

(b) obtains or attempts to obtain confidential information to which he is not entitled, shall be guilty of an offence:

Provided that it shall be a defence for a person charged with an offence under this subsection if he proves to the satisfaction of the court that, at the time when he divulged, attempted, offered or threatened to divulge or obtained or attempted to obtain (as the case may be), the confidential information in question, he did not know and did not have reasonable grounds to suspect that so doing would be a breach of an express or implied duty to preserve confidentiality or would be contrary to the provisions of this Ordinance.

(2) Any person who, being in possession of information which he knows or has reason to suppose is confidential information, makes use thereof, without the consent of the principal, for the benefit of himself or any other person, shall be guilty of an offence.

(3) Any person who commits an offence under this section shall be liable on summary conviction—

(a) in the case of an individual to a fine of five thousand dollars or to imprisonment for two years or to both such fine and imprisonment; or

(b) in the case of a body corporate to a fine of twenty-five thousand dollars:

Provided that where an offence under this section is committed by a professional person, that person shall be liable on conviction—

(i) in the case of an individual to a fine of ten thousand dollars or to imprisonment for three years or to both such fine and imprisonment; or

(ii) in the case of a body corporate to a fine of fifty thousand dollars.

(4) Any person who is convicted of an offence under subsection (1) and is proved to have solicited, received or offered (as the case may be), on behalf of himself or any other person, any reward for doing the act which constituted the offence, shall be liable, in addition to any penalty imposed under subsection (3), to a further fine equivalent to the amount or value of the reward solicited, received or offered and to forfeit the amount or value of any reward actually received by him.

(5) Where an offence under this section is committed by a body corporate and is proved to the satisfaction of the court to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, any director, manager, secretary or similar officer (by whatever name called) of that body corporate, or by any person purporting to act in any such capacity, he as well as the body corporate shall be guilty of an offence and be liable to be proceeded against and punished accordingly.

(6) For the avoidance of doubt, it is hereby declared that, subject to subsection (2) of section 3, a bank which gives a credit reference in respect of a customer, without first obtaining the authority of that customer, shall be guilty of an offence under subsection (1).

5. Nothing in this Ordinance shall be deemed to affect or derogate from any rule of law or the rights of any person with regard to the civil liability of any person for any breach of any express or implied condition of confidentiality with regard to any business or professional relations or transactions between them.

Saving.

6. The Governor may make regulations for carrying into effect the provisions of this Ordinance and for prescribing anything which is required to be prescribed under any such provisions.

Regulations.

7. No prosecution shall be instituted under this Ordinance except by or with the written consent of the Attorney General.

Attorney General's fiat.