



Proceeds of Crime Amendment Act 2007

Arrangement of provisions

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2007, Act No.292

AN ACT to amend the Proceeds of Crime Act 1998 to—

- (a) strengthen that Act; and**
- (b) align it more closely with international standards for comparable legislation; and**
- (c) ensure it does not duplicate the Financial Transactions Reporting Act 2006**

1 Short Title

This is the Proceeds of Crime Amendment Act 2007 and is part of the Proceeds of Crime Act 1998 (“the principal Act”).

2 Section 4 of the Principal Act amended

Section 4(1) of the principal Act is amended by inserting in paragraph (a) of the definition of “**tainted property**”, after the word “offence”, the words, “or intended to be so used by a person convicted of the offence”.

3 Section 5 of the Principal Act amended

(1) Section 5(2) of the principal Act is amended by repealing subsection (2), and substituting the following subsections:

(2) For the purposes of this Act, a person must be treated as having been convicted of a serious offence if—

(a) the person is convicted of the offence; or

(b) the person is charged with, and found guilty of, or pleads guilty to, the offence but is discharged without conviction; or

- (c) the person absconds in connection with the offence; or
 - (d) a court, with the consent of the person, takes the offence, of which the person has not been found guilty, into account in passing sentence on the person for another offence.
- (2A) For the purposes of this Act, a person's conviction of an offence must be treated as having been quashed -
- (a) where subsection (2)(a) applies, if the conviction is quashed or set aside;
 - (b) where subsection (2)(b) applies, if the finding or plea of guilt is quashed or set aside;
 - (c) where subsection (2)(c) applies, if, after the person has been brought before a court in respect of the offence, the person is discharged in respect of the offence or a conviction of the person for the offence is quashed or set aside.
- (2B) Where a person is treated as having been convicted of an offence by reason of subsection (2)(c), a reference in this Act to the commission of the offence by the person must be read as a reference to the alleged commission of the offence by that person.

4 Section 10 of the Principal Act amended

Section 10 of the principal Act is amended by repealing subsection (2), and substituting the following subsection:

- (2) For the purposes of this section, a person must be taken to have absconded in connection with an offence, and at the earliest applicable time specified in paragraphs (a) to (c), if an information has been laid alleging the commission of the offence by the person, and a warrant for the arrest of the person is issued in relation to that information, and either--
- (a) reasonable attempts to arrest the person pursuant to the warrant have been unsuccessful during the 6 months commencing on the day the warrant was issued (in which case the person must be taken to have so absconded on the last day of that period); or
 - (b) the person died after the warrant was issued but before it was practicable to make reasonable attempts to arrest the person pursuant to the warrant (in which case the person

must be taken to have so absconded on the day on which the person died); or

- (c) the person died after the warrant was issued and after reasonable but unsuccessful attempts were made to arrest the person pursuant to the warrant (in which case the person must be taken to have so absconded on the day on which the person died).

5 Section 15 (1) of the Principal Act amended
Section 15(1) of the principal Act is amended-

a) by inserting, the following paragraph:

“(e) the property is Niuean land whose Mangafaoa includes a person who was, or 2 or more persons who were, convicted of the offence in respect of which such an order would otherwise be made;”

b) by inserting after the words “the Court may” the following words “and in the case of Niuean land shall,”.

6 Section 19 of the Principal Act amended

(1) Section 19(1) of the principal Act is amended by omitting the expression “23”, and substituting the expression “22”.

(2) Section 19 of the principal Act is amended by adding the following subsection:

“(4) In considering whether to make a confiscation order under subsection (1), the Court may have regard to any hardship that compliance with the order may reasonably be expected to cause to any one or more persons who are not the person against whom the order is made”.

7 Section 47 of the Principal Act amended

(1) Section 47(5) of the principal Act is amended by omitting the words “Subject to subsection (6), but notwithstanding”, and substituting the word “Notwithstanding”.

(2) Section 47(6) of the principal Act is repealed.

8 Part 3 of the Principal Act amended

Part 3 of the principal Act is amended by the repeal of Divisions 5 and 6.

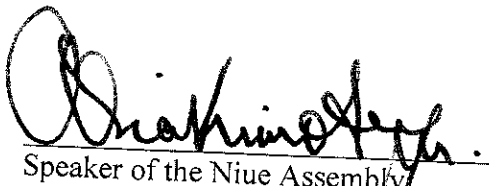
9 Amendments to the Land Act 1969

The Land Act 1969 is amended in section 17(4) by adding the following paragraphs:

- “(o) Part III of the Mining Act 1977 relating to acquisition of land;
- (p) the provisions of the Proceeds of Crime Act 1998 relating to forfeiture orders”.

I, **ATAPANA SIAKIMOTU**, Speaker of the Niue Assembly, hereby certify that the requirements of Article 34 of the Niue Constitution have been duly complied with.

SIGNED AND SEALED at the Assembly Chambers this *19th* day of *December* 2007.


Speaker of the Niue Assembly

COUNTERSIGNED in the presence of the Speaker




Clerk of the Niue Assembly

This Act was passed by the Niue Assembly on the 12th day of December 2007.