

CONTENTS

<i>Acknowledgments</i>	vii
<i>Publisher's Note</i>	ix
<i>Table of Cases</i>	xxiii
<i>Table of Legislation</i>	xxxiii

Drug Trafficking (Recovery of Proceeds) Ordinance (Cap.405)

Introduction	3
--------------	---

PART I PRELIMINARY

Section 1	Short title	7
Section 2	Interpretation	8

PART II CONFISCATION OF PROCEEDS OF DRUG TRAFFICKING

Section 3	Confiscation orders	16
Section 4	Assessing the proceeds of drug trafficking	28
Section 5	Statements relating to proceeds of drug trafficking	32
Section 6	Amount to be recovered under confiscation order	36
Section 6A	Interest on amounts to be recovered under confiscation orders	39
Section 7	Definition of principal terms used	41

PART III ENFORCEMENT, ETC. OF CONFISCATION ORDERS

Section 8	Application of procedure for enforcing confiscation orders	46
Section 9	Cases in which restraint orders and charging orders may be made	53
Section 10	Restraint orders	57
Section 11	Charging orders in respect of land, securities, etc.	66
Section 12	Realisation of property	69
Section 13	Application of proceeds of realisation and other sums	72
Section 14	Exercise of powers by Court of First Instance or receiver	74
Section 15	Variation of confiscation orders	76

Section 16	Bankruptcy of defendants	78
Section 17	Winding up of company holding realisable property	82
Section 18	Insolvency officers dealing with property subject to restraint order	84
Section 19	Receivers: supplementary provisions	86

PART IV INVESTIGATIONS INTO DRUG TRAFFICKING

Section 20	Order to make material available	87
Section 21	Authority for search	91
Section 22	Supplementary provisions to sections 20 and 21	96
Section 23	Disclosure of information held by public bodies	97
Section 24	Offence of prejudicing investigation	100

PART IVA DETENTION OF CERTAIN SEIZED PROPERTY

Section 24A	Interpretation	102
Section 24B	Seized property may be detained	106
Section 24C	Period for which seized property may be detained	107
Section 24D	Forfeiture	109
Section 24E	Interest	110
Section 24F	Procedure	111

PART V PROHIBITED ACTS IN RELATION TO PROCEEDS OF DRUG TRAFFICKING

Section 25	Dealing with property known or believed to represent proceeds of drug trafficking	112
Section 25A	Disclosure of knowledge or suspicion that property represents proceeds, etc. of drug trafficking	123
Section 26	Restriction on revealing disclosure under section 25A	129

PART VI MISCELLANEOUS

Section 27	Compensation	131
Section 28	Enforcement of external confiscation orders	134
Section 29	Registration of external confiscation orders	137
Section 30	Evidence of corresponding law	139
Section 31	Amendment of schedules	140
Schedule 1	Drug Trafficking Offences	140

Schedule 2	Assets on which a Charging Order may be Imposed	141
Schedule 3	Certificate of Sentence in Respect of Term of Imprisonment Fixed under Section 8 of the Drug Trafficking (Recovery Of Proceeds) Ordinance (Cap.405)	144
Schedule 4	Specified Property	145

Organized and Serious Crimes Ordinance (Cap.455)

Introduction	149
Long title	150

PART I PRELIMINARY

Section 1	Short title	151
Section 2	Interpretation	151

PART II POWERS OF INVESTIGATION

Section 3	Requirement to furnish information or produce material	160
Section 4	Order to make material available	167
Section 5	Authority for search	172
Section 6	Disclosure of information obtained under section 3, 4, or 5	177
Section 7	Offence of prejudicing investigation	178

PART III CONFISCATION OF PROCEEDS OF CRIME

Section 8	Confiscation orders	181
Section 9	Assessing the proceeds of crime	194
Section 10	Statement, etc. relevant to making confiscation order	196
Section 11	Amount to be recovered under confiscation order	201
Section 11A	Interest on amounts to be recovered under confiscation order	205
Section 12	Definition of principal terms used	207

PART IV ENFORCEMENT, ETC. OF CONFISCATION ORDERS

Section 13	Application of procedure for enforcing confiscation orders	211
Section 14	Cases in which restraint orders and charging orders may be made	215
Section 15	Restraint orders	219

Section 16	Charging orders in respect of land, securities, etc.	227
Section 17	Realisation of property	231
Section 18	Application of proceeds of realisation and other sums	234
Section 19	Exercise of powers by Court of First Instance or receiver	236
Section 20	Variation of confiscation orders	238
Section 21	Bankruptcy of defendant, etc.	240
Section 22	Winding up of company holding realisable property	242
Section 23	Insolvency officers dealing with property subject to restraint order	244
Section 24	Receivers: supplementary provisions	246

PART IVA (REPEALED 15 OF 2011 S. 87)

Section 24A	(Repealed 15 of 2011 s. 87)	247
Section 24B	(Repealed 15 of 2011 s. 87)	247
Section 24C	(Repealed 15 of 2011 s. 87)	247
Section 24D	(Repealed 15 of 2011 s. 87)	247
Section 24E	(Repealed 15 of 2011 s. 87)	248

PART V MISCELLANEOUS

Section 25	Dealing with property known or believed to represent proceeds of indictable offence	248
Section 25A	Disclosure of knowledge or suspicion that property represents proceeds, etc. of indictable offence	262
Section 26	Restriction on revealing disclosure under section 25A	269
Section 27	Sentencing in respect of specified offences	271
Section 28	Disclosure of information held by public bodies	283
Section 29	Compensation	286
Section 30	Rules of court	288
Section 31	Amendment of amount in section 8(4) and schedules	291
Section 32	Savings	291
Section 33	(Omitted as spent)	292
Section 34	(Omitted as spent)	292
Section 35	(Omitted as spent)	292
Section 36	(Omitted as spent)	292
Schedule 1	Offences relevant to definitions of "Organized Crime" and "Specified Offence"	293

Schedule 2	Other Specified Offences	298
Schedule 3	Assets on which a charging order may be imposed	300
Schedule 4	Organized and Serious Crimes Ordinance (Cap.455)	301
Schedule 5	Certificate of sentence in respect of term of imprisonment fixed under section 13 of the organized and Serious Crimes Ordinance (Cap.455)	303
Schedule 6	Particulars to be recorded by Remittance Agents and Money Changers	304

Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance (Cap.615)

Introduction		309
Long title		315

PART 1 PRELIMINARY

Section 1	Short title	316
Section 2	Interpretation	317
Section 3	Application to Government	318
Section 4	Immunity	320

PART 2 RELATING TO CUSTOMER DUE DILLIGENCE AND RECORD-KEEPING

Section 5	Schedule 2 has effect with respect to financial institutions	321
Section 6	Amendment of Schedule 2	325
Section 7	Relevant authority may publish guidelines	325

PART 3 SUPERVISION AND INVESTIGATIONS

Section 8	Interpretation of Part 3	328
Section 9	Power to enter business premises etc. for routine inspection	328
Section 10	Offences for non-compliance with requirements imposed under section 9	336
Section 11	Relevant authorities may appoint investigators	338
Section 12	Powers of investigators to require production of records or documents etc.	340
Section 13	Offences for non-compliance with requirements imposed under section 12	342

Section 14	Application to Court of First Instance relating to non-compliance with requirements imposed under section 9 or 12	345
Section 15	Use of incriminating evidence in proceedings	347
Section 16	Lien claimed on records or documents	348
Section 17	Magistrate's warrants	348
Section 18	Production of information in information systems etc.	352
Section 19	Inspection of records and documents seized etc.	353
Section 20	Destruction of documents etc.	354

PART 4 DISCIPLINARY ACTIONS BY RELEVANT AUTHORITIES

Section 21	Relevant authorities may take disciplinary actions	355
Section 22	Procedural requirements in respect of exercise of powers under section 21	357
Section 23	Guidelines on how relevant authorities exercise power to impose pecuniary penalty	358

PART 5 REGULATION OF OPERATION OF MONEY SERVICE

DIVISION 1 PRELIMINARY

Section 24	Interpretation of Part 5	360
Section 25	Persons to whom this Part does not apply	362
Section 26	Delegation of functions	363
Section 27	Commissioner to maintain register of licensees	363
Section 28	Certified copy of register or entry in register admissible as evidence	364

DIVISION 2 LICENCE FOR OPERATING MONEY SERVICE

Section 29	Restriction on operating money service	365
Section 30	Grant of licence	366
Section 31	Renewal of licence	369
Section 32	Amendment of conditions in licence	371
Section 33	Form of licence	372
Section 34	Revocation or suspension of licence	372
Section 35	Commissioner's approval required in respect of persons proposing to become licensee's directors	374

Section 36	Commissioner's approval required in respect of persons proposing to become licensee's ultimate owners	376
Section 37	Commissioner's approval required in respect of persons proposing to become licensee's partners	378
Section 38	Adding new business premises	379
Section 39	Application to operate at particular premises	381
Section 40	Licensee's duty to notify Commissioner of changes in particulars	382
Section 41	Licensee's duty to notify Commissioner of cessation of business	383
Section 42	Licence ceases to be valid on death etc. of licensee	384

DIVISION 3 COMMISSIONER'S DISCIPLINARY AND OTHER POWERS

Section 43	Commissioner may take disciplinary actions	385
Section 44	Procedural requirements in respect of exercise of powers under section 43	386
Section 45	Guidelines on how Commissioner exercises power to impose pecuniary penalty	387
Section 46	Commissioner may appoint authorized officers	388
Section 47	Warrant to enter premises to remove evidence of commission of offence	388
Section 48	Authorized officer's power to arrest and search, etc.	390

DIVISION 4 MISCELLANEOUS

Section 49	Preservation of secrecy	392
Section 50	Amendment of Schedule 3	394
Section 51	Regulations	395
Section 52	Offence to provide false information in connection with application for licence etc.	395
Section 53	Time limit for prosecution	396

PART 6 ANTI-MONEY LAUNDERING AND COUNTER-TERRORIST FINANCING (FINANCIAL INSTITUTIONS) REVIEW TRIBUNAL

DIVISION 1 INTERPRETATION

Section 54	Interpretation of Part 6	396
------------	--------------------------	-----

DIVISION 2 ESTABLISHMENT OF REVIEW TRIBUNAL

Section 55	Establishment of Tribunal	398
Section 56	Composition of Tribunal	399
Section 57	Chairperson and other members of Tribunal may be paid fees	399
Section 58	Schedule 4 has effect	399
Section 59	Application for review of specified decisions	400
Section 60	Determination of review by Tribunal	401
Section 61	Powers of Tribunal	402
Section 62	Use of incriminating evidence given under compulsion	404
Section 63	Contempt dealt with by Tribunal	404
Section 64	Privileged information	406
Section 65	Costs	406
Section 66	Notification of Tribunal determinations	407
Section 67	Form and proof of orders of Tribunal	408
Section 68	Orders of Tribunal may be registered in Court of First Instance	408
Section 69	Applications for stay of execution of specified decisions	409
Section 70	Applications for stay of execution of determinations of Tribunal	410

DIVISION 3 APPEALS TO COURT OF APPEAL

Section 71	Appeal to Court of Appeal with leave	410
Section 72	Powers of the Court of Appeal	412
Section 73	No stay of execution of Tribunal's determination on appeal	413
Section 74	No other right of appeal	413

DIVISION 4 MISCELLANEOUS

Section 75	Time when specified decisions take effect	414
Section 76	Power of Chief Justice to make rules	415

PART 7 MISCELLANEOUS PROVISIONS

Section 77	Regulations by Chief Executive in Council	415
Section 78	Standard of proof	416
Section 79	Prosecution of offences by relevant authorities	416
Section 80	Giving of notices by relevant authorities	417

Section 81	Legal professional privilege	418
Section 82	Transitional provision with regard to money changers and remittance agents carrying on business before commencement of this Ordinance	419

PART 8 (OMITTED AS SPENT – E.R. 2 OF 2012)

Section 83	(omitted as spent)	421
Section 84	(omitted as spent)	421
Section 85	(omitted as spent)	421
Section 86	(omitted as spent)	421
Section 87	(omitted as spent)	421
Section 88	(omitted as spent)	421
Section 89	(omitted as spent)	421
Section 90	(omitted as spent)	421
Section 91	(omitted as spent)	421
Schedule 1	Interpretation	421
Schedule 2	Requirements Relating to Customer due Diligence and Record-Keeping	425
Schedule 3	Fees	457
Schedule 4	Provisions Relating to Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Review Tribunal	458

<i>Index</i>		465
--------------	--	-----

ProView Exclusive Materials

1. *The Monetary Authority's Guideline on Anti-Money Laundering and Counter-Terrorist Financing (For Authorized Institutions)*
2. *The Securities and Futures Commission's Guideline on Anti-Money Laundering and Counter-Terrorist Financing*
3. *The Insurance Authority's Guideline on Anti-Money Laundering and Counter-Terrorist Financing*
4. *Guidelines on Combating Trade-based Money Laundering*