

The Union of Myanmar

The State Peace and Development Council

The Control of Money Laundering Law

(The State Peace and Development Council Law No. 6 /2002)

The Waxing Day of Nayon , 1364 M.E .

(17th June, 2002)

The State Peace and Development Council hereby enacts the following Law:

Chapter I

Title, Jurisdiction and Definition

1. This Law shall be called the Control of Money Laundering Law.
2. This Law shall have jurisdiction on any person who commits any offence cognizable under this Law in the territory of the Union of Myanmar, or on Myanmar citizen or any person residing permanently in the Union of Myanmar who commits the said offence outside the country, or on any person who commits the said offence on board a vessel or an aircraft registered under its existing law.
3. The following expressions contained in this Law shall have the meanings given hereunder:
 - (a) *Money laundering offence* means an offence of laundering money and property obtained by illegal means in respect of any offence mentioned in sub-sections (a) and (b) of section 5 of this Law.
 - (b) *Money and property obtained by illegal means* mean money and property obtained by converting, transferring, concealing, obliterating or disguising of money or property obtained from committing the money laundering offence.
 - (c) *Banks and financial institutions* mean the organizations established in the State, whose corporate purpose is intermediation on the money or capital markets

through the collection of financial resources from third parties for investment on their own account in credit operations, credit and public debt instruments, securities, or other authorized financial activities. This expression also includes the commercial banks, investment or development banks and finance companies.

(d) *Money* means legal tender coins, their lower denominations and currency notes issued by the Central Bank of Myanmar, promissory notes, bills of exchange and cheques being negotiable instruments, bonds, treasury bills and debentures instruments, and foreign currencies and any kind of instruments or certificates related to foreign currencies.

(e) *Property* means movable or immovable property in any form, being corporeal or incorporeal and tangible or intangible. This expression also includes profits, rights and titles pertinent to property.

(f) *Central Control Board* means the Central Control Board on Money Laundering formed under this Law.

Chapter II

Objectives

4. The objectives of this Law are as follows:

(a) to control and enable taking of effective action against money and property obtained by illegal means and to prevent offences arising therefrom;

(b) to prevent interference in the executive, economic and social sectors of the State, using money and property obtained by illegal means;

(c) to carry out measures in conformity with the international conventions that Myanmar has acceded, in implementing control of money and property obtained by illegal means;

(d) to co-operate with international organizations, regional organizations and neighbouring countries for controlling money and property obtained by illegal means.

Chapter III

Money Laundering Offences

5. (a) This Law shall apply to the offences of illegally converting, transferring, concealing, obliterating or disguising of money and property obtained from the commission of any of the following offences to legalize the same:

(1) offences committed under the Narcotic Drugs and Psychotropic Substances Law;

(2) trafficking in and smuggling of women and children;

(3) undertakings of a financial institution without the licence issued by the Central Bank of Myanmar;

(4) theft and smuggling out of the country of antiques and articles of cultural heritage;

(5) illegal trafficking in arms, ammunition and explosives;

(6) counterfeiting money, using and possessing thereof;

(7) hijacking of aircraft, vessel or any type of vehicle;

(8) cyber crimes committed by electronic means;

(9) offences committed by acts of terrorism;

(10) offences prescribed by the Government by notification from time to time.

(b) This Law shall also be applicable to the commission of transnational offences contained in sub-section (a).

(c) The amount of value of money and property relating to offences contained in sub-sections (a) and (b) shall be as prescribed by the Central Control Board.

Chapter IV

Formation of the Central Control Board and Duties and Powers thereof

6. The Government shall form the Central Control Board on Money Laundering comprising the following persons:

- (a) Minister, Ministry of Home Affairs Chairman
- (b) Minister, Ministry of Finance and Revenue Deputy Chairman
- (c) Ministers or Deputy Ministers of relevant Ministries Members
- (d) Deputy Chief Justice Member
- (e) Deputy Attorney General Member
- (f) Governor of the Central Bank of Myanmar Member
- (g) Director General, Department of Settlements and Land Records
Member
- (h) Police Director General, Myanmar Police Force Secretary
- (i) Director General, Bureau of Special Investigation Joint Secretary

7. The duties of the Central Control Board are as follows: -

- (a) laying down the policies of control of money and property obtained by illegal means and taking legal action in accordance with the said policies, in co-ordination with the government departments and organizations concerned;
- (b) supervising and directing in taking action under this Law;
- (c) directing the Investigation Body to investigate and reveal information relating to converting, transferring, concealing, obliterating and disguising of money and property obtained by illegal means;

(d) directing the Preliminary Scrutiny Body to scrutinize the report of findings submitted by the Investigation Body;

(e) co-operating with the States Parties of the United Nations conventions, international and regional organizations and neighbouring countries in respect of control of money and property obtained by illegal means, exchange of information, investigation, taking legal action and adjudication;

(f) guiding and supervising the relevant government departments and organizations so that banks, financial institutions and economic enterprises may not be established and operated by using money and property obtained by illegal means;

(g) guiding and supervising the responsible persons of the banks and financial institutions to conduct training courses as may be necessary for enabling to reveal and take action against money and property obtained by illegal means;

(h) submitting the report of its activities to the Government in accordance with the stipulations.

8. The powers of the Central Control Board are as follows:

(a) prescribing the amount of value of money and property obtained by committing any offence contained in sub-sections (a) and (b) of section 5 and revising thereof from time to time;

(b) prescribing, with the approval of the Government the amount of value of money and property to be reported to the Central Control Board;

(c) forming the Investigation Body and Preliminary Scrutiny Body and prescribing their functions and duties, and making arrangement to enable aiding of necessary money and technical know-how to such bodies;

(d) assigning duties to the Investigation Body to carry out investigation, enter a building and conduct inspection, search, and seize as exhibit in respect of money and property obtained by illegal means, in accordance with the stipulations;

- (e) passing an order permitting the return of the property seized as exhibit under a bond, and revoking the permission;
- (f) issuing an order to the responsible persons of the banks and financial institutions to allow search and seizure of money and property obtained by illegal means as exhibit, at the relevant banks and financial institutions, examining and making copy of the financial records and if necessary to allow search and seizure thereof as exhibit by the Investigation Body;
- (g) issuing the prohibitory order to the relevant departments, organizations and persons not to convert, transfer, conceal, obliterate and disguise money and property obtained by illegal means during the investigation period under this Law, and directing the attachment and sealing thereof;
- (h) revoking the order issued under sub -section (f), and the prohibitory order and sealing directive under sub-section (g);
- (i) passing an order confiscating money and property obtained by illegal means;
- (j) giving necessary protection and deserving reward to an informer in respect of money and property obtained by illegal means;
- (k) forming the staff office comprising experts to assist the Central Control Board in performing its functions and duties.

Chapter V

Formation of the Investigation Body and Functions and Duties thereof

9. The Central Control Board shall:
- (a) form the Investigation Body comprising not less than three members from suitable persons of relevant government departments and organizations to investigate and reveal the money and property obtained by illegal means;
 - (b) change the members on case-by-case basis or time limit instead of on a fixed basis in forming the Investigation Body.

10. In investigating and examining under the directive of the Central Control Board in respect of money and property obtained by illegal means in accordance with the stipulations, the Investigation Body:

- (a) may make necessary investigations and gather intelligence;
- (b) may call for and examine necessary documents from the person who is under investigation or any other person or the government departments and organizations or the banks and financial institutions;
- (c) may summon and examine the person who is under investigation or other necessary persons;
- (d) has the right to enter, inspect, search and seize as exhibit building, land and work-site of the person who is under investigation;
- (e) has the right to enter, inspect, search and seize as exhibit building, land and work-site under the name of other person and derived from the money and property obtained by illegal means.

11. The Investigation Body shall:

- (a) submit the report on findings to the Central Control Board in accordance with the stipulations;
- (b) submit the case of seizure of property as exhibit under sub-section (d) or (e) of section 10 to the Central Control Board in accordance with the stipulations;
- (c) keep secret each and every matter under investigation.

12. The Central Control Board may, on receiving the report on findings of the Investigation Body, assign duty to the original Investigation Body or newly-formed Investigation Body to investigate the whole case or the necessary facts, if it considers that further investigation is required.

Chapter VI

Formation of the Preliminary Scrutiny Body and Functions and Duties thereof

13. The Central Control Board shall, subject to the report on findings of the Investigation Body, form the Preliminary Scrutiny Body comprising not less than three members chaired by one Deputy Minister to scrutinize and submit in respect of money and property obtained by illegal means.

14. The Preliminary Scrutiny Body:

(a) shall inform and give the right of defence to the person who is under investigation in respect of the report on findings of the Investigation Body;

(b) may summon and examine the necessary persons and take necessary evidence in respect of the report on findings of the investigation;

(c) shall submit to the Central Control Board with its findings and recommendations after considering the report of the Investigation Body and defence made by the person under investigation;

(d) shall keep secret each and every matter under investigation.

Chapter VII

Appeal and Revision

15. A person who is under investigation may, if he is dissatisfied with any order of the Central Control Board appeal to the Government within 90 days from the date on which the said order is received.

16. The Government may pass any suitable order for confirmation, revision or setting aside the said order or cause re-investigation to be made, upon an appeal submitted by the aggrieved person or at its discretion on any order passed by the Central Control Board.

17. The decision of the Government shall be final and conclusive.

Chapter VIII

Functions and Duties of the Banks and Financial Institutions

18. The responsible persons of the banks and financial institutions:

(a) shall obtain, scrutinize and record the names, addresses and registration card numbers or passports of persons who open accounts , deposit, withdraw and transfer cash, and the required particulars in respect of opening accounts, cash deposit and cash withdrawal in accordance with the stipulations;

(b) after carrying out the opening of accounts and transactions in accordance with the stipulations, supporting documents, accounts and records shall be kept for at least 5 years;

(c) shall allow the Investigation Body to inspect financial records, make copies, seize money and property obtained by illegal means as exhibit;

(d) shall not, without the permission of the Central Control Board release or transfer money and property obtained by illegal means, during the period of investigation and taking legal action;

(e) shall not, without the permission of the Central Control Board obliterate, alter, amend or transfer the financial records relating to the investigation.

Chapter IX

Duties to Report

19. The responsible persons of the banks and financial institutions:

(a) shall, notwithstanding anything contained in existing laws in respect of bank secrecy, report to the Central Control Board without delay, any deposit , withdrawal or transfer of cash in an amount which is in excess of the amount prescribed by the Central Control Board. Provided that this shall not apply to transfer and succession in accordance with the right to inheritance under any existing law or Customary Law.

(b) shall report any unusual or suspicious transaction to the Central Control Board without delay, and in accordance with the stipulations.

20. The responsible persons of the Department of Settlements and Land Records and its respective subordinate offices in performing the registration of documents relating to the transfer of immovable property:

(a) shall report the transfer of property the value of which exceeds the amount prescribed by the Central Control Board without delay and in accordance with the stipulations . Provided that this shall not apply to transfer and succession in accordance with the right to inheritance under any existing law or Customary Law.

(b) shall report any unusual or suspicious transfer to the Central Control Board without delay and in accordance with the stipulations.

21. The responsible persons of the relevant government departments or organizations, on declaring to him the foreign currency brought into the country by any person who enters the Union of Myanmar shall, if the amount exceeds the amount prescribed by the Central Control Board, report the matter to the Central Control Board without delay, and in accordance with the stipulations.

Chapter X

Offences and Penalties

22. Whoever commits any of the following acts in committing any offence contained in the Narcotic Drugs and Psychotropic Substances Law shall, on conviction, be punished with imprisonment for a term which may extend from a minimum of 10 years to a maximum of an unlimited period:

(a) concealing or obliterating of money and property obtained by commission of an offence, so that action may not be taken.

(b) converting, transferring or disguising of money and property relating to an offence so as to appear to have been acquired from a legitimate source.

23. Whoever converts, transfers, conceals, obliterates or disguises money and property obtained by committing any offence contained in sub-sections (a) and (b)

of section 5, so as to appear to have been acquired from a legitimate source except any offence contained in section 22 shall, on conviction, be punished with imprisonment for a term which may extend to 10 years and may also be liable to a fine.

24. Any responsible persons of the banks and financial institutions who commits any of the following acts in respect of an offence relating to this Law shall, on conviction, be punished with imprisonment for a term which may extend from a minimum of 3 years to a maximum of 7 years and may also be liable to a fine:

(a) refusing to grant permission to the Investigation Body to carry out official duty in accordance with sub-section (c) of section 18;

(b) violating the prohibition contained in sub-section (d) of section 18 and releasing or transferring money and property obtained by illegal means, without the permission of the Central Control Board;

(c) violating the prohibition contained in sub-section (e) of section 18 and obliterating, altering, amending or transferring the financial records, without the permission of the Central Control Board.

25. Any member of the Investigation Body who commits any of the following acts or omissions in investigating money laundering offence shall, on conviction, be punished with imprisonment for a term which may extend from a minimum of 3 years to a maximum of 7 years and may also be liable to a fine:

(a) demanding or accepting money or property either for himself or for any other person as a gratification;

(b) substitution of an offender with any other person so that action cannot be taken against him or misprision of an offender without taking action against him;

(c) concealment, obliteration, conversion, transfer in any manner or disguising of money and property obtained by illegal means so that action may not be taken against them.

26. Whoever violates a prohibitory order issued by the Central Control Board not to convert, transfer, conceal, obliterate or disguise money and property obtained by

illegal means, during the investigation period under this Law shall, on conviction, be punished with imprisonment for a term which may extend to 7 years and may also be liable to a fine.

27. Whoever destroys or acts with the intention of damaging the property returned under a bond with the permission of the Central Control Board, during the investigation period under this Law shall, on conviction, be punished with imprisonment for a term which may extend to 7 years and may also be liable to a fine.

28. If any responsible persons of the banks and financial institutions commits any of the following omissions, he shall, on conviction, be punished with imprisonment for a term which may extend to 3 years or with fine or with both:

(a) failure to carry out any of the functions and duties contained in sub-sections (a) and (b) of section 18 in accordance with the stipulations;

(b) failure to report to the Central Control Board under section 19 in accordance with the stipulations.

29. Any responsible persons of the Department of Settlements and Land Records and its respective subordinate offices who fails to report to the Central Control Board under section 20 in accordance with the stipulations shall, on conviction, be punished with imprisonment for a term which may extend to 3 years or with fine or with both.

30. Any responsible persons of the relevant government departments and organizations who fails to report to the Central Control Board under section 21 in accordance with the stipulations shall, on conviction, be punished with imprisonment for a term which may extend to 3 years or with fine or with both.

31. Whoever opens an account under a false name, deposits and draws money, transfers money or delegates authority to any person to do such activities shall, on conviction, be punished with imprisonment for a term which may extend to 3 years or with fine or with both.

32. Whoever attempts, conspires, organizes or administers to commit any offence or abets or aids financially in committing any offence contained in this Law shall be liable to the punishment provided in this Law for such offence.

Chapter XI

Miscellaneous

33. A person under investigation has the responsibility to prove clearly with valid evidence of how he legally obtained the money and property under investigation or by which income they were obtained.

34. In respect of money and property obtained by illegal means, if any other person who is not under investigation is able to prove clearly that such money and property were transferred by certain means with consideration and in good faith, his right shall not be affected.

35. No suit or prosecution shall lie against a person who reports according to his duty in good faith under section 19, 20 or 21, notwithstanding that his report has caused injury to any person.

36. (a) During the investigation period under this Law on money and property obtained by illegal means, the relevant government departments and organizations shall keep pending any action being taken in respect of the said money and property under the Income Tax Law or Profit Tax Law or Commercial Tax Law or laws relating to customs duty or any other existing laws against a person under investigation.

(b) When the Central Control Board has passed an order according to the findings in respect of money laundering offence, the relevant government departments and organizations shall proceed in accordance with the stipulations.

37. In cases of taking action under this Law on money and property obtained by illegal means, search, arrest, seizure as exhibits, return of the same under a bond , prohibition of the immovable property during the investigation period, sealing, perusing the financial records of the banks and financial institutions and

confiscation thereof shall be carried out in accordance with this Law and rules, procedures, notifications, orders and directives issued thereunder.

38. In respect of money or property obtained by committing any offence under sub-sections (a) and (b) of section 5:

(a) action shall be taken only under this Law upon offences relating to money and property obtained by illegal means such as conversion, transfer, concealment, obliteration and disguising of money and property, after this Law comes into force.

(b) action shall not be taken under this Law upon offences relating to money and property obtained by illegal means such as conversion, transfer, concealment, obliteration and disguising of money and property, before this Law comes into force.

39. (a) Action shall be taken against a person who commits any offence not being money laundering offence contained in sub-sections (a) and (b) of section 5 under any relevant existing law provided for such offence.

(b) Action shall not be taken under this Law upon the exhibits in respect of which action had been taken under sub-section (a) and which have been confiscated.

40. In prosecuting an offence under this Law, prior sanction of the Ministry of Home Affairs shall be obtained.

41. For the purpose of implementing the provisions of this Law:

(a) the Ministry of Home Affairs may, with the approval of the Government, issue such rules and procedures as may be necessary;

(b) the Central Control Board, the Ministry of Home Affairs, the Ministry of Finance and Revenue and the relevant government departments and organizations may issue such notifications, orders and directives as may be necessary.

(Sd.)

Than Shwe

Senior General

Chairman

The State Peace and Development Council