

CAYMAN ISLANDS



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**THE MISUSE OF DRUGS
(AMENDMENT) LAW, 1989
(Law 3 of 1989)**

person to exercise a discretion.

Registration of external
confiscation orders.

16Q. (1) On an application made by or on behalf of the Government of a designated country, the Grand Court may register an external confiscation order made there if it is -

- (a) satisfied that at the time of registration the order is in force and not subject to appeal (which expression includes both any proceedings by way of discharging or setting aside a judgment or an application for a new trial or for a stay of execution);
- (b) satisfied, where the person against whom the order is made did not appear in the proceedings, that he received notice of the proceedings in sufficient time to enable him to defend them; and
- (c) of the opinion that enforcing the order in the Islands would not be contrary to the interests of justice.

(2) The Grand Court shall cancel the registration of an external confiscation order if it appears to it that the order has been satisfied by payment of the amount due under it, by the person against whom it was made serving imprisonment in default of payment, or by any other means."

Passed the Legislative Assembly this 13th day of March, 1989.

ALAN J. SCOTT
President.

WENDY LAUER EBANKS
Acting Clerk of the Legislative Assembly.

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a term not exceeding two years or to both, and on conviction on indictment to a fine or to a term of imprisonment not exceeding fourteen years or both.

Enforcement of external orders.

16P. (1) The Governor may by Order -

- (a) direct in relation to a designated country that, subject to such modifications (which expression includes additions, alterations and omissions) as may be specified, this Law shall apply to external confiscation orders and to proceedings which have been or are to be instituted in the designated country and may result in an external confiscation order being made there;
- (b) make -
 - (i) such provision in connection with the taking of action in the designated country with a view to satisfying a confiscation order;
 - (ii) such provision as to evidence or proof of any matter for the purposes of this section and of section 16Q; and
 - (iii) such incidental, consequential and transitional provision,as appears to him to be expedient; and
- (c) without prejudice to the generality of this subsection, direct that, in such circumstances as may be specified, proceeds which arise out of action taken in the designated country with a view to satisfying a confiscation order shall be treated as reducing the amount payable under such order to such extent as may be specified.

(2) An Order under this section may make different provision for different cases or classes of case.

(3) The power to make an Order under this section includes power to modify (which expression includes to add to, to alter and to make omissions from) this Law in such a way as to confer power on a

CAYMAN ISLANDS

Law 3 of 1989

I Assent

ALAN J. SCOTT

Governor

25th May, 1989

A LAW TO AMEND THE MISUSE OF DRUGS LAW (SECOND REVISION).

ENACTED by the Legislature of the Cayman Islands.

Short Title.

1. This Law may be cited as the Misuse of Drugs (Amendment) Law, 1989.

Amendment of s.2.

2. Section 2 of the Misuse of Drugs Law (Second Revision), in this Law referred to as the principal Law, is amended by inserting -

(a) the following new definition immediately after the definition of "constructive possession" -

"designated country" means a country or territory outside the Islands designated by an Order made under subsection (1) of section 16P;";

(b) the following new definition immediately after the definition of "drug trafficking offence" -

"external confiscation order" means an order made by a court in a designated country for the purpose of recovering payments or other rewards received in connection with drug trafficking or their value;";

Amendment of s.16C.

3. Section 16C of the principal Law is amended, in subsection (2), by substituting the following for paragraph (a) -

(a) that any property appearing to the court -

(i) to have been held by him at any time since his conviction; or

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- (ii) to have been transferred to him at any time since the beginning of the period of six years ending when the proceedings were instituted against him whether before or after the date of commencement of the Misuse of Drugs (Amendment) Law, 1988,

was received by him, at the earliest time at which he appears to the court to have held it, as a payment or reward in connection with drug trafficking carried on by him;"

Insertion of new ss.16O,
16P and 16Q.

4. The principal Law is amended by inserting the following three new sections immediately after section 16N -

"Offence of
assisting drug
traffickers.

16 O. (1) Subject to subsection (3), any person who, after the date of the coming into operation of this Law, enters into or is otherwise concerned in an arrangement whereby -

- (a) the retention or control by or on behalf of any other person, in this section referred to as "A", of proceeds of drug trafficking is facilitated (whether by concealment, removal from the jurisdiction, transfer to nominees or otherwise); or
- (b) "A" 's proceeds of drug trafficking are used -
 - (i) to secure that funds are placed at "A" 's disposal; or
 - (ii) for "A" 's benefit to acquire property by way of investment,

knowing or believing that "A" is a person who carries on or has carried on drug trafficking or has at any time received any payment or other reward in connection with drug trafficking carried on by him or another, is guilty of an offence.

(2) In this section, a reference to a person's proceeds of drug trafficking includes a reference to any property which in whole or in part directly or indirectly represented in his hands his proceeds of drug trafficking.

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(3) Where a person discloses to a constable of the rank of Inspector or above a suspicion or belief that any funds or investments are derived from or used in connection with drug trafficking or any matter on which such a suspicion or belief is based -

- (a) the disclosure shall not be treated as a breach of any restriction upon the disclosure of information imposed by contract or by any law; and
- (b) if he does any act in contravention of subsection (1) and the disclosure relates to the arrangement concerned, he does not commit an offence under this section if the disclosure is made -
 - (i) before he does the act, being an act done with the consent of such constable; or
 - (ii) after he does the act, but was made on his initiative and as soon as it was reasonable for him to have made it.

(4) In proceedings against a person for an offence under this section, it is a defence to prove on the balance of probabilities that -

- (a) he did not know or believe that the arrangement related to any person's proceeds of drug trafficking;
- (b) he did not know or believe that by the arrangement the retention or control by or on behalf of "A" of any property was facilitated or, as the case may be, that by the arrangement any property was used as mentioned in subsection (1); or
- (c) he intended to disclose to a constable such a suspicion, belief or matter as is mentioned in subsection (3) in relation to the arrangement, but that there is reasonable excuse for his failure to make disclosure in accordance with paragraph (b) of that subsection.

(5) A person guilty of an offence under this section shall be liable on summary conviction to a fine of \$5,000 or to imprisonment for