

ANTIGUA AND BARBUDA



**OFFICE OF NATIONAL DRUG AND MONEY LAUNDERING CONTROL POLICY
(AMENDMENT) ACT, 2020**

No. 10 of 2020

*[Published in the Official Gazette Vol. XL No. 44
dated 17th June, 2020.]*

Printed at the Government Printing Office, Antigua and Barbuda,
By Noel F. Abraham, Government Printer
— By Authority, 2020.

ANTIGUA AND BARBUDA

**OFFICE OF NATIONAL DRUG AND MONEY LAUNDERING CONTROL POLICY
(AMENDMENT) ACT, 2020**

ARRANGEMENT OF SECTIONS

SECTION

1. Short Title	4
2. Interpretation.....	4
3. Amendment of section 3-Establishment of the Office of National Drug and Money Laundering Control Policy.....	5
4. Amendment of Section 7-Removal of the Director or Deputy Director from Office.....	5
5. Amendment of section 10-Functions of the ONDCP.....	5
6. Amendment of section 11-Performances of ONDCP functions.....	6
7. Amendment of section 12 –Cooperation with persons and authorities outside Antigua and Barbuda.....	6
8. Section 14 of the principal Act is repealed and replaced-Estimates of Income and expenditure	6
9. Sections 30A, 30B, 30C, 30D and 30E repealed and replaced	7
10. Amendment of section 32- Protection of ONDCP confidential information	8

[L.S.]



I Assent,

Rodney Williams,
Governor-General.

16th June, 2020.

ANTIGUA AND BARBUDA

**OFFICE OF NATIONAL DRUG AND MONEY LAUNDERING CONTROL POLICY
(AMENDMENT) ACT, 2020**

No. 10 of 2020

AN ACT to amend the Office of National Drug and Money Laundering Control Policy Act, 2003 No. 11 of 2003.

ENACTED by the Parliament of Antigua and Barbuda as follows:

1. Short Title

This Act may be cited as Office of the National Drug and Money Laundering Control Policy (Amendment) Act, 2020.

2. Interpretation

In this Act-

“principal Act” means the Office of National Drug and Money Laundering Control Policy Act, 2003 No. 11 of 2003.

3. Amendment of section 3-Establishment of the Office of National Drug and Money Laundering Control Policy

Section 3 of the principal Act is amended as follows –

(a) by repealing subsection (3) in its entirety and replacing it with the following-

“(3) The Minister in consultation with the Leader of the Opposition shall request the Governor General to appoint a Standing Committee of three members of the House of Representatives.”

(b) by adding a new subsection (4) as follows –

“(4) The Standing Committee shall meet, at least once every quarter, unless the chairperson of the Standing Committee or the Director considers that there is a matter of urgency of which the Standing Committee needs to be informed.”

4. Amendment of Section 7-Removal of the Director or Deputy Director from Office

Section 7 of the principal Act is repealed and replaced by the following —

“(1) A person holding the Office of Director or Deputy Director may be removed from office for inability to exercise the functions of his office, whether arising from infirmity of body or mind or for misbehaviour.

(2) If the question of removing the Director or the Deputy Director from Office arises, the Minister may, in consultation with the Leader of the Opposition, advise the Governor General to appoint an Investigatory Committee.

(3) The Investigatory Committee shall, without delay, enquire into the question of removing the Director or Deputy Director from office, and submit its findings and recommendations to the Governor General, who shall present the findings and recommendations to the Standing Committee whether or not, the Director or Deputy Director, ought to be removed from office.

(4) If the Investigatory Committee determines that the Director or the Deputy Director, as the case may be, ought to be removed from office, the Minister shall remove that person from office and provide him with reason for his removal in writing.

5. Amendment of section 10-Functions of the ONDCP

Section 10 of the Principal Act is amended as follows —

(a) by the repeal of paragraph (e) of subsection (1) and the substitution therefor of the following —

“(e) to share financial intelligence information in support of law enforcement investigatory professionals including government departments, regulatory and statutory bodies at the local, regional and international levels.”

(b) by the repeal of subsection (2) in its entirety.

6. Amendment of section 11-Performances of ONDCP functions

Section 11 of the principal Act is amended by inserting after subsection (7) thereof of the following subsection-

“(8)(a) The Director or any officer acting on his behalf may, by notice in writing, require any person to provide him within the time specified in the notice, such information, including, documents, estimates or returns, concerning any of the matters set out in the First and Second Schedules to the Misuse of Drugs Act, Cap. 283, which is believed to be in the person’s possession or custody.

(b) The Director may, by notice published in the Official Gazette and on its website or other forms of electronic media, require any person or class of persons named in the notice to provide the Director or any officer designated by the Director, within 28 days of such publication, information concerning the business or activities carried on by the person or class persons named in the notice for the purpose of creating a data bank on the matters referred to in paragraphs (a) and (b).

7. Amendment of section 12 –Cooperation with persons and authorities outside Antigua and Barbuda

Subsections (1) and (2) of section 12 of the Principal Act is repealed and replaced by the following:—

“(1) The Director or any officer of the ONDCP may, in the performance of any of the functions under this Act, cooperate and liaise with—

(a) the Antigua and Barbuda Police Force, the Antigua and Barbuda Defence Force, the Customs and Excise Department, the Financial Services Regulatory Commission, the Immigration Department and any other Government and local authority in Antigua and Barbuda; and

(b) any other authority outside Antigua and Barbuda specified by a treaty of cooperation to which Antigua and Barbuda is a party on any of the matters specified by this Act.”

“(2) The Director may, for the purpose of facilitating the performance of the functions of the ONDCP under this Act, cooperate with a public authority or private institution in a foreign state for the purpose of providing assistance in any matter prescribed by this Act.”

8. Section 14 of the principal Act is repealed and replaced-Estimates of Income and expenditure

The principal Act is amended by the repeal of section 14 and the substitution therefor of the following-

“(1) The Director shall, for the purpose of carrying out the functions of the ONDCP under this Act, establish and administer a special fund in accordance with the provisions of Part VI of the

Finance Administration Act, or any Act that amends or replaces the Finance Administration Act, 2006.

(2) For the proper management and administration of the funds of the ONDCP, including moneys paid into the fund established under subsection (1), the ONDCP shall comply with Part XI of the Finance Administration Act, 2006 or any Act that amends or replaces the Finance Administration Act, 2006.

9. Sections 30A, 30B, 30C, 30D and 30E repealed and replaced

Sections 30A, 30B, 30C, 30D and 30E of the principal Act are repealed and replaced by the following:-

“30A. Authority to sell and dispose of unclaimed property

- (1) Where the ownership of property, which has been seized or frozen by the ONDCP during an investigation into a specified offence cannot be ascertained, such property shall be sold disposed of or assigned to the use of the Director of the ONDCP in the manner provided under section 30B.
- (2) The Director or an authorised Officer of the ONDCP may, subject to subsection (1), apply to a Judge of the High Court for an order to sell, or dispose of or assign to the use of the Director of the ONDCP any property of which the owner cannot be found or ascertained.
- (3) An application pursuant to subsection (2) shall be made within a period of three months after such property was seized or frozen by the Director.
- (4) In an application to a Judge of the High Court under subsection (2), the Director or an Officer of the ONDCP must satisfy the Judge that:-
 - (a) the investigation of the person was discontinued by the prosecution; or
 - (b) the charges were dismissed or the person was acquitted at the trial; and
 - (c) all efforts to ascertain the owner of the property have not been successful.
- (5) If after hearing Counsel for the ONDCP, the Judge is satisfied that the conditions set out in subsections (3) have been met, and having regard to all the circumstances, he shall make an order for the sale or disposal of the property in the manner provided by section 30B or in any other manner that he sees fit.
- (6) Subject to section 30C, the proceeds of sale of property under this Part shall be paid into the Forfeiture Fund established pursuant to section 42 of the Finance Administration Act, 2006 No. 23 of 2006.

- (7) If after a period of 12 months following the sale of property under this section, a person claiming to be the owner or personal representative of the person claiming ownership may apply to a Judge of the High Court for an order directing the Director to pay over to the claimant the proceeds of the sale of the property, less any amount reasonably incurred by the Director in storing, preserving or conserving the property.
- (8) In making an application under subsection (7) a person claiming ownership must produce such evidence satisfactory to the Judge that he or she is the rightful owner of the property sold; and that the property was not the proceeds of crime.”

Section 30B Sale of Property

“(1) All property ordered to be sold under this Act shall be sold by public auction at such time as the Director determines, or by private sale where the expense of sale by public auction would, in the opinion of the Director, not be justified by any test of reasonableness.

(2) No property shall be sold under this section without the property having been valued by an accredited valuer, and in the case of land, by the Chief land valuer of the Government or an accredited valuer.”

30C Application of the proceeds of sale or unclaimed money

The proceeds of the Sale of property ordered under this Act or any unclaimed money, being money seized or frozen during investigation conducted under this Act may, after the elapse thirty-six months of the court order be applied to all or any of the following purposes —

- (a) expenses for the administration and implementation of this Act;
- (b) the payment of reasonable compensation to any person by whom the property was delivered by the ONDCP for safe keeping and storage; and
- (c) such other purposes as the Minister may consider expedient.

30D Approval of sale or other disposal

- (1) No property held by the Director may be sold or otherwise dispose of without the permission of a Judge of the High Court.
- (2) The Director may, if the financial interest of the ONDCP so requires, apply to a judge in chambers to appoint a public officer to conduct the sale by auction in accordance with the provisions of this Act or for an order to sell or dispose of the property by private treaty.

10. Amendment of section 32- Protection of ONDCP confidential information

The principal Act is amended by the repeal of section 32 and the substitution therefor of the following —

- (1) A member of the ONDCP, who discloses information that has come to his knowledge during the period of his employment with the ONDCP to a person other than a person entitled to receive such information, commits an offence.

(2) A person, who is not a member of the ONDCP commits an offence, if he discloses such information received from a member of the ONDCP to any person—

- (a) other than a person entitled to receive such information;
- (b) who is or has been the subject of an investigation by the ONDCP or has been charged by the ONDCP for committing a specified offence;

(3) A person, who is not a member of the ONDCP, commits an offence if he discloses information obtained from the ONDCP in the course of his employment to—

- (a) any person without the authorization of the Director;
- (b) any person who is or has been the subject of an investigation by the ONDCP or has been charged for committing a specified offence;

(4) Any person, not being a member of the ONDCP, commits an offence, if he knowingly discloses information relating to the identity, financial status, medical history, residential address or any other personal information of a member of the ONDCP, which he obtained by virtue of his employment with the Government or a private institution, to any person other than a person entitled to know.

Passed the House of Representatives on
the 19th day of March, 2020.

Passed the Senate on the 30th day of
March, 2020.

Gerald Watt, Q.C.,
Speaker.

Alicia Williams-Grant,
President.

A. Peters,
Clerk to the House of Representatives. (Ag)

A. Peters,
Clerk to the Senate. (Ag)