

ACT 323

RESTRICTION ON TRANSFER OF ASSETS ACT, 1970

ARRANGEMENT OF SECTIONS

SECTION

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ACT 323

RESTRICTION ON TRANSFER OF ASSETS ACT, 1970<sup>1</sup>

**AN ACT to provide for the imposition of restrictions on the transfer or other disposal of the assets of certain persons in prescribed circumstances and for related matters.**

**1. Restriction on transfer**

The Minister responsible for Finance may, by legislative instruments, impose restrictions on the transfer or any other disposal of the assets generally or any particular assets specified in the instrument of a person in all or any of the following circumstances:

- (a) where a Commission or Committee of Inquiry is conducting an investigation into the activities or assets of that person,
- (b) where that person or the personal representative of that person has been required under the Financial Administration Act, 2003 (Act 654) to pay money to the Government or to account to the Government for any money or apply a public money for a particular purpose and has not so applied it,
- (c) where that person is being prosecuted or is being investigated for an offence involving misappropriation or dissipation of public funds,
- (d) where that person is being sued by the Government for the recovery of public funds, and
- (e) where the Cabinet is satisfied in respect of that person that it is in the public interest so to do.

(2) A restriction under paragraph (e) of subsection (1) shall not be imposed for a period of more than three months in the first instance subject to renewal for further periods of three months in each instance.

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1. The Act was assented to on 7th April, 1970.

## 2. Bank accounts

In the case of an account kept with a banker or a security or thing deposited with or a document relating the security or thing kept with a banker by a person to whom all or any of the provisions of paragraphs (a), (b), (c), (d) and (e) of section 1 apply, the Minister may, without prejudice to the general effect of the section 1, impose restrictions on

- (a) the withdrawal of money from that account by a person or the obtaining of the security, thing or document by a person from the banker,
- (b) the payment out of the bank account by the banker of money or the delivery to a person of that security, thing or document.

## 3. Penalty for contravention

A person who contravenes any of the provisions of this Act or the terms imposed in legislative instrument pursuant to this Act commits an offence and is liable on conviction to a fine not exceeding seven hundred and fifty penalty units or to a term of imprisonment not exceeding three years or both the fine and the imprisonment and to a fine not exceeding twenty-five penalty units for each day during which the offence continues.

## 4. Information by bankers

(1) A banker requested in writing by the Minister so to do shall give the information which to the knowledge of, or in possession of that person concerning a bank account to which section 2 relates or a security, thing or document referred to in that section.

(2) A person, including a banker, shall give an information in the knowledge or possession of that person the concerning the activities, assets, moneys or public funds referred to in paragraphs (a), (b), (c), or (d) of section 1 which may reasonably be requested from that person in writing by the Minister for any of the purposes referred to in those paragraphs.

(3) A person who

- (a) without reasonable excuse the proof of which lies on that person, fails to comply with a request made by the Minister under this section, or
- (b) gives in response to the request an information which that person knows to be false or which that person does not believe to be true,

commits an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding one year or to both the fine and the imprisonment, and to a further fine not exceeding ten penalty units for each day during which the offence continues.

## 5. Offences

(1) Where an offence under section 4 is committed by a body of persons,

- (a) in the case of a body corporate other than a partnership, every director and officer of that body shall be deemed to have committed that offence,
- (b) in the case of a partnership, every partner shall be deemed to have committed that offence.

(2) A person shall not be convicted of an offence by virtue of subsection (1) if it is proved that the offence was committed, without the consent or connivance of that person, by another person and that due diligence was exercised to prevent the commission of the offence having regard to the circumstances.

#### **6. Further restrictions**

A restriction may be imposed in respect of a person to whom any of the circumstances set out in section 1 applies whether it first applied before or after the commencement of this Act.

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