

Amend the Drug Trafficking (Recovery of Proceeds) Ordinance and the Organized and Serious Crimes Ordinance.

Enacted by the Legislative Council.

1. Short title and commencement

(1) This Ordinance may be cited as the Drug Trafficking and Organized Crimes (Amendment) Ordinance 1999.

(2) This Ordinance shall come into operation on a day to be appointed by the Secretary for Security by notice in the Gazette.

2. Amendment of Drug Trafficking (Recovery of Proceeds) Ordinance---(Schedule 1)

The Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405) is amended as specified in Schedule 1.

3. Amendment of Organized and Serious Crimes Ordinance---(Schedule 2)

The Organized and Serious Crimes Ordinance (Cap. 455) is amended as specified in Schedule 2.

4. Amendment of Drug Trafficking (Recovery of Proceeds) (Designated Countries and Territories) Order---(Schedule 3)

The Drug Trafficking (Recovery of Proceeds)(Designated Countries and Territories) Order (Cap. 405 sub. leg.) is amended as specified in Schedule 3.

SCHEDULE 1 [s. 2]

Amendment of Drug Trafficking (Recovery of Proceeds) Ordinance

1. Long title amended

The long title to the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405) is amended by repealing "the offence of assisting drug traffickers to retain" and substituting "offences relating to those proceeds or property representing".

2. Interpretation

Section 2(11) is amended by adding---

"(aa) when a person has been arrested for the offence and released on bail;".

3. Confiscation orders

Section 3 is amended---

(a) in subsections (2)(c)(ii)(B) and (9)(b)(ii), by repealing "give notice of those proceedings to that person" and substituting "ascertain the person's whereabouts";

(b) by adding---

"(17) Where subsection (1)(a)(ii)(A) or (B) is applicable, the reference in that subsection to "one or more drug trafficking offences" includes any offence previously specified in Schedule 1, and the other provisions of this section and this

Ordinance (including paragraphs (b) to (e) of the definition of "drug trafficking offence" in section 2(1) and any subsidiary legislation) shall be construed accordingly."

4. Assessing the proceeds of drug trafficking

Section 4(4) is repealed.

5. Statements relating to proceeds
of drug trafficking

Section 5 is amended by adding---

"(9) For the avoidance of doubt, it is hereby declared that an allegation may be accepted under this section, and may always have been so accepted, whether or not subsection (7)(b) is applicable to the defendant, and subsection (3) shall be construed accordingly."

6. Application of procedure for enforcing
confiscation orders

Section 8 is amended---

(a) by repealing subsection (1)(a) and substituting---

"(a) the court shall also make an order---

(i) subject to subsection (1A), fixing the period within which the amount he is liable to pay under the confiscation order shall be duly paid; and

(ii) fixing a term of imprisonment which the defendant is to serve if any of that amount is not duly paid within that period (including paid by way of being recovered); and";

(b) by adding---

"(1A) The court shall not under subsection (1)(a)(i) fix a period longer than 6 months unless it is satisfied that there are special circumstances which justify it doing so."

7. Cases in which restraint orders and
charging orders may be made

Section 9 is amended---

(a) in subsection (1)---

(i) in paragraph (b), by repealing "and" at the end;

(ii) by adding---

"(ba) if section 2(11)(aa) is applicable to an offence, the Court of First Instance is satisfied that, in all the circumstances of the case, there is reasonable cause to believe that the defendant may be charged with the offence after further investigation is carried out; and";

(b) in subsection (4), by repealing "subsection (2)" and substituting "section 2(11)(aa) or subsection (2) of this section".

8. Restraint orders

Section 10 is amended by adding---

"(12) An authorized officer may, by notice in writing served on a person who holds any realisable property the subject of a restraint order, require the person to deliver to the authorized officer, to the extent that it is practicable to do so---

- (a) a statement in writing as to the value of the property;
- (b) documents, or copies of documents, in his possession or control which may assist the authorized officer to determine the value of the property.

(13) A person who receives a notice under subsection (12) shall, as soon as is practicable after receipt of the notice, comply with the notice to the extent that it is practicable to do so taking into account the nature of the realisable property the subject of the restraint order concerned.

(14) Any person who contravenes subsection (13) commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 1 year.

(15) A person who knowingly deals in any realisable property in contravention of a restraint order commits an offence.

(16) A person who commits an offence under subsection (15) is liable---

- (a) on conviction upon indictment to a fine of \$500,000 or to the value of the realisable property the subject of the restraint order concerned which has been dealt with in contravention of that order, whichever is the greater, and to imprisonment for 5 years; or
- (b) on summary conviction to a fine of \$250,000 and to imprisonment for 2 years."

9. Charging orders in respect of land, securities, etc.

Section 11 is amended by adding---

"(9) An authorized officer may, by notice in writing served on a person who holds any realisable property the subject of a charging order, require the person to deliver to the authorized officer, to the extent that it is practicable to do so---

- (a) a statement in writing as to the value of the property;
- (b) documents, or copies of documents, in his possession or control which may assist the authorized officer to determine the value of the property.

(10) A person who receives a notice under subsection (9) shall, as soon as is practicable after receipt of the notice, comply with the notice to the extent that it is practicable to do so taking into account the nature of the realisable property the subject of the charging order concerned.

(11) Any person who contravenes subsection (10) commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 1 year.

(12) A person who knowingly deals in any realisable property in contravention

of a charging order commits an offence.

(13) A person who commits an offence under subsection (12) is liable---

(a) on conviction upon indictment to a fine of \$500,000 or to the value of the realisable property the subject of the charging order concerned which has been dealt with in contravention of that order, whichever is the greater, and to imprisonment for 5 years; or

(b) on summary conviction to a fine of \$250,000 and to imprisonment for 2 years."

10. Section added

The following is added---

"11A. Realisation of property where amount to be recovered under confiscation order is not more than prescribed amount, etc.

(1) Where---

(a) in proceedings instituted for a drug trafficking offence, a confiscation order is made (including any case where section 3(1)(a)(ii) or (7) is applicable);

(b) the order is not subject to appeal or review within the meaning of section 2(13);

(c) the proceedings have not been concluded; and

(d) the amount to be recovered under the order is not more than the prescribed amount, the Court of First Instance may, and without prejudice to the generality of section 12, on an application by the prosecutor, exercise the power conferred by subsection (2).

(2) The Court of First Instance may order one or more of the following---

(a) a person in possession of realisable property which is cash (in whatever currency) to give possession of it to the Registrar;

(b) a person in possession of realisable property which is not cash to pay all or a specified amount of the value of the property to the Registrar;

(c) a person in possession of realisable property which is not cash to realise the property in such manner as the Court of First Instance may direct and to pay all or a specified amount of the value of the property so realised to the Registrar;

(d) a person holding an interest in realisable property to pay to the Registrar an amount equal to any beneficial interest held by the defendant or, as the case may be, the recipient of a gift caught by this Ordinance as the Court of First Instance may direct and the Court of First Instance may, on the payment being made, by order transfer, grant or extinguish any interest in the property;

(e) such order relevant to subsection (1) or any other order under paragraph (a), (b), (c) or (d) as the Court of First Instance thinks fit.

(3) The Court of First Instance shall not in respect of any property exercise

the power conferred by subsection (2) unless a reasonable opportunity has been given for persons holding any interest in the property to make representations to the Court of First Instance.

(4) Subject to subsection (5), any sums in the hands of the Registrar in pursuance of an order under this section shall first be applied in payment of such expenses incurred by a person acting as an insolvency officer as are payable under section 18(2) and then shall, after such payments (if any) as the Court of First Instance may direct have been made out of those sums, be applied on the defendant's behalf towards the satisfaction of the confiscation order in the manner provided by subsection (6).

(5) If, after the amount payable under the confiscation order has been fully paid, any such sums remain in the hands of the Registrar, the Registrar shall distribute those sums---

(a) among such of those who held property which has been realised under this Ordinance; and

(b) in such proportions,

as the Court of First Instance may direct after giving a reasonable opportunity for such persons to make representations to the Court of First Instance.

(6) The receipt of any sum by the Registrar on account of an amount payable under a confiscation order shall reduce the amount so payable, but the Registrar shall apply the sum received for the purposes specified in this section and in the order so specified.

(7) Any balance in the hands of the Registrar after he has made all payments required by the foregoing subsections shall be paid into the general revenue.

(8) In this section, the prescribed amount is \$500,000.

(9) The Secretary for Justice may, by notice in the Gazette, amend the amount specified in subsection (8)."

11. Insolvency officers dealing with property

subject to restraint order, etc.

Section 18(2) is amended by adding "11A(4) or" after "those expenses under section".

12. Dealing with property known or believed,

etc. to represent proceeds of drug

trafficking

Section 25 is amended---

(a) by adding---

"(1A) Subject to section 25A, a person commits an offence if, having reasonable grounds to suspect that any property in whole or in part directly or indirectly

represents any person's proceeds of drug trafficking, he deals with that property.";

(b) in subsection (2)---

(i) by adding "or (1A)" after "under subsection (1)";

(ii) in paragraph (a), by adding "or (1A), as the case may be," after "subsection (1)";

(c) in subsection (3)(a), by repealing "14" and substituting "20";

(d) by adding---

"(4) A person who commits an offence under subsection (1A) is liable---

(a) on conviction upon indictment to a fine of \$1,000,000 and to imprisonment for 5 years; or

(b) on summary conviction to a fine of \$250,000 and to imprisonment for 2 years.".

13. Disclosure of knowledge or suspicion

that property represents proceeds,

etc. of drug trafficking

Section 25A is amended---

(a) in subsection (1)---

(i) by repealing "suspects" and substituting "has reasonable grounds to suspect";

(ii) by adding "grounds and any other" after "together with any";

(b) in subsection (2), by adding "or (1A)" after "section 25(1)";

(c) in subsection (5), by repealing "suspecting" and substituting "having reasonable grounds to suspect;"

(d) in subsection (6)(a), by adding "have reasonable grounds to" after "know or";

(e) in subsection (7), by repealing "3" and substituting "12".

14. Enforcement of external confiscation orders

Section 28(1)(a) is amended by repealing ", subject to such modifications as may be specified, this Ordinance" and substituting "this Ordinance as modified in the order".

15. Drug trafficking offences

Schedule 1 is amended by adding "or suspected" after "believed".

SCHEDULE 2 [s. 3]

Amendment of Organized and Serious

Crimes Ordinance

1. Long title amended

The long title to the Organized and Serious Crimes Ordinance (Cap. 455) is amended by repealing "an offence of assisting a person to retain" and substituting "offences relating to the proceeds of crime or property representing the".

2. Interpretation

Section 2(15) is amended by adding---

"(aa) where a person has been arrested for the offence and released on bail;".

3. Confiscation orders

Section 8 is amended---

(a) in subsections (3)(c)(i)(B)(II) and (7C)(b)(ii), by repealing "give notice of those proceedings to that person" and substituting "ascertain the person's whereabouts";

(b) by adding---

"(10) Where subsection (1)(a)(ii)(A) or (B) is applicable, the reference in that subsection to "one or more specified offences" includes any offence previously specified in Schedule 1 or 2, and the other provisions of this section and this Ordinance (including paragraphs (b) to (e) of the definition of "specified offence" in section 2(1) and any subsidiary legislation) shall be construed accordingly.".

4. Statements, etc. relevant to making confiscation order

Section 10 is amended by adding---

"(9) For the avoidance of doubt, it is hereby declared that an allegation may be accepted under this section, and may always have been so accepted, whether or not subsection (7)(b) is applicable to the defendant, and subsection (3) shall be construed accordingly.".

5. Application of procedure for enforcing confiscation orders

Section 13 is amended---

(a) by repealing subsection (1)(a) and substituting---

"(a) the court shall also make an order---

(i) subject to subsection (1A), fixing the period within which the amount he is liable to pay under the confiscation order shall be duly paid; and

(ii) fixing a term of imprisonment which the defendant is to serve if any of that amount is not duly paid within that period (including paid by way of being recovered); and";

(b) by adding---

"(1A) The court shall not under subsection (1)(a)(i) fix a period longer than 6 months unless it is satisfied that there are special circumstances which justify it doing so.".

6. Cases in which restraint orders and charging orders may be made

Section 14 is amended---

(a) in subsection (1)---

(i) in paragraph (b), by repealing "and" at the end;

(ii) by adding---

"(ba) if section 2(15)(aa) is applicable to an offence, the Court of First Instance is satisfied that, in all the circumstances of the case, there is reasonable cause to believe that the defendant may be charged with the offence after further investigation is carried out; and";

(b) in subsection (4), by repealing "subsection (2)" and substituting "section 2(15)(aa) or subsection (2) of this section".

7. Restraint orders

Section 15 is amended by adding---

"(12) An authorized officer may, by notice in writing served on a person who holds any realisable property the subject of a restraint order, require the person to deliver to the authorized officer, to the extent that it is practicable to do so---

(a) a statement in writing as to the value of the property;

(b) documents, or copies of documents, in his possession or control which may assist the authorized officer to determine the value of the property.

(13) A person who receives a notice under subsection (12) shall, as soon as is practicable after receipt of the notice, comply with the notice to the extent that it is practicable to do so taking into account the nature of the realisable property the subject of the restraint order concerned.

(14) Any person who contravenes subsection (13) commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 1 year.

(15) A person who knowingly deals in any realisable property in contravention of a restraint order commits an offence.

(16) A person who commits an offence under subsection (15) is liable---

(a) on conviction upon indictment to a fine of \$500,000 or to the value of the realisable property the subject of the restraint order concerned which has been dealt with in contravention of that order, whichever is the greater, and to imprisonment for 5 years; or

(b) on summary conviction to a fine of \$250,000 and to imprisonment for 2 years.".

8. Charging orders in respect of land, securities, etc.

Section 16 is amended by adding---

"(9) An authorized officer may, by notice in writing served on a person who holds any realisable property the subject of a charging order, require the person to deliver to the authorized officer, to the extent that it is practicable to do so---

(a) a statement in writing as to the value of the property;

(b) documents, or copies of documents, in his possession or control which may assist

the authorized officer to determine the value of the property.

(10) A person who receives a notice under subsection (9) shall, as soon as is practicable after receipt of the notice, comply with the notice to the extent that it is practicable to do so taking into account the nature of the realisable property the subject of the charging order concerned.

(11) Any person who contravenes subsection (10) commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 1 year.

(12) A person who knowingly deals in any realisable property in contravention of a charging order commits an offence.

(13) A person who commits an offence under subsection (12) is liable---

(a) on conviction upon indictment to a fine of \$500,000 or to the value of the realisable property the subject of the charging order concerned which has been dealt with in contravention of that order, whichever is the greater, and to imprisonment for 5 years; or

(b) on summary conviction to a fine of \$250,000 and to imprisonment for 2 years.".

9. Section added

The following is added---

"16A. Realisation of property where amount to be recovered under confiscation order is not more than prescribed amount, etc.

(1) Where---

(a) a confiscation order is made (including any case where section 8(1)(a)(ii) or (7A) is applicable);

(b) the order is not subject to appeal or review within the meaning of section 2(17);

(c) the proceedings in which it was made have not been concluded; and

(d) the amount to be recovered under the order is not more than the prescribed amount, the Court of First Instance may, and without prejudice to the generality of section 17, on an application by the prosecutor, exercise the power conferred by subsection (2).

(2) The Court of First Instance may order one or more of the following---

(a) a person in possession of realisable property which is cash (in whatever currency) to give possession of it to the Registrar;

(b) a person in possession of realisable property which is not cash to pay all or a specified amount of the value of the property to the Registrar;

(c) a person in possession of realisable property which is not cash to realise the property in such manner as the Court of First Instance may direct and to pay all or a specified amount of the value of the property so realised to the Registrar;

(d) a person holding an interest in realisable property to pay to the Registrar an amount equal to any beneficial interest held by the defendant or, as the case may be, the recipient of a gift caught by this Ordinance as the Court of First Instance may direct and the Court of First Instance may, on the payment being made, by order transfer, grant or extinguish any interest in the property;

(e) such order relevant to subsection (1) or any other order under paragraph (a), (b), (c) or (d) as the Court of First Instance thinks fit.

(3) The Court of First Instance shall not in respect of any property exercise the power conferred by subsection (2) unless a reasonable opportunity has been given for persons holding any interest in the property to make representations to the Court of First Instance.

(4) Subject to subsection (5), any sums in the hands of the Registrar in pursuance of an order under this section shall first be applied in payment of such expenses incurred by a person acting as an insolvency officer as are payable under section 23(2) and then shall, after such payments (if any) as the Court of First Instance may direct have been made out of those sums, be applied on the defendant's behalf towards the satisfaction of the confiscation order in the manner provided by subsection (6).

(5) If, after the amount payable under the confiscation order has been fully paid, any such sums remain in the hands of the Registrar, the Registrar shall distribute those sums---

(a) among such of those who held property which has been realised under this Ordinance; and

(b) in such proportions,

as the Court of First Instance may direct after giving a reasonable opportunity for such persons to make representations to the Court of First Instance.

(6) The receipt of any sum by the Registrar on account of an amount payable under a confiscation order shall reduce the amount so payable, but the Registrar shall apply the sum received for the purposes specified in this section and in the order so specified.

(7) Any balance in the hands of the Registrar after he has made all payments required by the foregoing subsections shall be paid into the general revenue.

(8) In this section, the prescribed amount is \$500,000.

(9) The Secretary for Justice may, by notice in the Gazette, amend the amount specified in subsection (8)."

10. Insolvency officers dealing with property subject to restraint order, etc.

Section 23(2) is amended by adding "16A or" after "those expenses under section".

11. Dealing with property known or believed,
etc. to represent proceeds of
indictable offence

Section 25 is amended---

(a) by adding---

"(1A) Subject to section 25A, a person commits an offence if, having reasonable grounds to suspect that any property in whole or in part directly or indirectly represents any person's proceeds of an indictable offence, he deals with that property.";

(b) in subsection (2)---

(i) by adding "or (1A)" after "under subsection (1)";

(ii) in paragraph (a), by adding "or (1A), as the case may be," after "subsection (1)";

(c) in subsection (3)(a), by repealing "14" and substituting "20";

(d) by adding---

"(3A) A person who commits an offence under subsection (1A) is liable---

(a) on conviction upon indictment to a fine of \$1,000,000 and to imprisonment for 5 years; or

(b) on summary conviction to a fine of \$250,000 and to imprisonment for 2 years.".

12. Disclosure of knowledge or suspicion

that property represents proceeds,
etc. of indictable offence

Section 25A is amended---

(a) in subsection (1)---

(i) by repealing "suspects" and substituting "has reasonable grounds to suspect";

(ii) by adding "grounds and any other" after "together with any";

(b) in subsection (2), by adding "or (1A)" after "section 25(1)";

(c) in subsection (5), by repealing "suspecting" and substituting "having reasonable grounds to suspect";

(d) in subsection (6)(a), by adding "have reasonable grounds to" after "know or";

(e) in subsection (7), by repealing "3" and substituting "12".

13. Offences relevant to definitions of "organized
crime" and "specified offence"

Schedule 1 is amended, in paragraphs 15 and 16, by adding "or (1A)" after "section 25(1)".

SCHEDULE 3 [s. 4]

Amendment of Drug Trafficking (Recovery of Proceeds)

(Designated Countries and Territories) Order

1. Designation of and application of the
Ordinance to countries and territories

Paragraph 3(2) of the Drug Trafficking (Recovery of Proceeds) (Designated Countries and Territories) Order (Cap. 405 sub. leg.) is repealed and the following substituted---

"(2) In relation to a designated country, the Ordinance as modified in Schedule 2 shall apply to external confiscation orders and to proceedings (whether criminal or civil in nature, and whether those proceedings are in the form of proceedings against a person or against property) which have been or are to be instituted in the designated country and which may result in an external confiscation order being made there."

2. Repeals

Paragraph 9 and Schedule 2 are repealed.

3. Drug Trafficking (Recovery of Proceeds)
Ordinance as modified

Schedule 3 is amended---

(a) by renumbering it as Schedule 2;

(b) in Schedule 2---

(i) by repealing "[paras. 3(2) & 9]" and substituting "[para. 3(2)]";

(ii) in section 10, by adding---

"(12) An authorized officer may, by notice in writing served on a person who holds any realisable property the subject of a restraint order, require the person to deliver to the authorized officer, to the extent that it is practicable to do so---

(a) a statement in writing as to the value of the property;

(b) documents, or copies of documents, in his possession or control which may assist the authorized officer to determine the value of the property.

(13) A person who receives a notice under subsection (12) shall, as soon as is practicable after receipt of the notice, comply with the notice to the extent that it is practicable to do so taking into account the nature of the realisable property the subject of the restraint order concerned.

(14) Any person who contravenes subsection (13) commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 1 year.

(15) A person who knowingly deals in any realisable property in contravention of a restraint order commits an offence.

(16) A person who commits an offence under subsection (15) is liable---

(a) on conviction upon indictment to a fine of \$500,000 or to the value of the realisable property the subject of the restraint order concerned which has been dealt

with in contravention of that order, whichever is the greater, and to imprisonment for 5 years; or

(b) on summary conviction to a fine of \$250,000 and to imprisonment for 2 years.";

(iii) in section 11, by adding---

"(9) An authorized officer may, by notice in writing served on a person who holds any realisable property the subject of a charging order, require the person to deliver to the authorized officer, to the extent that it is practicable to do so---

(a) a statement in writing as to the value of the property;

(b) documents, or copies of documents, in his possession or control which may assist the authorized officer to determine the value of the property.

(10) A person who receives a notice under subsection (9) shall, as soon as is practicable after receipt of the notice, comply with the notice to the extent that it is practicable to do so taking into account the nature of the realisable property the subject of the charging order concerned.

(11) Any person who contravenes subsection (10) commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 1 year.

(12) A person who knowingly deals in any realisable property in contravention of a charging order commits an offence.

(13) A person who commits an offence under subsection (12) is liable---

(a) on conviction upon indictment to a fine of \$500,000 or to the value of the realisable property the subject of the charging order concerned which has been dealt with in contravention of that order, whichever is the greater, and to imprisonment for 5 years; or

(b) on summary conviction to a fine of \$250,000 and to imprisonment for 2 years.".

Explanatory Memorandum

The purposes of this Bill are to---

(a) amend the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405) and its subsidiary legislation and the Organized and Serious Crimes Ordinance (Cap. 455) to introduce the following parallel amendments---

(i) to make the long titles of the two Ordinances consistent with their contents (section 1 of Schedules 1 and 2);

(ii) to add a further ground specifying when proceedings for an offence are instituted, and to make amendments consequential to that new ground (sections 2 and 7 of Schedule 1 and sections 2 and 6 of Schedule 2);

(iii) in the case of applications for confiscation orders against absconded persons whose exact whereabouts are not known, to amend one of the criteria in respect of which the court needs to be satisfied before making such an order (section 3(a) of Schedules 1 and 2);

(iv) in the case of offences which gave rise to applications for confiscation orders against dead or absconded persons, to specify that such offences include offences previously specified in Schedule 1 to the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405) or Schedule 1 or 2 to the Organized and Serious Crimes Ordinance (Cap. 455) (section 3(b) of Schedules 1 and 2);

(v) to put it beyond doubt that allegations in statements submitted by the prosecutor to the court in relation to absconded defendants may be treated as accepted (section 5 of Schedule 1 and section 4 of Schedule 2);

(vi) to fix a period within which a defendant is to pay the amount under a confiscation order (section 6 of Schedule 1 and section 5 of Schedule 2);

(vii) to require persons to state, or to provide documents to assist in determining, the value of realisable property the subject of a restraint or charging order, to make it an offence for a person to knowingly deal in any realisable property in contravention of such an order, and to make consequential amendments thereto (sections 8 and 9 of Schedule 1 and sections 7 and 8 of Schedule 2 and section 3(b)(ii) and (iii) of Schedule 3);

(viii) to introduce a streamlined procedure for the realisation of property where the amount to be recovered under a confiscation order is not more than \$500,000, thereby saving costs by dispensing with the need to appoint a receiver (sections 10 and 11 of Schedule 1 and sections 9 and 10 of Schedule 2);

(ix) to create a new offence of dealing in realisable property having reasonable grounds to suspect that the property in whole or in part represents a person's proceeds from certain offences, and to make amendments consequential to the new offences (sections 12(a), (b) and (d), 13(b) and 15 of Schedule 1 and sections 11(a), (b) and (d), 12(b) and 13 of Schedule 2);

(x) to increase from 14 years to 20 years the custodial sanction on conviction upon indictment for a contravention of section 25(1) of each Ordinance (section 12(c) of Schedule 1 and section 11(c) of Schedule 2);

(xi) to alter the test for requiring a disclosure under section 25A(1) of each Ordinance (that is, that property, inter alia, represents any person's proceeds of drug trafficking or of an indictable offence) from "knows or suspects" to "knows or has reasonable grounds to suspect" (section 13(a), (c) and (d) of Schedule 1 and section 12(a), (c) and (d) of Schedule 2); and

(xii) to increase from 3 months to 12 months the custodial sanction for a contravention of section 25A(1) of each Ordinance (section 13(e) of Schedule 1 and section 12(e) of Schedule 2);

(b) to amend the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405) to repeal section 4(4) so that the assumptions that may be made under section 4(2) and

(3) by a court (for the purpose of determining whether a defendant has benefited from drug trafficking and the value of the benefit) will apply in a case where the only drug trafficking offence in respect of which the defendant is to be sentenced is an offence under section 25 (section 4 of Schedule 1); and

(c) to amend the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405) and the Drug Trafficking (Recovery of Proceeds)(Designated Countries and Territories) Order (Cap. 405 sub. leg.) so that that Order need only set out the Ordinance as modified (section 15 of Schedule 1 and sections 1 and 2 of Schedule 3).