

REPUBLIC OF KIRIBATI
(№ 4 of 2005)

I assent,

Beretitenti
2005

**AN ACT TO AMEND THE LAW RELATING TO PROCEEDS OF CRIME,
TO CLARIFY THE DEFINITION OF MONEY LAUNDERING,
TO ESTABLISH PENALTIES FOR OFFENCES AND FOR CONNECTED PURPOSES**

Commencement:
2005

MADE by the Maneaba ni Maungatabu and assented to by the Beretitenti

PART I—PRELIMINARY

1. Short title

This Act may be cited as the *Proceeds of Crime (Amendment) Act 2005*.

2. Interpretation

In this Act ‘principal Act’ means the *Proceeds of Crime Act 2003*.

PART II—AMENDMENTS TO THE PRINCIPAL ACT

3. Amends section 3

Section 3(1) of the principal Act is amended by omitting from the definition of “Unit” “Tracking” and substituting “Intelligence”.

4. Amends section 12

Section 12(3)(a) of the principal Act is amended by omitting “ought reasonably to know” and substituting “has reasonable grounds to believe”.

5. Amends section 17

Section 17(3)(a) of the principal Act is amended by omitting “section 104” and substituting “section 106”.

6. Amends section 81

Section 81(1) of the principal Act is amended by omitting “section 73” and substituting “section 79”.

7. Amends section 99

Section 99(2) of the principal Act is amended by omitting “[]” and substituting “\$12,000”.

8. Amends section 100

Section 100 of the principal Act is amended by omitting “by imprisonment of [], or a fine of [], or both.” and substituting—

“by:

- (a) for a natural person — a fine of \$30,000 or imprisonment for 2 years, or both; or
- (b) for a body corporate — a fine of \$150,000.”.

9. Amends section 102

Section 102 of the principal Act is amended—

- (a) in subsection (4) by omitting “[]” and substituting “\$200”; and
- (b) in subsection (4)(e) by omitting “(f any)” and substituting “(if any)”; and
- (c) in subsection (7)(a) by omitting “[]” and substituting “\$200”; and
- (d) in subsection (7)(b) by omitting “Minister of []” and substituting “Attorney-General”.

10. Amends section 104

Section 104 of the principal Act is amended—

- (a) in subsection (1) by omitting “scrutinize to –” and substituting “scrutinise:”; and
- (b) in subsection (2) by omitting “scrutinize to –” and substituting “scrutinise:”.

11. Amends section 107

Section 107(3)(a) of the principal Act is amended by omitting “section 104(3)” and substituting “section 106(4)”.

12. Amends section 111

Section 111(1) of the principal Act is amended by omitting “section 101(1)” and substituting “section 110(1)”.

13. Amends section 114

Section 114(1) of the principal Act is amended by omitting “section 107” and substituting “section 113”.

14. Amends section 117

Section 117(2)(a) of the principal Act is amended by omitting “section 107(1)(b)” and substituting “section 116(b)”.

PROCEEDS OF CRIME (AMENDMENT) ACT 2005

EXPLANATORY MEMORANDUM

This legislation makes some minor amendments to the *Proceeds of Crime Act* that was passed in 2003. It also seeks to clarify the definition of 'money laundering' to make sure that the behaviour of dealing with the proceeds of crime can be prosecuted appropriately.

Section 3 corrects the title of the Financial Intelligence Unit. When the principal Act was first prepared, the concept of tracking assets was thought to be most important. As the drafting process progressed, the concept was widened to include the general field of financial intelligence.

Section 4 clarifies the grounds on which a person can be held to have committed the offence of money laundering.

Sections 5 and 6 correct cross-references to provisions that were renumbered during drafting.

Section 7 provides a monetary penalty for an offence of making a false statement in an application for a forfeiture order.

Section 8 makes it clear that a greater penalty can be imposed for a corporation than for an individual.

Section 9 inserts a minimum amount above which a financial institution or cash deal must record details of a transaction, and provides that the circumstances in which a report may not be required may be changed as prescribed by the Attorney-General. It also corrects a typographical error.

Section 10 corrects a typographical error that occurs in two places.

Sections 11 to 14 correct cross-references to provisions that were renumbered during drafting.

David Lambourne
Solicitor-General
8 October 2004

CERTIFICATE OF THE CLERK OF THE MANEABA NI MAUNGATABU

This printed impression has been carefully examined by me with the Bill which passed the Maneaba ni Maungatabu on 14 June 2005 and is found by me to be a true and correctly printed copy of the said Bill.

Ioataake Timeon
Clerk of the Maneaba ni Maungatabu

Published by exhibition at the Maneaba ni Maungatabu this

day of _____, 2005.

Ioataake Timeon
Clerk of the Maneaba ni Maungatabu