
Act.

18. It shall be the duty of the prosecuting officer in any case where a person has been charged with a relevant offence, as notified to the Bureau in accordance with article 17, to give to the Bureau all necessary information that may be required to determine whether that person has benefited from proceeds of crime, and to determine whether any measure needs to be taken under this Act with regard to that person or his property.

19. (1) Where any property has by a final judgement of a court been forfeited or confiscated in favour of the Government, it shall be incumbent on the Registrar of such court to inform the Bureau of such forfeiture or confiscation and to transmit to the Bureau a copy of the judgement, ordering the forfeiture or confiscation or in virtue of which the forfeiture or confiscation has taken place.

Administration and disposal of forfeited property, and of property confiscated in favour of the Government.

(2) The said Registrar shall moreover hand over to the Bureau any property so forfeited or confiscated and, or any title to such property that may be in the possession of the court.

(3) Without prejudice to the provisions of any other law providing for forfeiture as a consequence of a conviction for a criminal offence, the confiscation in favour of the Government of all property subject to confiscation pertaining to a person found guilty of a relevant offence is a civil consequence of any such conviction, and does not need to be pronounced in the judgement finding his guilt. Where such confiscation includes the proceeds of crime, it is not limited only to proceeds deriving from the offence to which the judgement refers, but extends to the proceeds of other relevant offences shown on a balance of the probabilities to have been committed by the same person.

(4) (a) Where any property so forfeited or confiscated consists of money in a currency other than the euro it shall be converted to euro at the rate of exchange in force.

(b) When such property consists of objects or other assets, it shall be disposed of by the Bureau in a manner that ensures the greatest benefit to the Government.

(5) Proceeds from the disposal of any property by the Bureau shall be transferred by the Director to the Consolidated Fund or to such other fund which may be set up by regulations made by the Minister with the concurrence of the Minister responsible for finance for use in support of efforts to combat money laundering and financing of terrorism as soon as may be after receipt:

Provided that such portion of, or such sum derived from such proceeds, as may be determined in the estimates approved by the Minister, may be retained by the Bureau as a reserve to cover on-going and future expenses.

(6) The Bureau shall also be entitled, with the authorisation of the Civil Court (Asset Recovery Section), to take possession of and manage, value, maintain and administer property which is frozen and in the process of being confiscated and to sell such property which is of a perishable nature or which requires substantial expense to maintain or is subject to substantial depreciation. For this purpose the Bureau may be assisted by its contractors or outsourced professionals.

20. The financial year of the Bureau shall begin on the first day

Financial year.

of January and end on the thirty first day of December:

Provided that the first financial year of the Bureau shall commence on the date of coming into force of this Act and shall end on the 31st day of December of the following year.

Estimates and
expenditure.

21. (1) The Director shall, not later than sixteen (16) weeks before the end of each financial year, submit to the Board of the Bureau estimates of the income and expenditure of the Bureau for the following financial year.

(2) In the preparation of such estimates the Bureau shall endeavour to ensure that the sums to be allocated to the Bureau, together with any sums retained in accordance with the proviso to sub-article (5) of article 19 are at least sufficient to meet all sums properly chargeable to its income and expenditure accounts including, but without prejudice to the generality of that expression, depreciation.

(3) The estimates shall be made out in such form, and shall contain such information, and such comparisons with previous years, as the Board may direct.

(4) Not later than three (3) weeks from the receipt of such estimates from the Director, the Board shall consider such estimates and shall transmit the same with or without amendments to the Minister for his approval.

(5) Before the end of the financial year, the Minister shall approve and adopt such estimates with or without amendments.

(6) If in respect of any financial year it is found that the amount so approved is not sufficient or a need has arisen for expenditure for a purpose not provided for in the estimates, the Director shall cause supplementary estimates to be prepared and to be sent forthwith to the Board for transmission to the Minister for his approval, and in any such case the provisions of this article shall as far as practicable apply to the supplementary estimates.

Advances by the
government.

22. The Minister may, acting in accordance with an appropriation Act, make advances and provide such funds to the Bureau for carrying out its functions under this Act, in accordance with such estimates approved in accordance with article 21.

Accounts and
audit.

23. The Bureau shall keep proper books of accounts in such manner as the Minister, following consultation with the Minister responsible for finance, may from time to time direct. Such accounts shall be audited by auditors appointed by the Board of the Bureau with the concurrence of the Minister from among persons qualified to be appointed as auditors of a company in accordance with such law which will be in force in Malta. Such accounts shall moreover be subject to audit by the Auditor General.

24. (1) The Board shall as soon as may be but not later than three (3) months after the close of each financial year, transmit to the Minister an annual report consisting of:

Annual report.

(a) a copy of the annual accounts certified by the auditors; and

(b) a report on the operations of the Bureau during the previous financial year.

(2) The annual report shall be laid on the Table of the House by the Minister not later than six (6) weeks after its receipt, or where the House is during that period not in session, not later than the second week after the House reconvenes.

25. (1) The Bureau shall gather, manage and process data relating to:

Data to be kept by the Bureau.

(a) suspect persons investigated by the Bureau;

(b) freezing, seizure and confiscation of property, including comprehensive data on the effectiveness of the freezing and seizure of property up to confiscation; and

(c) assistance in the enforcement of sentences involving confiscation of property;

(d) the management of assets;

(e) the estimated proceeds, the value of seized and confiscated property and the amount realised from the administration or sale of such property;

(f) where property is released, the reasons for the release.

(2) The Director shall keep a record of those persons or categories of persons having access to the data referred to in sub-article (1) hereof, and shall make such record available to the Information and Data Protection Commissioner.

Record of persons having access to data.

(3) Data retained for the purposes of this Act shall be retained for a period of fifteen (15) years which period shall be suspended during the pendency of investigations or litigation to which the said data is relevant.

26. (1) The Director and members of the Board, members of the Directorate staff and advisors and contractors of the Bureau shall treat any information acquired through the performance of their duties under this Act as secret and confidential and shall not disclose the same to any person other than as necessary for the proper performance of their duties:

Disclosure of information.

Provided that nothing in this sub-article shall be deemed to preclude the Director or any member of the Directorate Staff acting under a general or specific authorisation from the said Board to disclose information to the Attorney General, or any prosecuting authority, that may be required in the prosecution of offences for a relevant offence or to any fiscal or supervisory authority established by or under any other law for the purpose of aiding such other authority in the carrying out of its functions.

(2) The Director and members of the Directorate staff shall keep a record of any disclosure of information made in accordance with sub-article (1) hereof, indicating the person to whom the information has been disclosed and where necessary, the date of the authority to disclose given in writing by the Director:

Provided that in urgent cases, authority to disclose may be given verbally in which case it shall be confirmed in writing as soon as may be, and in no case later than two (2) working days of the giving of the verbal authority.

Liability for damages.

27. The Bureau, the Board, the Director and members of the Directorate staff shall not be liable for damages for anything done or omitted to be done in the discharge or purported discharge of any function under this Act unless the act or omission is shown to have been done or omitted to be done in bad faith or through gross negligence.

PART III

The Civil Court (Asset Recovery Section)

Establishment of the Civil Court (Asset Recovery Section).

28. (1) There shall be established a section of the Civil Court to be designated the Civil Court (Asset Recovery Section).

(2) The Civil Court (Asset Recovery Section) shall take cognisance of cases of any category as are assigned to it by this Act or by any other law.

(3) The Civil Court (Asset Recovery Section) shall take cognisance of cases whatever the value of the matter in dispute if the case falls in a category of cases assigned to it as provided in sub-article (2).

Proceedings of a civil nature.

29. Procedures before the Civil Court (Asset Recovery Section) are of a civil nature and the burden of proof required to establish a finding shall not be greater than may be required in any other court of civil jurisdiction as opposed to one of criminal jurisdiction.

Inadmissibility as evidence in criminal cases.

30. Neither the acceptance of any statement before the Civil Court (Asset Recovery Section) by any person, nor anything filed in a document before it or anything said in evidence by any person before it shall be admissible as evidence in any proceedings for any offence against the person in whose name the statement has been made or

accepted, or in whose name the document has been filed, or against the person giving evidence:

Provided that nothing in this article shall be deemed to exempt any person from any criminal or other liability resulting from his or her giving false evidence before the Civil Court (Asset Recovery Section) or for filing or causing to be filed any document knowing it to be false.

31. (1) Save as otherwise provided in this or any other law, proceedings before the Civil Court (Asset Recovery Section) shall be instituted and conducted according to the same procedure as applicable before the Civil Court First Hall, so however that article 460 of the [Code of Organization and Civil Procedure](#) shall not apply with regard to proceedings before the Civil Court (Asset Recovery Section). Procedure.
Cap. 12.

(2) The Civil Court (Asset Recovery Section) shall have the power upon the application of any interested party to:

(a) extend any time limit provided for by this Act;

(b) decide any matter as to whether the legal professional privilege provided for in this Act applies to in any stated circumstances.

32. No appeal shall lie against decisions of the Civil Court (Asset Recovery Section) except on a point of law decided in the appealed judgment or on the basis of an error of fact resulting from the records of the case. Appeals.

PART IV Orders

33. (1) Where the Attorney General has reasonable cause to suspect that a person is guilty of a relevant offence, the said Attorney General may apply to the Criminal Court for an Order, (hereinafter referred to as a "Monitoring Order") requiring a bank or other financial institution licensed to operate in Malta to monitor for a specified period the transactions or operations carried out through one or more accounts in the name of the suspect, or through one or more accounts: Monitoring orders.

(a) suspected to have been used in the commission of the offence; or

(b) which could provide information about the offence or the circumstances thereof; or

(c) which could provide information as to the location and the amounts of proceeds of crime, during or after the commission of the offence.

The Bank or other financial institution on the receipt of such Order by the Criminal Court shall proceed to monitor the account or accounts as indicated in the Order, and shall communicate to the Attorney General the information resulting from the monitoring.

(2) The application for a Monitoring Order shall be made *in camera* and the decision of the Criminal Court in such application shall likewise be given *in camera*.

(3) (a) Where from the information resulting from the monitoring of an account or accounts in accordance with a Monitoring Order made in accordance with sub-article (1) hereof it appears to the Attorney General that a relevant offence has been committed, and that such relevant offence may have resulted in proceeds of crime, the Attorney General shall communicate to the Director the information resulting from the monitoring.

(b) The Director shall study the information received in terms of paragraph (a) hereof for the purpose of establishing the quantum of any proceeds of crime and of their location, and where for such purpose he deems that any other account or accounts may need to be monitored in order to gather information for the aforesaid purpose, he may request the Attorney General to apply to the Criminal Court for the issue of further monitoring orders in respect of such accounts.

Investigation order.

34. (1) Where the Attorney General has reasonable cause to suspect that a person is guilty of a relevant offence, the Attorney General may apply to the Criminal Court for an Order (hereinafter referred to as an "Investigation Order") requiring that a person or persons named in the Order who may be in possession of particular material or material of a particular description which is likely to be of substantial value (whether alone or together with other material) to the investigation or, in connection with the suspect, shall produce or grant access to such material to the applicant, and by virtue of such an Investigation Order, the applicant or any person authorised by him shall have power to enter any house, building or enclosure for the purpose of searching for such material.

(2) The provisions of article 16 shall *mutatis mutandis* apply with regard to an Investigation Order.

(3) Where the material subject to an Investigation Order consists of information contained in a computer, the Investigation Order shall have effect as an order to produce or give access to such material in a form in which it can be taken away and in which it is visible and legible.

(4) Where in the course of an investigation, pursuant to an order under this article, the person conducting the investigation has reason to believe that any person may have information regarding a relevant offence, the person conducting the investigation shall request a Magistrate to hear such person on oath, and the Magistrate shall forthwith hear the person on oath and draw up a procès-verbal containing such testimony, and the procès-verbal so drawn up and the evidence therein recorded shall have the same probatory value as a procès-verbal drawn up and evidence recorded in procedures pursuant to Title II of Part II of Book Second of the [Criminal Code](#).

Cap. 9.

(5) Sub-article (2) of article 33 shall apply to an application for the issue of an Investigation Order and to the decision of the Criminal Court with regard to any such application.

(6) Where an Investigation Order has been carried out, a report of the result of the investigation shall also be made available to the Director.

(7) (a) Where it appears to the Attorney General that an Investigation Order may lead to the discovery of material constituting proceeds of crime or information as to their location, he may request the court that the person conducting the investigation be accompanied by the Director.

(b) The Director may, when accompanying the person conducting the investigation, enter any house, building or enclosure, or boarding a craft or vehicle subject to the investigation, in accordance with sub-article (1), make a record of any material in such house, building or enclosure or on board the craft or inside the vehicle that may constitute proceeds of crime, and shall for such purpose have any such material photographed, weighed, measured and valued by experts.

(c) Where the presence of the Director has not been requested by the Attorney General in accordance with paragraph (a) of this sub-article and the need for the Director to enter any house, building or enclosure or to board any craft or vehicle or to conduct any operation as mentioned in paragraph (b) hereof results to the Attorney General after the Investigation Order has been carried out, or the Director informs the Attorney General of such need following the receipt of a report made available to him in accordance with sub-article (6) hereof, the Attorney General may request the Court to authorise the person conducting the investigation to again enter such house, building or enclosure, or to board such craft or enter such vehicle accompanied by the Director for the purpose of conducting the operations as are mentioned in paragraph (b).

35. (1) Where the Attorney General has reasonable cause to believe that a person (hereinafter referred to as "the suspect") is guilty of a relevant offence, he may apply to the Criminal Court for an order

Attachment Order.
Amended by:
LXVIII.2021.3.

(hereinafter referred to as an "Attachment Order"):

(a) attaching in the hands of such persons, or in the hands of third parties having custody of the property of such persons, as are mentioned in the application (hereinafter referred to as "the garnishees") all moneys or other movable property due to or pertaining to the suspect or used by the suspect;

(b) requiring the garnishees to declare in writing to the Attorney General and the Director, not later than twenty-four (24) hours from the time of service of the order, the nature and source of all moneys and other movable property so attached; and

(c) prohibiting the suspect from transferring or otherwise disposing of any movable or immovable property.

(2) Before making an Attachment Order, the Criminal Court may require to hear the Attorney General in chambers and shall not make such an Order unless it concurs with him that there is a reasonable cause as provided in sub-article (1).

Cap. 12.

(3) The provisions of article 381(1)(a), (b), (e) and (2) and article 382(1) of the [Code of Organization and Civil Procedure](#) shall *mutatis mutandis* apply to the Attachment Order whether issued under this Act or under any other law in Part One of the Schedule.

(4) (a) An Attachment Order shall be served on the garnishees and on the suspect by an officer of the Executive Police.

(b) An Attachment Order may also be served on the garnishees by electronic mail. Where it is so served, the garnishee shall, not later than one (1) working day from such service, acknowledge receipt by return electronic mail, and in default of such acknowledgement, a copy of the Order shall, without prejudice to the validity of the service by electronic means, be served on the garnishee by an officer of the Executive Police.

(c) Unless the Criminal Court otherwise directs, an Attachment Order shall be served without prior notice to the garnishee.

(5) An Attachment Order shall, unless it is revoked earlier by the Attorney General by notice in writing served on the suspect and the garnishee, cease to be operative on the expiration of six (6) months from the date it is made, and the Criminal Court shall not make another Attachment Order with respect to the suspect unless it is satisfied that there is substantially new information with regard to the relative relevant offence:

Provided that the Criminal Court may, upon an application of the Attorney General, where it is satisfied that sufficient grounds

exist, extend the validity of an Attachment Order for one further period of six(6) months.

(6) Where during the period of validity of an Attachment Order, whether original or extended, the suspect absconds or is for any other reason away from the island, the period of time during which the suspect is away from the island shall be added to the period of validity of the Attachment Order.

(7) Where the Attorney General applies for the issue of an Attachment Order as provided in sub-article (1), he may request the Court issuing the Order to authorise the Director to accompany the person serving the Attachment Order on the suspect, and upon the service of the Order on the suspect the Director shall have the right, to enter, accompanied by an officer of the Executive Police into any house, building or other enclosure or board any craft or enter any vehicle, belonging to or used by the suspect, or wherein it is suspected that the suspect may have property or other assets constituting property subject to confiscation, and thereat make a record of any material that may constitute such property. The Director may for such purpose have such material photographed, weighed, measured and valued by experts.

(8) The Director may moreover remove and take possession of any material referred to in the previous sub-article, and such material shall remain attached by the Order in the hand of the Director during the period of validity of the Attachment Order:

Provided that where the Director takes possession of any material as aforesaid he shall not later than one (1) week of taking such possession inform the Criminal Court of such taking of possession and request its authority to continue to keep possession of the material during the period of validity of the Attachment Order. The application of the Director shall be served on the suspect and on any person from whose possession the material was removed. The Criminal Court shall decide the application by decree, and where in its decree it refuses to grant the request of the Director, in whole or in part, the Director shall within a term of not more than one (1) week return the material to which the refusal refers, to the person from whose possession it was removed:

Provided further that any material to which the refusal refers, shall, unless the said court in its decree otherwise decides, remain subject to the Attachment Order referred to sub-article (1).

(9) Where the Attorney General in a request referred to in sub-article (7) omits to request that the Director accompanies the person serving the Attachment Order as therein provided, the Director may at any time during the subsistence of the Attachment Order request the Criminal Court to authorise him accompanied by an officer of the Executive Police to enter any house, building or enclosure or to board

any craft or vehicle as is referred to in the said sub-article (7) and therein conduct the operations referred to in the said sub-article. The provisions of sub-article (8) shall also apply in the case of an entry by the Director authorised under this sub-article.

(10) (a) Where any material is attached in the hands of a garnishee in virtue of an Attachment Order issued in terms of this article, the Director may request the Criminal Court to order the garnishee to transfer all or any material attached in the hands of the garnishee, to the possession of the Director, within such time as the said court may in its decree prescribe, and upon such transfer such material shall remain subject to the Attachment Order in the hands of the Director.

(b) Failure by any person to abide by an Order issued under this sub-article shall constitute contempt of Court and shall be punishable as such by the Criminal Court:

Provided that any punishment that the said court may impose shall not release the person disobeying such Order from any liability for damages that his failure to comply with the Order may incur in favour of any persons.

(11) (a) Where a commercial going concern or a body corporate is subject to an Attachment Order, the totality of the assets of the going concern, including licences and goodwill are to be preserved and shall not be transferred, and subject to the following provisions of this sub-article the going concern or a body corporate shall continue to do business.

(b) Where a commercial going concern or a body corporate has been attached by an Attachment Order the Criminal Court may on application made by the Director and after hearing the suspect, appoint an Administrator generally for the better preservation of the asset of the going concern or a body corporate and in particular to provide for its administration. The provision of article 848B of the [Code of Organization and Civil Procedure](#) shall apply with regard to an application and the appointment of an administrator under this sub-article.

(c) The administrator appointed under this article shall have the right to such payment as the Criminal Court may, in its discretion, be of the opinion that is due to the administrator, which payment shall be effected from the moneys of the going concern or body corporate. In no event, however, may such payments be made from funds where there is knowledge or suspicion that the funds are derived from a criminal activity or are funds which one has cause to believe have been laundered:

Provided that in this paragraph, unless the context otherwise requires:

"criminal activity" shall have the same meaning as assigned to it in article 2 of the [Prevention of Money Laundering Act](#); Cap. 373.

"laundered" shall have the meaning of "money laundering" as defined in article 2 of the [Prevention of Money Laundering Act](#). Cap. 373.

(11A) An administrator appointed in accordance with sub-article (11) shall:

(a) with immediate effect administer the commercial going concern or body corporate, and the ordinary administration of all business and activities including the management of any outlets, restaurants or other activities and shall acquire, sell, negotiate and effect all necessary acts of management and ordinary administration and to take all necessary measures for the preservation of the assets of the commercial going concern or body corporate;

(b) within one (1) month from the service of the appointment decree, prepare a report, confirmed on oath, indicating the commercial activity of the commercial going concern or body corporate including the assets and liabilities and the actual value of the commercial going concern or body corporate. Following the initial report, the administrator shall prepare and file monthly reports;

(c) submit every administration decision of an extraordinary nature for the decision of the court; and

(d) open and manage a bank account with a financial institution on behalf of such commercial going concern or body corporate.

(11B) When the court appoints an administrator in accordance with sub-article (11), a copy of this decree shall be immediately served on the Director and shall become operative and binding when it is made and the Director shall cause a notice thereof to be published without delay in the Gazette.

(12) Where the property subject to an Attachment Order is of a perishable nature, the person holding the property shall without further authorisation sell such property, and the Attachment Order shall continue to apply with respect to proceeds of such sale.

(13) The Director is bound to exercise for the safekeeping of any property subject to an Attachment Order, held in his possession, such care as is exercised by a *bonus paterfamilias*.

36. (1) Where a person is charged with a relevant offence, the Court shall at the request of the prosecution make an Order (hereinafter referred to as a "Seizing and Freezing Order"); Seizing and Freezing Order.

(a) attaching in the hands of third parties in general all moneys and other movable property due to or pertaining or belonging to the accused; and

(b) prohibiting the accused from transferring, pledging, hypothecating or otherwise changing or disposing of any immovable or movable property owned or otherwise held by him:

Provided that the Court shall on the application of the accused served on the prosecution and the Director determine what moneys may be paid to or received by the accused during the subsistence of such order, specifying the source, manner and other modalities of payment, including salary, wages, pension and social security benefits payable to the accused, to allow him and his family a decent living in the amount, where the means permit six hundred euro (€600) every fifteen (15) days. In no event, however, may such payments be made from funds which there is reasonable cause to believe were taken unlawfully from victims of crime who would stand to recover such property if the accused is convicted.

(2) A Seizure and Freezing Order shall be immediately served upon the Director and shall:

(a) become operative and binding on all third parties immediately when it is made and the Director shall cause a notice thereof to be published without delay in the Gazette and also cause a copy thereof to be registered in the Public Registry, the Land Registry and any other registry established by law for the registration of property of any kind. A copy of such order shall also be served on any person who the prosecution or the Director may indicate; and

(b) remain in force until the final determination of the proceedings and in the case of a conviction until the sentence has been executed.

(3) For the purposes of paragraph (b) of sub-article (2), a sentence shall be deemed to be executed when the procedures set out in Part V for the purposes of establishing how much the person convicted has benefited from the proceeds of crime, and for the recovery of such proceeds have been terminated.

(4) The Court may, on the application of any interested party, when circumstances so warrant, vary such order, and the provisions of the foregoing sub-article shall apply to such order as varied.

(5) Every such order shall contain the name and surname of the accused, his profession, trade or other status, father's name, mother's name and maiden surname, place of birth and place of residence and a legally valid identification number, if any.

(6) Where any money is or becomes due to the accused from any person while such order is in force, such money shall, unless otherwise directed in the order, be deposited in a bank to the credit of the accused. Upon the deposit as aforesaid, the order shall apply with regard to the deposit so made.

(7) Where such order ceases to be in force as provided in sub-article (2)(b), the Director shall cause a notice to that effect to be registered in the Public Registry and in the other registries referred to in sub-article (2)(a) and sub-article (3), and publish a notice to that effect in the Gazette. A copy of such notice shall also be served on any person who had been served with a copy of the Seizing and Freezing Order in accordance with sub-article (2)(a).

(8) Where the Court does not proceed forthwith to make an order as required under sub-article (1), the Court shall forthwith make a temporary Seizure and Freezing Order having the same effect as an order made under the preceding provisions of this article. The Temporary Seizing and Freezing Order made under this sub-article shall remain in force until such time as the Court makes the order required by that sub-article or until the Criminal Court shall have determined an application in accordance with sub-article (9) or until the said Criminal Court has not revoked it in accordance with sub-article (10):

Provided that a Temporary Seizing and Freezing Order shall not remain in force beyond the time when a Seizing and Freezing Order would in accordance with sub-article (2)(b) cease to be in force.

(9) Where for any reason whatsoever the Court denies a request made by the prosecution for an order under sub-article (1), the Attorney General may within three (3) working days from the date of the Court's decision apply to the Criminal Court to make the required order and the provisions of this article shall apply *mutatis mutandis* to the order made by the Court under this sub-article as if it were an order made by the Criminal Court under sub-article (1).

(10) The person charged may, within three (3) working days from the making of the order under sub-article (8), apply to the Criminal Court for the revocation of the Temporary Seizing and Freezing Order.

(11) The provisions of sub-articles (7) to (13) of article 35 shall *mutatis mutandis* apply in the case of a Seizing and Freezing Order made under this article.

37. Where after a person has been charged with a relevant offence, such person absconds, or dies, or where because of his illness procedures against him cannot be brought to a conclusion, any order made by a Court under this Part of this Act shall upon an application made for the purpose to that effect by the Attorney General or by the

Subsistence of orders in certain circumstances.

Director remain in force until procedures in terms of article 42 have been concluded by the Civil Court (Asset Recovery Section) .

PART V

Special Procedures Before The Civil Court (Asset Recovery Section)

Determination of
property subject to
confiscation.

38. (1) Where a person has been convicted of a relevant offence, the Director may by application before the Civil Court (Asset Recovery Section) served on the person convicted or his lawful representative (hereinafter referred to as "convicted person") request the said Court to determine what property is subject to confiscation, including the amount of the proceeds of the crime committed by the convicted person.

(2) The application referred to in sub-article (1) shall be filed not later than one (1) year from the date when the judgment finding the guilt of the convicted person has become *res judicata*.

(3) The application referred to in sub-article (2) shall contain a reference to the judgment finding the guilt of the convicted person, the facts of the case, as well as the names of the witnesses in support of the application as well as the facts that are sought to be established by the evidence of each such witnesses, as well as a list of all documents in support of the application.

(4) The Director shall also attach to the application a list of property of any description which he claims belongs to the convicted person whether that property is held in the name of such person or in the name of others and wherever it is held, together with a statement showing what in his opinion is the amount of the proceeds of crime committed by the convicted person:

Cap. 101.

Cap. 31.
Cap. 373.

Provided that where the relevant offence referred to in sub-article (1) is an offence against the [Dangerous Drugs Ordinance](#), the [Medical and Kindred Professions Ordinance](#) or the [Prevention of Money Laundering Act](#), then without prejudice to the application of the provisions of those Acts all property owned by the person convicted shall unless otherwise proved be deemed to be proceeds of crime.

(5) The convicted person shall in his reply to the application of the Director state whether and to what extent he accepts the claims of the Director. The reply shall moreover contain a list of witnesses in support of his case as well as the facts that are sought to be established by their evidence as well as a list of all documents in support of the application.

(6) The convicted person shall moreover produce a list of all his property of any description and whether it is held in his name or in the name of others, and whether it is held in Malta or abroad, together with a statement showing what in his opinion is the amount of gain, if any,

made through proceeds of crime.

(7) Where property is found to belong to the convicted person but has not been included in the statement made by him in terms of sub-article (6), such property shall be forfeited to the Government.

(8) A declaration of the forfeiture of any property as is referred to in sub-article (7) shall be made in the judgment on the application, if the existence of such property is established during the course of the procedures on the application. Where such property is discovered after these proceedings are finalised, the Director may, at any time but not later than six (6) years after the end of the said proceedings by application before the Civil Court (Asset Recovery Section), request the said Court to declare such property forfeited to the Government and the provisions of this article shall *mutatis mutandis* apply to any application or applications made after the end of the original proceedings.

(9) The Minister may from time to time make regulations establishing in general the manner in which the list of property is to be drawn up in terms of sub-articles (4) and (6) and in particular shall state what category of items shall be listed separately and which may be grouped together.

(10) Nothing in this article shall preclude the Director and the convicted person from coming to an agreement as to the proceeds of crime obtained by the convicted person. Such agreement shall be recorded in a public deed whereby the sum so agreed shall constitute a civil debt owed by the convicted person to the Government.

(11) (a) The judgment of the Civil Court (Asset Recovery Section) declaring that specific property is property subject to confiscation shall constitute a confiscation order transferring the title to such property to the Government of Malta.

(b) If the Civil Court (Asset Recovery Section) finds that the convicted person obtained proceeds of crime in excess of the proceeds of crime included in the specific property confiscated in accordance with paragraph (a), the judgment shall declare the said convicted person to be the debtor of the Government to the extent of the difference between the specific property confiscated as the proceeds of crime and the total proceeds of crime the said person obtained, directly or indirectly, from the offence.

(c) To the extent that the property found to be subject to confiscation includes property other than the proceeds of crime, the Court must ensure that the confiscation of such property is not grossly disproportional to the gravity of the offence or offences giving rise to the confiscation order.

(d) Where more than one person is convicted of an offence,

each convicted person is jointly and severally liable for the total proceeds of crime obtained by any of them, except that:

(i) the Government may not recover more than the total proceeds of the offence, and

(ii) in the case of a convicted person whose role in the offence was incidental in comparison with the roles of the other convicted persons, the court must consider the extent to which making such person jointly and severally liable for the total proceeds of the crime would be grossly disproportional to his role in the offence.

Third party rights.

39. (1) Where any person claims that he is the owner of any property subject to a Seizing and Freezing Order in accordance with Part IV, or claims that he has rights over such property, or claims that he is the owner of any property subject to confiscation in accordance with article 38, that person may apply to the Civil Court (Asset Recovery Section) to declare that the said property belongs to him, or that he has the rights claimed over such property, and the Court shall, upon being satisfied through the proof produced by such person that the applicant is the owner of the property, as that term is defined in article 2, declare the property to belong to the applicant and no longer subject to the Seizing, Freezing or Confiscation Order, and where the Court is in like manner satisfied that the applicant has rights over the property, it shall declare the property seized, frozen or confiscated as being subject to those rights.

(2) (a) The Court shall not be satisfied that any property which was in the possession of, or enjoyed by the convicted person, belongs to the applicant, if the title to that property was required by law to be registered, and was not, without just cause to be proved by the applicant registered before the commencement of proceedings against the convicted person.

(b) The provision of paragraph (a) shall also apply where the title was registered before the commencement of proceedings, but after a date when the convicted person knew, or reasonably may be presumed to have known, that he was being investigated or prosecuted.

(3) (a) If the property is found to be the proceeds of crime, no third-party objection to the Seizing, Freezing or Confiscation of the property may be made except for the objection of a *bona fide* purchaser for value as described in sub-article (4).

(b) Without prejudice to any proceedings which may be taken for non-conviction based confiscation under Part VIII, if the property is facilitating property or is property involved in a money laundering offense other than the proceeds of crime, no third-party objection to the Seizing, Freezing or Confiscation of the property may be made

except for the objection of a *bona fide* purchaser for value as described in sub-article (4), or of a third-party who was the owner of the property before or at the time of the offence giving rise to the Seizing, Freezing or Confiscation of the property

(4) Where the applicant claims that he acquired the property or right thereon by onerous title or in a commercial transaction, he shall be required to prove that he paid the fair price thereof in an arm's length transaction, and that he has no reason to believe that the property was subject to confiscation at the time that he acquired his interest in it.

(5) Where the property consists of immovables and the applicant claims that there is a promise of sale relative to it, made prior to the proceedings which led to the conviction of the convicted person, the Civil Court (Asset Recovery Section) shall at the choice of the Director:

(a) allow the sale to proceed on condition that the proceeds of the sale shall be deposited by the applicant in the registry of the Civil Court (Asset Recovery Section) and the sum so deposited shall be subject to the Seizing and Freezing Order, in lieu of the property sold in accordance with the promise of sale agreement; or

(b) give the Director the right to have the property transferred to the name of the Government, on the same terms as provided in the promise of sale, on condition that the Director pays to the applicant a fair and reasonable compensation not being more than five percent (5%) of the price for the transfer as agreed to in the promise of sale, as the Court may determine.

(6) In its assessment of the proof brought by a third party claiming property or rights thereon in accordance with this article, due regard shall be given by the Court of the family, business or other relationship between the convicted person and the applicant, the use being made of the property including the identity of the person who exercised dominion and control over the property, the identity of the person who paid the insurance, taxes, and maintenance expenses of the property and the source of such payments, the means of the person claiming the property, and all other circumstances that may affect the credibility of the claim.

40. (1) Where it appears to the Director that any property in the hands of or in the name of a person, other than the convicted person, in fact belongs to the convicted person and not to the person holding the property or in whose name it is held, the said Director may by application filed in the Civil Court (Asset Recovery Section) against the person holding the property or in whose name it is held request the said Court to declare that the property does not belong to

Assets of the accused in the hands of, or in the name of third parties.

such person but to the convicted person.

(2) The Director shall produce all evidence in support of his request and the provisions of sub-article (6) of article 39 shall be applied by the Court in assessing the evidence brought before it.

(3) The Director may not make an application under this section after the lapse of ten (10) years from the date of the judgment convicting the convicted person of the relevant offence or from the date on which it is established that the proceedings cannot be concluded because of the death or illness of the accused or because the accused has absconded.

(4) Where the property subject to confiscation is jointly owned by the convicted person and a third party, the court shall determine the most effective means of allowing the government to confiscate the interest of the convicted person without prejudice to the rights of the third party. Such means may include ordering the sale of the property and the division of the proceeds of the sale between the Government and the third party.

Determination of
allowed payments.

41. (1) Applications in terms of the proviso to paragraph (b) of sub-article (1) of article 36 and in terms of sub-article (4) of the said article shall be served on the Director and, unless the applicant is not the accused, on the accused. Such applications shall be heard with urgency and the Criminal Court may order that the terms for any reply or other procedures be shortened.

(2) In determining whether a sum of not more than six hundred euro (€600) every fifteen (15) days be allowed to be paid to the accused in terms of the said proviso to paragraph (b) of sub-article (1) of article 36, the Court shall take into consideration the actual needs of the accused and the availability of other means for his subsistence.

Where accused
absconds etc.

42. (1) Where after a person has been charged with a relevant offence, such person absconds or dies, or where because of his illness proceedings against him cannot be brought to a conclusion, the Director may bring an action before the Civil Court (Asset Recovery Section) to declare that on the basis of the evidence produced before the Court by the Director, the trial, had it come to a conclusion, would have resulted in a conviction.

(2) An action for a declaration in accordance with sub-article (1) may also be brought where the suspected person has not been charged, because he dies or absconds before the prosecution may charge him:

Provided that no action may be commenced on the basis of this article, after the lapse of six (6) years from the date of death of the suspected person, or the date when it is discovered that he has absconded.

(3) An action on the basis of sub-articles (1) and (2) shall be brought against the heirs of the accused, if dead, or against curators nominated to represent the accused or, where applicable the accused's lawful representative who may in each case produce such witnesses and produce all evidence at their disposal to rebut the claims of the Director.

(4) A declaration in terms of sub-articles (1) and (2) shall, for the purposes of article 38, be deemed to be a conviction, but shall not give rise to consequences of a criminal nature.

(5) For the purposes of an action under article 38 on the basis of a judgment in terms of this article, the term of one year referred to in sub-article (2) of the said article 38 shall run from the date when the judgment in the action in accordance with sub-articles (1) and (2) has become *res judicata*.

PART VI

Non-conviction Based Confiscation

43. (1) Without prejudice to sub-article (2), this Part establishes preventive measures consisting of non-conviction based confiscation, which provide for the recovery of property subject to confiscation in situations where, in the judgment of the Attorney General, it is not necessary or rather it is not appropriate to recover such property through a conviction based confiscation as part of a criminal prosecution, in any of the following cases:

Object of this Part and applicability.
Amended by:
LXVIII.2021.4.

- (a) where the perpetrator absconds or is not in Malta;
- (b) where the perpetrator is dead; or
- (c) where the perpetrator dies prior to the conclusion of the criminal proceedings.

(2) Property subject to confiscation under this part of this Act is property which, in any of the cases referred to in sub-article (1), is the proceeds derived from the following categories of crimes:

- (a) a crime or crimes specified in Article 3(1)(a) of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances adopted on the 19th December 1988 in Vienna reproduced (in the English language only) in the First Schedule to the [Prevention of Money Laundering Act](#);

Cap. 373.

- (b) terrorism, and funding of terrorism, money laundering, illegal dealing in arms and armaments, trafficking of persons, and any other crime liable in Malta to a punishment of imprisonment of not less than ten (10) years;
- (c) any crime committed within the framework of a

criminal organisation within the meaning of Council Framework Decision 2008/841 JHA of the 24th October 2008 on the fight against Organised Crime.

(d) violation of United Nations sanctions.

Competence of the Civil Court (Asset Recovery Section).

44. (1) The Civil Court (Asset Recovery Section) shall be competent to hear and determine all matters arising under this Part if the property subject to confiscation is found in Malta or if the offence giving rise to the confiscation occurred in Malta.

(2) Actions under this Part shall be actions *in rem* against the property subject to confiscation and not against individuals. The burden of proof required in proceedings under this Part shall be that applicable in civil law proceedings.

(3) The Government may commence an action under this Part to recover any property subject to confiscation. In such a proceeding, the Government is the plaintiff, the property shall be designated as the *res* subject to confiscation, and persons contesting the confiscation are interveners who may intervene in the action upon showing that they have an ownership interest in the property.

(4) The burden of proof shall be on the intervener to establish an ownership interest in the property and to establish any affirmative defence under article 59. Otherwise, the burden of proof shall be on the Government.

Principles.

45. Public authorities implementing this Part shall be guided by the following principles:

Cap. 319.

(a) the respect for fundamental human rights and freedoms as enshrined in the [Constitution of Malta](#) and in the [European Convention Act](#);

(b) the use of preventive measures consisting of non-conviction based confiscation of property provided in this Part shall be subject to the requirements of necessity in a democratic society and proportionality;

(c) confidentiality in conducting any special arrangements provided for by this Part;

(d) increasing and protecting public security and preventing unjustified enrichment from criminal activity.

Relation to other proceedings.

46. (1) Preventive measures provided for under this Part shall be applicable in combination or separately.

(2) The procedure for implementing preventive measures provided for under this Part is independent of the institution of criminal proceedings but may be employed in conjunction with or

parallel to criminal proceedings.

(3) If a property frozen or confiscated under this Part is also subject to freezing or confiscation under any criminal law in a pending criminal case, the Civil Court (Asset Recovery Section) shall order the suspension of the freezing or confiscation under this Part, either *ex officio* or at request of the Attorney General or of any interested party. The suspension shall end when the Civil Court (Asset Recovery Section) rules on the withdrawal or the extinction of the measure which gave rise to the suspension.

47. Any property subject to confiscation which is the proceeds of a crime, as specified in article 43, whether such crime was committed in Malta or outside Malta, shall be confiscated by the Government in accordance with this Part and with the procedure provided in the following articles 48 to 51 (inclusive). Application.

48. (1) The Government may commence an action under this Part by filing an application for Confiscation in the Civil Court (Asset Recovery Section): Procedure.

(a) at the time it files its application, the Government must provide notice thereof to any person who appears to have an ownership interest in the property subject to confiscation. Where such parties are known and are present in Malta, the Court shall order that they be served with the said notice by an officer of the court;

(b) if the Government is unable to obtain a valid address for a person entitled to notice under paragraph (a), it must provide notice by publication in the Gazette and in two (2) daily newspapers or on the internet in such manner as the Court may direct.

(2) A party contesting the confiscation of the property ("the intervener") must file a reply setting forth his ownership interest in the property and the time and manner in which he acquired such interest. The reply must be filed within thirty (30) days of the date when the Government served or published notice of the application for confiscation or such other time as the Court may direct.

(3) At any time before or after the filing of an application for confiscation, the Government may seek to seize or freeze property subject to confiscation pursuant to article 36 which shall apply *mutatis mutandis* to this Part.

(4) If the Government contests the reply of any intervener for failure to establish an ownership interest in the property, the Court must rule on that motion before ruling on any other matter. Notwithstanding the title to the property, the Court shall not be satisfied that a third party has an ownership interest in the property if it

finds that the third party is a nominee who did not exercise effective dominion and control over the property or otherwise exhibits the rights of ownership consistent with true ownership.

(5) (a) If no one files a valid claim to the property in the form of a reply to the application, the Court must enter a Confiscation Order upon finding that the Government complied with the procedure for providing notice to potential claimants.

(b) Otherwise, the Court must enter a Confiscation Order if it determines on a balance of the probabilities that the Government has established that the property is subject to confiscation, and that no intervener person claiming a title or other right over the property has established an affirmative defence pursuant to article 49.

(6) To the extent that the property subject to confiscation includes property other than the proceeds of crime, the Court must ensure that the confiscation of such property is not grossly disproportional to the gravity of the offence or offences giving rise to the confiscation order.

Third party
defences.

49. (1) If the Court finds that the Government has met its burden of showing that the property is subject to confiscation, the intervener may show that he is an owner of the property and that the property should be exempt from confiscation for one of the following reasons:

(a) that the intervener acquired his ownership interest in the property as a *bona fide* purchaser for value as described in article 39(4); or

(b) if the property is facilitating property or is property involved in a money laundering offence other than the proceeds of crime, that the intervener was the owner of the property before or at the time of the offence giving rise to the confiscation of the property and did not know of the illegal use of the property, or upon learning of the illegal use, took all reasonable steps to prevent it.

(2) The intervener bears the burden of proof on the affirmative defences described in sub-article (1).

Judicial review of
the confiscation.

50. (1) The decision acceding or disallowing the confiscation shall be revised by the issuing court at the request of the proposing authority, or at request of any other interested party, within five (5) years from when it becomes final when:

(a) new evidence is presented which, had it been adduced at the trial, would have been decisive for the ruling;

(b) new facts and evidence are discovered which would preclude the existence of conditions for the application

of the confiscation measure;

(c) the confiscation ruling was based on deceptive or false evidence.

(2) The revision process shall be carried out by the Court which issued the confiscation decision presided by a different judge or judges.

51. (1) The property confiscated by court ruling, pursuant to this Part, shall be transferred to the Government when the confiscation ruling becomes final.

Transfer of confiscated property to the State.

(2) The registrar of the competent court shall transmit the final confiscation ruling to the Bureau within three (3) days.

(3) In the event that the final confiscation ruling is later overturned, the owner or the possessor of the property shall be compensated within the limits of the property market value.

52. In order to guarantee public safety and the proportionality of any preventive measure, all decisions and actions taken by the authorities pursuant to this Part shall be treated with priority, without unjustified delays and within the stipulated time frames.

Priority and prompt review.

53. Judgments of the Civil Court (Asset Recovery Section) shall be enforceable in accordance with the provisions of Title VII of Part I of Book Second of the [Code of Organization and Civil Procedure](#) and every person may secure his rights in any matter within the competence of the Civil Court (Asset Recovery Section) by the issue of precautionary acts mentioned in Title VI of Book Third of the said Code.

Warrants etc.

Cap. 12.

PART VII International Cooperation

54. The Bureau shall establish relations with equivalent institutions outside Malta and shall in accordance with such rules of European Union law, or in accordance with such applicable treaties, conventions or agreements, by whatever name called, co-operate with such institutions and collaborate and participate in such structure that may be established under such rules, treaties, conventions or agreements.

Relations with equivalent foreign bodies.

55. (1) Where pursuant to and in accordance with any treaty, convention or agreement, applicable to Malta, or where in accordance with European Union Law, a request is made to the Attorney General or the Director for the monitoring of any account, the investigation of any matter, the attachment of any property or the seizure and freezing of any property in Malta, by a judicial, prosecuting or administrative authority of any place outside Malta, in connection with the investigation or prosecution of an equivalent offence, or in connection

Applicability of Part IV in transnational affairs.

with the enforcement of a judgment relative to an equivalent offence, the Attorney General or the Director as the case may be may request the Criminal Court to make a Monitoring Order, or an Investigation Order, an Attachment Order and, or, a Seizing and Freezing Order, in accordance with and having all the effects as provided in Part IV as if the equivalent offence were a relevant offence.

(2) For the purpose of this Part an "equivalent offence" is an offence under the law of the judicial, prosecuting or administrative authority making the request, by whatever name called, which had it been committed in Malta would constitute a relevant offence.

Foreign
confiscation
orders.

56. (1) A confiscation order made by a court outside Malta shall be enforceable in Malta in accordance with the following provisions of this article.

(2) Where the Director in accordance with European Union Law or with such applicable treaties, conventions or agreements, applicable to Malta by whatever name called, receives a request by a judicial or prosecuting authority of any place outside Malta for the enforcement in Malta of a Confiscation Order made by a competent court of criminal or civil jurisdiction in that place (hereinafter referred to as a "Foreign Confiscation Order") the Director may bring an action in the Civil Court (Asset Recovery Section) by an application containing a demand that the enforcement in Malta of the Foreign Confiscation Order be ordered.

(3) The Director shall attach to the application a copy of the relevant Foreign Confiscation Order, (and where such order is in a language other than Maltese or English, together with a translation of the Order into Maltese or English) together with such documents in support of the demand as it may be in his power to produce and shall indicate in his application the names of all the witnesses he intends to produce, stating in respect of each the proof which he intends to make.

(4) The application shall be served on the person whose property the Foreign Confiscation Order purports to confiscate who shall file his reply within fifteen (15) days after the date of the service of the application. The reply shall contain a list of the witnesses which the respondent intends to produce stating in respect of each the proof which he intends to make and such documents as it may be in his power to produce.

(5) The Court shall without delay set down the application for hearing at an early date, which date shall in no case be later than thirty (30) days from the date of filing of the application or the date of its service in accordance with sub-article (4), whichever is the later.

(6) In entering orders to enforce the Foreign Confiscation Order, the Court shall be bound by the findings of fact to the extent that they are stated in the foreign order. The Court, however, shall not

order the enforcement in Malta of the Foreign Confiscation Order if:

(a) the respondent was not notified of the proceedings which led to the making of the relevant Foreign Confiscation Order, and did not have an adequate opportunity to contest the making of the said Order;

(b) the Foreign Confiscation Order was obtained by fraud on the part of any person to the prejudice of the respondent;

(c) the Foreign Confiscation Order contains any disposition contrary to the public policy or the internal public law of Malta; or

(d) the Foreign Confiscation Order contains contradictory dispositions;

(e) the Foreign Confiscation Order is based on a manifest error of law or of fact.

(7) A decision by the Court ordering the enforcement of a Foreign Confiscation Order shall have the effect of confiscating in favour of the Government of Malta all things and property whatsoever situated in Malta the confiscation of which was ordered in the Foreign Confiscation Order, subject to any direction which the Minister may give providing for the further disposal of the things or property so confiscated.

(8) The decision ordering the enforcement of a Foreign Confiscation Order which provides for the confiscation of immovable property shall have the effect of transferring that immovable property to the Government of Malta, and for the purposes of article 239 of the [Code of Organization and Civil Procedure](#) the Director shall be considered as the interested party that may obtain the registration of the transfer. Cap. 12.

(9) The decision ordering the enforcement of a Foreign Confiscation Order providing for the confiscation of unspecified property the value of which corresponds to proceeds of crime shall, upon being registered in the Public Registry, create as from the date of registration a general hypothec in regard to the debt amounting to the value of such proceeds. The value of such proceeds shall be determined by application before the Civil Court (Asset Recovery Section) served on the owner of the property to be confiscated, in accordance with the provisions, *mutatis mutandis*, of article 38.

(10) Where the Foreign Confiscation Order relates to the confiscation of a sum of money, expressed in a currency other than the euro, the sum to be confiscated shall be the equivalent of such sum in euro, in accordance with the rate of exchange established by the

Central Bank of Malta, operative on the date of the decision ordering the enforcement.

Cap. 12.

(11) The Director may, in order to secure any of the property which the Foreign Confiscation Order refers to, or the value of such property, apply to the Civil Court (Asset Recovery Section) for the issue of any of the precautionary acts referred to in article 830 of the [Code of Organization and Civil Procedure](#).

(12) For the purposes of this article:

"Confiscation Order" includes any judgment, decision, declaration or other order made by a court outside Malta providing or purporting to provide for the confiscation or forfeiture of property subject to confiscation, whether conviction based or non-conviction based;

"equivalent offence" means any act or omission by any name called which if committed in Malta would constitute a relevant offence; and

"proceeds of crime" has the same meaning as assigned to it in article 3, as if any reference therein to relevant offence were a reference to equivalent offence.

PART VIII

Regulations, Offences and Penalties

Power to make regulations.

57. The Minister may make regulations for the better execution of the provisions of this Act and without prejudice to the generality of the foregoing to further regulate the executive procedures and precautionary acts mentioned or referred to in this Act and in particular to provide:

(a) for the better custody of things seized in accordance with such warrants;

(b) for the manner in which judicial sales by auction are to be conducted and in particular the publicity given to such sales both in Malta and abroad, the place where they are to be held, the participation of persons in the auction by means of electronic means, and providing for the sales to be conducted also with the assistance of a qualified auctioneer; and

(c) for any other matter intended to secure that the best price on the market can be achieved through a sale by auction.

Unauthorised disclosure of information.

58. Whosoever discloses information acquired through the performance of his duties under this Act, other than as provided in article 26, shall be guilty of an offence against this article and shall, on conviction, be liable to a fine (*multa*) not exceeding twelve thousand

euro (€12,000) or to imprisonment not exceeding twelve (12) months or to both such fine and imprisonment.

59. (1) Whosoever shall fail to provide information requested by the Director or a member of the Directorate staff in accordance with article 16 within the time, original or extended, as provided in that article, shall be guilty of an offence against this Act, and shall on conviction be liable to a fine (*multa*) not exceeding twelve thousand euro (€12,000) or to imprisonment not exceeding one (1) year or to both such fine and imprisonment.

Failure to provide information.

(2) Moreover, in its judgment, the court may at the request of the Director order the person found guilty to provide the information within such time as it may determine in its judgment, failing which the person so ordered shall be guilty of a further offence against this Act, and shall be liable on conviction of a further fine (*multa*) of not less than twenty five euro (€25) and not exceeding two hundred and fifty euro (€250) for each day of delay in providing the information within the terms as established by the court in its order.

(3) Any appeal from the judgment containing an order as provided in sub-article (2) hereof shall not suspend the running of the time for the provision of information, as may have been established by the order.

60. Where a Monitoring Order, an Investigation Order or an Attachment Order, has been made or applied for, whosoever, knowing or suspecting that the monitoring or investigation is taking place or that a Monitoring Order, an Investigation Order or an Attachment Order has been made or applied for, or makes any disclosure likely to prejudice the monitoring operation, or the investigation or the operation of the Attachment Order shall be guilty of an offence against this article and shall, on conviction, be liable to a fine (*multa*) not exceeding twelve thousand euro (€12,000) or to imprisonment not exceeding twelve (12) months or to both such fine and imprisonment:

Disclosure relative to Monitoring Order and Investigation Orders etc.

Provided that in proceedings for an offence under this article it shall be a defence for the accused to prove that he did not know or suspect, and that in the circumstances of the case he could not reasonably be expected to know or suspect, that the disclosure was likely to prejudice the monitoring operation, the investigation or the operation of the Attachment Order.

61. Any person who, having been ordered to produce or grant access to any material in accordance with an Investigation Order shall, without lawful excuse, the proof of which shall lie on him, wilfully fails or refuses to comply with the Investigation Order or who shall wilfully hinder or obstruct any search for such material, shall be guilty of an offence against this article and shall, on conviction, be liable to a fine (*multa*) not exceeding twelve thousand euro (€12,000) or to imprisonment not exceeding twelve (12) months or to both such fine

Non-compliance with an Investigation Order.

and imprisonment.

Contravention of
Attachment Order
etc.

62. Any person who acts in contravention of an Attachment Order or a Seizing and Freezing Order shall be guilty of an offence against this article and shall on conviction be liable to a fine (*multa*) of not exceeding twelve thousand euro (€12,000) or to imprisonment not exceeding twelve (12) months or to both such fine and imprisonment, and where the offence consists in the payment, transfer or delivery to any person by the garnishee of any moneys or other property attached seized or frozen by the orders the fine shall in no case be less than twice the value of the payment made or the property transferred or delivered, even where such fine will exceed the said sum of twelve thousand euro (€12,000).

Fines recoverable
as a civil debt.

63. (1) Fines inflicted in accordance with this Part shall as to one third of their amount be enforceable as and shall constitute a civil debt in favour of the Government, and shall be recoverable by the Director.

(2) Where an offence under this Part has been committed by a person who at the time of the said offence was a director, manager or secretary or other principal officer of a body corporate or is a person having power of representation of such body or having authority to take decisions on behalf of that body or having authority to exercise control within that body and that offence was committed for the benefit, in part or in whole, of that body corporate, the said person shall for the purpose of this Part be vested with the legal representation of the said body corporate which shall be liable to the payment of a fine (*multa*) of not more than one hundred thousand euro (€100, 000):

Provided that where legal representation no longer vests in the said person, for the purpose of this article, legal representation shall vest in the person occupying the office in his stead or in such person as is referred to in this article.

PART IX

Transitory Provisions

Amendments to
various laws.

64.* The Schedule to this Act may be amended by regulations made by the Minister. The enactments in Part One in the Schedule to this Act may be repealed or amended insofar as they make provision in respect of matters also provided for in this Act in the manner as provided in the Part Two of the said Schedule:

Provided that nothing in this Act shall be interpreted as derogating, limiting or restricting any powers provided for under the laws listed in Part One of the Schedule

*This article was originally numbered as article 66.

65.* Any attachment order, freezing order, investigation order, monitoring order, seizure or other order made in relation to any investigation of a relevant offence or to criminal proceedings before the coming into force of this Act shall after the coming into force of this Act continue to have effect and to be regulated by the law under which it was issued and shall not be affected by the provisions of this Act.

Orders issued before the coming into force of this Act.

SCHEDULE
(Articles 35 and 66)

Part One

- Criminal Code Cap. 9
- Code of Organization and Civil Procedure Cap. 12
- Medical and Kindred Professions Ordinance Cap. 31
- Dangerous Drugs Ordinance Cap. 101
- Malta Financial Services Authority Act Cap. 330
- Prevention of Money Laundering Act Cap. 373
- Prevention of Financial Markets Abuse Act Cap. 476

Part Two

The Minister with prior approval by resolution of the House of Representatives may within a period of three (3) years from the date of the coming into force of this Schedule by Legal Notice repeal or amend provisions in the enactments listed in Part One of this Schedule insofar as they provide for matters also provided for in this Act.

*This article was originally numbered as article 69.