<u>Extract of Organized and Serious Crimes(Amendment) Ordinance 1995</u>

22. Sections substituted

Section 25 is repealed and the following substituted -

"25. Dealing with property known or believed to represent proceeds of indictable offence

(1) Subject to section 25A, a person commits an offence if, knowing or having reasonable grounds to believe 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.

(2) In proceedings against a person for an offence under subsection (1), it is a defence to prove that -

(a) he intended to disclose to an authorised officer such knowledge, suspicion or matter as is mentioned in section 25A(1) in relation to the act in contravention of subsection (1) concerned; and

(b) there is reasonable excuse for his failure to make disclosure in accordance with section 25A(2).

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

(a) on conviction upon indictment to a fine of $5,000,000 and to imprisonment for 14 years; or

(b) on summary conviction to a fine of $5000,000 and to imprisonment for 3 years.

(4) In this section and section 25A, references to an indictable offence include a reference to conduct which would constitute an indictable offence if it had occurred in Hong Kong.

25A. Disclosure of knowledge or suspicion that property represents proceeds, etc. of indictable offence

(1) Where a person knows or suspects that any property -

(a) in whole or in part directly or indirectly represents any person's proceeds of;

(b) was used in connection with; or

(c) is intended to be used in connection with, an indictable offence, he shall as soon as it is reasonable for him to do so disclose that knowledge or suspicion, together with any matter on which that knowledge or suspicion is based, to an authorized officer

(2) If a person who has made a disclosure referred to in subsection (1) does any act in contravention of section 25(1) (whether before or after such disclosure), and the disclosure relates to that act, he does not commit an offence under that section if -

(a) that disclosure is made before he does that act and he does that act with the consent of an authorized officer; or

(b) that disclosures is made -

(i) after he does that act;
(ii) on his initiative; and
(iii) as soon as it is reasonable for him to make it.

(3) A disclosure referred to in subsection (1) -

(a) shall not be treated as a breach of any restriction upon the disclosure of information imposed by contract or by any enactment, rule of conduct or other provision;

(b) shall not render the person who made it liable in damages for any loss arising out of -

(i) the disclosure;
(ii) any act done or omitted to be done in relation to the property concerned in consequence of the disclosure.

(4) In the case of a person who was in employment at the relevant time, this section shall have effect in relation to disclosures to the appropriate person in accordance with the procedure established by his employer for the making of such disclosures as it has effect in relation to disclosure to an authorized officer.

(5) A person commits an officer if, knowing or suspecting that a disclosure has been made under subsection (1) or (4), he disclosures to any other person any matter which is likely to prejudice any investigation which might be conducted following that first-mentioned disclosure.

(6) In proceeding against a person for an offence under subsection (5), it is a defence to prove -

(a) that he did not know or suspect that the disclosure concerned was likely to be prejudicial in the way referred to in that subsection; or

(b) that he had lawful authority or reasonable excuse for making that disclosure.

(7) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 3 months

(8) A person who commits an offence under subsection (5) is liable -

(a) on conviction upon indictment to a fine of $5000,000 and to imprisonment for 3 years; or

(b) on summary conviction to a fine at level 6 and to imprisonment for 1 year.”

23. Restrictions on revealing disclosure under section 25A

Section 26 is amended -

(a) in subsection (1)(a), by repealing “25(3)" and substituting “25A(1) or (4)”;

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

(c) in subsection (3)(a), by repealing "25(3)" and substituting "25A(1) or (4)”;

(d) in subsection (5)(a), by adding "or 25A" after "25"