

**NATIONAL ASSEMBLY
REPUBLIC OF PANAMA
LEGISPAN
LEGISLATION OF THE REPUBLIC OF PANAMA**

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NATIONAL ASSEMBLY, REPUBLIC OF PANAMA

Law No. 38
of August 10, 2007

**Which amends and adds articles to Law 23 of 1986,
regarding seized goods, and other provisions are prescribed**

**THE NATIONAL ASSEMBLY
DECREES:**

Article 1. Article 29 of Law 23 of 1986 will read:

Article 29. The instruments, goods, securities and products derived from or related to the perpetration of felonies against the Public Administration, will be provisionally seized by the instructing agent, as well as money laundering crimes, financial, terrorist acts, drug trafficking and related crimes, and will be subject to said agent's orders, until the cause is decided by the competent court, and when it is pertinent the provisional seizure order will be registered in the Public Registry or municipality, as applicable.

The provisional seizure will be ordered on the goods directly or indirectly related to the illicit activities mentioned earlier.

When the provisional seizure falls on motorized vehicles or premises belonging to third parties not linked to the punishable act, the competent court, with the previous opinion of the instructing officer, can appoint the owners as depositaries, granting them the provisional and administrative holding of the good until the cause is decided.

When the seizure is of companies or businesses, it will only fall on the part that is directly or indirectly linked to the perpetration of the felonies stipulated in this article, and will always be done respecting the rights of third parties affected by this measure.

Whoever has been authorized to hold or provisionally manage a chattel or real property, will be obliged to observe with respect to the latter all the obligations of a good head of household, and will only be liable for the impairment or damage suffered due to his fault or negligence.

Article 2. Article 30 of Law 23 of 1986 will read:

Article 30. The moneys, titles and securities, while the provisional seizure lasts, will remain deposited in the bank, financial entity, securities or trust company, where they are, and will continue earning the interests agreed upon. If they are not deposited in any bank, financial entity, securities or trust company, by the judge's provision, they will be

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deposited in the Safekeeping Fund account of the Attorney General's Office of the Country in the Banco Nacional de Panama.

When the moneys, securities and goods to which this article refers are deposited in a bank or savings and loan association guaranteeing a credit line with said institution, the latter can compensate the debt even if the obligations have not expired, except in the case of bad faith, as soon as it receives the provisional seizure order from the instructing officer. In this case, the goods that the accused person obtained as a consequence of the transaction that originated the compensated debt will be deemed to come from the felony under investigation.

After the above-mentioned compensation is made, if there are excesses, they will remain under the orders of the competent prosecutor's office, who will deposit them in the Safekeeping Fund of the Attorney General's Office of the Country in the Banco Nacional de Panama.

Article 3. Article 31-A will be added to Law 23 of 1986, as follows:

Article 31-A. When the seizure falls on perishable goods that constitute a crime instrument, the instructing officer can donate them to public institutions, charities and churches. When the seizure falls on goods that can damage or deteriorate, the instructing officer, with a previous appraisal, will proceed to sell them as quickly as possible, and the money acquired from said sale will be deposited in the Safekeeping Fund account of the Attorney General's Office of the Country in the Banco Nacional de Panama, which he will make known to the judge of the cause.

When dealing with goods whose custody or safekeeping is burdensome for the Public Ministry, the latter can grant them in provisional administration or custody, which will be done applying, as pertinent, the rules regarding public contracting.

While the administration of the goods is granted, the instructing officer can provisionally confer them for safekeeping or administration, which he will do with the suitable guarantees for their conservation while the issue is decided before the competent judge, who can leave it in the custody or administration of the person or institution appointed provisionally.

Whoever is appointed as administrator or safekeeper of a seized good will be subject to the rules of the depositary contained in the Second Book of the Judicial Code.

The professional fees of the administrators will be set by the judge of the cause. If the administrator falls into any expenses, they will be subtracted from the profits attained from said administration.

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The procedures to which this article refers will be ruled by the competent authority.

Article 4. Article 35 of Law 23 of 1986 will read:

Article 35. When the seizure of goods, instruments, moneys or securities that have been used for or come from the perpetration of some of the felonies mentioned in this Law has been judicially ordered, the judge will command in the verdict that they be placed at the orders of the National Committee for the Study and Prevention of Drug-Related Crimes, who will award them to the different organizations that comprise it or will auction them publicly.

The moneys that have been forfeited or that have been acquired by auctioning forfeited goods, will constitute a fund that will be allotted to the campaigns and the programs of prevention, rehabilitation and repression of the activities related to drugs, developed by all government and non-government institutions involved in the subject.

This fund will be ruled pursuant to the oversight and management procedures stipulated by the General Comptrollership of the Republic.

The National Committee for the Study and Prevention of Drug-Related Crimes will submit an annual report to the General Comptrollership of the Republic that will detail the way in which said moneys have been used.

Article 5. The goods that, before the enactment of this Law, were given in custody by a competent authority, will receive the same treatment stipulated by this Law.

Article 6. In the cases of acquittal or when the accused is not caught, the judge of the cause must make a pronouncement on the juridical situation of the seized goods.

For this purpose, notices must be published for three days in a newspaper of national coverage, so that anyone who is legitimately deemed to be affected in his rights over said goods can make the corresponding claim.

The interested party will have a term of up to ninety days to submit said claim.

The provisions of this article will apply in the cases where, at the time this Law goes in force, are within the assumption that the former is about.

Article 7. This Law modifies Articles 29, 30 and 35 and adds Article 31-A to the Single Text that comprises Law 23 of December 30, 1986 and Law 13 of July 27, 1994.

Article 8. This Law will be in force from the time it is enacted.

TO BE RELEASED AND FULFILLED.

Project 315 of 2007 approved in third debate in the Justo Arosemena Palace, Panama City, on the twenty second (22nd) day of the month of June of two thousand seven.

The President,

The General Secretary,

Elias A. Castillo G.

Carlos Jose Smith S.

**NATIONAL EXECUTIVE BRANCH. PRESIDENCY OF THE REPUBLIC,
PANAMA, REPUBLIC OF PANAMA, AUGUST 10, 2007.**

MARTIN TORRIJOS ESPINO
President of the Republic

OLGA GOLCHER
Minister of Government and Justice