

THE PREVENTION OF TERRORISM ACT, 2002

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ACT No. 21 OF 2002

Benjamin W. Mkapa I ASSENT,
President
14th December, 2002.

An Act to provide for comprehensive measures of dealing with terrorism, to prevent and to co-operate with other states in the suppression of terrorism and to provide for related matters.

[.....]

ENACTED by the Parliament of the United Republic of Tanzania.

PART I
PRELIMINARY PROVISIONS

1. This Act may be cited as the Prevention of Terrorism Act, 2002 and shall come into operation on such date as the Minister may, by Notice, published in the *Gazette*.

Short title

2.-(1) This Act shall apply to Mainland Tanzania as well as to Tanzania Zanzibar.

Applica-
tion

(2) Any person who commits an offence punishable under this Act beyond the United Republic of Tanzania shall be dealt with under this Act in the same manner as if the act constituting an offence was committed in the United Republic of Tanzania.

3. In this Act, unless the context requires otherwise

"Act" means the Prevention of Terrorism Act, 2002;

"aircraft" includes an aeroplane, glider and helicopter

"communication" means a communication received or transmitted by

Interpreta-
tion

Act No. 12
of 1991

post, telegraphic, telephone or other communication received or transmitted by electricity, magnetism, or other means;

"communication service provider" means a person who provides services for the transmission or reception of communication;

"Court" means the High Court of Tanzania and, as the case may be, the High Court of Zanzibar;

"financial institution" means a commercial bank, any other institution which makes loans, advances, investments or accepts deposits of money from the public and includes a financial institution as defined under the Banking and Financial Institutions Act, 1991;

"group or entity" means a person, group trust partnership fund or an unincorporated association or organisation;

"Master" in relation to a vessel, means the owner or a person for the time being in charge or command or control of a vessel;

"Minister" means the Minister responsible for home affairs;

"operation" in relation to an aircraft, means the owner or person for the time being in charge or command or control of an aircraft;

"police officer" means, except where the context requires otherwise, police officer of or above the rank of Assistant Superintendent of Police;

"proceeds of terrorism" means all kinds of properties which have been derived or obtained from commission of funds traceable to a terrorist act, and include cash irrespective of a person in whose name such proceeds are standing or in whose possession or control they are found;

"property" means any property and any assets of every description, whether corporeal or incorporeal, movable or immovable, tangible or intangible and deeds and instruments evidencing title to, interest in, such property or asset and includes bank account;

"terrorist act" means an act or omission referred to under section 4 of the Act and the expression "terrorist" shall be construed accordingly.

PART II

PROHIBITION FOR ACTS OF TERRORISM

Definition
and
prohibition
for
terrorism
act

4.-(1) No person in the United Republic and no citizen of Tanzania outside the United Republic shall commit terrorist act and a person who does an act constituting terrorism, commits an offence.

(2) A person commits terrorist act if, with terrorist intention, does an act or omission which-

- (a) may seriously damage a country or an international organization; or
- (b) is intended or can reasonably be regarded as having been intended to-
 - (i) seriously intimidate a population;
 - (ii) unduly compel a Government or perform or abstain from performing any act;
 - (iii) seriously destabilise or destroy the fundamental political, constitutional, economic or social structures of country or an international organization; or
 - (iv) otherwise influence such Government, or international organization; or
- (c) involves or causes, as the case may be-
 - (i) attacks upon a person's life which may cause death;
 - (ii) attacks upon the physical integrity of a person;
 - (iii) kidnapping of a person.

(3) An act shall also constitute terrorism within the scope of this Act if it is an act or threat of action which-

- (a) involves serious bodily harm to a person;
- (b) involves serious damage to property;
- (c) endangers a person's life;
- (d) creates a serious risk to the health or safety of the public or a section of the public;
- (e) involves the use of firearms or explosives;

- (f) involves releasing into the environment or any part of it or distributing or exposing the public or any part of it to-
 - (i) any dangerous, hazardous, radioactive or harmful substance;
 - (ii) any toxic chemical;
 - (iii) any microbial or other biological agent or toxin;
 - (g) is designed or intended to disrupt any computer system or the provision of services directly related to communications infrastructure, banking or financial services, utilities, transportation or other essential infrastructure;
 - (h) is designed or intended to disrupt the provision of essential emergency services such as police, civil defence or medical services;
 - (i) involves prejudice to national security or public safety, and is intended, or by its nature and context, may reasonably be regarded as being intended to-
 - (i) intimidate the public or a section of the public;
 - (ii) compel the Government or an international organization to do, or refrain from doing, any act,and is made for the purpose of advancing or supporting act which constitutes terrorism within the meaning of this Act .
- (4) An act which-
- (a) disrupts any services;
 - (b) is committed in pursuance of a protest, demonstration or stoppage of work,
- shall be deemed not to be a terrorist act within the meaning of this section, so long and so long only as the act is not intended to result in any harm referred to in paragraphs, (a), (b), (c), or (d) of subsection (3).
- (5) In this Act, unless the context requires otherwise, any reference to "terrorist act" shall include any act referred to in sections 5, 6, 7, 8, 9 and 10.

5. A person commits an offence who-

- (a) arranges, manages or assist in arranging or managing or participates in a meeting or an act knowingly that it is concerned with an act of terrorism;
- (b) provides logistics, equipment or facilities for a meeting or an act knowingly that it is concerned with an act of terrorism; or
- (c) attends meeting knowingly that it supports a proscribed organization or to further the objectives of proscribed organization.

Commission of offence of terrorist meeting

6.-(1) Where two or more persons associate for the purpose of, or where an organization engages in any act for the purpose of-

- (a) participating, or collaborating, in an act of terrorism;
- (b) promoting, encouraging or exhorting others to commit an act of terrorism; or
- (c) setting up or pursuing acts of terrorism,

Offence of proscribed organization for commission of terrorist act

the Minister may declare such person or organization to be a proscribed organization.

(2) A person who belongs, or professes to belong, to a proscribed organization commits an offence.

(3) It shall be a defence for a person charged under subsection (2) to prove that the organization in respect of which he is charged had not been declared a proscribed organization at the time the person charged became a member or began to profess to be a member of that organization and that he has not taken part in the activities of that organization at any time after it had been declared to be a proscribed organization.

7.-(1) A person commits an offence who, in any manner or form-

- (a) solicits support for, or tenders support in relation to, an act of terrorism, or
- (b) solicits support for, or tenders support to a proscribed organization.

Rendering support to terrorism

- (2) "Support" as used in subsection (1), means and includes-
- (a) instigation to the cause of terrorism;
 - (b) offering of material assistance, weapons including biological, chemical or nuclear weapons, explosives, training, transportation, false documentation or identification;
 - (c) offering of or provision of moral assistance, including invitation to adhere to a proscribed organization;
 - (d) the provision of, or making available such financial or other related services to a terrorist, group or entity which is concerned with terrorist act;
 - (e) dealing directly or indirectly, in any property that is owned or controlled by or on behalf of any terrorist or any entity owned or controlled by any terrorist, including funds derived or generated from property owned or controlled, directly or indirectly, by any terrorist or any entity owned or controlled by any terrorist; or
 - (f) entering into or facilitating, directly or indirectly, any financial transaction related to a dealing in property referred to in paragraph (e).

Harbouring
terrorists

8. A person who harbours, conceals, or causes to be harboured or concealed, any person whom he knew to have committed or to have been convicted of, an act of terrorism, or against whom he knew that a warrant of arrest or imprisonment in relation to an act of terrorism had been issued, commits an offence.

Possession
of
unautho-
rized
article in-
formation,
etc. Act
No. 38 of
1969

9.-(1) A person shall commit an offence under this section who is in possession of any code, password, sketch, plan, model, note or other document, article or information which relates to or is used in a protected place or anything in that place, in contravention of this Act or the Protected Places and Areas Act, 1969, or which has been entrusted to that person in confidence by any person holding office, or he had access to office from or which he has obtained or to which that person had access owing to the position or office held by him or as a person who is or was party to a contract with the Government.

(2) A person who is in possession of anything specified under subsection (1), and who-

- (a) uses it for a terrorist intention or for any purpose prejudicial to the safety or interest of the United Republic; or
- (b) communicates such information to any person other than a person to whom there exist an authority to communicate it or to whom it is in the interest of the United Republic to communicate it; or
- (c) fails to take proper care of, or so conducts himself as to endanger the safety of that information; or
- (d) retains the sketch, plan, model, note, document or article when he has no right or when it is contrary to his duty so to do, or fails to comply with any lawful directions with regard to the return or disposal of such things; or
- (e) uses anything described in paragraphs (a), (b), (c) or (d) for terrorist purposes,

commits an offence against this Act.

(3) Any person who receives any code, password, sketch, plan, model, note or other document, article or information, knowingly or having reasonable grounds to believe at the time when receives it that the same is communicated to him in furtherance of or rendering support to terrorist act contravention of the provisions of this Act unless a proof exist that such communication was against his wish, commits an offence.

10.-(1) No person in the United Republic and no citizen of Tanzania outside the United Republic shall communicate or make available by any means any information which he knows or believes to be false to another person with the intention of inducing in him or any other person a false belief that a terrorist act has been, is being or will be carried out.

Prohibition
against
false
threats of
terrorist
acts

(2) No person in the United Republic and no citizen of Tanzania outside the United Republic shall place any article or substance in any place whatsoever with the intention of inducing in some other person a false belief that-

- (a) the article or substance is likely to explode or ignite and thereby cause personal injury or damage to property; or

- (b) the article contains or the substance consists of
 - (i) any dangerous, hazardous, radioactive or harmful substance;
 - (ii) any toxic chemical; or
 - (iii) any microbial or other biological agent, or toxin, that is likely to cause death, disease or personal injury or damage to property.

(3) No person in the United Republic and no citizen of Tanzania outside the United Republic shall dispatch any article or substance by post, rail or any other means whatever of sending things from one place to another with the intention of inducing in some other person a false belief that-

- (a) the article or substance is likely to explode or ignite and thereby cause personal injury or damage to property; or
- (b) the article contains or the substance consists of-
 - (i) any dangerous, hazardous, radioactive or harmful substance;
 - (ii) any toxic chemical; or
 - (iii) any microbial or other biological agent, or toxin, that is likely to cause death, disease or personal injury or damage to property.

(4) For the purposes of subsections (1), (2) and (3), a reference to a person inducing in any other person a false belief does not require the first mentioned person to have any particular person in mind as the person in whom he intends to induce the false belief.

Overriding
effect

11. The provisions of this Act shall have effect notwithstanding anything inconsistent with this Act contained in any enactment other than this Act or in any instrument having effect by virtue of any enactment other than this Act.

PART III

SPECIFIED ENTITIES

International
terrorism

12.-(1) The Minister may declare any person to be a suspected international terrorist where-

- (a) he reasonably suspects that the person-
 - (i) is or has been concerned in the commission, preparation or instigation of acts of international terrorism;
 - (ii) is a member of, or belongs to, an international terrorist group or entity;
 - (iii) has links with an international terrorist group, and he reasonably believes that the person is a risk to national security;
- (b) the person is listed as a person involved in terrorist acts in any Resolution of the United Nations Security Council or in any instrument of the international community; or
- (c) the person is considered as a person involved in international terrorist acts by such State or other international organization.

(2) Where the Minister makes a declaration under subsection (1) (a), he shall, in such manner as he considers appropriate, cause the person declared to be a suspected international terrorist to be notified as is reasonably practicable.

(3) The Minister may declare a group to be an international terrorist group if the group-

- (a) is subject to the control or influence of person outside the United Republic, and the Minister reasonably suspects that it is concerned in the commission, preparation or instigation of acts of international terrorism; or
- (b) is listed as a group or entity involved in terrorist acts in accordance with the Resolutions of the United Nations Security Council or in any instrument of the international community as may be made from time to time; or
- (c) is considered as a group or entity involved in international terrorist acts as the Minister may approve and publish in the *Gazette*.

(4) Reference in this Act to a proscribed organization shall be deemed to include reference to an international terrorist group and, whenever applicable, to a suspected international terrorist.

(5) The Minister may, with respect to any suspected international terrorist or an international terrorist group, make regulations to provide-

- (a) for the freezing of his or its funds, financial assets or other economic resources, including funds derived from property, owned or controlled directly or indirectly, by him or it, by persons acting on his or its behalf or at his or its direction;
- (b) for the prevention of his or its entry into, or transit in, the United Republic;
- (c) for the prohibition of the direct or indirect supply, sale and transfer to him or it of arms, weapons, ammunitions, military vehicles and equipment, paramilitary equipment, spare parts and related material, and technical advice, assistance, or training related to military activities;
- (d) that any person who contravenes any regulations made under this subsection shall commit an offence and shall, on conviction, be liable to penal servitude for a period not exceeding five years.

(6) The Minister shall give notice in relation with any declaration made under subsections (1) and (3) in the *Gazette* and in such other manner as he deems fit.

(7) In this section-

- (a) "an act of international terrorism" shall be construed as meaning an act of terrorism involving non citizens; and
- (b) an "international terrorist group" means a person or group of persons or an organization not being a citizen of Tanzania or whose origin is outside Tanzania and who or which is suspected to have committed any of the offences referred to under subsection (1).

PART IV

OFFENCES

13. Every person who provides, or collects by any means, directly or indirectly, any funds, intending, knowing or having reasonable grounds to believe that the funds will be used in full or in part to carry out a terrorist act commits an offence and shall on conviction be liable to imprisonment for a term not less than fifteen years and not more than twenty years.

Provision or collection of funds to commit terrorist acts

14. Every person who, directly, collects property or provides, invites a person to provide, or makes available, property or financial or other related services-

collection of property or provision of property and services, for commission of terrorist acts

- (a) intending that they be used, in whole or in part, for the purpose of committing or facilitating the commission of, a terrorist act or for the purpose of benefiting any person who is committing or facilitating the commission of, a terrorist act; or

(b) knowing that in whole or part, they will be used by, or will benefit, a terrorist group, commits an offence and shall on conviction, be liable to imprisonment for a term not less than twenty years and not more than twenty five years.

15. Every person who-

- (a) uses property, directly or indirectly, in whole or in part, for the purpose of committing or facilitating the commission of a terrorist act; or
- (b) possesses property intending that it be used or knowing that it will be used, directly or indirectly, in whole or in part, for the purpose of committing or facilitating the commission of a terrorist act,

commits an offence and shall on conviction, be liable to imprisonment for a term not less than fifteen years and not more twenty years.

use of property for commission of terrorist act

16. Every person who knowingly enters into, or becomes concerned in, an arrangement which facilitates the retention or control by or on behalf of another person of terrorist property-

- (a) by concealment,

Arrangement for retention or control of terrorist property

(b) by a removal out of jurisdiction,

(c) by transfer to a nominee, or

(d) in any other way,

commits an offence and shall on conviction be liable to imprisonment for a term not less than fifteen years and not more than twenty five years.

Dealing
with prop-
erty owned
or con-
trolled by
terrorist
groups

17.-(1) Every person who knowingly-

(a) deals, directly or indirectly, in any property that is owned or controlled by or on behalf of a terrorist group;

(b) enters into, or facilitates, directly or indirectly, any transaction in respect of property referred to in paragraph (a); or

(c) provides financial or other services in respect of property referred to in paragraph (a) as the direction of a terrorist group,

commits an offence and shall on conviction, be liable to imprisonment for a term not less than twenty years but not more than thirty years.

(2) A person who acts reasonably in taking or omitting to take measures to comply with subsection (1) shall not be criminally liable for having taken, or omitted to have taken those measures if he proves that he took all reasonable means to satisfy himself that the relevant property was not owned or controlled by or on behalf of a terrorist group.

Soliciting
and giving
support to
terrorist
groups for
the com-
mission of
terrorist
acts

18.-(1) Every person who knowingly, and in any manner-

(a) solicits support for, or gives support to, any terrorist group or

(b) solicits support for, or gives support to the commission of a terrorist act,

(b) by a removal out of jurisdiction,

(c) by transfer to a nominee, or

(d) in any other way,

commits an offence and shall on conviction be liable to imprisonment for a term not less than fifteen years and not more than twenty five years.

Dealing
with prop-
erty owned
or con-
trolled by
terrorist
groups

17.-(1) Every person who knowingly-

(a) deals, directly or indirectly, in any property that is owned or controlled by or on behalf of a terrorist group;

(b) enters into, or facilitates, directly or indirectly, any transaction in respect of property referred to in paragraph (a); or

(c) provides financial or other services in respect of property referred to in paragraph (a) as the direction of a terrorist group,

commits an offence and shall on conviction, be liable to imprisonment for a term not less than twenty years but not more than thirty years.

(2) A person who acts reasonably in taking or omitting to take measures to comply with subsection (1) shall not be criminally liable for having taken, or omitted to have taken those measures if he proves that he took all reasonable means to satisfy himself that the relevant property was not owned or controlled by or on behalf of a terrorist group.

Soliciting
and giving
support to
terrorist
groups for
the com-
mission of
terrorist
acts

18.-(1) Every person who knowingly, and in any manner-

(a) solicits support for, or gives support to, any terrorist group or

(b) solicits support for, or gives support to the commission of a terrorist act,

commits an offence and shall on conviction be liable to imprisonment for a term not less than twenty years and not more than thirty years.

(2) For the purposes of paragraph (a) of subsection (1), an offer to provide or the provision of, forged or falsified travel documents to a member of a terrorist group constitutes giving of support to a terrorist group.

19. Every person who harbours or conceals, or prevents, hinders or interferes with the apprehension of, any other person knowing, or having reason to believe that such other person-

Harbouring
of persons
committing
terrorist
acts

(a) has committed a terrorist act; or

(b) is a member of a terrorist group,
is guilty of an offence and shall on conviction, be liable to imprisonment for a term not less than eighteen years and not more than thirty years.

20. Every person who knowingly offers to provide, or provides any weapon to-

Provision
of weapons
to terrorist
groups

(a) a terrorist group;

(b) a member of a terrorist group;

(c) to any other person for use by, or for the benefit of, a terrorist group or a member of a terrorist group,
is guilty of an offence and shall on conviction, be liable to imprisonment for a term not less than twenty years and not more than thirty years.

21. Every person who knowingly agrees to recruit, or recruits, another person-

Recruit-
ment of
persons to
be
members
of terrorist
groups or
to
participate
in terrorist
acts

(a) to be member of a terrorist group; or

(b) to participate in the commission of a terrorist act,
commits an offence and shall on conviction be liable to imprisonment for a term not less than fifteen years and not more than twenty years.

Promotion
or
facilitation
of the
commis-
sion of
terrorist
acts in
foreign
states

22. Every person who, in the United Republic-

- (a) knowingly promotes or facilitates the doing of any act in a foreign state for the purpose of achieving any of the following objectives, whether or not the objective is achieved-
 - (i) the overthrow, by force or violence, of the government of that foreign state;
 - (ii) causing, by force or violence, the public in that foreign state to be in fear of death or bodily injury;
 - (iii) causing, death of, or bodily injury to a person who-
 - (a) is the head of state of that foreign state; or
 - (b) holds or performs any of the duties of, a public office of that foreign state;
 - (iv) unlawfully distroying or damaging any property belonging to the government of that foreign state;
- (b) recruits another person to become a member of, or to serve in any capacity with, a body or association of persons the objectives of which are, or include, the objectives referred to in paragraph (a);
- (c) accumulates, stockpiles or otherwise keeps, any weapons for the purposes of doing any act referred to in paragraph (a);
- (d) trains or drills, or participates in the training or drilling, or any other person in use of weapons or in the practice of military exercises or movements to prepare that person to do any act referred to in paragraph (a);
- (e) allows himself or herself to be trained or drilled, in the use of weapons or in the practice of military exercises or movements for the purpose of doing any act referred to in paragraph (a); or
- (f) gives any money or goods to, or performs services for, any other person or body or association of persons for the purpose of promoting or supporting the doing of an act referred to in the paragraph (a);

(g) receives or solicits money or goods or the performance of services for the purposes of promoting or supporting the doing of an act referred to in paragraph (a), commits an offence and shall on conviction, be liable to imprisonment for a period of term not less than twenty years and not more than thirty years.

23. Every person who being-

Promotion
of offences

- (a) the owner, occupier, lessee or person in charge of any building, premises, room, or place knowingly permits a meeting of persons to be held in that building, premises, room or place;
- (b) the owner, charterer, lessee, operator, agent, or master of vessel or the owner, charterer lessee, operator, agent or pilot in charge of an air craft knowingly permits that vessel or aircraft to be used,

for the purposes of committing an offence or promoting or supporting the commission of an offence, commits an offence and shall on conviction, be liable to imprisonment for a term not less than fifteen years and not more than twenty years.

24.-(1) Every person who conspires with another person in the United Republic to do any act in any place outside the United Republic, being an act, which if done in the United Republic would have constituted an offence under this Act shall be deemed to have conspired to do that act, in the United Republic.

Conspiracy
to commit
offences
under this
Act

(2) Every person who conspires with another person in a place whether within or outside the United Republic to do any act in the United Republic which constitutes an offence under this Act, shall be deemed to have conspired in the United Republic to do that act.

25.-(1) Every person who-

Member-
ship of
terrorist
groups

- (a) is a member of;
 - (b) professes to be a member of,
- a terrorist group, is guilty of an offence and shall, on conviction, be liable to imprisonment for term not less than eighteen years.

(2) It shall be a defence for a person charged with an offence under this section to prove that the entity in respect of which the charge is brought was not a terrorist group at or on the date that he -

(a) became a member of, or

(b) professed to be a member of,
that entity, or that he has not taken part in the activities of that entity, after it became a terrorist group.

Arrange-
ment of
meetings
in support
of terrorist
groups

26.-(1) Every person who arranges, manages or assists in arranging or managing a meeting which he knows is-

(a) to support a terrorist group;

(b) to further the activities of a terrorist group,

(c) to be addressed by a person who belongs or professes to be-
long to a terrorist group,

is guilty of an offence and shall on conviction be liable to imprisonment for a term not less than ten years and not more than fifteen years.

(2) In this section "meeting" means a meeting of three or more persons, whether or not the public are admitted.

Participa-
tion in the
commis-
sion of
offences
under this
Act

27. Every person who—

(a) aids and abets the commission;

(b) attempts to commit;

(c) conspires to commit;

(d) counsels or procures the commission of,

an offence under this Act, is guilty of an offence and shall on conviction, be liable to the same punishment as is prescribed for the first mentioned offence.

PART V

INVESTIGATION OF OFFENCES

Powers of
arrest

28.—(1) Any police officer may arrest without warrant any person who has committed or is committing or whom he has reasonable grounds for suspecting to have committed or to be committing an offence under this Act.

(2) For the purposes of subsection (1), "police officer" means and include a police officer of or above the rank of Assistant Superintendent, an immigration officer or a member of Tanzania intelligent security service.

29.—(1) Notwithstanding the provisions of the Criminal Procedure Act, 1985, where, in a case of urgency, application to the court to obtain a warrant would cause delay that may be prejudicial to the maintenance of public safety or public order, a police officer, not below the rank of Assistant Superintendent, or in charge of a police station may, notwithstanding any other Act, with the assistance of such other police officers as may be necessary—

Power of investigation in cases of urgency
Act No.9 of 1985

(a) enter and search any premises or place, if he has reason to suspect that, within those premises or at that place—

(i) an offence under this Act is being committed or likely to be committed ; and

(ii) there is evidence of the commission of an offence under this Act;

(b) search any person or vehicle found on any premises or place which he is empowered to enter and search under paragraph (a);

(c) stop, board and search any vessel, aircraft or vehicle if he has reason to suspect that there is in it evidence of the commission or likelihood of commission of an offence under this Act;

(d) seize, remove and detain anything which is, or contains or appears to him to be or to contain or to be likely to be or to contain, evidence of the commission of an offence under this Act;

(e) arrest and detain any person whom he reasonably suspects of having committed or of being about to commit an offence under this Act.

(2) A police officer may use such force as may be necessary for the exercise of the powers conferred by subsection (1).

(3) Any person found on any premises or place or in any vessel, aircraft or vehicle may be detained by a police officer until the completion of the search under subsection (1).

(4) Where a seizure is effected under this section, a list of all the articles, documents and other matters seized shall forthwith be delivered.

(5) For the purposes of this section, the degree of force which may be used shall not be greater than is reasonably necessary.

(6) A police officer who uses such force as may be necessary for any purpose, in accordance with this Act, shall not be liable, in any criminal or civil proceedings, for having, by the use of force, caused injury or death to any person or damage to or loss of any property.

30.—(1) The Minister may, for the purposes of the prevention or detection of offences of terrorism or for the purposes of prosecution of

Intelligence gathering

offenders under this Act, give such directions as may appear to him to be necessary to—

- (a) communication service providers generally;
- (b) communication service providers of a specified description;
- (c) any particular communication service provider.

(2) Before giving a direction under this section, the Minister may consult any communication service provider he deems fit to consult.

(3) A direction under this section shall specify the maximum period for which a communication service provider may be required to retain communications data.

(4) In this section—

“communication service provider” means a person who provides postal, information, or communication, including telecommunications and internet service providers;

“data” means information recorded in a form in which it can be processed by equipment operating automatically in response to instructions given for that purpose.

(5) In the event of resistance, the court may, on application by the Attorney General, issue an order directing the communication service provider to comply with the direction of the Minister.

Powers to intercept communications and the admissibility of intercepted communications

31.—(1) Subject to subsection (2), a police officer may, for the purpose of obtaining evidence of the commission of an offence under this Act, apply, ex parte, to the Court, for an interception of communications order.

(2) A police officer may make an application under subsection (1) only with the prior written consent of the Attorney General.

(3) A Court to whom an application is made under subsection (1), may make an order -

(a) requiring a communications service provider to intercept and retain a specified communication or communications of a specified description received or transmitted, or about to be received or transmitted by that communication service provider;

(b) authorizing the police officer to enter any premises and to install on such premises, any device for the interception and retention of a specified communications of a specified description and to remove and retain such device,

if the Court is satisfied that the written consent of the Attorney General

has been obtained as required by subsection (2) and that there are reasonable grounds to believe that material information relating to -

- (i) the commission of an offence under this Act, or
- (ii) the whereabouts of the person suspected by the police officer to have committed the offence,

is contained in that communication or communications of that description.

(4) Any information contained in a communication -

- (a) intercepted and retained pursuant to an order under subsection (3);
- (b) intercepted and retained in a foreign state in accordance with the law of that foreign state and certified by a Court of that foreign state to have been so intercepted and retained,

shall be admissible in proceedings for an offence under this Act, as evidence of the truth of its contents notwithstanding the fact that it contains hearsay.

32.—(1) The Inspector General of Police may issue a detention order in respect of an aircraft or vessel if he is of opinion that—

Detention
of aircraft
or vessel

- (a) a threat has been made to commit an act of violence against the aircraft or vessel, or against any person or property on board the aircraft or vessel; or
- (b) an act of violence is likely to be committed against the aircraft or vessel, or against any person or property on board the aircraft or vessel.

(2) Where the operator of an aircraft or vessel fails to comply with a detention order under subsection (1), the authorised person may—

- (a) enter, or authorise any other person to enter, the aircraft or vessel;
- (b) arrange for a person or thing to be removed from the aircraft or vessel, and may use reasonable force, or authorise the use of reasonable force by another person for any such purpose.

(3) The authorised person shall give written notice to the operator of the aircraft or vessel of any detention order issued under this section.

(4) Where the operator of an aircraft or vessel objects to a detention order, the Minister may, after hearing the interested parties, confirm, vary or cancel the order.

- (5) Any person who—
 - (a) without reasonable excuse, fails to comply with the requirement of a detention order; or
 - (b) intentionally obstructs or hinders any person acting in accordance with subsection (2),commits an offence.
- (6) For the purposes of this section, the Minister may, in writing, designate as an authorised person such person as he deems appropriate.

Power to
seize
property
used in
commis-
sion of
terrorist
acts

33.—(1) Where the Inspector General of Police or Commissioner of Police has reasonable grounds for suspecting that any property has been, or is being, used to commit an offence under this Act, he may seize the property.

(2) The Inspector General of Police or Commissioner of Police may exercise his powers under subsection (1), whether or not any proceedings have been instituted for an offence under this Act in respect of that property.

(3) The Commissioner of Police, shall as soon as practicable after seizing any property under subsection (1), make an application, *ex parte*, to the Court for a detention order in respect of that property.

(4) A Court to whom an application is made under subsection (3), shall not make a detention order in respect of the property referred to in the application unless he—

- (a) has given every person appearing to have an interest in the property, a reasonable opportunity of being heard; or
- (b) has reasonable grounds to believe that the property has been, or is being, used to commit an offence under this Act.

(5) Subject to subsection (6), every detention order made under subsection (4), shall be valid for a period of sixty days, and may, on application, be renewed by the Court, for a further period of sixty days until such time as the property referred to in the order is produced in Court in proceedings for an offence under this Act in respect of that property.

(6) The Court may release any property referred to in a detention order made under subsection (4) if -

- (a) no longer has reasonable grounds to suspect that the property it has been or is being used to commit an offence under this Act; or

(b) no proceedings are instituted in the Court for an offence under this Act in respect of that property within 6 months of the date of the detention order.

(7) A seizure of any property by the police officer under subsection (1) shall not be deemed to be a contravention of section 8.

(8) No civil or criminal proceedings shall lie against the police officer for a seizure of property made in good faith pursuant to the provisions of subsection (1).

PART VI TRIAL OF OFFENCES

34.—(1) The High Court shall have jurisdiction to try offences under this Act.

Jurisdiction to try offences under this Act

(2) No prosecution for an offence under this Act shall be instituted except by or with the consent of the Director of Public Prosecutions.

(3) A Court may, on motion by or on behalf of the Director of Public Prosecutions, order that no person shall publish -

(a) the name, address or photograph of any witness in any case tried or about to be tried before it for any offence under this Act; or

(b) any evidence or any other matter likely to lead to the identification of the witness.

(4) A Court may, on motion by or on behalf of the Director of Public Prosecutions, in the interest of public safety or public order, exclude from proceedings instituted for any offence under this Act, any person other than the parties and their legal representatives.

(5) Any person who contravenes an order made under subsection (3), commits an offence.

(6) For the purposes of subsection (2), an act or omission committed outside the United Republic and which would, if committed in the United Republic constitute an offence under this Act, shall be deemed to have been committed in the United Republic if the person committing the act or omission is present in the United Republic and cannot be extradited to a foreign state having jurisdiction over the offence constituted by such act or omission.

Evidence
by
certificate

35. Where in any proceedings for an offence under this Act, a question arises as to whether anything or a substance is a weapon, a hazardous, radioactive or a harmful substance, a toxic chemical or microbial or other biological agent or toxin, a certificate purporting to be signed by an appropriate authority to the effect that the thing or substance described in the certificate is a weapon, hazardous, radioactive or harmful substance, a toxic chemical or microbial or other biological agent or toxin, shall be admissible in evidence without proof of the signature or authority of the person appearing to have signed it and shall, in the absence of evidence to the contrary, be proof of the facts stated therein.

Orders for
forfeiture
of property
on
conviction
for
offences
under this
Act

36.—(1) Where any person is convicted of an offence under this Act, the Court may order that any property -

(a) used for, or in connection with; or

(b) received as payment or reward for,
the commission of that offence, be forfeited to the United Republic.

(2) Before making an order under subsection (1), the Court shall give every person appearing to have an interest in the property in respect of which the order is proposed to be made, an opportunity of being heard.

(3) Property forfeited to the United Republic under subsection (1), shall vest in the Government -

(a) if no appeal has been made against the order, at the end of the period within which an appeal may be made against the order; and

(b) if an appeal has been made against the order, on the final determination of the appeal.

PART VII

EXTRADITION AND MUTUAL ASSISTANCE IN CRIMINAL MATTERS

Exchange
of
Information
relating to
terrorist
groups and
terrorist
acts

37. The Inspector General of Police or Commissioner of Police may, on a request made by the appropriate authority of a foreign state, disclose to that authority any information in his possession or in the possession of any other government department or agency, relating to any of the following—

(a) the actions or movements of terrorist groups or persons suspected of involvement in the commission of terrorist acts;

(b) the use of forged or falsified travel papers by persons suspected of involvement in the commission of terrorist acts;

- (c) traffic in weapons and sensitive materials by terrorist groups or persons suspected of involvement in the commission of terrorist acts; or

- (d) the use of communications technologies by terrorist groups,

if the disclosure is not prohibited by any provision of law and will not, in the mind of the Inspector General of Police or Commissioner of Police, be prejudicial to national security or to public safety.

38.—(1) Where the United Republic becomes a party to a counter terrorist convention and there is in force, an extradition arrangement between the Government of the United Republic and another state which is a party to that counter terrorism convention, the extradition arrangement shall be deemed, for the purposes of the Extradition Act, 1965 to include provision for extradition in respect of offences falling within the scope of that counter terrorism convention.

Counter terrorism Conventions to be used as basis for extradition Act No.15 of 1965

(2) Where the United Republic becomes a party to a counter terrorism convention and there is no extradition arrangement between the Government of the United Republic and another state which is a party to that counter terrorism convention, the Minister may, by Order published in the *Gazette*, treat the counter terrorism convention, for the purposes of the Extradition Act, 1965 as an extradition arrangement between the Government of the United Republic and that state, providing for extradition in respect of offences falling within the scope of that counter-terrorism convention.

39. Notwithstanding anything in the Extradition Act, 1965 an offence which causes -

- (a) death or serious bodily harm to a person; or
- (b) serious damage to property,

shall for the purpose of extradition under this Act, be deemed not to be an offence of a political character or an offence connected with a political offence or offence inspired by political motives.

Offences not to be deemed political Act No.15 of 1965

PART VIII

MISCELLANEOUS

40.—(1) Every person who has an information which may be of assistance in—

- (a) preventing the commission by another person, of a terrorist act,
- (b) securing the arrest or prosecution of another person for an offence under this Act,

Duty to disclose information relating to offences and terrorist acts

shall forthwith disclose that information to a police officer not below the rank of Assistant Superintendent of Police or to a police in-charge of a station.

(2) Nothing in subsection (1) requires the disclosure of any information which is protected by privilege.

(3) No civil or criminal proceedings shall lie against any person for disclosing any information, in good faith, as required under subsection (1).

(4) Any person who fails to comply with subsection (1), commits an offence and shall on conviction, be liable to imprisonment for a term not less than two years and not more than five years.

Duty to disclose information relating to property of terrorist groups or property used for commission of offences under this Act

41.—(1) Every person shall forthwith disclose to a police officer—

(a) the existence of any property in his or her possession or control, which is to his or her knowledge, owned or controlled by or on behalf of a terrorist group;

(b) any information regarding a transaction or proposed transaction in respect of any property referred to in paragraph (a).

(2) Every financial institution shall report, every three months, to the police officer and any body authorized by law to supervise and regulate its activities—

(a) that it is not in possession or control of any property owned or controlled by or on behalf of a terrorist group;

(b) that it is in possession or control of such property, and the particulars relating to the persons, accounts, and transactions involved and the total value of the property.

(3) In addition to the requirements of subsection (2), every financial institution shall report, to the police officer, every transaction which occurs within the course of its activities, and in respect of which there are reasonable grounds to suspect that the transaction is related to the commission of a terrorist act.

(4) No civil or criminal proceedings shall lie against any person for making a disclosure or report, in good faith, as required under subsection (1) or (2) or (3).

(5) Every person who fails to comply with subsection (1) or (2) or (3), commits an offence and shall on conviction, be liable to imprisonment for a term not less than twelve months.

42.—(1) Where the Court is satisfied, on an *ex parte* application, that there are reasonable grounds to believe that there is in any building, place or vessel, any property in respect of which an order of forfeiture may be made under section 43, it will issue—

Orders for seizure and restraint of property

- (a) a warrant authorising a police officer to search the building, place or vessel for that property and to seize that property if found, and any other property in respect of which that police officer believes, on reasonable grounds, that an order of forfeiture may be made under section 35;
- (b) a restraint order prohibiting any person from disposing of, or otherwise dealing with any interest in that property, other than as may be specified in the order.

(2) On an application made under subsection (1), the Court may, at the request of the Attorney General and if the Court is of the opinion that the circumstances so require—

- (a) appoint a person to take control of, and manage or otherwise deal with, the whole or a part of the property, in accordance with the directions of the Court;
 - (b) require any person having possession of the property to give possession thereof to the person appointed under paragraph (a).
- (3) The power to manage or otherwise deal with the property under subsection (2) includes -
- (a) in the case of perishable or rapidly depreciating property, the power to sell that property; and
 - (b) in the case of the property that has little or no value, the power to destroy that property.

(4) Before a person appointed under subsection (2) destroys any property referred to subsection 3(b), he shall apply to the Court for a destruction order.

(5) Before making a destruction order in relation to any property, the Court shall require notice to be given, in such manner as the Court may direct, to any person who, in the opinion of the Court, appears to have an interest in the property and may provide that person with a reasonable opportunity to be heard.

(6) The Court may order that any property in respect of which an application is made under subsection (4), be destroyed if it is satisfied that the property has little or no financial or other value.

(7) A management order under subsection (2), shall cease to have effect when the property which is the subject of the management order is returned to an applicant in accordance with the law or when it is forfeited to the United Republic.

(8) The Attorney General may at any time apply to the Court to cancel or vary a warrant or order issued under this section.

Orders for
forfeiture
of property

43.—(1) The Attorney General may make an application to the Court for an order of forfeiture in respect of -

(a) property owned or controlled by, or on behalf of, a terrorist group;
or

(b) property that has been, is being or will be used, in whole or part, to commit, or facilitate the commission of, a terrorist act.

(2) The Attorney General shall be required to name as respondents in the application under subsection (1) only persons who are known to own or control the property which is the subject of the application.

(3) The Attorney General shall give notice of an application under subsection (1) to the respondents named in the application in such manner as the Court may direct.

(4) If the Court is satisfied, on a balance of probabilities that, the property which is the subject of the application, is property referred to in subsection (1) (a) or (b), it shall order that the property be forfeited and be disposed of as directed by the Court.

(5) Where a Court refuses an application under subsection (1), the Judge shall make an order that describes the property and declare that it is not property referred to in that subsection.

(6) On an application under subsection (1), a Court may require notice to be given to any person, who in the opinion of the Court, appears to have an interest in the property, and any such person shall be entitled to be added as a respondent to the application.

(7) If the Court is satisfied that a person referred to in subsection (6)—

(a) has an interest in the property which is the subject of the application;

(b) has exercised reasonable care to ensure that the property would

not be used to commit or facilitate the commission of a terrorist act;
and

(c) is not a member of a terrorist group,
the Court shall order that the interest shall not be affected by the order
and it shall also declare the nature and extent of the interest in question.

(8) A person who claims an interest in property that has been forfeited and who has not been given notice under subsection (6), may make an application to the Court to vary or set aside an order made under subsection (4) not later than sixty days after the day on which the forfeiture order was made.

(9) Pending the determination of an appeal against an order of forfeiture made under this section, property restrained under section 42, shall continue to be restrained, property seized under a warrant issued under that section, shall continue to be detained, and any person appointed to manage, control or otherwise deal with the property under that section shall continue in that capacity.

(10) The provisions of this section shall not affect the operation of any other provision of this Act respecting forfeiture of property.

44.—(1) The Minister may sign a certificate stating that, it is his opinion, based on information received including any security or criminal intelligence reports, that there are reasonable grounds to believe that an applicant for registration as a registered trustee or a registered trustee has made, is making, or is likely to make available directly or indirectly, any resources to a terrorist group.

(2) Upon the signing of a certificate under subsection (1), by the Minister or a person authorized by him, shall cause the applicant or the registered trustee to be served, personally or by registered letter sent to its last known address, with a copy of the certificate and a notice informing it that, the certificate will be referred to the Court not earlier than seven days after the service of the notice, and that, if the certificate is determined to be reasonable, the applicant will not be eligible to be registered as registered trustee or the registration of the registered trustee of the trust will be revoked, as the case may be.

(3) The certificate or any matter arising out of it shall not be subject to review or be restrained, prohibited, removed, set aside or otherwise dealt with except in accordance with this section.

Refusal of applications for registration, and the revocation of registration, of trustees linked to terrorist groups

(4) Seven days after service under subsection (2) or as soon as practicable thereafter, the Minister or a person authorized by him shall -

- (a) file a copy of the certificate in the Court for determination under subsection (5); and
- (b) cause the applicant or registered trustees to be served, personally or by registered letter sent to its last known address, with a notice informing it of the filing of the certificate.

(5) Upon the filing of a certificate in the Court under subsection (4), it shall—

- (a) examine in chambers, the information, including any security or criminal or intelligence reports, considered by the Minister before signing the certificate, and hear any evidence or information is admissible and may, on the request of the Minister, hear all or part of that evidence or information in the absence of the applicant or registered trustees, if the Court is of the opinion that the disclosure of the information would be prejudicial to national security or endanger the safety of any person.
- (b) provide the applicant or the registered charity with a statement summarising the information available to the Court so as to enable the applicant or the registered charity to be reasonably informed of the circumstances giving rise to the certificate, without disclosing any information the disclosure of which would, in the Court's opinion, be prejudicial to national security or endanger the safety of any person,
- (c) provide the applicant or registered charity with a reasonable opportunity to be heard; and
- (d) determine whether the certificate is reasonable on the basis of all the information available to the Court or if found not reasonable, quash it.

(6) Where the Court determines, under subsection (5), that a certificate is reasonable, the Minister shall cause the certificate to be published in the *Gazette*.

(7) A certificate determined to be reasonable under subsection (5), shall be deemed for all purposes to be sufficient grounds for the refusal of the application for registration of the charity referred to in the certificate or the revocation of the registration of the charity referred to in the certificate.

45.—(1) The—

- (a) operator of an aircraft or master of a vessel, departing from the United Republic; or
- (b) operator of an aircraft registered in the United Republic or master of a vessel registered in the United Republic, departing from any place outside the United Republic,

may subject to regulations made under subsection (5), provide—

- (i) to the police officer any information in his possession, relating to persons on board, or expected to be on board, the aircraft or vessel, as the case may be;
- (ii) to the competent authority in a foreign state, any information in his possession, relating to persons on board, or expected to be on board, the aircraft or vessel, as the case may be, and required by the laws of that foreign state.

(2) The Director of Immigration may, subject to regulations made under subsection (5), provide to the competent authority in a foreign state any information in his other possession relating to persons entering or leaving the United Republic by land, and that is required by the laws of that foreign state.

(3) The provision of any information under subsection (1) or (2) shall, subject to regulations made under subsection (5), be deemed not to be a contravention of any provision of law prohibiting the disclosure of the information.

(4) No information provided to the police officer under subsection (1), shall be used or disclosed by the Director of Immigration except for the purpose of protecting national security or public safety.

(5) The Minister may make regulations necessary to give effect to the purposes of this section, including regulations -

- (a) respecting the types or classes of information that may be provided for under this section,
- (b) specifying the foreign states to which the information may be provided.

46.—(1) The Director of Immigration or other authorized officer under the laws relating to immigration, shall not grant an endorsement or other authority permitting a person to enter the United Republic if he has reasonable grounds to believe that such, person has been, is, or will be, involved in the commission of a terrorist act.

Provision of information relating to passengers of vessels and aircraft and persons entering and leaving the country

Power to prevent entry and order the removal of persons

(2) Where the Minister responsible for immigration has reasonable grounds to believe that a person in the United Republic has been, is or will be, involved in the commission of a terrorist act, he may make order requiring that person to leave the United Republic and remain thereafter out of the United Republic.

(3) A person with respect to whom an order under subsection (2) is made, shall leave the United Republic and shall, so long as the order is in force, remain out of the United Republic.

(4) A person with respect to whom an order under subsection (2) is made, may be detained in such manner as may be directed by the Minister responsible for immigration and may be placed on a vessel or aircraft leaving the United Republic.

Power to
refuse
refugee
applica-
tion

47. The Minister responsible for immigration may, having regard to the interests of national security and public safety, refuse the application of any person applying for status as a refugee, if he or she has reasonable grounds to believe that, the applicant has committed a terrorist act or is or is likely to be, involved in the commission of a terrorist act.

Power to
make
Regula-
tions

48.—(1) The Minister may make regulations in respect of all matters in respect of which regulations are required or authorized to be made by this Act.

(2) Subject to subsection (3), every regulation made under subsection (1), shall be published in the *Gazette* and shall come into operation on the date of publication or on such later date as may be specified in the regulation.

(3) Every regulation made under subsection (1), shall, as soon as convenient after its publication, be brought before the National Assembly for approval and any regulation which is not so approved shall be deemed to be revoked from the date of disapproval, but without prejudice to anything previously done on the authority of those regulations.

PART IX

CONSEQUENTIAL AMENDMENTS

Amend-
ment of
the
Criminal
procedure
Act, 1985
No.9 of
1985

49. Section 148 of the Criminal Procedure Act, 1985 is amended in subsection (5) by substituting a semi colon for a full-stop which appears in item (iii) of paragraph (a) and adding immediately thereafter the following:

“(iv) terrorism against the Prevention of Terrorism Act, 2002.”

50. Section 10 of the National Security Act, 1970 is amended by adding immediately after that section the following:

Amendment of the National Security Act, 1970. No. 3 of 1970

"Terrorist allied offences

"10A. A person who commits an offence against sections 4, 5, 6, 7, 8, 9 or 10 in circumstances whereby an inference can be drawn that the offence was committed in furtherance or in support of terrorist act contrary to the Prevention of Terrorism Act, 2002, shall be proceeded against under that Act."

51. Section 17 of the Extradition Act, 1965 is amended by adding the following:

Amendment of the Extradition Act, 1965. No. 15 of 1965

"(5) The provisions of subsections (1) and (2) shall not apply to a person who is accused of terrorism under the Prevention of Terrorism Act, 2002."

52. Section 6 of the Proceeds of Crime Act, 1991 is amended -

Amendment of the Proceeds of Crime Act, 1991. No. 25 of 1991

(a) by inserting after paragraph (b) the following:

"(c) any offence against the Prevention of Terrorism Act, 2002;"

(b) by renumbering paragraph (c) as paragraph (d).

53. The Immigration Act 1995 is amended -

Amendment of the Immigration Act, 1995. No. 7 of 1995

(a) in Section 8 by repealing subsection (1) and substituting for it, the following:

"(1) An immigration officer may without warrant, arrest any person whom he reasonably suspect to be a prohibited immigrant, a terrorist or to have been concerned in international terrorism within the meaning of the Prevention of Terrorism Act, 2002 or to have contravened or to be about to contravene any of the provisions of this Act.";

(b) in section 10, by substituting a semi-colon for a full-stop which appears in paragraph (j) and adding immediately thereafter the following paragraph:

"(k) a person who has committed terrorist act or international terrorism."

Amend-
ment of
the
Evidence
Act, 1967.
No.6 of
1967

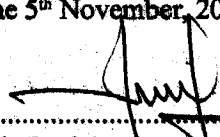
54. The Evidence Act, 1967 is amended, in section 89—

(i) by redesignating that section as subsection (1);

(ii) by inserting the following:

“(2) Notwithstanding subsection (1) and any other written law, where in criminal proceedings involving offence of terrorism or international terrorism, a question arises as to whether anything or a substance is in a state described or purported to be described in a document, that document shall be admissible in evidence without proof of the signature or authority of the person appearing to have signed it and shall, in the absence of evidence to the contrary, be proof of the facts stated therein.”

Passed in the National Assembly on the 5th November, 2002



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Clerk of the National Assembly