

**CRIMINAL JUSTICE (INTERNATIONAL
CO-OPERATION) ETC
(AMENDMENT) ORDINANCE 2001**

(Ordinance 8 of 2001)

Arrangement of sections

Section

1. Citation and commencement
2. Definition
3. Amendment of section 2 of Criminal Justice (International Co-operation) Ordinance 1988
4. Addition of section 13A to Criminal Justice (International Co-operation) Ordinance 1998
5. Addition of section 14A to Criminal Justice (International Co-operation) Ordinance 1998
6. Repeal of section 14(3) and (5) of Criminal Justice (International Co-operation) Ordinance 1998
7. Amendment of Control of Drugs (Trafficking) Ordinance
8. Amendment of Proceeds of Crime Ordinance 1998



TURKS AND CAICOS ISLANDS

**CRIMINAL JUSTICE (INTERNATIONAL
CO-OPERATION) ETC
(AMENDMENT) ORDINANCE 2001**

(Ordinance 8 of 2001)

Assent..... *May 16, 2001*

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Commencement..... *May 22, 2001*

AN ORDINANCE TO AMEND THE CRIMINAL JUSTICE (INTERNATIONAL CO-OPERATION) ORDINANCE, THE CONTROL OF DRUGS (TRAFFICKING) ORDINANCE AND THE PROCEEDS OF CRIME ORDINANCE 1998: AND FOR CONNECTED PURPOSES.

Citation and commencement

ENACTED by the Legislature of the Turks and Caicos Islands.

1. This Ordinance may be cited as the Criminal Justice (International Co-operation) Etc (Amendment) Ordinance 2001 and shall come into operation on such day as the Governor may appoint by notice published in the Gazette.

cap 38

2. In this Ordinance “the principal Ordinance” means the Criminal Justice (International Co-operation) Ordinance.

Amendment of Criminal Justice (International Co-operation) Ordinance *cap 38*

3. In section 2 of the principal Ordinance at the appropriate place there shall be inserted the following definition –

““reporting authority” means the Reporting Authority established under section 27 of the Proceeds of Crime Ordinance 1998;”.

4. After section 13 of the principal Ordinance there shall be added the following section –

Acquisition or use of proceeds of drug trafficking

“13A. (1) A person commits an offence if, knowing or suspecting that any property is, or in whole or in part directly or indirectly represents, another person’s proceeds of drug trafficking, he acquires or uses that property or has possession of it.

(2) It is a defence to a charge of committing an offence under this section that the person charged acquired or used the property or had possession of it for adequate consideration

(3) For the purposes of subsection (2) –

(a) a person acquires property for inadequate consideration if the value of the consideration is significantly less than the value of the property; and

(b) a person uses or has possession of property for inadequate consideration if the value of the consideration is significantly less than the value of his use or possession of the property.

(4) The provision for a person of services or goods which are of assistance to him in drug trafficking shall not be treated as consideration for the purposes of subsection (2).

(5) Where a person discloses to the reporting authority a belief or suspicion that any property is, or in whole or in part directly or indirectly represents, another person's proceeds of drug trafficking or discloses to the reporting authority any matter on which such belief or suspicion is based -

(a) the disclosure shall not be treated as a breach of a restriction upon the disclosure of information imposed by an enactment, rule of law or otherwise and shall not give rise to an civil proceedings; and

(b) if he does an act in relation to that property in contravention of subsection (1), he does not commit an offence under this section if -

(i) the disclosure is made before he does the act concerned; or

(ii) the disclosure is made after he does the act, but on his initiative and as soon as it is reasonable for him to make it.

(6) In proceedings against a person for an offence under this section, it is a defence to prove that -

(a) he intended to disclose to the reporting authority such a suspicion, belief or matter as is mentioned in subsection (5); but

(b) there is reasonable excuse for his failure to make the disclosure in accordance with subsection (5)(b).

(7) For the purposes of this section, having possession of any property shall be taken to be doing an act in relation to it.

(8) In the case of a person who was in employment at the relevant time, subsections (5) and (6) shall have effect in relation to disclosures, and intended

disclosures, to the appropriate person in accordance with the procedure established by his employer for the making of such disclosures as they have effect in relation to disclosures, and intended disclosures, to the reporting authority.

(9) The reporting authority may disclose information disclosed to it under subsection (5) to a law enforcement agency in the Islands.

(10) The reporting authority, having regard to the purpose for which the disclosure is to be made and the interests of third parties may, subject to such conditions as it may impose on further disclosure, disclose to a law enforcement agency in another country or territory information disclosed to it under subsection (5) in order to -

- (a) report the possible commission of an offence;
- (b) initiate a criminal investigation respecting the matter disclosed;
- (c) assist with an investigation or criminal proceedings respecting the matter disclosed; or
- (d) generally, give effect to the purposes of this Ordinance.

(11) A person guilty of an offence under this section shall be liable -

- (a) on summary conviction, to imprisonment for a term not exceeding twelve months or a fine not exceeding \$20,000 or to both; or
- (b) on conviction on indictment to imprisonment for a term not exceeding fourteen years or a fine without limit or to both.

(12) No police officer, member of the reporting authority or other person shall be guilty of an offence under this section in respect of anything done by him in the course of acting in connection with the enforcement, or intended enforcement, of a provision of this Ordinance or of another enactment relating to drug trafficking or the proceeds of drug trafficking.

(13) A disclosure made by the reporting authority under this Ordinance shall not be treated as a breach of a restriction upon the disclosure of information imposed by an enactment, rule of law or otherwise and shall not give rise to civil proceedings.”.

5. After section 14 of the principal Ordinance there shall be added the following section –

Tipping-off

“14A. (1) A person shall be guilty of an offence if –

- (a) he knows or suspects that a police officer, member of the reporting authority or other person is acting or is proposing to act, in connection with an

investigation which is being or is about to be, conducted into drug trafficking; and

(b) he discloses to another person information or any other matter which is likely to prejudice the investigation or proposed investigation.

(2) A person shall be guilty of an offence if –

(a) he knows or suspects that a disclosure (“the disclosure”) has been made to the reporting authority under section 13A(5) of this Ordinance or to a police officer under section 22(3) of the Control of Drugs (Trafficking) Ordinance; and

cap 35

(b) he discloses to another person information or other matter which is likely to prejudice an investigation which might be conducted following the disclosure.

(3) A person shall be guilty of an offence if –

(a) he knows or suspects that a disclosure of a kind mentioned in section 13A(9) (“the disclosure”) has been made; and

(b) he discloses to a person information or other matter which is likely to prejudice an investigation which might be conducted following the disclosure.

(4) Nothing in subsections (1) to (3) shall make it an offence for a person to disclose information or other matter to a professional legal adviser for the purpose of legal advice or for a professional legal adviser to disclose information or other matter –

(a) to or to a representative of, a client of his in connection with the giving by the adviser of legal advice to the client, or

(b) to a person –

(i) in contemplation of, or in connection with, legal proceedings; and

(ii) for the purpose of those proceedings.

(5) Subsection (4) shall not apply in relation to information or other matter which is disclosed with a view to furthering a criminal purpose.

(6) In proceedings against a person for an offence under subsection (1), (2) or (3), it shall be a defence to prove that he did not know or suspect that the disclosure was likely to be prejudicial in the way mentioned in that subsection.

(7) In this section “drug trafficking” includes an act done outwith the Islands which would constitute the offence of drug trafficking if done in the Islands.

(8) For the purposes of subsection (7), having possession of any property shall be taken to be doing an act in relation to it.

(9) A person guilty of an offence under this section shall be liable –

- (a) on summary conviction, to imprisonment for a term not exceeding twelve months or a fine not exceeding \$20,000 or to both; or
- (b) on conviction on indictment, to imprisonment for a term not exceeding five years or a fine without limit or to both.

(10) No police officer, member of the reporting authority or other person shall be guilty of an offence under this section in respect of anything done by him in the course of acting in connection with the enforcement, or intended enforcement, of any provision of this Ordinance or of any other enactment relating to an offence to which this Ordinance applies.”.

Consequential amendments

6. Subsections (3) and (5) of section 14 of the principal Ordinance 1998 shall be repealed.

Amendment of Control of Drugs (Trafficking) Ordinance
cap 35

7. In the Control of Drugs (Trafficking) Ordinance –

- (a) in paragraph (e) of the definition of “drug trafficking offence” in section 2 for the words “sections 12, 14, or 17” there shall be substituted “section 12, 13A, 14, 14A or 17”; and
- (b) section 26 shall be repealed.

Amendment of Proceeds of Crime Ordinance 1998

8. In section 29(1) of the Proceeds of Crime Ordinance 1998 immediately after the word “knowing” there shall be inserted the words “or suspecting”.