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I assent.

(L.S.) **GEORGE VELLA**
President

9th February, 2024

ACT No. VI of 2024

AN ACT to amend various laws relating to the proceeds of crime.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same as follows:-

Short title.

1. The short title of this Act is the Various Laws relating to Proceeds of Crime (Amendment) Act, 2024.

PART I
Amendments to the Criminal Code

Amendments to the Criminal Code. Cap. 9.

2. This Part amends the Criminal Code and it shall be read and construed as one with the Criminal Code, hereinafter in this Part referred to as "the Code".

Substitution of article 23A of the Code.

3. Article 23A of the Code shall be substituted by the following new article:

"Freezing of property of person accused. Cap. 621.

23A. (1) The freezing of property of any person charged or accused of a relevant offence shall be regulated by the provisions of the Proceeds of Crime Act:

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Provided that the above shall not apply when a person is charged or accused with an offence against the provisions of the Medical and Kindred Professions Ordinance or of the Dangerous Drugs Ordinance both if the charges are only for offences against the said laws and if they are for offences under the said laws and offences under other laws:

Cap. 31.
Cap. 101.

Provided further that where, before the coming into force of this proviso, a Freezing Order was issued in respect of an offence against the Medical and Kindred Professions Ordinance or the Dangerous Drugs Ordinance under the Medical and Kindred Professions Ordinance or Dangerous Drugs Ordinance or under article 23A of this Code as in force at the time of the issuing of the said order, whether the charges were only for offences against the Medical and Kindred Professions Ordinance or the Dangerous Drugs Ordinance or for offences under those laws together with charges for offences under other laws every Freezing Order so issued shall be deemed to have been issued under the Medical and Kindred Professions Ordinance and the Dangerous Drugs Ordinance, and shall, after the coming into force of this proviso, continue to be in force and shall be regulated in accordance with the Medical and Kindred Professions Ordinance and the Dangerous Drugs Ordinance.

Cap. 31.
Cap. 101.

(2) In this article and in articles 23B, 23C and 23D the words "property" and "relevant offence" have the same meaning as assigned to them in the Proceeds of Crime Act and the word "proceeds" has the same meaning as assigned to the words "Proceeds of crime" in the Proceeds of Crime Act.

Cap. 621.

(3) Where this article and articles 23B, 23C and 23D provide for the forfeiture of proceeds of crime in a manner which is not provided for in the Proceeds of Crime Act the provisions of this article and of articles 23B, 23C and 23D shall be applied before the provisions of the Proceeds of Crime Act. The provisions of the Proceeds of Crime Act shall apply only subsidiarily in accordance with article 5(3) of the Proceeds of Crime Act.".

Cap. 621.

4. Sub-articles (1A), (1B) and (3) of article 23B of the Code shall be deleted.

Amendment of article 23B of the Code.

5. Article 23C of the Code shall be amended by the following:

Amendment of article 23C of the Code.

(a)(i) in sub-article (2) thereof, the words "22(3A)(b) and (d) and (7)" shall be substituted by the words "22(3A)(b) and

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(7)"; and

(ii) sub-article (2) thereof in its entirety, as amended, shall be renumbered as paragraph (a) of the same sub-article and immediately thereafter there shall be added the following new paragraph:

"(b) the Court shall order the forfeiture in favour of the Government of such moneys or other movable property and such immovable property of the person found guilty of the relevant offence which constitute the proceeds of the said offence even if the movable or immovable property has since the offender was charged passed into the hands of third parties and even if the said moneys, movable property or immovable property are situated in any place outside Malta."; and

(b) sub-article (6) thereof shall be deleted.

Amendment of article 435A of the Code.

6. Sub-article (3) of article 435A of the Code shall be substituted by the following new sub-article:

"(3) For the purposes of this article:

Cap. 373. "the Act" means the Prevention of Money Laundering Act; and

Cap. 621. "relevant offence" shall have the same meaning as assigned to it in the Proceeds of Crime Act.".

Amendment of article 435D of the Code.

7. In sub-article (3) of article 435D of the Code the words " "the Act" and "the Ordinances" shall have the same meaning assigned to them respectively by article 23A(1);" shall be substituted by the words

"Cap. 373. "the Act" means the Prevention of Money Laundering Act;

Cap. 31. Cap. 101. "the Ordinances" means the Medical and Kindred Professions Ordinance and the Dangerous Drugs Ordinance; and".

PART II
Amendments to the Malta Financial Services Authority Act

Amendments to the Malta Financial Services Authority Act. Cap. 330.

8. This Part amends the Malta Financial Services Authority Act and it shall be read and construed as one with the Malta Financial Services Authority Act, hereinafter in this Part referred to as the "principal Act".

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9. Article 17A of the principal Act shall be substituted by the following new article: Substitution of article 17A of the principal Act.

"Attachment Orders. 17A. When upon information received from the Authority, the Attorney General has reasonable cause to suspect that a person is guilty of a breach of this Act or of any other Act, the Attorney General may request the Criminal Court to issue an Attachment Order and the provisions of article 35 of the Proceeds of Crime Act shall apply.". Cap. 621.

10. Article 17B of the principal Act shall be substituted by the following new article: Substitution of article 17B of the principal Act.

"Freezing of funds. 17B. When a person is charged with a criminal offence in breach of this Act or with an offence which is a relevant offence in terms of the Proceeds of Crime Act, the prosecution may apply to the Court of Magistrates for a freezing order and the provisions of article 36 of the said Act shall apply.". Cap. 621.

PART III
Amendments to the Prevention of Money Laundering Act

11. This Part amends the Prevention of Money Laundering Act and it shall be read and construed as one with the Prevention of Money Laundering Act, hereinafter in this Part referred to as the "principal Act". Amendments to the Prevention of Money Laundering Act. Cap. 373.

12. Article 3 of the principal Act shall be amended as follows: Amendment of article 3 of the principal Act.

(a) in the proviso to paragraph (a) of sub-article (5) thereof the words "Provided that, for the purposes" shall be substituted by the words "Provided further that, for the purposes" and immediately before there shall be added the following new proviso:

"Provided that the presumption in this paragraph and any similar presumption in any other law shall not prejudice the power of the Court to vary a freezing order whilst criminal proceedings are pending as provided in article 5:"; and

(b) sub-article (7) thereof shall be amended by the following:

(i) the words "22(3A)(b), (d) and (7)" shall be substituted by the words "22(3A)(b) and (7)"; and

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(ii) sub-article (7) in its entirety, as amended, shall be renumbered as paragraph (a) of the same sub-article and immediately thereafter there shall be added the following new paragraph:

"(b) The court shall order the forfeiture in favour of the Government of such moneys or other movable property and such immovable property of the person found guilty of the offence of money laundering which constitute the proceeds of the said offence even if the movable or immovable property has since the offender was charged passed into the hands of third parties and even if the said moneys, movable property or immovable property are situated in any place outside Malta.".

Amendment of article 4 of the principal Act.

13. Immediately after sub-article (11) of article 4 of the principal Act there shall be added the following new sub-article:

"(11A)(a)When an Attachment Order is revoked by the Criminal Court or withdrawn by the Attorney General prior to the expiration of its period of validity, the said Court shall issue a decree confirming the said revocation and shall order the service of the said decree upon the suspect and upon all garnishees in the manner provided in sub-article (9) and upon all those served with the Attachment Order.

(b) When the period of validity of an Attachment Order is suspended for such time as the suspect is away from Malta, the said suspension shall only apply in respect of that person.

(c) When an Attachment Order no longer remains in force, the Criminal Court shall issue a decree confirming that the Attachment Order is no longer in force. The Court shall order the service of the said decree upon the suspect and upon all garnishees in the manner as provided in sub-article (9) and upon all those served with the Attachment Order.".

Substitution of article 5 of the principal Act.

14. Article 5 of the principal Act shall be substituted by the following new article:

"Freezing of property of person charged.

Cap. 621.

5. When a person is charged under article 3, the prosecution may apply to the Court of Magistrates for a freezing order and the provisions of article 36 of the Proceeds of Crime Act shall apply.".

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15. Article 7 of the principal Act shall be substituted by the following new article: Substitution of article 7 of the principal Act.

"Confiscation and rights of third parties. Cap. 621.

7. Articles 38 and 39 of the Proceeds of Crime Act shall apply in respect of the determination of any property subject to confiscation in terms of article 3(5) and of the determination of the rights of third parties over such property.".

16. Article 8 of the principal Act shall be deleted. Deletion of article 8 of the principal Act.

PART IV
Amendments to the Prevention of Financial Markets Abuse Act

17. This Part amends the Prevention of Financial Markets Abuse Act and it shall be read and construed as one with the Prevention of Financial Markets Abuse Act, hereinafter in this Part referred to as the "principal Act". Amendments to the Prevention of Financial Markets Abuse Act. Cap. 476.

18. Article 18 of the principal Act shall be substituted by the following new article: Substitution of article 18 of the principal Act.

"Attachment Order.

18. When in the course of an investigation conducted in accordance with this Act and, or the Market Abuse Regulation, upon information received from the competent authority, the Attorney General has reasonable cause to suspect that a person may be responsible for a breach of this Act and, or the Market Abuse Regulation, the Attorney General may file an application before the Criminal Court to request the said Court to issue an Attachment Order and the provisions of article 35 of the Cap. 621. Proceeds of Crime Act shall apply.".

19. Article 19 of the principal Act shall be substituted by the following new article: Substitution of article 19 of the principal Act.

"Freezing of funds.

19. When a person is charged with a breach of any provisions of this Act and, or of the Market Abuse Regulation and upon receiving a request from the competent authority, the prosecution may where it deems it appropriate, request that the Court of Magistrates issue a freezing order and the provisions of article 36 of the Cap. 621. Proceeds of Crime Act shall apply.".

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PART V
Amendments to the Proceeds of Crime Act

Amendments to the Proceeds of Crime Act. Cap. 621.

20. This Part amends the Proceeds of Crime Act and it shall be read and construed as one with the Proceeds of Crime Act, hereinafter in this Part referred to as the "principal Act".

Amendment of article 2 of the principal Act.

21. Article 2 of the principal Act shall be amended as follows:

(a) immediately before the definition "Board" there shall be added the following new definitions:

" "accused" shall include a person charged;

"amount established by the Minister by order in the Gazette" includes both an order establishing a fixed amount as well as an order establishing a formula determining the manner in which such an amount should be computed whether by reference to a specific period of time or from time to time;" and

(b) immediately after the definition "property" there shall be added the following new definition:

" "Seizing and Freezing Order" shall include a reference to such an order using words to the same effect and in particular includes an order referred to simply as a "Freezing Order" under any other law;".

Amendment of article 19 of the principal Act.

22. Immediately after sub-article (6) of article 19 of the principal Act there shall be added the following new sub-article:

"(7) For the purposes provided for in sub-article (6), the Bureau may enter into contracts for the storage and maintenance of property seized or frozen, and may pay compensation to appraisers, experts and other professionals who may be engaged to assist the Bureau in establishing the value, and make arrangements for, or coordinating the sale, the transfer, or the assignment of such property either before or after a final judgment is delivered.".

Amendment of article 35 of the principal Act.

23. Article 35 of the principal Act shall be amended as follows:

(a) sub-article (5) thereof shall be amended as follows:

(i) the words "relevant offence:" shall be substituted by the words "relevant offence."; and

(ii) the proviso thereof shall be deleted;

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(b) immediately after sub-article (5) thereof, as amended, there shall be added the following new sub-articles:

"(5A) The provisions of sub-articles (5) and (6) of article 36 shall apply *mutatis mutandis* to an Attachment Order.

(5B) When an Attachment Order is withdrawn by the Attorney General prior to the expiration of its period of validity or no longer remains in force for any other reason including the lapse of its period of validity, the Criminal Court shall issue a decree confirming that the Attachment Order has been revoked or is no longer in force and it shall order the service of the said decree upon the suspect and all the garnishees and all those served with the Attachment Order in the manner as provided for in sub-article (4).";

(c) in sub-article (6) thereof immediately after the words "shall be added to the period of validity of the Attachment Order" there shall be added the words "in respect of the said suspect"; and

(d) immediately after sub-article (13) thereof there shall be added the following new sub-article:

"(14) The suspect or the person charged or accused may not contest the factual basis for the issuing of the order according to this article or article 36 at the time when the order is issued, except as provided in paragraph (ii) of sub-article (8) of article 36.

Substitution of article 36 of the principal Act.

24. Article 36 of the principal Act shall be substituted by the following new article:

"Seizing and Freezing Orders.

36. (1) Where a person is charged with a relevant offence, the Court shall, at the request of the prosecution, issue an Order, hereinafter referred to as a "Seizing and Freezing Order", attaching any property in the hands of third parties for which there is reasonable cause to believe that the property is subject to confiscation, and restraining and prohibiting the accused from transferring, pledging, hypothecating, or otherwise changing or disposing of any such property and of such other property owned by him or being in his possession.

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(2) In the case that property which is subject to confiscation referred to in sub-article (1) cannot be attached or restrained because it cannot be located, has been mixed with other property, has been transferred to a third party, is located outside Malta, or cannot for any other reason be attached or restrained, the Court shall, subject to the limitations in sub-article (3), include in the Seizing and Freezing Order a provision attaching and restraining property of equivalent value.

(3)(a) The request for a Seizing and Freezing Order shall be made by the prosecution either by means of an application indicating the assets or sum of money or both subject to confiscation in the case of a conviction, or in the document whereby the charges are made.

(b) The right of the person charged to contest a Seizing and Freezing Order shall be as provided in paragraph (ii) of sub-article (8).

(c) A third party who establishes that a Seizing and Freezing Order is causing him immediate and irreparable prejudice may request the Court to vary the Order to mitigate such harm to the extent that it is practicable to do so without adjudicating the issues that the third party would be entitled to raise at the appropriate time in accordance with article 39.

(d) The prosecution may request the Court, at any time during the proceedings, to amend the Seizing and Freezing Order as provided in paragraph (a), to add or remove property which is subject to such Order.

(4)(a) If the charge against the person charged or the request made by the prosecution in terms of sub-article (3)(a) lists the assets that shall be subject to confiscation in the case of a conviction, or if it alleges a specific sum of money or both as the property subject to confiscation, the Seizing and Freezing Order shall be limited to such specific assets or to property having a value not greater than that sum of money.

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(b)(i) If the charge or the request for the issuing of a Seizing and Freezing Order against the person charged provides in general terms that the property of the person charged shall be subject to confiscation, but does not limit the property subject to confiscation to specific assets or to a specific sum of money or both, the Court shall issue a Seizing and Freezing Order sufficient to preserve such property as may be required to satisfy a confiscation order, up to and including all assets of the accused, but in any case the Court shall require the prosecution to establish within ninety (90) days that there is a reasonable basis to believe that the property shall be subject to confiscation:

Provided that the time limit for the prosecution to establish the property that shall be subject to the Seizing and Freezing Order may be extended by the Court for another ninety (90) days if the Court is satisfied that such extension is justified;

(ii) if the prosecution within the time limits provided in paragraph (i) limits the property subject to the Seizing and Freezing Order to specific assets or a specific sum of money or both, the Court shall, if it deems it appropriate, amend the Seizing and Freezing Order and the provisions of paragraph (ii) of sub-article (8) shall apply;

(iii) if the prosecution does not within the time limits provided in paragraph (i) limit the property subject to the Seizing and Freezing Order to specific assets or to a specific sum of money or both, the Seizing and Freezing Order shall cease to have effect upon the lapse of the said time limits and the provisions of sub-article (5B) of article 35 shall apply *mutatis mutandis* in respect of the accused;

(iv) when a Seizing and Freezing Order ceases to have effect in accordance with sub-paragraph (iii) the Court shall upon a demand by application of the person charged or accused issue a decree confirming that the Seizing and Freezing Order is no longer in force and shall order service of the said decree upon all persons who were served with the Seizing and Freezing Order.

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(5)(a) The Court may vary a Seizing and Freezing Order upon an application of the person charged or accused. The said application shall be served upon the prosecution and upon the Director. Upon such application the Court shall determine what monies may be paid to or received by the person charged or accused during the validity of such Order, to allow him and his family a decent living in a yearly amount not exceeding the amount established by the Minister by order in the Gazette and any other amount which the Court considers justified to meet necessary expenses.

(b) On a court application of the person charged or accused served upon the prosecution and the Director, the Court shall also, subject to such conditions as it deems fit:

(i) determine what moneys may be paid or received by the person charged or accused during the validity of a Seizing and Freezing Order to allow him to carry on any trade, business, profession or occupation;

(ii) authorise the payment of debts which are due by the person charged or accused to *bona fide* creditors and which were contracted before the Seizing and Freezing Order was made;

(iii) on good ground, authorise the person charged or accused to transfer movable or immovable property.

(c) In the case that during the proceedings a request is made for the variation of the Order in terms of paragraph (a) or (b) which relates to expenses which are recurrent, the Order allowing the payment of such recurrent expenses shall be considered as covering such expenses whenever they arise without the need to file an application every time such expenses arise.

(6) Any decision taken by the Court in accordance with this article shall constitute a provisional measure and shall not prejudice the merits of the case.

(7) A Seizing and Freezing Order shall be immediately served upon the Director and shall:

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(a) become operative and binding on all third parties immediately when it is issued 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) without prejudice to the other provisions of this article, remain in force until the final determination of the proceedings and in the case of a conviction until the sentence has been executed.

(8)(i) Where the Court of Magistrates does not issue an Order in accordance with sub-article (1) when requested by the prosecution, the Court shall instead issue a temporary freezing order having the same effect. The Attorney General may, within seven (7) working days from the date of the Court's decision, file an application before the Criminal Court to make the required order. The Criminal Court shall grant the accused seven (7) working days to reply to the application of the Attorney General. The temporary Freezing Order shall remain in force until the Criminal Court determines the application.

(ii) When an order in accordance with sub-article (1) is issued by the Court of Magistrates, the person charged may within seven (7) working days from the date of the Court's decision, file an application before the Criminal Court requesting the total or partial revocation of the order, provided that the order shall remain in force until a decision is given by the Criminal Court. The Criminal Court shall grant the prosecution and the Director seven (7) working days to reply to the request of the person charged. The decision of the Criminal Court on the application shall be delivered within seven (7) working days from the filing of the replies or from when the time limit for their filing lapsed.

(9)(a) On the application of the Bureau, the Civil Court (Asset Recovery Section) shall order the sale during the proceedings and without awaiting a final judgment of any property which has been seized or frozen in terms of this article if that Court finds that:

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(i) the property is perishable or at risk of deterioration, decay, damage or depreciation in value;

(ii) the expense of keeping the property is excessive or disproportionate to its fair market value when one also takes into consideration the time likely to determine whether the property shall be subject to forfeiture or to a confiscation order;

(iii) the property is subject to a loan or other right over property or to taxes on which the owner is in default of his obligations; or

(iv) there is any other valid reason for the sale:

Provided that the Court may in its discretion, deny a request to order the sale if it finds that the property possesses such unique characteristics that its sale would constitute an irreplaceable loss to the property owner should the property ultimately be found not to be subject to confiscation.

(b) The proceeds of any sale pursuant to this sub-article shall be held in an account maintained by the Bureau and shall serve as a substitute *res* in any ensuing criminal or non-conviction based confiscation proceeding.

(c) The Court shall decide on the request of the Bureau in accordance with this sub-article within thirty (30) days from the date when the request is made. The decree shall be subject to a right of appeal by the aggrieved party on points of law and such appeal shall be filed in the Court of Appeal within seven (7) working days from the date of the decree. The party against whom the appeal is filed may file a reply within seven (7) working days from the service of the appeal. The Court of Appeal shall decide the appeal within thirty (30) days from the conclusion of the written pleadings.

(10) The provisions of sub-articles (7) to (13) of article 35 shall *mutatis mutandis* apply in the case of a Seizing and Freezing Order issued in accordance with this article and to any order to which the provisions of this article apply.

(11) Where a Seizing and Freezing Order, as issued or as varied, is limited to specific property, the other property of the defendant shall not be considered as being subject to such Order.".

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25. Article 38 of the principal Act shall be substituted by the following new article: Substitution of article 38 of the principal Act.

"Determination of property subject to confiscation.

38. (1) When a Court of criminal jurisdiction sentences a person convicted of a relevant offence, it shall include in its sentence an order, hereinafter referred to as a "confiscation order", confiscating any property which the Court determines, on a balance of probabilities, to be property subject to confiscation, as defined in article 3(6), as a consequence of the conviction.

(2) After conviction but before determining what property is subject to confiscation and before giving judgment the Court shall order the Director or the prosecution to submit a list of assets subject to confiscation.

(3) The accused may contest the list of assets subject to confiscation by means of an application filed within one (1) month from the submission of the said list. The Court shall serve the application upon the Attorney General for a reply to be filed within a month (1). The Court shall hear the prosecution and the accused and shall in the judgement decide which property shall be subject to the confiscation order.

(4) If the Court finds that any part of the property subject to confiscation is unavailable, it shall make a confiscation order in the judgment for a sum of money equal in value to the unavailable property. At any time after the issuance of such an order for a sum of money, the Court, upon the application of the Attorney General, may make an order confiscating any other property of the person convicted to satisfy the judgement in whole or in part.

(5) Any confiscation order made in accordance with this article, including an order in the form of a judgement for a sum of money, may be appealed together with the appeal from the conviction and sentence:

Provided the time limit for filing an appeal from the conviction shall commence to run from the date when the judgement which includes the confiscation order is delivered.

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(6) The Court shall issue an order confiscating property pursuant to this article based solely on its finding that the property is subject to confiscation and without regard to the ownership or the rights of any third parties over the property. All issues regarding the rights of third parties shall be determined in separate proceedings in accordance with article 39. Accordingly, third parties may not participate in the determination of which property is subject to confiscation in accordance with this article.

(7) The issuance of a confiscation order in accordance with this article is mandatory, except that in the case of facilitating property and property involved in money laundering other than the proceeds of the predicate offence, the Court shall limit the confiscation to the extent necessary to ensure that the confiscation is not grossly disproportionate to the gravity of the offence giving rise to the confiscation.

(8) For the purpose of being assisted in the identification and location of property subject to confiscation, in the calculation of the amount of a judgement for a sum of money, or in the identification of property that may be needed to satisfy such a judgment, the Attorney General may apply for an order pursuant to articles 34 and 35.

(9) Pending a determination by the Court that the property is subject to confiscation, or that a property shall be needed to satisfy a confiscation judgement, any property of the person convicted or of a third party may be attached, frozen or seized in accordance with articles 35 and 36, if the Court, upon the application of the Attorney General, finds that there are reasonable grounds to believe that the property may be found to be subject to confiscation.

(10) When more than one person is convicted of an offence, each convicted person shall be jointly and severally liable for the total proceeds of crime obtained by any of them:

Provided that:

(a) the Government may not recover more than the total proceeds of the offence; and

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(b) 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 shall consider the extent to which making such person jointly and severally liable for the total proceeds of the crime would be grossly disproportionate to the role of that person in the offence.".

Amendment of article 39 of the principal Act.

26. Immediately after sub-article (6) of article 39 of the principal Act there shall be added the following new article:

"(7) In respect of property confiscated by a judgement of a Court of Criminal Jurisidction in terms of article 38, an action by a third party under this article shall be filed by not later than six (6) months from the date of the final judgement ordering confiscation. If no action is filed as aforesaid the confiscation of property shall become final and cannot be challenged.".

Amendment of article 41 of the principal Act.

27. Article 41 of the principal Act shall be amended as follows:

(a) in sub-article (1) the words "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 substituted by the words "sub-article (5) of article 36 and any application to vary an Attachment Order or a Seizing and Freezing Order" and the words "the Criminal Court" shall be substituted by the words "the Court";

(b) sub-article (2) thereof shall be substituted by the following new sub-article:

"(2) In determining any payment allowed to be made to the suspect or to the accused in terms of sub-article (5A) of article 35 or of sub-article (5) of article 36 the Court shall take into consideration the actual needs of the suspect or the accused and the availability of other means for his subsistance.".

Amendment of article 43 of the principal Act.

28. Paragraph (d) of sub-article (2) of article 43 of the principal Act shall be substituted by the following new paragraph:

"(d) any violation of any international sanction imposed by the United Nations, the European Union, or other international body whose authority to impose such international sanctions is recognized in Maltese law.".

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Amendment of article 44 of the principal Act.

29. In sub-article (4) of article 44 of the principal Act the words "article 59" shall be substituted by the words "article 49".

Substitution of article 47 of the principal Act.

30. Article 47 of the principal Act shall be substituted by the following new article:

"Confiscation of property situated outside Malta.

47. In addition to the authority to bring a non-conviction-based confiscation action against property that is found in Malta, the Government may exercise such an action against property located outside of Malta, if the property would be subject to confiscation in terms of article 43(2)(a) if the property were found in Malta. In such a case, the Courts of Malta shall have the authority to issue an appropriate confiscation order, and the Attorney General shall have the authority to request the central authority in the country where the property is located, to register and enforce the order in accordance with that country's domestic laws and any applicable international agreements.".

Amendment of article 48 of the principal Act.

31. Article 48 of the principal Act shall be amended as follows:

(1) sub-article (4) thereof shall be substituted by the following new sub-article:

"(4)(a) If the Government contests the reply of any intervener for failure to establish an ownership interest in the property, prior to any other matter, the Court shall first determine whether the intervener has established his ownership interest.

(b) Notwithstanding any title to the property, the Court shall not be satisfied that the intervener has an ownership interest in the property if it finds that the intervener is a nominee who did not exercise effective dominion and control over the property, or otherwise did not prove rights of ownership consistent with real ownership.";

(2) paragraph (b) of sub-article (5) thereof shall be substituted by the following new paragraph:

"(b) Otherwise, if a valid claim is filed, the Court shall issue a Confiscation Order if it determines that:

(i) on a balance of probabilities, the Government has established that the property is subject to confiscation; and

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(ii) no intervener has established an affirmative defence in terms of article 49."; and

(3) immediately after paragraph (b) of sub-article (5) thereof, as substituted, there shall be added the following new paragraph:

"(c) In determining whether the Government has met its burden of establishing that the property is subject to confiscation, the Court may consider any evidence relevant to that determination submitted by the intervener. The Court shall postpone determining whether the intervener is able to establish an affirmative defence in terms of article 49 until it has found that the property is subject to confiscation.".

PART VI
Transitory Provisions

Transitory provisions. Cap. 330. Cap. 373. Cap. 476. Cap. 621. Act No. VI of 2024.

32. (1) Except as otherwise provided in this article, the provisions of articles 17A and 17B of the Malta Financial Services Authority Act, of articles 3, 4 and 5 of the Prevention of Money Laundering Act, of articles 18 and 19 of the Prevention of Financial Markets Abuse Act, and of articles 35, 36 and 41 of the Proceeds of Crime Act, as amended by the Act to amend Various Laws relating to the Proceeds of Crime, 2024 shall apply to investigation procedures and to criminal proceedings which are commenced after the coming into force of the said Act.

Act No. VI of 2024.

(2) The provisions of the articles referred to in sub-article (1) as in force before the coming into force of the Act to amend Various Laws relating to the Proceeds of Crime, 2024 shall remain in force and shall apply after the coming into force of the said Act in relation to investigations and criminal proceedings which were commenced before the coming into force of the said Act, except as otherwise provided in this article.

Act No. VI of 2024.

(3) The provisions of the articles referred to in sub-article (1) as amended by the Act to amend Various Laws relating to the Proceeds of Crime, 2024 shall apply in respect of Attachment Orders and Seizing and Freezing Orders issued in relation to investigations or criminal proceedings which were commenced before the date of coming into force of the said articles as amended by the Act to amend Various Laws relating to the Proceeds of Crime, 2024 but which are still pending on the said date of coming into force, subject to the following conditions:

(a) the suspect, the person charged or the accused files a request by application to the Criminal Court in the case of an Attachment Order or to the Court before which the case is being

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heard in the case of a Seizing and Freezing Order in which he requests that the order issued in his regard be regulated by the said articles as amended by the said Act instead of the articles as were in force prior to being so amended;

(b) the Court, after having heard the prosecution and every witness who it considers appropriate to hear, considers that it should accede to the request; and

(c) the Court issues a decree by which it shall regulate the manner and the time frame according to which the Attachment Order or the Seizing and Freezing Order shall proceed to be regulated in accordance with the articles referred to in sub-article (1) as amended by the said Act:

Provided that, without prejudice to the generality of this sub-article, in the case of a Seizing and Freezing Order the provisions of article 36(4) of the Proceeds of Crime Act as amended by the Act to amend Various Laws relating to the Proceeds of Crime, 2024 shall, as from such date as may be established in the said decree, commence to apply *mutatis mutandis* to the Seizing and Freezing Order in such manner sohowever that the two (2) periods of ninety (90) days provided for in article 36(4)(b) may also be extended by the Court upon a request by the prosecution by another subsequent period of ninety (90) days if the Court is satisfied that such extension is justified.

Cap. 621.
Act No. VI of 2024.

(4) Where the law applicable to an Attachment Order or a Seizing and Freezing Order is modified in accordance with sub-article (3), the investigation or the criminal proceedings with reference to which the said modification is made shall, except in the case of criminal proceedings which are adjourned for final submissions or for judgment, be regulated from that time onwards in their entirety, including but not limited to the procedure for the confiscation of any proceeds of crime, by the provisions of the law as amended by the Act to amend Various Laws relating to the Proceeds of Crime, 2024.

Act No. VI of 2024.

Cap. 373.
Cap. 621.
Act No. VI of 2024.

(5) The provisions of article 7 of the Prevention of Money Laundering Act and of article 38 of the Proceeds of Crime Act as amended by the Act to amend Various Laws relating to the Proceeds of Crime, 2024 shall apply to all investigations and criminal proceedings also including those which are pending on the date of the coming into force of the said Act except for criminal proceedings which on the date of the coming into force of the said Act are adjourned for final submissions or for judgment in which latter cases the said proceedings shall continue to be regulated by the provisions of the said articles as in force before the coming into force of the said Act and those provisions shall, for the purposes of this sub-article, be deemed to have

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remained in force.

(6) The provisions of all articles of the Act to amend Various Laws relating to the Proceeds of Crime, 2024 which are not referred to in sub-article (1) or sub-article (5) shall apply to all proceedings, whether they are pending on the date of the coming into force of the said Act, or if commenced subsequent to the coming into force of the said Act. Act No. VI of 2024.

Passed by the House of Representatives at Sitting No. 201 of the 30th January, 2024.

ANĠLU FARRUGIA
Speaker

ELEANOR SCERRI
Clerk of the House of Representatives

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