

SAINT VINCENT AND THE GRENADINES
ANTI-TERRORIST FINANCING AND PROLIFERATION ACT 2015
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SAINT VINCENT AND THE GRENADINES

ACT NO. 14 OF 2015

I ASSENT

[L.S.]

DR. FREDERICK BALLANTYNE
Governor-General

31st August, 2015

AN ACT to repeal and replace the United Nations (Anti-Terrorism Measures) Act, Chapter 183, to update the law relating to the combatting of terrorist financing and for incidental and connected purposes.

[By Proclamation]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the House of Assembly of Saint Vincent and the Grenadines and by the Authority of the same, as follows:

PART I

PRELIMINARY

1. (1) This Act may be cited as the Anti-Terrorist Financing and Proliferation Act, 2015.

Short title and
commencement

(2) This Act comes into operation on such day as the Governor-General may appoint by Proclamation published in the *Gazette*, and different days may be appointed for different purposes.

2. (1) In this Act —

Interpretation

No. 38 of 2013

“act” and “action” includes omission;

“Anti-Money Laundering and Terrorist Financing Regulations” means the regulations made under section 168(1) of the Proceeds of Crime Act, 2013;

“article” includes substance and any other thing;

“association” includes an unincorporated body;

“biological weapon” means —

- (a) any biological agent or toxin of a type and in a quantity that has no justification for prophylactic, protective or other peaceful purposes; or
- (b) any weapon, equipment or means of delivery designed to use biological agents or toxins for hostile purposes or in armed conflict;

“cash” includes —

- (a) notes and coins in any currency;
- (b) postal orders;
- (c) cheques of any kind, including travellers’ cheques;
- (d) bankers’ drafts;
- (e) bearer bonds and bearer shares;
- (f) electronic cash; and
- (g) any other monetary instrument that is prescribed as cash;

“chemical weapon” means —

- (a) toxic chemicals and their precursors;
- (b) munitions and other devices designed to cause death or harm through the toxic properties of toxic chemicals released by them; and

(c) equipment designed for use in connection with munitions and devices falling within paragraph (b);

“Code” means a Code issued under section 169 of the Proceeds of Crime Act, 2013;

No. 38 of 2013

“commencement date” means the date on which this Act comes into operation;

“Committee” means the National Anti-Money Laundering Committee established under the Proceeds of Crime and Money Laundering (Prevention) Act 2001 and continued under section 118(1) of the Proceeds of Crime Act, 2013;

“company” means a body corporate, wherever incorporated, registered or formed, and includes a foundation;

“Confiscated Assets Fund” means the Confiscated Assets Fund provided for under section 160 of the Proceeds of Crime Act, 2013;

No. 38 of 2013

“country” includes a territory;

“Court” means the High Court of the State or a Judge thereof;

“criminal conduct” has the meaning specified in the Proceeds of Crime Act, 2013;

No. 38 of 2013

“dealing with property” includes disposing of it, taking possession of it or removing it from the State;

“designated person” means —

(a) a person specified in Schedule 1 as a designated person; or

(b) a person who is the subject of a designation under this Act;

“designation” means a final or interim designation, as the case may be;

“direction” means a direction given under section 52;

“document” means a document in any form and includes —

- (a) any writing or printing on any material;
- (b) any record of information or data, however compiled, and whether stored in paper, electronic, magnetic or any non-paper based form;
- (c) any storage medium, including discs and tapes;
- (d) books and drawings;
- (e) a photograph, film, tape, negative or other medium in which one or more visual images are embodied so as to be capable (with or without the aid of equipment) of being reproduced; and
- (f) any court application, order and other legal process;

“economic resources” means assets of every kind, whether tangible or intangible, and movable or immovable, that are not funds but can be used to obtain funds, goods or services;

“exemption” means an exemption granted under section 53 (4);

“explosive” means —

- (a) an article or substance manufactured for the purpose of producing a practical effect by explosion;

- (b) materials for making an article or substance within paragraph (a);
- (c) anything used or intended to be used for causing or assisting in causing an explosion; and
- (d) a part of anything within paragraph (a) or (c);

“FATF” means the international body known as the Financial Action Task Force or such other international body as may succeed it;

“final designation” means a designation made under section 58;

“Financial Intelligence Unit” means the Financial Intelligence Unit established under the Financial Intelligence Unit Act;

Cap. 174

“financial services” has the meaning specified in the Anti-Money Laundering and Terrorist Financing Regulations;

“firearm” has the meaning specified in the Firearms Act;

Cap. 386

“forfeiture order” means an order forfeiting terrorist property made under section 38;

“funds” means financial assets and benefits of every kind, including (but not limited to) any of the following —

- (a) cash;
- (b) deposits with financial businesses or other persons, balances on accounts, debts and debt obligations;
- (c) publicly and privately traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivative products;

- (d) interest, dividends and other income on or value accruing from or generated by assets;
- (e) credit, rights of set-off, guarantees, performance bonds and other financial commitments;
- (f) letters of credit, bills of lading and bills of sale;
- (g) documents providing evidence of an interest in funds or financial resources; and
- (h) any other instrument, being an instrument of export financing;

“interim designation” means a designation made under section 56;

“law enforcement officer” includes a police officer or a customs officer;

“master” means a master of the Court;

“Minister” means the Minister having responsibility for finance;

“Money Laundering Reporting Officer” means the person appointed as Money Laundering Reporting Officer by a service provider in accordance with the Anti-Money Laundering and Terrorist Financing Regulations;

“nuclear weapon” includes a nuclear explosive device that is not intended for use as a weapon;

“Order of Proscribed Terrorist Organisations” means the order made by the Minister responsible for National Security under section 21;

“person” shall be construed in accordance with subsection (3);

“premises” includes —

- (a) any place;

- (b) any vehicle, vessel, aircraft or hovercraft;
- (c) any offshore installation; and
- (d) any tent or movable structure;

“prescribed” means prescribed by the regulations made under section 84;

“privileged material” has the meaning specified in section 5;

“produce”, in relation to information recorded in a form illegible to the naked eye, includes producing a copy of the information in legible form;

“property” means property of every kind, whether situated in the State or elsewhere, and includes —

- (a) money;
- (b) all forms of real or personal and heritable or movable property; and
- (c) things in action and other intangible or incorporeal property;

“proscribed terrorist organisation” means an organisation—

- (a) specified in the Order of Proscribed Terrorist Organisations; or
- (b) that operates under the same name as an organisation specified in the Order of Proscribed Terrorist Organisations;

“radiological weapon” means a device designed to cause destruction, damage or injury by means of the radiation produced by the decay of radioactive material;

Schedule 2

“regulated business” means a business for which a regulatory licence is required;

“regulatory licence” means a licence specified in the Anti-Money Laundering and Terrorist Financing Regulations as a regulatory licence ;

“relevant business” has the meaning specified in the Anti-Money Laundering and Terrorist Financing Regulations;

“relevant Security Council Resolutions” means any resolution passed by the Security Council of the United Nations and listed in Schedule 2;

“service provider” has the meaning specified in the Anti-Money Laundering and Terrorist Financing Regulations;

“specified person”, in relation to a direction, means a person in relation to whom a direction is given;

“State” means the State of Saint Vincent and the Grenadines;

“terrorism” has the meaning specified in section 3;

“terrorism investigation” means an investigation of —

- (a) the commission, preparation or instigation of acts of terrorism;
- (b) an act which appears to have been done for the purposes of terrorism;
- (c) an organisation for the purposes of Part III of this Act; or
- (d) the commission of, preparation or instigation of an offence under this Act;

“terrorist activity” means any activity that involves terrorism and “involvement in terrorist activity” shall be construed in accordance with section 58 (2);

“terrorist cash” means cash which is terrorist property;

“terrorist financing” means an act which—

- (a) constitutes a terrorist financing offence; or
- (b) would constitute a terrorist financing offence if done in the State;

“terrorist financing offence” means —

- (a) an offence under any of sections 6 to 10;
- (b) an attempt, conspiracy or incitement to commit an offence specified in paragraph (a); or
- (c) aiding, abetting, counselling or procuring the commission of an offence specified in paragraph (a);

“terrorist property” has the meaning specified in section 4;

“vehicle” includes an aircraft, hovercraft or vessel.

(2) For the purposes of this Act, where an act or proceeding is required or permitted to be done or taken within a period of time not exceeding six days, Saturdays, Sundays and public holidays shall not be included in the computation of the time.

(3) For the avoidance of doubt, “person” includes any individual, group, undertaking, entity, organisation or body of persons.

(4) Paragraph (b) of “proscribed terrorist organisation” shall not apply in relation to an organisation specified in the Order of Proscribed Terrorist Organisations if its entry is the subject of a note in that Order.

Meaning of
"terrorism"

3. (1) In this Act, "terrorism" means the use or threat of action where—

- (a) the action falls within subsection (2);
- (b) the use or threat is designed to influence the government of the State or of a country (or a part of a country) other than the State, or an international organisation, or to intimidate the public or a section of the public; and
- (c) the use or threat is made for the purpose of advancing a political, religious, racial or ideological cause.

(2) Action falls within this subsection if it —

- (a) involves serious violence against a person;
- (b) involves serious damage to property;
- (c) endangers a person's life, other than that of the person committing the action;
- (d) creates a serious risk to the health or safety of the public or a section of the public;
- (e) is designed seriously to interfere with or seriously to disrupt an electronic system;
- (f) involves the unlawful seizure of aircraft in flight; or
- (g) involves unlawful violence against the safety of maritime navigation.

(3) The use or threat of action falling within subsection (2) which involves the use of firearms or explosives is terrorism whether or not subsection (1)(b) is satisfied.

(4) In this section —

- (a) "action" includes action outside the State;

- (b) a reference to any person or to property is a reference to any person, or to property, wherever situated; and
- (c) a reference to the public includes a reference to the public of a country other than the State.

(5) In this section, a reference to action taken for the purposes of terrorism includes a reference to action taken for the benefit of a proscribed terrorist organisation.

4. (1) In this Act, “terrorist property” means —

Meaning of
“terrorist
property”

- (a) property which is intended to be used for the purposes of terrorism;
- (b) the proceeds of the commission of acts of terrorism;
- (c) the proceeds of acts carried out for the purposes of terrorism; and
- (d) any resources of a proscribed terrorist organisation.

(2) In subsection (1) —

- (a) a reference to the proceeds of an act includes a reference to any property which wholly or partly, and directly or indirectly, represents the proceeds of the act (including payments or other rewards in connection with the act); and
- (b) the reference to an organisation’s resources includes a reference to any property which is applied or made available, or is to be applied or made available, for use by the organisation.

5. (1) For the purposes of this Act, “privileged material” means —

Meaning of
privileged
material

- (a) communications between a professional legal adviser and his client or any person representing his client

made in connection with the giving of legal advice to the client;

- (b) communications between a professional legal adviser and his client or any person representing his client or between such an adviser or his client or any such representative and any other person made in connection with or in contemplation of legal proceedings and for the purposes of such proceedings; and

- (c) material enclosed with or referred to in such communications and made —

- (i) in connection with the giving of legal advice, or
 - (ii) in connection with or in contemplation of legal proceedings and for the purposes of such proceedings,

when they are in the possession of a person who is entitled to possession of them.

- (2) Material held with the intention of furthering a criminal purpose is not privileged material.

PART II

TERRORIST FINANCING OFFENCES

Terrorist financing

Fund-raising

- 6. (1) A person is guilty of an offence if the person —
 - (a) invites another to provide property; and
 - (b) intends that it should be used, or has reasonable grounds to suspect that it may be used, for the purposes of terrorism.
- (2) A person is guilty of an offence if the person —
 - (a) receives property; and

(b) intends that it should be used, or has reasonable grounds to suspect that it may be used, for the purposes of terrorism.

(3) A person is guilty of an offence if the person —

(a) provides property; and

(b) knows or has reasonable grounds to suspect that it will or may be used for the purposes of terrorism.

(4) In this section a reference to the provision of property is a reference to it being given, lent or otherwise made available, whether or not for consideration.

(5) A person guilty of an offence under this section is liable—

(a) on summary conviction, to imprisonment for a term of seven years or to a fine of \$500,000 or to both;

(b) on conviction on indictment, to imprisonment for a term of twenty years or to an unlimited fine or to both.

7. A person who organises or directs another person to commit an offence under section 6 is guilty of an offence and is liable —

Organising or directing others to commit a fund-raising offence

(a) on summary conviction, to imprisonment for a term of seven years or to a fine of \$500,000 or to both;

(b) on conviction on indictment, to imprisonment for a term of twenty years or to an unlimited fine or to both.

8. (1) A person is guilty of an offence if the person —

Use and possession

(a) uses property for the purposes of terrorism; or

(b) possesses property and intends that it should be used, or has reasonable grounds to suspect that it may be used, for the purposes of terrorism.

(2) A person guilty of an offence under subsection (1) is liable—

- (a) on summary conviction, to imprisonment for a term of seven years or to a fine of \$500,000 or to both;
- (b) on conviction on indictment, to imprisonment for a term of twenty years or to an unlimited fine or to both.

F u n d i n g
arrangements

9. (1) A person is guilty of an offence if the person —

- (a) enters into or becomes concerned in an arrangement as a result of which property is made available or is to be made available to another; and
- (b) knows, or has reasonable grounds to suspect, that the property will or may be used for the purposes of terrorism.

(2) A person guilty of an offence under subsection (1) is liable—

- (a) on summary conviction, to imprisonment for a term of seven years or to a fine of \$500,000 or to both;
- (b) on conviction on indictment, to imprisonment for a term of twenty years or to an unlimited fine or to both.

M o n e y
laundering

10. (1) A person is guilty of an offence if the person enters into or becomes concerned in an arrangement which facilitates, by whatever means, the retention or control by or on behalf of another person of terrorist property—

- (a) by concealment;
- (b) by removal from the jurisdiction;
- (c) by transfer to nominees; or
- (d) in any other way.

(2) It is a defence for a person charged with an offence under subsection (1) to prove that he did not know and had no reasonable grounds for suspecting that the arrangement related to terrorist property.

(3) A person guilty of an offence under subsection (1) is liable—

- (a) on summary conviction, to imprisonment for a term of seven years or to a fine of \$500,000 or to both;
- (b) on conviction on indictment, to imprisonment for a term of twenty years or to an unlimited fine or to both.

Disclosure of terrorist financing

11. (1) In sections 14 to 20 —

Interpretation
for the purposes
of disclosure

“appropriate consent” has the meaning specified in section 12

“authorised disclosure” has the meaning specified in section 13;

“prohibited act” means an act specified in section 6(1) or (2), 7, 8(1), 9(1) or 10(1); and

“protected disclosure” has the meaning specified in section 14.

(2) A reference in sections 14 to 20 to the making by a person of a disclosure to “the relevant Money Laundering Reporting Officer”, means the Money Laundering Reporting Officer appointed by that person’s employer.

12. (1) The appropriate consent is —

- (a) where a person makes a disclosure to the relevant Money Laundering Reporting Officer, the consent of the relevant Money Laundering Reporting Officer to do the prohibited act; or

Appropriate
consent

-
- (b) where a person makes a disclosure to the Financial Intelligence Unit, the consent of the Financial Intelligence Unit to do the prohibited act.
- (2) A person is deemed to have the appropriate consent if—
- (a) he makes an authorised disclosure to the Financial Intelligence Unit;
- (b) either—
- (i) the Financial Intelligence Unit does not, on or before the last day of the notice period, notify the person that consent to doing the prohibited act is refused, or
- (ii) on or before the last day of the notice period he receives notice from the Financial Intelligence Unit that consent to the doing of the prohibited act is refused and the moratorium period has expired.
- (3) For the purposes of subsection (2) —
- (a) the notice period is the period of seven working days commencing with the first working day after the person makes the disclosure; and
- (b) the moratorium period is the period of thirty days commencing with the day on which the person receives notice that consent to the doing of the prohibited act is refused.
- (4) A Money Laundering Reporting Officer shall not consent to the doing of a prohibited act unless —
- (a) he has made a disclosure that property is terrorist property or is derived from terrorist property to the Financial Intelligence Unit; and

- (b) the Financial Intelligence Unit gives consent to the doing of the prohibited act.

(5) A person who is a Money Laundering Reporting Officer is guilty of an offence if—

- (a) he gives consent to the doing of a prohibited act where the Financial Intelligence Unit has not consented to the doing of the act; and
- (b) he knows or suspects that the act is a prohibited act.

(6) A Money Laundering Reporting Officer guilty of an offence under this section is liable—

- (a) on summary conviction, to imprisonment for a term of seven years or to a fine of \$500,000 or to both;
- (b) on conviction on indictment, to imprisonment for a term of ten years or to an unlimited fine or to both.

13. (1) A disclosure by a person is an authorised disclosure if—

Authorised
disclosure

- (a) it is a disclosure made to the Financial Intelligence Unit or to the relevant Money Laundering Reporting Officer that property is terrorist property or is derived from terrorist property; and
- (b) one of the conditions specified in subsection (2)(a), (b) or (c) is satisfied.

(2) The conditions referred to in subsection (1) are that:

- (a) the person makes the disclosure before he does the prohibited act;
- (b) the person —
 - (i) makes the disclosure while he is doing the prohibited act; and

- (ii) he began to do the act at a time when, because he did not know or suspect that the property constituted or was derived from terrorist property, the act was not a prohibited act; and
- (iii) the disclosure is made on his own initiative and as soon as is practicable after he first knows or suspects that the property constitutes or is derived from terrorist property; or
- (c) the person makes the disclosure after he does the prohibited act, there is good reason for his failure to make the disclosure before he did the prohibited act and the disclosure is made on his own initiative and as soon as it is practicable for him to make it.

Protected
disclosures

14. A disclosure is a protected disclosure if —

- (a) the information or other matter disclosed came to the person making the disclosure in the course of his trade, profession, business or employment;
- (b) the information or other matter disclosed causes the person making the disclosure to know or suspect, or gives him reasonable grounds for knowing or suspecting, that another person is engaged in money laundering; and
- (c) the disclosure is made to the Financial Intelligence Unit or the relevant Money Laundering Reporting Officer, as soon as is reasonably practicable, and in any event, within fourteen days after the information or other matter comes to the person making the disclosure.

Duty to report
information

15. (1) Where a person —

- (a) has reasonable grounds for knowing or suspecting, that another person has committed or attempted to commit a terrorist financing offence; and

- (b) the information or other matter which gives reasonable grounds for such knowledge or suspicion came to him in the course of a relevant business,

he shall report the information or other matter to the relevant Money Laundering Reporting Officer or to the Financial Intelligence Unit.

(2) A report under subsection (1) to the Financial Intelligence Unit shall be in the form and manner, if any, that may be required by the Financial Intelligence Unit.

(3) This section does not require disclosure by a professional legal adviser of privileged material.

(4) A person who contravenes subsection (1) is guilty of an offence.

(5) A person does not commit an offence under this section if the person has a reasonable excuse for not disclosing the information or other matter.

(6) A person does not commit an offence under this section by failing to disclose any information or other matter that has come to his attention, if —

- (a) it comes to the person in the course of his employment in a relevant business;
- (b) the relevant business was required by the Anti-Money Laundering and Terrorist Financing Regulations or the Code to provide the employee with training, but had not done so;
- (c) the training, if it had been given, would have been material; and
- (d) the employee does not know or suspect that the other person concerned had committed a terrorist financing offence.

(7) For the purposes of this section —

- (a) a reference to the making by a person of a disclosure to “the relevant Money Laundering Reporting Officer”, means the Money Laundering Reporting Officer appointed by that person’s employer; and
- (b) a person makes a disclosure to the relevant Money Laundering Reporting Officer if he makes the disclosure in the course of his employment and in accordance with the procedures established by his employer for the purpose.

(8) A person guilty of an offence under this section is liable—

- (a) on summary conviction, to imprisonment for a term of twelve months or to a fine of \$100,000 or to both;
- (b) on conviction on indictment, to imprisonment for a term of seven years or to a fine of \$500,000 or to both.

Protected and
authorised
disclosures

16. (1) Where a person, including a service provider and a director, officer or employee of a service provider, makes a protected disclosure or an authorised disclosure, the disclosure —

- (a) shall not be treated as a breach of any law, rule of law or agreement restricting the disclosure of information; and
- (b) shall not give rise to criminal or civil proceedings.

(2) For the avoidance of doubt, where a director, officer or employee of a service provider makes a protected disclosure or an authorised disclosure —

- (a) the disclosure shall not be treated as a breach of any law, rule of law or agreement restricting the disclosure of information; and
- (b) no criminal or civil proceedings may be taken against the service provider by reason of the disclosure.

17. (1) Subject to section 19, a person is guilty of an offence if—

Prejudicing an investigation

- (a) he knows or suspects that the Financial Intelligence Unit, a law enforcement officer or any other authorised person is acting, or is proposing to act, in connection with an investigation into terrorist financing; and
- (b) he —
 - (i) makes a disclosure that is likely to prejudice that investigation, or proposed investigation, or
 - (ii) falsifies, conceals, destroys or otherwise disposes of, or causes or permits the falsification, concealment, destruction or disposal of, documents which are relevant to the investigation.

(2) A person guilty of an offence under this section is liable—

- (a) on summary conviction, to imprisonment for a term of five years or to a fine of \$500,000 or to both;
- (b) on conviction on indictment, to imprisonment for a term of ten years or to a fine without limit or to both.

18. (1) For the purposes of this section, “relevant disclosure” means a disclosure made by a person under or in accordance with this Part to —

Tipping off

- (a) the Financial Intelligence Unit, or
- (b) the person’s relevant Money Laundering Reporting Officer,

and includes, but is not limited to, an authorised disclosure and a protected disclosure and information disclosed that is related to the disclosure.

(2) Subject to section 19, a person is guilty of an offence if—

- (a) he knows or suspects that a relevant disclosure is being or has been made, whether by himself or another person;
- (b) he discloses the fact that a relevant disclosure is being or has been made; and
- (c) his disclosure is likely to prejudice any investigation that might be conducted following the relevant disclosure.

(3) Subject to section 19, a person is guilty of an offence if—

- (a) the person discloses that an investigation into allegations of terrorist financing, is being contemplated or is being carried out; and
- (b) the disclosure is likely to prejudice that investigation.

(4) A person guilty of an offence under this section is liable:

- (a) on summary conviction, to imprisonment for a term of five years or to a fine of \$500,000 or to both;
- (b) on conviction on indictment, to imprisonment for a term of ten years or to a fine without limit or to both.

Circumstances in which offence under sections 17 and 18 not committed

19. (1) Nothing in section 17 or 18 makes it an offence for a person to make a disclosure to a professional legal adviser for the purposes of legal advice or for a professional legal adviser to make a disclosure—

- (a) to, or to a representative of, a client of his in connection with the giving by the legal adviser of legal advice to the client; or
- (b) to any person —
 - (i) in contemplation of, or in connection with, legal proceedings; and

(ii) for the purpose of those proceedings.

(2) Subsection (1) does not apply to a disclosure made with the intention of furthering any criminal purpose.

(3) In proceedings against a person for an offence under section 17 or 18, it is a defence to prove that he did not know or suspect that the disclosure was likely to be prejudicial in the way specified in section 17(1)(b)(i), 18(2)(c) or 18(3)(b), as the case may be.

(4) A person is not guilty of an offence under section 17(1)(b)(ii) if—

- (a) he does not know or suspect that the documents are relevant to the investigation; or
- (b) he does not intend to conceal any facts disclosed by the documents from any person carrying out the investigation.

(5) No member of the Financial Intelligence Unit, law enforcement officer or other person shall be guilty of an offence under section 17 or 18 in respect of anything done by him in the course of acting in connection with the enforcement, or intended enforcement, of any provision of this Act or of any other law relating to terrorism or terrorist financing or in compliance with a requirement imposed under or by virtue of this Act.

(6) The Anti-Money Laundering and Terrorist Financing Regulations may specify circumstances in which a person making a disclosure that falls within section 18(2) or (3) is not guilty of an offence.

20. (1) A person does not commit a terrorist financing offence if—

- (a) he is acting with the express consent of the Financial Intelligence Unit; or
- (b) any of the following applies to the person —

Circumstances in which a terrorist financing offence not committed

- (i) he makes an authorised disclosure and, if the disclosure is made before he does the prohibited act, he has the appropriate consent;
- (ii) he intended to make an authorised disclosure but had a reasonable excuse for not doing so; or;
- (iii) the act that constitutes a terrorist financing offence is done in carrying out a function relating to the enforcement of any provision of this Act or of any other law relating to terrorism or terrorist financing.

PART III

PROSCRIBED TERRORIST ORGANISATIONS

Proscribed
terrorist
organisations

21. (1) For the purposes of this Part, an organisation is concerned in terrorism if it —

- (a) commits or participates in acts of terrorism;
- (b) prepares for terrorism;
- (c) promotes or encourages terrorism; or
- (d) is otherwise concerned in terrorism.

(2) Subject to subsection (3), the Minister responsible for National Security may by an order published in the *Gazette* specify as proscribed terrorist organisations, organisations that the Minister responsible for National Security believes are concerned in terrorism.

(2A) Where the Minister responsible for National Security believes —

- (a) that an organisation specified in the Order of Proscribed Terrorist Organisations is operating wholly or partly under a name that is not specified in that Order (whether as well as or instead of under the specified name), or
- (b) that an organisation that is operating under a name that is not so specified is otherwise for all practical purposes the same as an organisation so specified,

he may by order published in the *Gazette*, provide that the name that is not specified in the Order of Proscribed Terrorist Organisations is to be treated as another name for the specified organisation.

(3) An order made under subsection (2) or (2A) is subject to affirmative resolution of the House of Assembly.

22. (1) Application may be made to the Minister responsible for National Security to remove an organisation from the order made under section 21 by —

Application to be removed from the order

- (a) the organisation; or
- (b) any person affected by the organisation's proscription.

(2) An application under subsection (1) shall be submitted to the Minister responsible for National Security and shall —

- (a) be in writing
- (b) state the grounds on which it is made; and
- (c) comply with the procedures issued by the Minister under subsection (3).

(3) The Minister responsible for National Security shall, after consultation with the Committee, issue procedures for the making and determination of applications under this section.

23. If the Minister responsible for National Security refuses to remove an organisation from the order made under section 21, the applicant may in writing request the Minister to review his decision.

Review of decision

24. (1) If the Committee has reasonable grounds to suspect that an organisation is concerned in terrorism, the Committee may recommend to the Minister that he specify the organisation as a proscribed terrorist organisation.

Role of the Committee

(2) The Minister is not obliged to act in accordance with any advice from, or recommendation of, the Committee.

Offences

Membership of
proscribed terror-
ist organisation

25. (1) A person is guilty of an offence if the person belongs, or professes to belong, to a proscribed terrorist organisation.

(2) It is a defence for a person charged with an offence under subsection (1) to prove —

- (a) that the organisation was not on the Order of Proscribed Terrorist Organisations on the last (or only) occasion on which the person became a member or began to profess to be a member; and
 - (b) that the person has not taken part in the activities of the organisation at any time while it was on the Order of Proscribed Terrorist Organisations.
- (3) A person guilty of an offence under this section is liable—
- (a) on summary conviction, to imprisonment for a term of two years or to a fine of \$200,000 or to both;
 - (b) on conviction on indictment, to imprisonment for a term of ten years or to an unlimited fine or to both.

Support for
proscribed terror-
ist organisation

26. (1) A person is guilty of an offence if —

- (a) the person invites support for a proscribed terrorist organisation; and
- (b) the support is not, or is not restricted to, the provision of property within the meaning of section 6.

(2) A person who arranges, manages or assists in arranging or managing a meeting which the person knows is —

- (a) to support a proscribed terrorist organisation,
- (b) to further the activities of a proscribed terrorist organisation, or

- (c) to be addressed by a person who belongs or professes to belong to a proscribed terrorist organisation, is guilty of an offence.

(3) A person who addresses a meeting, and the purpose of the address is to encourage support for a proscribed terrorist organisation or to further its activities, is guilty of an offence.

(4) Where a person is charged with an offence under subsection (2)(c) in respect of a private meeting it is a defence for the person to prove that he had no reasonable cause to believe that the address mentioned in subsection (2)(c) would support a proscribed terrorist organisation or further its activities.

(5) For the purposes of subsections (2) to (4) —

- (a) “meeting” means a meeting of three or more persons whether or not the public is admitted and includes the simultaneous communication by conference telephone or other electronic means; and
- (b) a meeting is private if the public is not admitted.

(6) A person guilty of an offence under this section is liable—

- (a) on summary conviction, to imprisonment for a term of two years or to a fine of \$200,000 or to both;
 - (b) on conviction on indictment, to imprisonment for a term of ten years or to an unlimited fine or to both.
-

PART IV**FORFEITURE***Recovery and Forfeiture of Terrorist Cash in Summary Proceedings*

Interpretation for
sections 28 to 37

27. (1) Sections 28 to 37 apply to cash found anywhere in the State.

(2) In calculating a period of 72 hours for the purposes of sections of sections 30, 31 and 37, no account shall be taken of—

- (a) any Saturday or Sunday;
- (b) any day that is a public holiday; or
- (c) any other day on which the Magistrate's Court may be closed.

Searches

28. (1) A law enforcement officer who is lawfully on any premises and who has reasonable grounds for suspecting that there is terrorist cash on the premises, may search for the cash there.

(2) If a law enforcement officer has reasonable grounds for suspecting that a person (the suspect) is in possession of terrorist cash, he may —

- (a) so far as he thinks it necessary or expedient, require the person —
 - (i) to permit a search of any article he has with him; and
 - (ii) to permit a search of his person; and
- (b) for the purposes of exercising his power under paragraph (a)(ii), detain the person for so long as is necessary for the exercise of that power.

(3) The powers conferred by this section are exercisable so far as reasonably required for the purpose of finding cash.

29. A law enforcement officer may seize cash if he has reasonable grounds for suspecting that —

Seizure of cash

- (a) it is terrorist cash; or
- (b) part of the cash is terrorist cash and it is not reasonably practicable to seize only that part.

30. (1) While a law enforcement officer who has seized cash under section 29 continues to have reasonable grounds for his suspicion, the cash seized under that section may be detained initially for a period of 72 hours.

Detention of
seized cash

(2) The period for which the cash or any part of it may be detained may be extended by an order made by the Magistrate's Court, but the order may not authorise the detention of any of the cash —

- (a) beyond the end of the period of three months beginning with the date of the order; or
- (b) in the case of any further order under this section, beyond the end of the period of two years beginning with the date of the first order.

(3) An application for an order under subsection (2) may be made by a law enforcement officer, and the Magistrate's Court may make the order if satisfied, in relation to any cash to be further detained, that there are reasonable grounds for suspecting that the cash is terrorist cash and that either —

- (a) its continued detention is justified while its origin and derivation or intended use is further investigated or consideration is given to bringing proceedings, whether in or outside the State, against any person for an offence with which the cash is connected; or
- (b) proceedings against any person for an offence with which the cash is connected have been started and have not been concluded.

(4) An application for an order under subsection (2) may also be made in respect of any cash seized under section 29 (b), and the Court may make the order if satisfied that —

(a) either subsection (3)(a) or (b) applies in respect of part of the cash; and

(b) it is not reasonably practicable to detain only that part.

(5) An order under subsection (2) shall provide for notice to be given to any persons affected by it.

Interest

31. (1) If cash is detained under section 30 for a period of more than 72 hours, it shall, at the first opportunity, be paid into an interest-bearing account and held there, and the interest accruing on it is to be added to it on its forfeiture or release.

(2) In the case of cash detained under section 30 which was seized under section 29(b), the law enforcement officer, shall as soon as reasonably practicable after paying the cash seized into an interest bearing account, release the part of the cash to which the suspicion does not relate.

(3) Subsection (1) does not apply if the cash or, as the case may be, the part to which the suspicion relates, is required as evidence of an offence or evidence in proceedings relating to the seized cash under this Part.

Release of
detained cash

32. (1) While any cash is detained under section 30, the Magistrate's Court may direct the release of the whole or any part of the cash if the Magistrate's Court is satisfied, on an application by the person from whom the cash was seized or on an application by any other person, that the grounds for the detention of the cash specified in section 30 (3) or (4) are no longer met in relation to the cash to be released.

(2) After giving written notification to the Magistrate's Court under whose order cash is being detained, a law enforcement officer authorised by the Director of the Financial Intelligence Unit may release

the whole or any part of the cash if satisfied that the detention of the cash to be released is no longer justified.

(3) While cash is detained under section 30 and proceedings are instituted (whether in the State or elsewhere) against any person for an offence with which the cash is connected, the cash shall not be released until the proceedings for that offence have been concluded.

33. (1) While cash is detained under section 30, an application for the forfeiture of the whole or any part of it may be made to the Magistrate's Court by a law enforcement officer. Forfeiture

(2) The Magistrate's Court may order the forfeiture of the cash, or any part of it, if satisfied that the cash or part is terrorist cash.

(3) In the case of terrorist cash which belongs to joint proprietors, one of whom is an excepted joint owner, the order may not apply to so much of it as the Magistrate's Court thinks is attributable to the excepted joint owner's share.

(4) An excepted joint owner is a person who obtained the property in circumstances in which it was not property obtained by or in return for criminal conduct and nor did it then represent such property and references to the excepted joint owner's share of the property are to so much of the property as would have been his if the joint ownership had been severed.

(5) Where an application for the forfeiture of any cash is made under this section, the cash is to be detained (and shall not be released under any power conferred by this Part) until any proceedings pursuant to the application are concluded.

34. (1) A law enforcement officer or any party to proceedings in relation to the detention or forfeiture of cash who is aggrieved by an order made by the Magistrate's Court in the proceedings may appeal to the Court. Appeals in proceedings for forfeiture of cash

(2) An appeal under subsection (1) shall be made within the period of thirty days commencing on the date on which the order is made or on the date of service as the case may be.

(3) On an application by a person from whom the cash was seized or any other person with an interest in the cash, a Magistrate's Court may order the release of so much of the cash to enable the person to meet his legal expenses in connection with the appeal.

(4) If the Court upholds the appeal, it may order the release of the cash.

Application of
forfeited cash

35. After the period within which an appeal under section 34 may be made or, if a person appeals under that section, after the appeal has been determined or disposed of, cash forfeited under section 33, and any accrued interest on it, shall be paid into the Confiscated Assets Fund.

Victims and other
owners

36. (1) A person who claims that any cash, or any part of it, that is detained under this Part belongs to him, may apply to the Magistrate's Court for the cash or part to be released to him.

(2) An application under subsection (1) may be made in the course of detention or forfeiture proceedings or at any other time.

(3) If, on an application under subsection (1), it appears to the Magistrate's Court that —

- (a) the applicant was deprived of the cash to which the application relates, or of property which it represents, by criminal conduct;
- (b) the property he was deprived of was not, immediately before he was deprived of it, property obtained by or in return for criminal conduct and nor did it then represent such property; and
- (c) that cash belongs to him;

the Court may order the cash to which the application relates to be released to the applicant.

(4) The Magistrate's Court may order the cash to which the application relates to be released to the applicant or to the person from whom it was seized if —

- (a) an applicant under subsection (1) is not the person from whom the cash to which the application relates was seized;
- (b) it appears to the Magistrate's Court that that cash belongs to the applicant;
- (c) the Magistrate's Court is satisfied that the grounds specified in section 30 (3) or (4) for the detention of the cash are no longer met or, if an application has been made under section 33, the Court decides not to make an order under that section in relation to that cash; and
- (d) no objection to the making of an order under this subsection has been made by the person from whom that cash was seized.

37. (1) In relation to cash detained under this Part —

Compensation

- (a) if no forfeiture order is made in relation to the cash; and
- (b) if, for any period beginning with the first opportunity to place the cash in an interest-bearing account after the initial detention of the cash for a period of more than 72 hours, the cash was not held in an interest-bearing account,

the person to whom the cash belongs or from whom it was seized may make an application to the Magistrate's Court for compensation.

(2) On an application under subsection (1), the Magistrate's Court may order an amount of compensation to be paid to the applicant.

(3) The amount of compensation to be paid under subsection (2) is the amount the Magistrate's Court thinks would have been earned in interest in the period in question if the cash had been held in an interest-bearing account.

(4) Compensation is to be paid from the Confiscated Assets Fund.

(5) If a forfeiture order is made in respect of only a part of any cash detained under this Act, this section has effect in relation to the other part.

Forfeiture Orders

Forfeiture of
terrorist
property

38. (1) Where a person is convicted of an offence under section 6 (1) or (2) or section 8, the Court may order the forfeiture of any property which, at the time of the offence, the person had in their possession or under their control and which —

- (a) had been used for the purposes of terrorism; or
- (b) they intended should be used, or had reasonable cause to suspect might be used, for the purposes of terrorism.

(2) Where a person is convicted of an offence under section 6 (3) the Court may order the forfeiture of any property which, at the time of the offence, the person had in their possession or under their control and which —

- (a) had been used for the purposes of terrorism; or
- (b) which, at the time, they knew or had reasonable cause to suspect would or might be used for those purposes.

(3) Where a person is convicted of an offence under section 9 or 10, the Court may order the forfeiture of any property which, at the time of the offence, the person had in their possession or under their control and which —

- (a) had been used for the purposes of terrorism, or
- (b) was, at the time, intended by them to be used for those purposes.

(4) Where a person is convicted of an offence under section 9, the Court may order the forfeiture of the property to which the arrangement in question related, and which —

- (a) had been used for the purposes of terrorism, or
- (b) at the time of the offence, the person knew or had reasonable cause to suspect would or might be used for those purposes.

(5) Where a person is convicted of an offence under section 10, the Court may order the forfeiture of the money or other property to which the arrangement in question related.

(6) Where a person is convicted of an offence under any of sections 6 to 10, the Court may order the forfeiture of any money or other property which wholly or partly, and directly or indirectly, is received by any person as a payment or other reward in connection with the commission of the offence.

39. (1) Before making an order under section 38, the Court must give an opportunity to be heard to any person, other than the convicted person, who claims to be the owner or otherwise interested in anything which can be forfeited under that section.

Matters to be considered before forfeiture order

(2) In considering whether to make an order under section 38 in respect of any property, the Court shall have regard to —

- (a) the value of the property; and
- (b) any other order that the court contemplates making.

40. (1) Where the Court makes a forfeiture order, it may make an order —

Implementation and enforcement

- (a) requiring any property to which the forfeiture order applies to be paid or handed over to the Committee;
- (b) directing any such property other than money or immovable property to be sold or otherwise disposed of in such manner as the Court may direct and the proceeds of sale paid to the Committee;
- (c) appointing a receiver to take possession of any of the forfeited property, to realise it in such manner as

the Court may direct and to pay the proceeds of sale to the Committee;

- (d) directing a specified part of any forfeited money, or of the proceeds of the sale, disposal or realisation of any forfeited property, to be paid by the Committee to a person, other than the convicted person, who claims to be the owner or otherwise interested in the property; and
- (e) making such other provision as appears to the Court to be necessary or expedient for giving effect to the forfeiture order or to any order made under paragraphs (a) to (d) of this subsection.

(2) A reference in subsection (1) to the proceeds of sale, disposal or realisation of property is a reference to the proceeds after deduction of the costs of sale, disposal or realisation.

(3) A forfeiture order shall not come into force until, disregarding any power of a Court to grant leave to appeal out of time, there is no further possibility of it being varied, or set aside, on appeal.

(4) The balance of any monies held by the Committee after making any payment under subsection (1)(d) shall be paid into the Confiscated Assets Fund.

(5) The Committee shall, on the application of the Attorney General or the defendant in the proceedings in which the forfeiture order was made, certify in writing the extent, if any, to which at the date of the certificate, effect has been given to the order in respect of property to which it applies.

Provisions
applicable to
receiver

41. (1) A receiver appointed under section 40 (1)(c) is entitled to be paid his remuneration and expenses out of the proceeds of the property realised by the receiver and paid to the Committee.

(2) If the proceeds of the property are insufficient, the receiver shall be entitled to be paid his remuneration and expenses from the Confiscated Assets Fund.

(3) A receiver appointed under section 40 (1) (c) is not liable to any person in respect of any loss or damage resulting from action —

- (a) which he takes in relation to property which is not forfeited property, but which he reasonably believes to be forfeited property;
- (b) which he would be entitled to take if the property were forfeited property; and
- (c) which he reasonably believes that he is entitled to take because of his belief that the property is forfeited property.

(4) Subsection (3) does not apply in so far as the loss or damage is caused by the receiver's negligence.

42. (1) Subsection (2) applies if —

Committal by
Magistrate's
Court

- (a) a defendant is convicted by the Magistrate's Court of an offence referred to in section 38; and
- (b) the Director of Public Prosecutions asks the Magistrate's Court to commit the defendant to the Court with a view to a forfeiture order being considered.

(2) In the circumstances specified in subsection (1), the Magistrate's Court —

- (a) shall commit the defendant to the Court in respect of the offence; and
- (b) may commit him to the Court in respect of any other offence.

(3) A committal under subsection (2) may be in custody or on bail.

(4) Where the Magistrate's Court has convicted a defendant of an offence that may be tried summarily or on indictment, the power of the Magistrate's Court to commit the defendant to the Court for

Cap. 172 sentencing under section 19 of the Criminal Procedure Code may be exercised where the Magistrate's Court is of the opinion that the defendant is one against whom the Court may consider making a forfeiture order.

Cap. 172 (5) If a committal is made under this section or section 19 of the Criminal Procedure Code in respect of an offence or offences —

(a) section 38 applies; and

(b) the committal operates as a committal of the defendant to be dealt with by the Court in accordance with section 43.

Sentencing by the Court

43. If a defendant is committed to the Court under section 42 in respect of an offence or offences, the Court —

(a) shall inquire into the circumstances of the case; and

(b) may deal with the defendant in any way in which the Magistrate's Court could deal with him if it had just convicted him of the offence.

Forfeiture orders by Magistrate's Court

44.(1) Subject to subsection (2), the regulations made under this Act may provide for the making of a forfeiture order under section 38 by a Magistrate's Court.

(2) The regulations shall not enable a Magistrate's Court to make a forfeiture order in respect of real property.

(3) Sections 38, 39, 40, and 41 relating to forfeiture orders shall apply with respect to forfeiture proceedings before, and forfeiture orders made by, a Magistrate's Court, subject to such modifications as may be provided for in the regulations made under this Act.

Restraint Orders

Conditions for exercise of powers

45. (1) The Court may exercise the powers conferred by section 46 if—

(a) a criminal investigation has been started in the State with regard to a terrorist financing offence and it

appears to the Court that a forfeiture order may be made in the proceedings;

- (b) proceedings for an offence have been instituted in the State and not concluded and it appears to the Court that a forfeiture order may be made in the proceedings;

(2) Subsection (1)(b) is not satisfied if the Court believes that

- (a) there has been undue delay in continuing the proceedings; or
- (b) the Director of Public Prosecutions does not intend to proceed.

(3) In this section, “criminal investigation” means an investigation which law enforcement officers or other persons have a duty to conduct with a view to it being ascertained whether a person should be charged with an offence.

(4) For the purposes of this section, proceedings for an offence are instituted in the State —

- (a) when the Magistrate issues a summons or warrant in respect of the offence; or
- (b) when a person is charged with the offence after being taken into custody without a warrant.

(5) Where the application of subsection (4) would result in there being more than one time for the institution of proceedings, the proceedings shall be taken to have been instituted at the earliest of those times.

(6) For the purposes of this section, proceedings for an offence are concluded —

- (a) when the defendant is acquitted on all counts or every charge against him is dismissed, as the case may be;

- (b) if the defendant is convicted in the proceedings and the conviction is set aside or the defendant is pardoned before a confiscation order is made, when the conviction is set aside or the defendant is pardoned;
- (c) when a forfeiture order has been made in the proceedings and effect has been given to it in respect of all the property to which it applies; or
- (d) when, disregarding any power of a court to grant leave to appeal out of time, there is no further possibility of a forfeiture order being made in the proceedings.

Restraint orders

46. (1) If section 45 (1) (a) or (b) is satisfied, the Court may, on the application of the Director of Public Prosecutions, by order, prohibit any person specified in the order from dealing with any property in respect of which a forfeiture order could be made, subject to such conditions and exceptions as may be specified in the order.

(2) A restraint order may apply —

- (a) to all property held by the person specified in the order, whether the property is described in the order or not; and
- (b) to property transferred to the person specified in the order after the order is made.

(3) On the application of the Director of Public Prosecutions, whether made as part of the application for the restraint order or subsequent thereto, the Court may make such order as it considers appropriate for ensuring the restraint order is effective.

(4) Where the Court has made a restraint order, a law enforcement officer may seize any property specified in the order to prevent its removal from the State.

(5) Property seized under subsection (4) shall be dealt with in accordance with the Court's directions.

47. (1) A restraint order —

Application,
discharge and
variation

- (a) may be made on an *ex parte* application to a judge in chambers or master; and
- (b) shall provide for notice to be given to persons affected by the order.

(2) An application to discharge or vary a restraint order may be made to the Court by the Director of Public Prosecutions or by any person affected by the order.

(3) On an application under subsection (2), the Court —

- (a) may discharge or vary the restraint order;
- (b) if the application was made on the basis that proceedings were instituted or an application was made, the Court shall discharge the restraint order on the conclusion of the proceedings or the application, as the case may be;
- (c) if the application was made on the basis that an investigation was started, the Court shall discharge the restraint order if within a reasonable period proceedings for the offence are not instituted.

48. (1) Evidence shall not be excluded on the ground that it is hearsay, of whatever degree, in proceedings —

Hearsay
evidence

- (a) for a restraint order;
- (b) for an application to discharge or vary a restraint order; or
- (c) on an appeal against a restraint order or an order discharging or varying a restraint order.

(2) For the purposes of this section, “hearsay” is a statement which is made otherwise than by a person while giving oral evidence in the proceedings and which is tendered as evidence of the matters stated.

(3) This section does not limit the admissibility of evidence which, without this section, is admissible.

Registration of
application for
restraint order

49. (1) Where the Director of Public Prosecutions has applied for a restraint order in respect of any land or an interest in land, he may lodge a copy of the application with the Registrar for registration in the Registry.

(2) On receipt of a copy of an application for a restraint order, the Registrar shall register it in a Register of Applications for Restraint Orders to be kept by the Registrar for the purpose.

(3) Whilst an application for a restraint order is registered under this section, any dealing with or disposition of the land, or interest in land, without the written consent of the Director of Public Prosecutions or the approval of the Court is void.

(4) The registration of an application for a restraint order shall be removed from the Register on the application being withdrawn or determined by the Court.

Compensation

50. (1) Where —

(a) a restraint order is discharged under section 47 (3);
or

(b) proceedings are instituted against a person for a terrorist financing offence and either —

(i) the proceedings do not result in his conviction for any such offence,

(ii) the conviction or convictions concerned are quashed, or

(iii) he is pardoned in respect of the conviction or convictions concerned;

the Court may, subject to this section, on an application by a person who held property which was subject to a forfeiture or restraint order made in or in relation to those proceedings, order compensation to be paid to the applicant if, having regard to all the circumstances, it considers it appropriate to make such an order.

(2) The Court shall not order compensation to be paid in any case unless it is satisfied that —

- (a) there is some serious default on the part of a person concerned in the investigation or prosecution of the offence concerned; and
- (b) the applicant has suffered loss in consequence of anything done in relation to the property by or in pursuance of a forfeiture order or restraint order.

(3) The Court shall not order compensation to be paid in any case where it appears to the Court that the proceedings would have been instituted or continued even if the serious default had not occurred.

(4) The amount of compensation to be paid under this section shall be such as the Court thinks just in all the circumstances of the case.

(5) Compensation payable under this section shall be paid out of the Confiscated Assets Fund.

51. (1) The Minister may make Regulations for the purpose of enabling the enforcement in the State of external orders.

Enforcement of
external orders

(2) An “external order” means an order —

- (a) which is made in a country outside the State; and
- (b) which complies with subsection (3).

(3) An order complies with this subsection if it makes provision —

- (a) for the forfeiture of terrorist property (“an external forfeiture order”); or
- (b) in a country outside the State, prohibiting the dealing with property—
 - (i) which is subject to an external forfeiture order, or

- (ii) in respect of which such an order could be made in proceedings which have been or are to be instituted in that country (“an external restraint order”).
- (4) Regulations under this section may, in particular —
 - (a) for the purpose of facilitating the enforcement of any external order that may be made, include provisions that have effect at times before there is an external order to be enforced; and
 - (b) make provision for the proof of any matter relevant for the purposes of anything falling to be done in pursuance of the Regulations.
- (5) Regulations under this section may also make provision with respect to anything falling to be done on behalf of the State in a country outside the State in relation to proceedings in that country for or in connection with the making of an external order.
- (6) Regulations under this section may make different provision for different cases.

PART V

DIRECTIONS TO RELEVANT BUSINESSES

Directions to
relevant
businesses

52. (1) The Committee may give a direction of a type specified in section 53 to a relevant business, relevant businesses of a specified type or description or all relevant businesses, in relation to transactions or business relationships with —

- (a) the government of, or
 - (b) any person or persons —
 - (i) carrying on business in, or
 - (ii) resident, incorporated, constituted or formed in,
- a country in relation to which one or more of the conditions specified in subsection (2) applies.

- (2) The conditions referred to in subsection (1) are that—
- (a) the FATF has advised that measures should be taken in relation to the country because of the risk that money laundering or terrorist financing is being carried on —
 - (i) in the country, or
 - (ii) by persons resident in the country;
 - (b) the Committee reasonably believes that there is a risk that money laundering or terrorist financing is being carried on —
 - (i) in the country, or
 - (ii) by persons resident in the country;
- and that this poses a significant risk to the interests of the State;
- (c) the Committee reasonably believes that —
- (i) the development or production of nuclear, radiological, biological or chemical weapons or their systems of delivery in the country, or
 - (ii) the doing in the country of anything that facilitates the development or production of such weapons or their systems of delivery,
- poses a significant risk to the interests of the State.
- (3) A direction —
- (a) shall be given in the manner specified in section 54;
 - (b) shall be proportionate having regard to the advice given by the FATF or, as the case may be, the risk referred to in subsection (2)(b) or (c) to the interests of the State; and
-

(c) may make different provision in relation to different financial businesses, circumstances or cases.

(4) The Committee shall take appropriate measures to monitor the compliance of relevant businesses with the requirements of any directions given.

Types
direction

of

53. (1) A direction may require a relevant business —

(a) to undertake enhanced customer due diligence measures —

(i) before entering into a transaction or business relationship with a specified person; and

(ii) during a business relationship with such a person;

(b) to undertake enhanced ongoing monitoring of any business relationship with a specified person;

(c) to provide such information and documents as may be specified in the direction relating to transactions and business relationships with specified persons; or

(d) not to enter into or continue to participate in —

(i) a specified transaction or business relationship with a specified person; or

(ii) any transaction or business relationship with a specified person.

(2) A direction under subsection (1)(c) —

(a) shall specify how the direction is to be complied with, including —

(i) the person to whom the information and documents are to be provided; and

- (ii) the period within which, or intervals at which, information and documents are to be provided; and

(b) is not exercisable in relation to privileged material.

(3) Where a direction includes requirements of a kind specified in subsection (1)(d), the Committee may, either in the direction or by separate notice in writing, exempt acts specified in the direction or notice from the requirements.

(4) An exemption may —

- (a) be a general exemption or may apply to a particular relevant business;
- (b) be subject to conditions;
- (c) have effect for the duration of the direction or be subject to an expiry date; and
- (d) be varied or revoked by the Committee at any time.

54. (1) Where a direction is a general direction or an exemption is a general exemption, the Committee must publish the direction or exemption in such manner as it considers appropriate.

Procedures for
giving directions
and granting
exemptions

(2) A general direction is subject to annulment by negative resolution of the House of Assembly.

(3) Where a general direction or a general exemption is varied or ceases to have effect, whether on revocation or otherwise, the Committee must publish that fact in such manner as it considers appropriate.

(4) Where the Committee gives a direction or grants an exemption to a particular relevant business, the Committee must give written notice of the direction or the exemption to that relevant business.

(5) Where a direction or exemption referred to in subsection (4) is varied or ceases to have effect, whether on revocation or

otherwise, the Committee must give notice of that fact to the relevant business.

(6) A direction, whether a general direction or a direction to a particular relevant business —

- (a) may be varied or revoked by the Committee at any time; and
- (b) if not previously revoked, ceases to have effect at the end of one year from the date that it was first given.

(7) Subsection (6)(b) does not prevent the Committee from giving a new direction of identical or similar effect to replace the expired direction.

Offences in
relation to
sections 52 to 54

55. (1) Subject to subsection (2), a relevant business is guilty of an offence if the service provider —

- (a) fails to comply with a direction; or
- (b) for the purpose of obtaining the grant of an exemption —
 - (i) provides information that is false in a material respect or a document that is not what it purports to be, and
 - (ii) knows that, or is reckless as to whether, the information is false or the document is not what it purports to be.

(2) A relevant business does not commit an offence under subsection (1)(a) if the relevant business took all reasonable steps and exercised all due diligence to ensure that the direction would be complied with.

(3) A relevant business guilty of an offence under this section is liable on conviction on indictment to an unlimited fine.

PART VI

FREEZING OF TERRORIST ASSETS

Designation

56. (1) The Committee, after consulting the Minister responsible for National Security, may make an interim designation of a person if the Committee considers that it is necessary, for purposes connected with protecting members of the public from terrorism, that financial restrictions should be applied in relation to the person and —

Power to make
i n t e r i m
designation

- (a) the Committee reasonably suspects that the person is or has been involved in terrorist activity;
- (b) the Committee reasonably suspects that the person is owned or controlled directly or indirectly by a person who the Committee reasonably suspects is or has been involved in terrorist activity; or
- (c) the Committee reasonably suspects that the person is acting on behalf of or at the direction of a person who the Committee reasonably suspects is or has been involved in terrorist activity.

(2) Section 57 (2) to (3) apply for the purposes of this section as they apply for the purposes of section 57.

(3) The Committee shall not make more than one interim designation of the same person in relation to the same, or substantially the same, evidence and shall not renew an interim designation.

(4) Nothing in this section, however, prevents the making of a final designation in accordance with section 57 of a person who has been the subject of an interim designation.

57. (1) An interim designation of a person expires at the end of the 30 days beginning with the day on which it was made, or when a final designation of the person is made, whichever is earlier.

Duration of
i n t e r i m
designation

(2) Where an interim designation expires the Committee must —

- (a) give written notice of the expiry to the designated person; and
- (b) take reasonable steps to bring the expiry to the attention of the persons who were informed of the designation under section 60.

(3) Where an interim designation expires on the making of a final designation in relation to the same person —

- (a) a notice under subsection (2) may be combined with written notice under section 60 of the final designation; and
- (b) steps under subsection (2) may be combined with steps under section 60 to publicise the final designation.

Power to make
final designation

58. (1) The Committee, after consulting the Minister responsible for National Security, may make a final designation of a person if the Committee considers that it is necessary, for purposes connected with protecting members of the public from terrorism, that financial restrictions should be applied in relation to the person and —

- (a) the Committee reasonably believes that the person is or has been involved in terrorist activity;
- (b) the Committee reasonably believes that the person is owned or controlled directly or indirectly by a person who the Committee reasonably believes is or has been involved in terrorist activity; or
- (c) the Committee reasonably believes that the person is acting on behalf of or at the direction of a person who the Committee reasonably believes is or has been involved in terrorist activity.

(2) For the purposes of this Part, involvement in terrorist activity is any one or more of the following —

- (a) the commission, preparation or instigation of acts of terrorism;
- (b) conduct that facilitates the commission, preparation or instigation of such acts, or that is intended to do so;
- (c) conduct that gives support or assistance to persons who are known or believed by the person giving the support or assistance to be involved in conduct falling within paragraph (a) or (b).

(3) For the purposes of this section, it is immaterial whether the acts of terrorism in question are specific acts of terrorism or acts of terrorism generally.

(4) The reference in subsection (1) to financial restrictions includes a reference to restrictions relating to economic resources.

59. (1) A final designation of a person —

Duration and
renewal of final
designation

- (a) is of no effect during any period when the person is a designated person by virtue of subsection 2(b) or (c); and
- (b) expires twelve months after it was made, unless it is renewed.

(2) The Committee, after consulting the Minister responsible for National Security, may renew a final designation of a person at any time before it expires, if the requirements for final designation under section 58 are met in respect of the person at the time of the renewal.

(3) A final designation so renewed expires twelve months after it was renewed (or last renewed), unless it is renewed again.

(4) Section 60 applies to the renewal under this section of a final designation in the same way as it applies to a final designation under section 58.

(5) Where a final designation expires the Committee must—

- (a) give written notice of the expiry to the designated person; and
- (b) take reasonable steps to bring the expiry to the attention of the persons who were informed of the designation under section 60.

(6) Nothing in this section prevents the Committee from designating a person more than once under section 58.

Notification of
designa tion
(interim or final)

60. (1) Where the Committee makes a designation of a person, the Committee must —

- (a) give written notice of the designation to the person; and
- (b) take steps to publicise the designation.

(2) Unless one or more of the following conditions is satisfied, the Committee must take steps to publicise the designation —

- (a) the Committee believes that the designated person is an individual under the age of eighteen;
- (b) the Committee considers that disclosure of the designation should be restricted —
 - (i) in the interests of the security of the State or of any other country or territory,
 - (ii) for reasons connected with the prevention or detection of serious crime, or
 - (iii) in the interests of justice.

(3) If one or more of those conditions is satisfied, the Committee must inform only such persons of the designation as the Committee considers appropriate.

(4) If one or more of the conditions referred to in subsection (2) is satisfied in respect of a designation, but later none of the conditions referred to in subsection (2) is satisfied in respect of

the designation, and the designation is still in effect, the Committee must —

- (a) give written notice of that fact to the designated person; and
- (b) take steps to publicise the designation.

61. (1) The Committee, after consulting the Minister responsible for National Security, may at any time vary or revoke a designation.

Variation or
revocation of
designation
(interim or final)

(2) Where the Committee varies or revokes a designation of a person, the Committee must —

- (a) give written notice of the variation or revocation to the person; and
- (b) take reasonable steps to bring the variation or revocation to the attention of the persons who were informed of the designation under section 60.

(3) If the Committee refuses an application by a person for the variation or revocation of the person's designation by the Committee, the Committee must give written notice of the refusal to the person.

62. (1) Where the Committee in accordance with section 60 (3) informs only certain persons of the designation of a person, the Committee may specify that the information conveyed in so informing those persons is to be treated as confidential.

Confidential
information

(2) A person who —

- (a) is provided with information that is so specified as to be treated as confidential; or
- (b) obtains such information,

shall not disclose it if the person knows, or has reasonable cause to suspect, that the information has been specified under subsection (1) as information to be treated as confidential.

(3) Subsection (2) does not apply to any disclosure made by the person if that disclosure is made with lawful authority.

(4) For the purposes of subsection (3), information is disclosed with lawful authority only if and to the extent that —

- (a) the disclosure is made by the Committee or authorised by the Committee;
- (b) the disclosure is made by the designated person or made with the consent of the designated person;
- (c) the disclosure is necessary to give effect to a requirement imposed under or by virtue of this Act or any other enactment; or
- (d) the disclosure is required by an order of the Court or by the Court Rules, for the purposes of legal proceedings of any description.

(5) This section does not prevent the disclosure of information that is already, or has previously been, available to the public from other sources.

(6) A person who contravenes subsection (2) is guilty of an offence and is liable —

- (a) on summary conviction, to imprisonment for a term of one year or to a fine of \$100,000 or to both;
- (b) on conviction on indictment, to imprisonment for a term of seven years or to an unlimited fine or to both.

(7) The Court may, on the application of the designated person who is the subject of the information, or on the application of the Attorney General or the Committee, grant an injunction to prevent a breach of subsection (2).

Prohibitions in Relation to Designated Persons

63. (1) A person shall not deal with funds or economic resources owned, held or controlled by a designated person if he knows, or has reasonable cause to suspect, that he is dealing with such funds or economic resources.

Freezing of funds
and economic
resources

(2) In subsection (1) "deal with" means —

(a) in relation to funds —

(i) use, alter, move, allow access to, or transfer, the funds,

(ii) deal with the funds in any other way that would result in any change in their volume, amount, location, ownership, possession, character or destination, or

(iii) make any other change that would enable use of the funds, including by way of, or in the course of, portfolio management; or

(b) in relation to economic resources, exchange, or use in exchange, for funds, goods or services.

(3) A person who contravenes subsection (1) is guilty of an offence and is liable —

(a) on summary conviction, to imprisonment for a term of two years or to a fine of \$200,000 or to both;

(b) on conviction on indictment, to imprisonment for a term of seven years or to an unlimited fine or to both.

64. (1) A person shall not make funds or financial services available (directly or indirectly) to a designated person if he knows, or has reasonable cause to suspect, that he is making the funds or financial services so available.

Making funds or
financial services
available to
designated person

(2) A person who contravenes subsection (1) is guilty of an offence and is liable—

- (a) on summary conviction, to imprisonment for a term of two years or to a fine of \$200,000 or to both;
- (b) on conviction on indictment, to imprisonment for a term of seven years or to an unlimited fine or to both.

Making funds or
financial services
available for
benefit of
designated person

65. (1) A person shall not make funds or financial services available to any person for the benefit of a designated person if he knows, or has reasonable cause to suspect, that he is making the funds or financial services so available.

(2) For the purposes of subsection (1) —

- (a) funds are made available for the benefit of a designated person only if that person thereby obtains, or is able to obtain, a significant financial benefit; and
- (b) “financial benefit” includes the discharge of a financial obligation for which the designated person is wholly or partly responsible.

(3) A person who contravenes subsection (1) is guilty of an offence and is liable —

- (a) on summary conviction, to imprisonment for a term of two years or to a fine of \$200,000 or to both;
- (b) on conviction on indictment, to imprisonment for a term of seven years or to an unlimited fine or to both.

M a k i n g
e c o n o m i c
r e s o u r c e s
a v a i l a b l e
t o
designated person

66. (1) A person shall not make economic resources available (directly or indirectly) to a designated person if he knows, or has reasonable cause to suspect —

- (a) that he is making the economic resources so available;
and

- (b) that the designated person would be likely to exchange the economic resources, or use them in exchange, for funds, goods or services.

(2) A person who contravenes subsection (1) is guilty of an offence and is liable —

- (a) on summary conviction, to imprisonment for a term of two years or to a fine of \$200,000 or to both;
- (b) on conviction on indictment, to imprisonment for a term of seven years or to an unlimited fine or to both.

67. (1) A person shall not make economic resources available to any person for the benefit of a designated person if he knows, or has reasonable cause to suspect, that the other person is making the economic resources so available.

M a k i n g
e c c o n o m i c
r e s o u r c e s
a v a i l a b l e f o r
b e n e f i t o f
d e s i g n a t e d p e r s o n

(2) For the purposes of subsection (1) —

- (a) economic resources are made available for the benefit of a designated person only if that person thereby obtains, or is able to obtain, a significant financial benefit; and
- (b) “financial benefit” includes the discharge of a financial obligation for which the designated person is wholly or partly responsible.

(3) A person who contravenes subsection (1) is guilty of an offence and is liable —

- (a) on summary conviction, to imprisonment for a term of two years or to a fine of \$200,000 or to both;
- (b) on conviction on indictment, to imprisonment for a term of seven years or to an unlimited fine or to both.

Exceptions

68. (1) Sections 63 (1), 64 (1) and 65 (1) are not contravened by a financial business crediting a frozen account with —

- (a) interest or other earnings due on the account; or
- (b) payments due under contracts, agreements or obligations that were concluded or arose before the account became a frozen account.

(2) Sections 64 (1) and 65 (1) do not prevent a financial business from crediting a frozen account where it receives funds transferred to the account.

(3) A financial business shall, as soon as practicable but in any case within 14 days, inform the Financial Intelligence Unit if it credits a frozen account with a payment referred to in subsection (1)(b) or in the circumstances referred to in subsection (2).

(4) A failure to comply with subsection (3) does not constitute an offence but the Court may, on the application of the Attorney General or the Financial Intelligence Unit, grant an injunction or other order in respect of compliance with subsection (3).

(5) In this section “frozen account” means an account with a financial business, being an account held or controlled (directly or indirectly) by a designated person.

Licences

69. (1) Sections 63 (1), 64 (1), 65 (1), 66 (1) or 67 (1) do not apply to anything done under the authority of a licence granted by the Committee under this section.

(2) The Committee, after consulting the Minister responsible for National Security, may grant a licence in respect of a designated person.

(3) A licence granted under this section —

- (a) shall specify the acts authorised by it;
- (b) may be general or granted to a category of persons or to a particular person;

- (c) may be unconditional or subject to conditions; and
- (d) may be unlimited or limited in duration.

(4) The Committee, after consulting the Minister responsible for National Security, may at any time vary or revoke a licence granted under this section.

(5) On the grant, variation or revocation of a licence under this section, the Committee shall —

- (a) in the case of a licence granted to a particular person, give written notice of the grant, variation or revocation to that person; or
- (b) in the case of a general licence or a licence granted to a category of persons, take such steps as the Committee considers appropriate to publicise the grant, variation or revocation of the licence.

(6) A person who, for the purpose of obtaining a licence under this section, knowingly or recklessly —

- (a) provides information that is false in a material respect; or
- (b) provides or produces a document that is not what it purports to be,

commits an offence.

(7) A person who contravenes subsection (6) is guilty of an offence and is liable —

- (a) on summary conviction, to imprisonment for a term of one year or to a fine of \$100,000 or to both;
 - (b) on conviction on indictment, to imprisonment for a term of seven years or to an unlimited fine or to both.
-

(8) A person who purports to act under the authority of a licence granted under this section but fails to comply with any condition to which the licence is subject is guilty of an offence and is liable —

- (a) on summary conviction, to imprisonment for a term of one year or to a fine of \$100,000 or to both;
- (b) on conviction on indictment, to imprisonment for a term of seven years or to an unlimited fine or to both.

Circumventing
prohibitions etc.

70. (1) A person shall not intentionally participate in activities knowing that the object or effect of them is (whether directly or indirectly) —

- (a) to circumvent section 63 (1), 64 (1), 65 (1), 66 (1) or 67 (1); or
- (b) to enable or facilitate the contravention of any of those provisions.

(2) A person who contravenes subsection (1) is guilty of an offence and is liable —

- (a) on summary conviction, to imprisonment for a term of two years or to a fine of \$200,000 or to both;
- (b) on conviction on indictment, to imprisonment for a term of seven years or to an unlimited fine or to both.

Information

Reporting
obligations of
relevant
businesses

71. (1) A relevant business shall inform the Financial Intelligence Unit as soon as practicable if —

- (a) it holds an account of a person, has entered into dealings or an agreement with a person or has been approached by or on behalf of a person;
- (b) it knows, or has reasonable cause to suspect, that the person —

- (i) is a designated person; or
- (ii) has committed an offence under section 63 (1), 64 (1), 65 (1), 66 (1), 67 (1), 69 or 70; and
- (c) the information or other matter on which the knowledge or reasonable cause for suspicion is based came to it in the course of carrying on its business.

(2) The information given to the Financial Intelligence Unit under subsection (1) shall include —

- (a) the information or other matter on which the relevant business' knowledge or reasonable cause for suspicion is based;
- (b) any information that the relevant business holds about the person by which the person can be identified; and
- (c) if the person is a customer or client of the relevant business, the nature and amount or quantity of any funds or economic resources held by the business for the person at the time when —
 - (i) the relevant business first had the knowledge or reasonable cause for suspicion, or
 - (ii) this section came into force,

whichever time is the later.

(3) A relevant business guilty of an offence under this section is liable to a fine without limit.

72. (1) The Financial Intelligence Unit may require a designated person to provide information concerning —

Powers to require
information

- (a) funds or economic resources owned, held or controlled by, or on behalf of, the designated person; or

(b) any disposal of such funds or economic resources.

(2) The Financial Intelligence Unit may require a designated person to provide such information as the Financial Intelligence Unit may reasonably require about expenditure—

(a) by or on behalf of the designated person; or

(b) for the benefit of the designated person.

(3) The power in subsection (1) or (2) is exercisable only where the Financial Intelligence Unit believes that it is necessary for the purpose of monitoring compliance with or detecting evasion of this Act.

(4) The Financial Intelligence Unit may require a person acting under a licence granted under section 69 to provide information concerning —

(a) funds or economic resources dealt with under the licence; or

(b) funds, economic resources or financial services made available under the licence.

(5) The Financial Intelligence Unit may require any person in or resident in the State to provide such information as the Financial Intelligence Unit may reasonably require for the purpose of —

(a) establishing for the purposes of this Act —

(i) the nature and amount or quantity of any funds or economic resources owned, held or controlled by or on behalf of a designated person,

(ii) the nature and amount or quantity of any funds, economic resources or financial services made available directly or indirectly to, or for the benefit of, a designated person, or

- (iii) the nature of any financial transactions entered into by a designated person;
 - (b) monitoring compliance with or detecting evasion of this Act; or
 - (c) obtaining evidence of the commission of an offence under this Act.
- (6) The Financial Intelligence Unit may specify the manner in which, and the period within which, information is to be provided, being information that the Financial Intelligence Unit requires to be provided under this section.
- (7) If no such period is specified, the information so required to be provided shall be provided within a reasonable time.
- (8) A requirement under this section may impose a continuing obligation to keep the Financial Intelligence Unit informed as circumstances change, or on such regular basis as the Financial Intelligence Unit may specify.
- (9) Information required to be provided under this section may relate to any period during which a person is, or was, a designated person.
- (10) Information referred to in subsection (1)(b), (2) or (5)(a)(iii) and required under this section to be provided in relation to a designated person may relate to any period before the person became a designated person (as well as, or instead of, any period during which the person is a designated person).

73. (1) A requirement under section 72 may include a requirement to produce specified documents or documents of a specified description.

Production of documents

(2) Where the Financial Intelligence Unit requires under section 72 that one or more documents be produced, the Financial Intelligence Unit may —

- (a) take copies of or extracts from any document so produced;
- (b) require any person so producing a document to give an explanation of the document; and

(c) where a person so producing a document is a partnership, association or body corporate, require a person who is —

- (i) in the case of a partnership, a present or past partner or employee of the partnership,
- (ii) in any other case, a present or past officer or employee of the association or body corporate,

to give an explanation of the document.

(3) Where the Financial Intelligence Unit requires under section 72 a designated person, or a person acting under a licence granted under section 69, to produce one or more documents, the person shall —

- (a) take reasonable steps to obtain the documents (if not already in the person's possession or control); and
- (b) keep the documents under the person's possession or control (except for the purpose of providing them to the Financial Intelligence Unit or as the Financial Intelligence Unit may otherwise permit).

Failure to comply
with requirement
for information

74. (1) A person is guilty of an offence if the person —

- (a) without reasonable excuse refuses or fails within the time and in the manner specified (or, if no time has been specified, within a reasonable time) to comply with a requirement made under this Part;
- (b) knowingly or recklessly gives any information, or produces any document, that is false in a material particular in response to such a requirement;
- (c) with intent to evade the provisions of this Part, destroys, mutilates, defaces, conceals or removes a document; or

- (d) otherwise intentionally obstructs the Financial Intelligence Unit in the exercise of the Financial Intelligence Unit's powers under this Part.

(2) A person who contravenes subsection (1) is guilty of an offence and is liable —

- (a) on summary conviction, to imprisonment for a term of two years or to a fine of \$200,000 or to both;
- (b) on conviction on indictment, to imprisonment for a term of seven years or to an unlimited fine or to both.

(3) A court that convicts a person of an offence under this section may make an order requiring the person, within such period as may be specified in the order, to comply with the relevant requirement in accordance with the order, or to do such other thing relating to the requirement as the court orders.

75. (1) The Financial Intelligence Unit may disclose any information that it obtains in exercise of its powers under this Part (including any document so obtained and any copy or extract made of any document so obtained) —

General power to
disclose
information

- (a) to the Attorney General;
- (b) to a law enforcement officer;
- (c) for the purpose of giving assistance or co-operation, pursuant to the relevant Security Council Resolutions, to —
 - (i) any organ of the United Nations,
 - (ii) any person in the service of the United Nations, the Council of the European Union, the European Commission or the Government of any country,
 - (iii) any organ or body of the Community, or
 - (iv) any person in the service of the Community;

(d) with a view to instituting, or otherwise for the purposes of, any proceedings in the State, for an offence under this Act; or

(e) with the consent of a person who, in his or her own right, is entitled to the information or to possession of the document, copy or extract, to a third party.

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(2) In subsection (1) (c), "Community" has the meaning assigned to it in the Caribbean Community Act.

(3) In subsection (1) (e) "in his or her own right" means not merely in the capacity as a servant or agent of another person.

(4) Subject to affirmative resolution of the House of Assembly, the Minister may by order published in the *Gazette*, add any other person, body or purpose to the list in subsection (1).

Co-operation
w i t h
investigations

76. (1) The Attorney General shall take such steps as he or she considers appropriate to co-operate with an investigation relating to the funds, economic resources or financial transactions of a designated person.

(2) The Financial Intelligence Unit shall take such steps as it considers appropriate to co-operate with an investigation relating to the funds, economic resources or financial transactions of a designated person.

(3) Subsections (1) and (2) apply whether the investigation takes place in the State or elsewhere.

Application of
provisions

77. (1) Nothing done in accordance with this Part is to be treated as a breach of any law, rule of law or agreement restricting the disclosure of information.

(2) Nothing in this Part is to be read as requiring a person who has acted for another person in the capacity of a professional legal advisor to disclose any privileged material that is in that person's possession in that capacity.

(4) This Part does not limit the circumstances in which information may be disclosed otherwise than by virtue of this Part.

(5) This Part does not limit the powers of the Financial Intelligence Unit to impose conditions in connection with the performance of the Financial Intelligence Unit's functions under section 72.

(6) In this section, "information" includes documents.

Appeals

78. (1) This section applies to any decision of the Committee — Appeal to Court

- (a) to make or vary an interim or final designation of a person;
- (b) to renew a final designation of a person; or
- (c) not to vary or revoke an interim or final designation of a person.

(2) The person may appeal against any such decision to the Court.

(3) On such an appeal, the Court may make such order as it thinks appropriate.

(4) The making of an appeal under this section does not suspend the effect of the decision to which the appeal relates.

79. (1) This section applies to any decision of the Committee taken in the performance of, or in connection with, his or her functions under this Act, other than a decision to which section 78 applies.

Review of
decisions by
Court

(2) A person affected by a decision to which this section applies may apply to the Court for the decision to be set aside.

(3) In determining whether the decision should be set aside, the Court shall apply the principles applicable on an application for judicial review.

(4) If the Court decides that the decision should be set aside it may make any such order, or give any such relief, as may be made or given in proceedings for judicial review.

PART VII

OFFENCES

Extra-territorial
application of
provisions about
offences

80. (1) An offence under this Act may be constituted by conduct (including acts and omissions) wholly or partly outside the State by a person.

(2) Where an offence under this Act is committed outside the State —

(a) proceedings for the offence may be brought in the State; and

(b) the offence may for all incidental purposes be treated as having been committed in the State.

(3) Nothing in this section affects any criminal liability arising otherwise than by virtue of this section.

Responsibility of
directors,
partners and
officers

81. (1) Where an offence under this Act committed by a partnership, association or body corporate, is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of —

(a) a person who is a partner of the partnership, or a director, manager, secretary or other similar officer of the association or body corporate; or

(b) any person purporting to act in any such capacity,

the person is also guilty of the offence and liable in the same manner as the partnership, association or body corporate to the penalty provided for that offence.

(2) If the affairs of an association or of a body corporate are managed by its members, subsection (1) shall apply in relation to acts and defaults of a member in connection with the member's functions of management as if the member were a director of the association or body corporate.

Procedure for
offences by
unincorporated
associations

82. (1) A fine imposed on an unincorporated association on its conviction of an offence under this Act shall be paid out of the funds of the association.

(2) Subsections (3) and (4) apply if it is alleged that an offence under this Act has been committed by an unincorporated association, not by a member of the association.

(3) Proceedings for such an offence shall be brought in the name of the association.

(4) For the purposes of such proceedings, any rules of court relating to the service of documents have effect as if the association were a body corporate (to the extent that those rules do not make specific provision for service on unincorporated associations).

PART VIII

MISCELLANEOUS

82A. No action shall lie against any member of the Committee for anything done or omitted to be done in good faith in the exercise of the functions conferred on the Committee under this Act or the Proceeds of Crime Act, 2013.

Immunity

No. 38 of 2013

83. For the purposes of the Fugitive Offenders Act, an offence under this Act or the Drug Trafficking Offences Act is an extraditable offence.

Application of
Fugitive
Offenders Act
Cap. 175
Cap. 173
Regulations

84. (1) The Minister, after consulting the Committee and the Cabinet, may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed by regulations or that is necessary or convenient to be prescribed by regulations for carrying out or giving effect to this Act.

(2) Regulations made under this Act may contain such transitional, consequential, incidental or supplementary provisions, or such savings, as appear to the Minister to be necessary or expedient for the purposes of the regulations.

85. (1) The Minister, after consulting the Committee and the Cabinet, may by order published in the *Gazette*, amend the Schedules.

Amendment of
Schedules

(2) An order under subsection (1) is subject to a negative resolution of the House of Assembly.

86. The United Nations (Anti-Terrorism Measures) Act is repealed.

Repeals
Cap. 183

SCHEDULE 1**(section 2)****DESIGNATED PERSONS**

The following are specified as designated persons—

1. Individuals, groups, undertakings and entities designated by the Committee of the Security Council established pursuant to resolution 1267 (1999) (the 1267 Committee), as being individuals associated with Al-Qaida, or entities and other groups and undertakings associated with Al-Qaida.
2. Individuals, groups, undertakings and entities designated by the Committee of the Security Council established pursuant to resolution 1988 (2011) (the 1988 Committee), as being associated with the Taliban in constituting a threat to the peace, stability and security of Afghanistan, or entities and other groups and undertakings associated with the Taliban.
3. Any natural or legal person or entity designated by jurisdictions or a supra-national jurisdiction pursuant to Security Council resolution 1373 (2001).
4. Any natural or legal person or entity designated for the application of targeted financial sanctions pursuant to Security Council resolution 1718 (2006) and its successor resolutions by the Security Council in annexes to the relevant resolutions, or by the “Security Council Committee established pursuant to resolution 1718 (2006)” (the 1718 Sanctions Committee) pursuant to Security Council resolution 1718 (2006).
5. Any natural or legal person or entity designated for the application of targeted financial sanctions pursuant to Security Council resolution 1737 (2006) and its successor resolutions by the Security Council in annexes to the relevant resolutions, or by the “Security Council Committee established pursuant to paragraph 18 of resolution 1737 (2006)” (the 1737 Sanctions Committee) pursuant to resolution 1737 (2006) and its successor resolutions.

SCHEDULE 2**(section 2)****United Nations Security Council Resolutions**

1. Security Council resolution 1267 (1999) and its successor resolutions;
2. Security Council resolution 1373 (2001), including the determination that the relevant sanctions will be applied to the person or entity and the public communication of that determination;
3. Security Council resolution 1718 (2006) and its successor resolutions;
4. Security Council resolution 1737 (2006) and its successor resolutions; and
5. Any future security council resolutions which impose targeted financial sanctions in the context of the financing of proliferation of weapons of mass destruction.

Passed in the House of Assembly this 18th day of August, 2015.

NICOLE HERBERT
Clerk of the House of Assembly.

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