

JAMAICA

No. 25 – 2013

I assent,

[L.S.]

(sgd.) P. L. Allen

Governor-General

30th day of October, 2013

AN ACT to Amend the Terrorism Prevention Act and to
provide for consequential matters.

[*31st day of October, 2013*]

BE IT ENACTED by The Queen's Most Excellent Majesty, by and
with the advice and consent of the Senate and House of
Representatives of Jamaica, and by the authority of the same, as
follows:—

1. This Act may be cited as the Terrorism Prevention Short title
and construc-
tion.
(Amendment) Act, 2013, and shall be read and construed as one
with the Terrorism Prevention Act (hereinafter referred to as the
principal Act) and all amendments thereto.

Amendment
of principal
Act.
First
Schedule.

2. The provisions of the principal Act and provisions to be inserted therein, specified in Column 1 of the First Schedule, are dealt with in the manner set out in relation thereto in Column 2 of the First Schedule and shall be read and construed as one with the principal Act.

Amendments
to other
enactments.
Second
Schedule.

3. The enactments specified in Column 1 of the Second Schedule are amended in the manner set out in relation thereto in Column 2 of the Second Schedule, which amendments shall be read and construed as one with the respective enactments.

Revocation of
Terrorism
Prevention
(Designated
Authority)
Order, 2006.

4. The Terrorism Prevention (Designated Authority) Order, 2006, is hereby revoked.

FIRST SCHEDULE (Section 2)

Amendments to the Principal Act

Column 1

Column 2

Provision

Amendment

Section 2. 1. Delete the definition of “applicable property” and substitute therefor the following—

“ “applicable property” means any property (wherever situated) derived, obtained or realized, directly or indirectly, from the commission of any of the following offences, or that has been used, in whole or in part, to facilitate or carry out any of the following offences—

- (a) an offence constituted by an act or omission referred to in paragraph (a), (b) or (c) of the definition of “terrorist activity”;
- (b) an offence under sections 4, 5, 6, 7, 8, 10, 11 or 12; or
- (c) conspiring or attempting to commit, or aiding, abetting, procuring or counselling in relation to, an offence referred to in paragraph (a) or (b),

whether in the hands of the offender or the recipient of a tainted gift.”

2. Insert next after the definition of “property” the following definition—

“ “relevant authority” means—

- (a) the Financial Investigations Division established under the Financial Investigations Division Act; or
- (b) the Director of Public Prosecutions.”

3. Renumber subsection (2) as subsection (8) and insert the following as subsections (2) to (7)—

“ (2) A gift is tainted if it is a gift of applicable property made, at any time during or after the commission of a terrorism offence, by the offender concerned.

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(3) For the purposes of subsection (2), where the offender transfers property to another person for consideration the value of which is significantly less than the value of the property at the time of the transfer—

- (a) the offender is to be treated as making a gift; and
- (b) the property given is to be treated as such share in the property transferred as is represented by the fraction—
 - (i) whose numerator is the difference between the value of the consideration given and the value of the property at the time of the transfer; and
 - (ii) whose denominator is the value of the property at the time of the transfer.

(4) Subsections (5) and (6) apply for the purpose of deciding the value of a tainted gift and the material time is the time the Court makes its decision.

(5) The value at the material time of a tainted gift is the greater of the following—

- (a) the market value, at the time of the gift, of the property given, adjusted to take account of later changes in the value of money;
- (b) the market value, at the material time, of the property specified under subsection (6).

(6) The property specified under this subsection is—

- (a) if the recipient holds the property given, that property;
- (b) if the recipient holds no part of the property given, any property in the recipient's hands which directly or indirectly represents the property given;

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- (c) if the recipient holds part of the property given, that property and any property in the recipient's hands which directly or indirectly represents the other part of the property given.

(7) The following rules apply in relation to property—

- (a) property is held by a person if that person holds an interest in the property;
- (b) property is obtained by a person if that person obtains an interest in the property;
- (c) property is transferred by a person if that person transfers or grants an interest in the property to another person;
- (d) references to property held by a person include references to property vested in that person's trustee in bankruptcy or liquidator;
- (e) references to a beneficial interest in property held by a person include references to an interest that would be held by the person beneficially if the property were not vested as described in paragraph (d);
- (f) references to an interest in relation to land are references to any legal estate or equitable interest or power;
- (g) references to an interest in relation to property other than land include references to a right (including a right to possession)."

Section 15. 1. Delete subsection (1) and substitute therefor the following—

“ In this section and sections 16 and 17 “designated authority” means the Chief Technical Director of the Financial Investigations Division established under the Financial Investigations Division Act.”.

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2. Insert, next after subsection (8), the following subsection—

“ (9) Subject to affirmative resolution, the Minister may, by order published in the *Gazette*, amend subsection (1) so as to substitute a different person as designated authority.”

Section 19. In subsections (1) and (6), delete the words “Director of Public Prosecutions” wherever they appear and substitute therefor, in each case, the words “relevant authority”.

Section 21. In subsections (1), (2) and (3), delete the words “Director of Public Prosecutions” wherever they appear and substitute therefor, in each case, the words “relevant authority”.

Section 28. 1. In subsections (1) and (2), delete the words “Director of Public Prosecutions” wherever they appear and substitute therefor, in each case, the words “relevant authority”.

2. Insert next after subsection (5) the following as subsections (5A) to (5K) inclusive—

“ (5A) Where the Court is satisfied that a forfeiture order should be made under this section, but that the property or any part thereof or any interest therein cannot be made subject to such an order, and, in particular—

- (a) cannot, notwithstanding the exercise of due diligence, be located;
- (b) has been transferred to a third party in circumstances which do not give rise to a reasonable inference that the title or interest in the property was transferred for the purpose of avoiding the forfeiture of the property;
- (c) is located outside of Jamaica;

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- (d) has substantially diminished in value or been rendered worthless; or
- (e) has been commingled with other property that cannot be divided without difficulty,

the Court may, instead of ordering the forfeiture of the property or part thereof, or interest therein, order the defendant to pay the Crown an amount equal to the value of the property, part or interest, as the case may be.

(5B) Where the Court orders a person to pay an amount under subsection (5A), that order shall be enforceable against any property of that person, in respect of which no forfeiture order is in force under any law.

(5C) The Court shall decide any question arising under subsection (5A) on a balance of probabilities.

(5D) Where an application is made for a forfeiture order against property, a person who claims an interest in the property may, before the order is made, apply to the Court for an order under subsection (5E).

(5E) If a person applies for an order pursuant to subsection (5D), the Court shall make an order declaring the nature, extent and value (as at the time the order is made) of the person's interest, if the Court is satisfied—

- (a) that the person has an interest in the property;
- (b) that the person was not in any way involved in the commission of the offence; and
- (c) where the person acquired the interest during or after the commission of the offence, that the person acquired the interest—
 - (i) for sufficient consideration; and
 - (ii) without knowing or having reasonable grounds to suspect that, at the time the person acquired it, the property was applicable property.

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(5F) Subject to subsection (5G), where a forfeiture order under this section has already been made against property, a person who claims an interest in the property may apply under this subsection for an order under subsection (5E), before the end of the period of six months commencing on the day on which the forfeiture order is made or such longer period as the Court may, having regard to all the circumstances, allow.

(5G) A person who—

- (a) had knowledge of the application for the forfeiture order before the order was made; or
- (b) appeared at the hearing of that application,

shall not, except with the leave of the Court, be permitted to make an application under subsection (5F).

(5H) A person who makes an application under subsection (5D) or (5F) shall give no less than fourteen days written notice thereof to the relevant authority who applied for the forfeiture order, who shall be a party to any proceedings in respect of the application.

(5I) An applicant under subsection (5D) or (5F) or a relevant authority may, appeal to the Court of Appeal from an order made under subsection (5E).

(5J) Where a person has obtained an order under subsection (5E) and—

- (a) the period allowed by rules of court with respect to the making of appeals has expired, the Attorney-General shall act in accordance with subsection (5K) on the application of that person; or

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- (b) any appeal from that order made pursuant to subsection (5I) has been determined in that person's favour, the Court of Appeal shall order that the Attorney-General act in accordance with subsection (5K).

(5K) The Attorney-General shall, pursuant to subsection (5J), direct that—

- (a) the property or part thereof to which the person's interest relates, be returned to the person; or
- (b) an amount equal to the value of the person's interest, as declared in the order, be paid to the person."

3. In subsection (7), delete the words "Director of Public Prosecutions" and substitute therefor the words "relevant authority who applied for the forfeiture order".

Section 29. In subsections (1) and (2), delete the words "Director of Public Prosecutions" and substitute therefor, in each case, the words "relevant authority who applied for the forfeiture order".

Section 31. In subsections (5) and (6), delete the words "Director of Public Prosecutions" and substitute therefor, in each case, the words "relevant authority who applied for the forfeiture order".

Section 34. In subsection (1), delete the words "Director of Public Prosecutions" and substitute therefor the words "relevant authority".

Section 35. In subsections (1) and (2), delete the words "Director of Public Prosecutions", wherever they appear, and substitute therefor in each case the words "relevant authority".

Section 36. In subsection (2), delete the words "Director of Public Prosecutions" and substitute therefor the words "relevant authority".

[No.] *The Terrorism Prevention (Amendment)
Act, 2013*

Column 1 — Provision —	Column 2 — Amendment —
Section 40.	In subsection (2), delete the words “Director of Public Prosecutions” and substitute therefor the words “relevant authority who applied for the restraint order”. In subsection (3), delete the words “Director of Public Prosecutions” and substitute therefor the words “relevant authority”.
Section 42.	In subsections (2) and (4), delete the words “Director of Public Prosecutions” and substitute therefor, in each case, the words “relevant authority concerned”.
Section 43.	In subsections (1) and (2), delete the words “Director of Public Prosecutions” wherever they appear and substitute therefor, in each case, the words “relevant authority”.
Section 44.	In subsection (1), delete the words “Director of Public Prosecutions” and substitute therefor the words “relevant authority”.
New section 47A.	Insert next after section 47 the following as section 47A— “ Power of Minister to amend Schedule. 47A. The Minister may, by order subject to affirmative resolution, amend the Schedule.”
Schedule.	1. In paragraph 1— (a) insert next after sub-paragraph (2) the following sub-paragraphs— “ (2A) Subject to sub-paragraph (2C), unlawfully and intentionally— (a) transporting on board a ship— (i) any BCN weapon, knowing it to be a BCN weapon;

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- (ii) any source material, special fissionable material, or equipment or material especially designed or prepared for the processing, use or production of special fissionable material, knowing that it is intended to be used in a nuclear explosive activity or in any other nuclear activity not under safeguards pursuant to an IAEA comprehensive safeguards agreement; or
- (iii) any equipment materials, software, or related technology, that can be used to contribute to the design, manufacture or delivery of a BCN weapon, with the intention that the equipment, materials, software or related technology will be used for that purpose; or
- (b) committing any of the acts specified in sub-paragraph (2B), where the purpose of the act, by its nature or context, is to intimidate a population, or to compel a government or international organization to do or abstain from doing something.

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(2B) The acts referred to in sub-paragraph (2A)(b) are—

- (a) transporting on board a ship any explosive or radioactive material, knowing that the material is intended to be used to cause, or to threaten to cause, death or serious injury or damage;
- (b) using against or on a ship, or discharging from a ship, any explosive, radioactive material, or BCN weapon, in a manner that causes or is likely to cause death or serious injury or damage;
- (c) discharging from a ship any oil, liquefied natural gas, or other hazardous or noxious substance not covered by sub-sub-paragraph (b), in such quantity or concentration that causes or is likely to cause death or serious injury or damage;
- (d) using a ship in a manner that causes death or serious injury or damage;
- (e) threatening to commit any offence described in sub-sub-paragraph (a), (b), (c), or (d).

(2C) It shall not be an offence under sub-paragraph (2A) to transport any equipment, material or other item mentioned in sub-paragraph (2A)(a)(ii) or (iii) (insofar as sub-paragraph

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(2A)(a) (iii) relates to a nuclear weapon or other nuclear explosive device)—

(a) if the equipment, material or other item, is transported to or from the territory of, or is otherwise transported under the control of, a State which is a party to the Treaty on the Non-Proliferation of Nuclear Weapons; and

(b) where—

(i) the resulting transfer or receipt of the equipment, material, or other item, (including transfer or receipt which is wholly internal to a State) is not contrary to that State's obligations under that Treaty; and

(ii) if the equipment, material or other item is intended for the delivery system of a nuclear weapon or other nuclear explosive device of any such State, the holding of the weapon or device is not contrary to that State's obligations under that Treaty.

[No.] *The Terrorism Prevention (Amendment)
Act, 2013*

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(2D) Unlawfully and intentionally transporting any person on board a ship, knowing that the person has committed an offence under subparagraphs (1), (2) or (2A) or any other terrorism offence.

(2E) Unlawfully and intentionally injuring or causing the death of any person in connection with the commission of any of the offences described in sub-paragraph (1), (2), (2A) or (2D).”;

- (b) insert in sub-paragraph (5) the following definitions in the appropriate alphabetical sequence—

“ “BCN weapon” means—

(a) biological weapons,
being—

- (i) microbial or other biological agents, or toxins, whatever their origin or method of production, of types and in quantities that have no justification for prophylactic, protective or other peaceful purposes; or
- (ii) weapons, equipment or means of delivery designed to use microbial or other

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biological agents, or toxins, for hostile purposes or in armed conflict;

(b) chemical weapons, being (taken together or separately)—

(i) toxic chemicals and their precursors, except where intended for—

(A) industrial, agricultural, research, medical, pharmaceutical, or other peaceful purposes;

(B) protective purposes, namely those purposes directly related to protection against toxic chemicals or chemical weapons;

(C) military purposes not connected with the use of chemical weapons and not dependent on the use of the toxic properties of chemicals as a method of warfare; or

(D) law enforcement, including domestic riot control purposes, in types and quantities consistent with those intended purposes;

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- (ii) munitions and devices specifically designed to cause death or other harm through the toxic properties of the toxic chemicals specified in paragraph (b)(i), which would be released as a result of the employment of those munitions or devices;
- (iii) any equipment specifically designed for use directly in connection with the employment of munitions or devices described in sub-paragraph (ii);
or
- (c) nuclear weapons and other nuclear explosive devices;

“IAEA” means the International Atomic Energy Agency established under the Statute of the International Atomic Energy Agency, done at New York on October 23, 1956;

“precursor” means any chemical reactant which takes part at any stage in the production, by whatever method, of a toxic chemical, and includes any key component of a binary or multicomponent chemical system;

“serious injury or damage” means—

- (a) serious bodily injury;
- (b) extensive destruction of a public place, State or government facility, infra-

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structure facility, or public transportation system, resulting in major economic loss; or

- (c) substantial damage to the environment (including air, soil, water, fauna or flora);

“source material” means—

- (a) uranium containing the mixture of isotopes occurring in nature, uranium depleted in the isotope 235, thorium, or any of the foregoing in the form of metal, alloy, chemical compound or concentrate;
- (b) any other material containing one or more of the materials mentioned in paragraph (a), in such concentration as the Board of Governors of the IAEA shall, from time to time, determine;

“special fissionable material” means plutonium-239, uranium-233, uranium enriched in the isotopes 235 or 233, or any material containing one or more of the foregoing, and such other fissionable material as the Board of Governors of the IAEA shall from time to time determine; but the term “special fissionable material” does not include source material;

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“toxic chemical” means any chemical which through its chemical action on life processes can cause death, temporary incapacitation or permanent harm to humans or animals, regardless of the origin or method of production of the chemicals and regardless of whether produced in facilities, munitions or elsewhere;

“transport” means to initiate, arrange or exercise effective control, including decision-making authority, over the movement of a person or thing;

“uranium enriched in the isotopes 235 or 233” means uranium containing the isotopes 235 or 233 or both in an amount such that the abundance ratio of the sum of these isotopes to the isotope 238 is greater than the ratio of the isotope 235 to the isotope 238 occurring in nature;”;

- (c) insert, next after sub-paragraph (5), the following sub-paragraph—

“ (6) For the purposes of the definition of “serious injury or damage” in sub-paragraph (5), the terms “public place”, “State or government facility”, “infrastructure facility” and “public transportation system” have the meaning assigned to them in paragraph 3(2).”.

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2. In paragraph 2 insert, next after sub-paragraph (3), the following as sub-paragraphs (4), (5), (6) and (7)—

“ (4) Unlawfully and intentionally committing any of the acts described in sub-paragraph (5), where the purpose of the act, by its nature or context, is to intimidate a population or to compel a government or an international organization to do or to abstain from doing something.

(5) The acts referred to in sub-paragraph (4) are—

- (a) using against, on, or discharging from, a fixed platform, an explosive, radioactive material or a BCN weapon, in a manner that causes or is likely to cause death or serious injury or damage;
- (b) discharging from a fixed platform any oil, liquefied natural gas, or other noxious substance (not otherwise described in sub-sub-paragraph (a)), in such quantity or concentration that causes, or is likely to cause, death or serious injury or damage;
- (c) threatening to commit an offence described in sub-sub-paragraph (a) or (b).

(6) Unlawfully and intentionally causing the death of, or serious injury or damage to, any person in connection with an offence described in sub-paragraph (2), (3) or (4).

(7) In this paragraph, the terms “BCN weapon” and “serious injury or damage” have the meaning assigned to them in paragraph 1(5).”

3. In paragraph 6—

- (a) in the marginal note, delete the word “Materials” and substitute therefor the words “Material and Nuclear Facilities”;

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Amendment

- (b) delete sub-paragraphs (1) to (4) and insert the following as sub-paragraph (1)—
- “ (1) Intentionally—
- (a) committing, without lawful authority, any act which—
- (i) constitutes receiving, possessing, using, transferring, altering, or disposing or dispersing of, nuclear material; and
- (ii) causes, or is likely to cause, death or serious injury to any person, or substantial damage to property or the environment;
- (b) stealing, robbing, embezzling, or fraudulently obtaining, nuclear material;
- (c) committing an act which constitutes carrying, sending or moving nuclear material into or out of Jamaica without lawful authority;
- (d) committing an act directed against a nuclear facility, or an act interfering with the operation of a nuclear facility, in circumstances where—
- (i) the person committing the act intends to cause, or knows that the act is likely to cause, death or serious injury to any person, or substantial damage to property or the environment, by exposure to radiation or the release of radioactive substances; and
- (ii) the act is not undertaken in conformity with the laws of Jamaica;
- (e) demanding nuclear material by use or threat of force, violence, or any other form of intimidation;

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—

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—

- (f) threatening to—
 - (i) use nuclear material to—
 - (A) cause death or serious injury to any person or substantial damage to property or to the environment; or
 - (B) commit the offence described in sub-sub-paragraph (d); or
 - (ii) commit an offence described in sub-sub-paragraph (b) or (d) in order to compel any person (whether a natural or legal person), government, or international organization, to do or refrain from doing any act”;
 - (c) renumber sub-paragraph (5) as sub-paragraph (2);
 - (d) in sub-paragraph (2), insert the following definition immediately before the definition of “nuclear material”—
 - “nuclear facility” means a facility (including associated buildings and equipment) in which nuclear material is produced, processed, used, handled, stored or disposed of”.
4. Insert, next after paragraph 6, the following paragraph—
- | | | |
|--|---|--|
| “ Offences
implementing
the
Convention
for the
Suppression
of Acts of
Nuclear
Terrorism. | 7.—(1) Unlawfully and intention-
ally— | (a) possessing radioactive mat-
erial or making or possessing
a prohibited device, with the
intention to cause— |
| | | (i) death or serious
bodily injury; or |

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- (ii) substantial damage to property or the environment; or
- (b) using radioactive material or a prohibited device, or using or damaging a nuclear facility in a manner which releases, or risks the release of, radioactive material, with the intent to—
- (i) cause death or serious bodily injury;
- (ii) cause substantial damage to property or the environment; or
- (iii) compel a natural or legal person, an international organization, or a State, to do or refrain from doing an act;
- (c) demanding radioactive material, a prohibited device, or access to a nuclear facility, by the use or threat of force, violence or any other form of intimidation.
- (2) Threatening to use force, violence or any other form of intimidation, to commit an offence described in sub-paragraph (1)(b).
- (3) In this paragraph—
- “nuclear facility” means any facility (including asso-

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ciated buildings and equipment) in which nuclear material is produced, processed, used, handled, stored or disposed of, and includes—

- (a) any nuclear reactor, including reactors installed on vessels, vehicles, aircraft or space objects for use as an energy source in order to propel such vessels, vehicles, aircraft or space objects or for any other purpose;
- (b) any conveyance being used for the production, storage, processing or transport of radioactive material;

“nuclear material” means—

- (a) plutonium, except that with isotopic concentration exceeding eighty percent in plutonium-238;
- (b) uranium-233;
- (c) uranium enriched in the isotope 235 or 233;

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- (d) uranium containing the mixture of isotopes as occurring in nature, other than in the form of ore or ore residue; or
- (e) any material containing one or more of the substances described in sub-sub-paragraphs (a) to (d);

“prohibited device” means—

- (a) any nuclear explosive device; or
- (b) any radioactive material dispersal device or radiation-emitting device which may, owing to its radiological properties, cause death, serious bodily injury or substantial damage to property or the environment;

“radioactive material” means nuclear material and other radioactive substances which contain nuclides which undergo spontaneous disintegration (a process accompanied by emission of one or more types of ionizing radiation such as

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alpha-, beta-, neutron particles and gamma rays) and which may, owing to their radiological or fissile properties, cause death, serious bodily injury or substantial damage to property or the environment;

“uranium enriched in the isotope 235 or 233” means uranium containing the isotope 235 or 233 or both in an amount such that the abundance ratio of the sum of these isotopes to the isotope 238 is greater than the ratio of the isotope 235 to the isotope 238 occurring in nature.”.

SECOND SCHEDULE

(Section 3)

Column 1

Column 2

Enactment

Amendment

The
Extradition
Act.

1. In section 7(1)(c), insert next after the word “race,” the words “ethnic origin.”

2. In the Schedule thereto—

(a) in Item 4 of Column A, insert next after—

(i) the word “Material” the words “and Nuclear Facilities”;

(ii) the numerals “1979” the words “(including the amendments adopted in 2005)”;

(b) in Item 5 of Column A, insert immediately after the numerals “1988”, the words “, and the Protocol to that Convention, done at London on October 14, 2005”;

(c) in Item 6 of Column A, insert immediately after the numerals “1988”, the words “, and the Protocol to that Protocol, done at London on October 14, 2005”;

(d) insert next after Item 10—

(i) in Column A, the following Item—

“11. The Convention for the Suppression of Acts of Nuclear Terrorism, done at New York on September 14, 2005.”; and

(ii) in Column B, the following Item—

“11. In so far as Article 13 of that Convention requires.”.

The Mutual
Assistance
(Criminal
Matters) Act.

1. In section 16(1)(a)(ii), insert next after the word “race,” the words “ethnic origin.”

<u>Column 1</u>	<u>Column 2</u>
<u>Enactment</u>	<u>Amendment</u>

2. In the Second Schedule thereto—

- (a) delete Item 4 and substitute therefor the following—

“ (4) The Convention on the Physical Protection of Nuclear Material and Nuclear Facilities, adopted at Vienna on October 26, 1979 (including the amendments adopted in 2005).”;

- (b) in Item 5, insert immediately after the numerals “1988” the words “, and the Protocol of 2005 to the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation and the Protocol of 2005 to the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf, both done at London on October 14, 2005”; and

- (c) insert next after Item 8 the following Item—

“9. The Convention for the Suppression of Acts of Nuclear Terrorism, done at New York on September 14, 2005.”.

**The Terrorism
Prevention
(Reporting
Entities)
Regulations,
2010.**

1. In regulation 5(b)—

- (a) insert, next after the word “concerned”, the words “shall keep all customer information under review with a view to ensuring its accuracy and”;

- (b) in sub-paragraph (i), insert next after the word “relationship”, the words “, or at more frequent intervals as warranted by the risk profile of the business relationship as determined by the reporting entity in accordance with regulation 6A”.

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Enactment

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2. Insert next after regulation 6 the following regulation—

“Risk profile and ongoing due diligence in verification procedures. 6A.—(1) A reporting entity shall establish a risk profile regarding all business relationships and one-off transactions, with a view to determining the business relationships or one-off transactions which are high-risk.

(2) For the purposes of paragraph (1), relationships or transactions which are high-risk include any case where the applicant for business concerned is—

- (a) a person specified in paragraph (6);
- (b) a person who is not ordinarily resident in Jamaica;
- (c) a person acting as a trustee for another in relation to the business relationship or one-off transaction concerned; or
- (d) a company having nominee shareholders.

(3) Subject to paragraph (4), a reporting entity shall carry out reasonable due diligence in the conduct of every transaction (whether done in the course of a business relationship or as a one-off transaction) to ensure that the transaction is—

- (a) consistent with the entity’s knowledge of the applicant for business, the applicant’s trade or profession, the applicant’s risk profile and the stated source of the funds involved; and

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(b) verified as to the identity of the applicant for business and the source of the funds involved.

(4) Where a business relationship or one-off transaction is determined to be high-risk, a reporting entity shall carry out enhanced due diligence procedures with respect thereto.

(5) For the purposes of paragraph (4), enhanced due diligence procedures shall require—

(a) obtaining senior management approval to commence or continue the business relationship or one-off transaction;

(b) verification of the source of funds, or wealth, held by the applicant for business, and all parties to a one-off transaction, and all other persons concerned in the business relationship or one-off transaction;

(c) enhanced monitoring throughout the course of the business relationship or one-off transaction, including more frequent updating of customer information, requiring more detailed information as to the nature of the business relationship or one-off transaction, requiring more detailed information about the applicant for business and

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—Column 2
—Enactment
—Amendment
—

other parties concerned in the transaction, increasing the number and timing of controls applied to the transaction, selecting patterns of actions that require more detailed examination, and requiring the first payment in the transaction to be carried through an account in the name of the applicant for business with a financial institution subject to identification and verification standards equivalent to those required by the Act and all regulations made thereunder.

(6) The persons specified for the purposes of subsection (2)(a) are—

- (a) any individual who, in relation to any State, holds any of the following positions or carries out functions analogous to the functions of the holder of any such position, namely—
- (i) a head of State;
 - (ii) a head of Government;
 - (iii) a member of any House of Parliament;
 - (iv) a Minister of Government;
 - (v) a member of the judiciary;

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- (vi) a military official above the rank of Captain;
- (vii) a member of the police of or above the rank of Assistant Commissioner;
- (viii) a Permanent Secretary, Chief Technical Director or chief officer in charge of the operations of a Ministry, department of Government, executive agency or statutory body, as the case may be;
- (ix) a director or chief executive of any company in which the Government owns a controlling interest;
- (x) an official of any political party;
- (b) an individual who holds or has held a senior management position in an international organization;
- (c) an individual who is an immediate family member or close associate of a person described in paragraph (a) or (b).”.

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3. In regulation 11—

- (a) in paragraph (1), insert next after the word “agent” the words “(whether in relation to another person, a body corporate, a settlement or trust, or any other type of legal arrangement)”;
- (b) in paragraph (2)(a), insert immediately after the word “agent” the words “, and of each beneficiary and the ultimate beneficial owner of the property or funds the subject of the transaction concerned”.

4. In regulation 13—

- (a) delete sub-paragraph (1)(c) and substitute therefor the following—

“(c) in the case of any transaction involving—

- (i) a settlement, trust or other type of legal arrangement, it—

- (A) establishes the identity of (as the case may require) the settler, legal owner or other person who exercises effective control of the legal arrangement, and each beneficiary under the legal arrangement (including the ultimate beneficial owners of the property concerned in the arrangement or if such beneficial

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owners cannot be identified, then any senior management official who makes or implements decisions in relation to the management of the property); and

- (B) discloses the legal status of the arrangement and the provisions regulating the power to bind the parties involved;
- (ii) a person other than an individual, it establishes the identity of the individuals who exercise ultimate effective control over that person; and
- (iii) a body corporate that is listed on a stock exchange registered, licensed, or authorized in any other manner as required under the laws of the jurisdiction in which the body corporate is registered, it—
 - (A) establishes the identity of each director and shareholder (if any), holding ten *per cent* or more of the voting rights in the body corporate;

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(B) discloses the registered address and principal place of business of the body corporate and the provisions regulating the power to bind the body corporate; and

(C) provides evidence of incorporation,

however, nothing in this provision shall be construed as exempting any body corporate, director or shareholder from the identification procedures required by these Regulations in any case where any person handling a transaction involving the body corporate, director or shareholder knows or suspects that the transaction amounts to the commission of a terrorism offence.”

5. In regulation 14, delete paragraph (5) and substitute therefor the following—

“ (5) For the purposes of this regulation, the prescribed period is—

- (a) a period of seven years commencing on the date on which the relevant financial business was completed or the business relationship was terminated, whichever occurs later; or
- (b) such other longer period as may be specified by the designated authority by notice in writing given to the reporting entity before the expiration of the period referred to in sub-paragraph (a).”

Passed in the Honourable Senate, this 4th day of October, 2013, with four (4) Amendments.

FLOYD E. MORRIS
President.

Passed in the House of Representatives this 15th day of October 2013.

MICHAEL A. PEART
Speaker.

*This printed impression has been carefully
compared by me with the authenticated
impression of the foregoing Act, and has been
found by me to be a true and correct printed copy
of the said Act.*

*/sgd./ H. E. Cooke
Clerk to the Houses of Parliament.*

