

MISCELLANEOUS PROVISIONS (PROCEEDS OF CRIME, ANTI-TERRORISM AND FINANCIAL INTELLIGENCE UNIT OF TRINIDAD AND TOBAGO) (NO. 2) BILL, 2014

List of Amendments made in the Senate
at the Committee Stage of the above-named Bill

First Column Clause	Second Column Extent of Amendment
3	<p>A. In paragraph (a) (iv) in the definition of “specified offence” delete paragraph (a) and replace with the following:</p> <p style="padding-left: 40px;">“ (a) an offence in any of the categories set out in the Second Schedule for which the constituent elements are more specifically provided for in any written law or under the common law and which is punishable upon conviction with a fine of not less than five thousand dollars or to imprisonment for not less than twelve months; or”</p> <p>B. Insert after paragraph (a) the following sub-paragraphs:</p> <p style="padding-left: 40px;">“ (aa) in subsection 2(2) by deleting the words “, subject to an affirmative resolution of Parliament”;</p> <p style="padding-left: 40px;">(ab) by inserting after subsection 2(2) the following new subsection:</p> <p style="padding-left: 80px;">“ (2A) An Order under subsection (2) to amend the First Schedule shall be subject to an affirmative resolution of Parliament”; and</p> <p style="padding-left: 40px;">(ac) in subsection 2 (3), by deleting all the words occurring after the word “offence” where it first occurs, and substituting the following words “or criminal conduct includes a reference to an act or criminal conduct which would constitute an offence committed before the commencement of this Act.</p>

First Column Clause	Second Column Extent of Amendment
3 cont'd	<p>C. Insert after paragraph (b), the following new sub-paragraph:</p> <p style="padding-left: 40px;">“ (ba) in section 20(6)(b), delete the words “of any of the following kinds” and substitute the words “of any kind including but not limited to”.</p> <p>D. In paragraph (b) in proposed subsection 2(b), delete the words “a criminal charge or any proceedings connected thereto and” and replace with the words “any legal proceedings including”;</p> <p>E. In paragraph (f) –</p> <p style="padding-left: 40px;">(a) in proposed section 43 –</p> <p style="padding-left: 80px;">(i) in subsection (1):</p> <p style="padding-left: 120px;">(A) in the definition of “criminal conduct” in paragraph (b) delete the word “committed” and replace with the words “it occurred”; and</p> <p style="padding-left: 120px;">(B) in the definition of “criminal property”, delete the word “for” occurring after the words “a person” and substitute the word “from”;</p> <p style="padding-left: 40px;">(ii) in subsection (2), delete all the words occurring after the words “subsection (1)” and substitute the following;</p> <p style="padding-left: 80px;">“, it is immaterial-</p> <p style="padding-left: 120px;">(a) who carried out the criminal conduct;</p> <p style="padding-left: 120px;">(b) who benefitted from the criminal conduct; or</p> <p style="padding-left: 120px;">(c) whether the criminal conduct occurred before or after the date of commencement of the Miscellaneous Provisions (Proceeds of Crime, Anti-terrorism and Financial Intelligence Unit of Trinidad</p>

First Column Clause	Second Column Extent of Amendment
3 cont'd	<p style="text-align: right;">and Tobago)(No. 2) Bill, 2014.”;</p> <p>(b) in proposed section 45 (2) delete all the words from “Where a person” to the word “fails” and replace with the words “For the purposes of subsection (1), a financial institution or listed business knows or has grounds to suspect that the property is criminal property, if it or he”;</p> <p>(c) in proposed section 45(4) delete the words “on a balance of probabilities” and substitute the words “that applicable in civil proceedings”.</p> <p>F. Insert after paragraph (f) the following:</p> <p style="padding-left: 40px;">“(g) in section 47-</p> <p style="padding-left: 80px;">(i) in subsection (1) by deleting the words “a specified offence” and substituting the words “criminal conduct”; and</p> <p style="padding-left: 80px;">(ii) by inserting after subsection (3) the following new subsection:</p> <p style="padding-left: 120px;">“(4) This section also applies where a person discloses to the FIU in the form of a suspicious transaction or activity report his knowledge or suspicion that the property is criminal property, in whole or in part, directly or indirectly.”;</p> <p>G. In paragraph (m)-</p> <p style="padding-left: 40px;">(a) in proposed section 55C, insert after proposed subsection (2) the following new subsection:</p> <p style="padding-left: 80px;">“(3) For the purposes of this section, “senior management” in relation to a financial institution means the body responsible for directing or overseeing the performance of the financial institution.”;</p>

First Column Clause	Second Column Extent of Amendment
3 cont'd	<p>(b) in proposed section 55D-</p> <p>(i) in subsection (1), delete the words “and with the consent of the owner or occupier of such premises”; and</p> <p>(ii) delete subsection (2) and replace with the following new subsections:</p> <p style="padding-left: 40px;">“ (2) Where the Supervisory Authority is the FIU, the FIU shall obtain the consent of the owner or occupier of the premises for the entry.</p> <p style="padding-left: 40px;">(3) Where the listed business refuses to give consent under subsection (2), a police officer above the rank of sergeant may apply for a warrant to enter the premises accompanied by an officer of the FIU.”;</p> <p>(iii) Renumber subsection (3) as subsection (4).</p> <p>H. Insert after paragraph (m) the following new paragraph:</p> <p style="padding-left: 40px;">“(ma) in section 56, by deleting the words “subsections (5) and (6) of subsection 55” and substituting the words “section 55 C”;</p> <p>I. In paragraph (n) (i) delete subparagraph (A) and replace with the following:</p> <p style="padding-left: 40px;">“(A) by deleting the words “section 55” and substituting the words “sections 55, 55A and 55C”;</p> <p>J. In paragraph (o)-</p> <p>(a) in proposed section 58I(3), insert after the word “request” the word “that”;</p> <p>(b) in proposed section 58J, insert after subsection (2) the following new subsection:</p> <p style="padding-left: 40px;">“ (3) Where after a decision or determination is made by the Seized</p>

First Column Clause	Second Column Extent of Amendment
3 cont'd	<p>Assets Advisory Committee, it comes to the attention of a member that he has a conflict of interest, the Seized Asset Advisory Committee, may reconsider its decision in the absence of that member.”;</p> <p>(c) in proposed section 58K(a), delete the words “shown to” and replace with the words “shown in”;</p> <p>(d) in proposed section 58L, delete the words “national security” and replace with the word “finance”; and</p> <p>(e) in proposed section 58M(2), delete the words “national security” and replace with the word “finance”;</p> <p>K. In paragraph (q), delete the words “Third Schedule” and replace with the words “Second and Third Schedules” and substituting the following:</p> <p style="text-align: center;">“SECOND SCHEDULE</p> <p style="text-align: right;">(Section 2)</p> <p style="text-align: center;">CATEGORIES OF OFFENCES</p> <p>(1) Participation in an organized criminal group and racketeering;</p> <p>(2) Terrorism, including terrorist financing;</p> <p>(3) Trafficking in human beings, body parts and migrant smuggling;</p> <p>(4) Sexual exploitation including sexual exploitation of children;</p> <p>(5) Illicit trafficking in narcotic drugs and psychotropic substances;</p> <p>(6) Illicit arms trafficking;</p> <p>(7) Illicit trafficking in stolen and other goods;</p> <p>(8) Corruption and bribery;</p> <p>(9) Fraud;</p> <p>(10) Counterfeiting currency;</p> <p>(11) Intellectual property offences including counterfeiting and piracy of products;</p> <p>(12) Environmental crimes;</p> <p>(13) Murder, grievous bodily injury;</p>

First Column Clause	Second Column Extent of Amendment
	<p>(14) Kidnapping, illegal restraint and hostage- taking; (15) Robbery or theft; (16) Smuggling; (including in relation to customs and excise duties and taxes); (17) Tax crimes (relating to direct taxes and indirect taxes; (18) Extortion; (19) Forgery; (20) Piracy; and (21) Insider trading and market manipulation.”</p>
5	<p>In paragraph (d) - (a) insert after the words “, by” the words “-(i)”; (b) insert after paragraph (i) as renumbered the following new paragraph: “ (ii) deleting the words “18E” wherever they occur and substituting the words “18F”.</p>

August 20, 2014
Senate Secretariat