

ANTI-TERRORISM ACT

CHAPTER 12:07

Act
26 of 2005

Amended by
2 of 2010
16 of 2011
14 of 2012
15 of 2014

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UNOFFICIAL VERSION

L.R.O.

UPDATED TO DECEMBER 31ST 2014

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Note on Revision

The pages of this Act bearing the notation L.R.O. 1/2015 are hereby authorised to be included in the Laws as from 5th January 2015 pursuant to an Order made under section 9 of the Law Revision Act (Chap. 3:03).

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CHAPTER 12:07

ANTI-TERRORISM ACT

26 of 2005.
[2 of 2010].

An Act to criminalise terrorism and the financing of terrorism, to provide for the detection, prevention, prosecution, conviction and punishment of terrorist activities and the confiscation, forfeiture and seizure of terrorists' assets and of those involved in the financing of terrorism and for related matters.

Commencement.

[13TH SEPTEMBER 2005]

PART I

PRELIMINARY

Short title.

1. This Act may be cited as the Anti-Terrorism Act.

Interpretation.
[2 of 2010
16 of 2011
15 of 2014].

2. (1) In this Act—

“Convention” means any of the following Conventions:

- (a) Convention on Offences and certain Other Acts committed on Board Aircraft, signed at Tokyo on 14th September 1963;
- (b) Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on 16th December 1970;
- (c) Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23rd September 1971;
- (d) Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14th December 1973;
- (e) International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17th December 1979;
- (f) Convention on the Physical Protection of Nuclear Material, adopted at Vienna on 3rd March 1980;

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- (g) Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 24th February 1988;
- (h) Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10th March 1988;
- (i) Protocol for the Suppression of Unlawful Acts against the Safety of fixed Platforms located on the continental shelf, done at Rome on 10th March 1988;
- (j) Convention on the Marking of Plastic Explosives for the Purposes of Detection, signed at Montreal on 1st March 1991;
- (k) International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15th December 1997;
- (l) International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations on 9th December 1999;

“explosive or other lethal device” means—

- (a) a weapon; or
- (b) an explosive or incendiary weapon,

that is designed or has the capability to cause death, serious bodily injury or substantial material damage;

“Financial Action Task Force” means the task force established by the Group of Seven to develop and provide national and international policies to combat money laundering and terrorist financing;

“FIU” means the Financial Intelligence Unit established under section 3 of the Financial Intelligence Unit of Trinidad and Tobago Act; Ch. 72:01.

- Ch. 11:27. “financial institution” has the meaning assigned to it in the Proceeds of Crime Act;
- “Group of Seven” means the meeting of Finance Ministers of France, Italy, Germany, Japan, United Kingdom, United States and Canada formed in 1976;
- “imprisonment for life” in relation to an offender means imprisonment for the remainder of the natural life of the offender;
- “international organisation” means an organisation constituted by States to which its Member States have transferred competence over matters governed by a Convention of the United Nations;
- “judge” means a judge of the High Court of Trinidad and Tobago;
- “legal entity” means a body corporate, foundation, partnership, association or other similar body that can establish a permanent customer relationship with a financial institution or otherwise own property;
- Ch. 11:27. “listed business” has the meaning assigned to it in section 2 of the Proceeds of Crime Act;
- “listed entity” means an entity declared to be a listed entity in accordance with section 22B;
- “master” in relation to a vessel, means the owner or person (except a harbour master or pilot) having for the time being command or charge of the vessel;
- “Minister” means the minister to whom responsibility for national security is assigned;
- “money” means—
- (a) bankers’ drafts;
 - (b) coins and notes in any currency;
 - (c) postal order;
 - (d) travellers cheques; and
 - (e) any other kind of monetary instrument specified by Order by the Minister with responsibility for finance;

“non-profit organisation” means a legal entity or organisation that primarily engages in raising or disbursing funds for purposes such as charitable, religious, cultural, educational, social or fraternal purposes or for the carrying out of other types of philanthropic work;

“operator” in relation to an aircraft, means the owner or person for the time being in charge or command or control of the aircraft;

“property” or “funds” means assets of any kind, whether tangible or intangible, moveable or immovable, however acquired and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including but not limited to bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts, letters of credit whether situated in Trinidad and Tobago or elsewhere, and includes a legal or equitable interest, whether full or partial, in any such property;

“terrorist” includes a person who—

- (a) commits a terrorist act by any means directly or indirectly, unlawfully and wilfully;
- (b) participates as an accomplice in terrorist acts or the financing of terrorism;
- (c) organises or directs others to commit terrorist acts or the financing of terrorism; or
- (d) contributes to the commission of terrorists acts or the financing of terrorism by a group of persons acting with a common purpose where the contribution—
 - (i) is made intentionally and with the aim of furthering the terrorist act or the financing of terrorism; or
 - (ii) with the knowledge of the intention of the group of persons to commit the terrorist act or the financing of terrorism;

“terrorist act” means—

(a) an act whether committed in or outside of Trinidad and Tobago which causes or is likely to cause—

- (i) loss of human life or serious bodily harm;
- (ii) damage to property; or
- (iii) prejudice to national security or disruption of public safety including disruption in the provision of emergency services or to any computer or electronic system or to the provision of services directly related to banking, communications, infrastructure, financial services, public utilities, transportation or other essential infrastructure,

and is intended to—

- (iv) compel a government or an international organisation to do or refrain from doing any act; or
- (v) intimidate the public or a section of the public,

for the purpose of advancing a political, ideological or a religious cause;

(b) an offence under any of the Conventions; or

(c) an offence under Part II, Part III or section 22A of this Act;

“terrorist organisation” means a legal entity or group of terrorists that—

- (a) commits a terrorist act by any means, directly or indirectly, unlawfully and wilfully;
- (b) participates as an accomplice in terrorist acts or the financing of terrorism;
- (c) organises or directs others to commit terrorist acts or the financing of terrorism; or

- (d) contributes to the commission of terrorists acts or the financing of terrorism by a group of persons acting with a common purpose where the contribution is made intentionally and with the aim of furthering the terrorist act or the financing of terrorism with the knowledge of the intention of the group to commit the terrorist act or the financing of terrorism;

“terrorist property” means—

- (a) proceeds from the commission of a terrorist act;
- (b) property which has been, is being, or is likely to be used to commit a terrorist act;
- (c) property which has been collected for the purpose of funding a terrorist act or terrorist organisation; or
- (d) property belonging to a terrorist or terrorist organisation;

“vessel” means any thing made or adapted for the conveyance by water, of people or property;

“weapon” includes a firearm, explosive, chemical, biological or nuclear weapon.

(2) An act which—

- (a) causes death or serious bodily harm to a person taking active part in armed conflict in accordance with the applicable rules of international law; or
- (b) disrupts any service and is committed in pursuance of a demonstration, protest or stoppage of work and is not intended to result in any harm referred to in paragraph (a) of the definition of “terrorist act”,

shall not be considered a terrorist act.

PART II

OFFENCES

3. (1) Any person who participates in the commission of a terrorist act commits an offence and is liable on conviction on indictment to imprisonment for twenty-five years.

Terrorist act.
[2 of 2010].

(2) When a terrorist act involves the commission of a crime under some other law, the person committing it shall be liable to be punished for that crime as well as for the offence created by subsection (1), and any term of imprisonment imposed in respect of such crime shall run consecutively to that imposed under subsection (1).

(3) The penalty specified in this section does not apply to offences referred to in Part III.

Provision of services for commission of terrorist acts.

4. A person who, directly or indirectly, provides or makes available financial or other related services intending that they be used, in whole or in part, for the purpose of committing or facilitating the commission of, a terrorist act commits an offence and shall, on conviction on indictment, be liable to imprisonment for twenty years.

Collection or provision of property to commit terrorist acts.

5. A person who collects, provides, or makes available property having reasonable grounds to believe that the property will be used to commit a terrorist act, commits an offence and shall, on conviction on indictment, be liable to imprisonment for twenty years.

Use of property for commission of terrorist acts.

6. A person who—

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

commits an offence and shall, on conviction on indictment, be liable to imprisonment for twenty years.

Arrangements for retention or control of terrorist property.

7. Any person who knowingly becomes concerned in or enters into an arrangement which facilitates the acquisition,

control or retention of terrorist property by or on behalf of another person commits an offence and shall, on conviction on indictment, be liable to imprisonment for twenty years.

8. Any person who knowingly—

- (a) acquires or possesses terrorist property;
- (b) conceals, converts or disguises terrorist property;
- (c) deals directly or indirectly with any terrorist property; or
- (d) enters into or facilitates directly or indirectly any transaction in relation to terrorist property,

Dealing with
terrorist
property.

commits an offence and shall, on conviction on indictment, be liable to imprisonment for twenty years.

9. (1) Any person who knowingly—

- (a) supports; or
- (b) solicits support for,

Soliciting or
giving support
for the
commission of
terrorist acts.

the commission of a terrorist act, commits an offence and shall, on conviction on indictment, be liable to imprisonment for twenty years.

(2) For the purposes of subsection (1) “support” includes but is not limited to—

- (a) an offer to provide or the provision of expertise or a skill;
- (b) an offer to provide or the provision of falsified or forged documents; and
- (c) entering or remaining in any country,

for the purpose of committing or facilitating a terrorist act.

10. Any person who conceals or harbours another person or hinders, interferes with or prevents the apprehension of, any other person having reason to believe or knowing that that other person has committed, is planning or is likely to commit a

Harbouring of
persons
committing
terrorist acts.

terrorist act, commits an offence and shall, on conviction on indictment, be liable to imprisonment for twenty years.

Provision of devices.

11. A person who knowingly offers to provide, or provides any explosive or other lethal device for the purpose of committing or facilitating a terrorist act commits an offence and shall, on conviction on indictment, be liable to imprisonment for twenty-five years.

Recruitment of persons for terrorist purposes.

12. A person who agrees to recruit or recruits any other person to participate in the commission of a terrorist act, commits an offence and shall, on conviction on indictment, be liable to imprisonment for twenty years.

Provision of instruction or training to persons committing terrorist acts.

13. Any person who knowingly agrees to provide instruction or training or provides instruction or training in—

- (a) carrying out a terrorist act;
- (b) the making or use of any explosive or other lethal device; or
- (c) the practice of military exercises or movements,

to a person engaging in or preparing to engage in the commission of a terrorist act, commits an offence and shall, on conviction on indictment, be liable to imprisonment for twenty-five years.

Incitement, promotion or solicitation of property for the commission of terrorist acts.

14. A person who, knowingly incites or promotes the commission of a terrorist act, or solicits property for the commission of a terrorist act, commits an offence and shall, on conviction on indictment, be liable to imprisonment for twenty-five years.

Providing facilities in support of terrorist acts.

15. Any person who being the—

- (a) agent, charterer, lessee, master, operator or owner in charge of a vessel permits that vessel to be used;
- (b) agent, charterer, lessee, operator, owner or pilot in charge of an aircraft permits that aircraft to be used;

- (c) lessee, occupier, owner or person in charge of any place or premises permits a meeting to be held in that place or building; or
- (d) lessee, owner or person in charge of any equipment or facility that may be used for conferencing, recording of meetings through the use of technological means permits the equipment or facility to be used,

to facilitate the commission of an offence under this Act, commits an offence and shall, on conviction on indictment, be liable to imprisonment for twenty years.

PART III

CONVENTION OFFENCES

16. A person who, in respect of a ship registered in Trinidad and Tobago or within the archipelagic or territorial waters of Trinidad and Tobago unlawfully and intentionally—

Endangering
the safety of
maritime
navigation.

- (a) seizes or exercises control over the ship by force or threat thereof or any other form of intimidation;
- (b) performs an act of violence against a person on board the ship if that act is likely to endanger the safe navigation of the ship;
- (c) destroys the ship or causes damage to such ship or to its cargo which is likely to endanger the safe navigation of the ship;
- (d) places or causes to be placed on the ship, by any means whatsoever, a device or substance which is likely to destroy the ship, or cause damage to the ship or its cargo which endangers or is likely to endanger the safe navigation of the ship;
- (e) destroys or seriously damages maritime navigational facilities or seriously interferes with their operation, if such act is likely to endanger the safe navigation of the ship; or

(f) communicates information, knowing the information to be false and under circumstances in which the information may reasonably be believed, thereby endangering the safe navigation of the ship,

commits an offence and is liable, on conviction on indictment—

- (i) to imprisonment for twenty years;
- (ii) if the death of any person results from any act prohibited by this section, to be sentenced in accordance with the penalty prescribed for the offence.

Bombing offences.

17. (1) A person who unlawfully and intentionally delivers, places, discharges or detonates an explosive or other lethal device in, into or against a place of public use, a State or government facility, a public transport facility, a public transportation system or an infrastructure facility—

- (a) with the intent to cause death or serious bodily injury; or
- (b) with the intent to cause extensive damage to, or destruction of the place, facility or system, where the destruction results in or is likely to result in major economic loss,

commits an offence and is liable, on conviction on indictment, to imprisonment for life.

(2) This section does not apply to the military forces of a State—

- (a) during an armed conflict; or
- (b) in respect of activities undertaken in the exercise of their official duties.

Protection of internationally protected persons.
[2 of 2010].

18. (1) A person who kidnaps an internationally protected person commits an offence and shall, on conviction on indictment, be liable to imprisonment for life.

(2) A person who commits any other attack upon the person or liberty of an internationally protected person commits an offence and shall, on conviction on indictment, be liable—

- (a) where the attack causes death, to be sentenced in accordance with the penalty prescribed for the offence;
- (b) where the attack causes grievous bodily harm, to imprisonment for twenty years; or
- (c) in any other case, to imprisonment for ten years.

(3) A person who intentionally destroys or damages otherwise than by means of fire or explosive—

- (a) official premises, private accommodation or means of transport, of an internationally protected person; or
- (b) other premises or property in or upon which an internationally protected person is present, or is likely to be present,

commits an offence and shall, on conviction on indictment, be liable to imprisonment for ten years.

(4) A person who intentionally destroys or damages otherwise than by means of fire or explosive—

- (a) official premises, private accommodation or means of transport, of an internationally protected person; or
- (b) other premises or property in or upon which an internationally protected person is present, or is likely to be present,

with intent to endanger the life of that internationally protected person by that destruction or damage commits an offence and shall, on conviction on indictment, be liable to imprisonment for twenty years.

(5) A person who intentionally destroys or damages by means of fire or explosive—

- (a) official premises, private accommodation or means of transport, of an internationally protected person; or

- (b) other premises or property in or upon which an internationally protected person is present, or is likely to be present,

commits an offence and is liable on conviction on indictment to imprisonment for fifteen years.

(6) A person who intentionally destroys or damages by means of fire or explosive—

- (a) official premises, private accommodation or means of transport, of an internationally protected person; or
- (b) other premises or property in or upon which an internationally protected person is present, or is likely to be present,

with intent to endanger the life of that internationally protected person by that destruction or damage commits an offence and is liable on conviction on indictment to imprisonment for twenty-five years.

(7) A person who threatens to do anything that would constitute an offence against subsections (1) to (6) commits an offence and shall, on conviction on indictment, be liable to imprisonment for ten years.

(8) A person who—

- (a) wilfully and unlawfully, with intent to intimidate, coerce, threaten or harass, enters or attempts to enter any building or premises which is used or occupied for official business or for diplomatic, consular, or residential purposes by an internationally protected person within Trinidad and Tobago; or
- (b) refuses to depart from such building or premises after a request by an employee of a foreign government or an international organisation, if such employee is authorised to make such request,

commits an offence, and is liable on conviction on indictment to a fine of one hundred thousand dollars and to imprisonment for five years.

(9) For the purposes of this section “internationally protected person” has the meaning assigned to it in the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents.

19. (1) A person who unlawfully and intentionally—

- (a) seizes or exercises control over a fixed platform on the continental shelf, or in the exclusive economic zone or any fixed platform on the high seas while it is located on the continental shelf of Trinidad and Tobago, by force or threat thereof or by any other form of intimidation;
- (b) performs an act of violence against a person on board such a fixed platform if that act is likely to endanger the platform’s safety;
- (c) destroys such a fixed platform or causes damage to it which is likely to endanger its safety;
- (d) places or causes to be placed on such a fixed platform, by any means whatsoever, a device or substance which is likely to destroy that fixed platform or likely to endanger its safety;
- (e) injures or kills any person in connection with the commission or the attempted commission of any of the offences referred to in paragraphs (a) to (d); or
- (f) damages or destroys any off-shore installation,

Offences relating to fixed platforms.

commits an offence.

(2) A person convicted of an offence referred to in subsection (1) is—

- (a) liable, on conviction on indictment, to imprisonment for twenty years; and

(b) in the case where death results from the commission of the offence, liable on conviction on indictment to be sentenced to death.

(3) In this section “fixed platform” means an artificial island, installation or structure attached to the seabed for the purpose of exploration or exploitation of resources or for other economic purposes.

Offences with regard to nuclear matter or facilities.

20. (1) A person who unlawfully and intentionally—

(a) intends to acquire or possesses nuclear material or designs or manufactures or possesses a device, or attempts to manufacture or acquire a device, with the intent—

- (i) to cause death or serious bodily injury; or
- (ii) to cause damage to property or the environment;

(b) uses in any way nuclear material or a device, or uses or damages a nuclear facility in a manner which releases or risks the release of nuclear material with the intent—

- (i) to cause death or serious bodily injury;
- (ii) to cause damage to property or the environment; or
- (iii) to compel a natural or legal person, an inter-governmental organisation or a State to do or refrain from doing an act,

commits an offence.

(2) A person who—

(a) threatens, under circumstances which indicate the credibility of the threat, to commit an offence referred to in subsection (1)(b); or

(b) unlawfully and intentionally demands radioactive material, a device or control of a nuclear facility by threat, under circumstances which indicate the credibility of the threat, or by use of force,

commits an offence.

(3) A person convicted of an offence under this section is liable on conviction on indictment to imprisonment for life.

(4) In this section “device” means a weapon of mass destruction.

21. (1) A person commits an offence if he—

- (a) places any substance or other thing in any place; or
- (b) sends any substance or other thing from one place to another by any means whatsoever,

Hoaxes involving noxious substances or things or explosives or other lethal material. [2 of 2010].

with the intention of inducing in a person anywhere in the world a belief that it is likely to be or contain a noxious substance or other noxious thing or a lethal device or chemical, biological or nuclear weapon.

(2) A person commits an offence if he communicates any information which he knows or believes to be false with the intention of inducing in a person anywhere in the world a belief that a noxious substance or other noxious thing or a lethal device or a weapon of mass destruction is likely to be present, whether at the time the information is communicated or later, in any place.

(3) A person who commits an offence under this section is liable on conviction on indictment to imprisonment for fifteen years.

(4) For a person to commit an offence under this section it is not necessary for him to have any particular person in mind as the person in whom he intends to induce the belief in question.

(5) The Court, in imposing a sentence on a person who has been convicted of an offence under subsection (1), may order that person to reimburse any party incurring expenses incident to any emergency or investigating response to that conduct, for those expenses.

(6) A person ordered to make reimbursement under subsection (5) shall be jointly and severally liable for such

expenses with each other person, if any, who is ordered to make reimbursement under subsection (5) for the same expenses.

(7) An order of reimbursement under subsection (5) shall, for the purposes of enforcement, be treated as a civil judgment.

(8) For the purposes of this section “substance” includes any biological agent and any other natural or artificial substance, whatever its form, origin or method of production.

Use of
chemical,
biological or
nuclear
weapons.

22. (1) A person who, unlawfully and intentionally uses, threatens or attempts or conspires to use chemical, biological or nuclear weapons—

- (a) against a citizen of Trinidad and Tobago or a person ordinarily resident in Trinidad and Tobago while either such person is outside Trinidad and Tobago;
- (b) against any person within Trinidad and Tobago; or
- (c) against any property that is owned, leased or used by the Government of Trinidad and Tobago, whether the property is within or outside of Trinidad and Tobago,

commits an offence and is liable on conviction on indictment to imprisonment for life.

(2) A citizen of Trinidad and Tobago or person ordinarily resident within Trinidad and Tobago who, unlawfully and intentionally, uses chemical, biological or nuclear weapons outside of Trinidad and Tobago commits an offence and is liable on conviction on indictment to imprisonment for life.

PART IIIA

FINANCING OF TERRORISM

Offence of
financing of
terrorism.
[2 of 2010
15 of 2014].

22A. (1) Any person who by any means, directly or indirectly, wilfully provides or collects funds, or attempts to do

so, with the intention or in the knowledge that such funds are to be used in whole or in part—

- (a) in order to carry out a terrorist act;
- (b) by a terrorist; or
- (c) by a terrorist organisation,

commits the offence of financing of terrorism.

(2) An offence under subsection (1) is committed irrespective of whether—

- (a) the funds are actually used to commit or attempt to commit a terrorist act;
- (b) the funds are linked to a terrorist act; and
- (c) the person alleged to have committed the offence is in the same country or a different country from the one in which the terrorist or terrorist organisation is located or the terrorist act occurred or will occur.

(3) A person who contravenes this section commits an offence and is liable on conviction on indictment—

- (a) in the case of an individual, to imprisonment for twenty-five years and to a fine of five million dollars; or
- (b) in the case of a legal entity, to a fine of twenty-five million dollars.

(4) A director or person in charge of a legal entity who commits an offence under this section is liable on conviction on indictment to imprisonment for twenty-five years and to a fine of five million dollars.

22AA. (1) In this section and sections 22AB, 22B and 22C, the term “designated entities” means individuals or entities and their associates designated as terrorist entities by the Security Council of the United Nations.

Special provisions for designated entities. [16 of 2011 14 of 2012].

(2) For the purposes of section 22B, the FIU shall be responsible for—

- (a) maintaining a list of designated entities;

- (b) maintaining contact with the United Nations at frequent intervals to ensure that the list of designated entities remains current;
- (c) circulating the list referred to in paragraph (a) or (b) immediately, to financial institutions and listed businesses requesting information on whether these designated entities have funds in Trinidad and Tobago;
- (d) furnishing the Attorney General with information required to facilitate an application under section 22B, where a designated entity has funds in Trinidad and Tobago; and
- (e) maintaining a consolidated list of all Orders issued by the Court under section 22B(3) and circulating the same by facsimile transmission or other electronic means to all financial institutions and listed businesses immediately at intervals of three months.

(3) Notwithstanding its obligation to circulate the consolidated list under subsection 2(c), the FIU shall, when new information has been obtained before the expiration of three months, circulate any additions to that list or a new list immediately by facsimile transmission.

Certain
Procedures
apply.
[16 of 2011
14 of 2012].

22AB. As soon as a financial institution or listed business receives the list of designated entities or the consolidated list referred to in section 22AA(2)(c) or (e), the following procedures shall apply:

- (a) the financial institution shall immediately inform the FIU on the prescribed form, if any person or entity named on either list has funds with the financial institution or listed business;
- (b) if the financial institution or listed business has reasonable grounds to believe that a person or entity named on either list has funds in Trinidad and Tobago, it shall immediately inform the FIU on the prescribed form;

- (c) *(Deleted by Act No. 14 of 2012)*; and
- (d) if a person or entity named on that list attempts to enter into a transaction or continue a business relationship, the financial institution or listed business shall submit a suspicious activity report to the FIU immediately and shall not enter into or continue a business transaction or business relationship with such person or entity.

22B. (1) The Attorney General shall apply to a judge for an Order under subsection (3)—

Listing of
terrorist
entities.
[2 of 2010
16 of 2011
14 of 2012].

- (a) in respect of an entity, where the entity is a designated entity; or
- (b) in respect of an entity or individual where there are reasonable grounds to believe that the entity or individual—
 - (i) has knowingly committed or participated in the commission of a terrorist act; or
 - (ii) is knowingly acting on behalf of, at the direction of, or in association with, an entity referred to in paragraph (a).

(2) An application under subsection (1) shall be—

- (a) *ex parte*; and
- (b) accompanied by an affidavit deposing to the matters referred to in subsection (1).

(3) Upon an application under subsection (1) the judge shall, by Order—

- (a) declare an individual or a designated or legal entity to be a listed entity for the purposes of this Act if the judge is satisfied as to the matters referred to in subsection (1); and
- (b) freeze the funds of the listed entity.

(4) An Order made under subsection (3) may make such provision as the Court thinks fit for living expenses and legal expenses of the individual or legal entity as the case may be.

(4A) Where an Order is made under subsection (3), the Court shall serve the Order upon the listed entity the financial institution or listed business and the FIU immediately in accordance with the Civil Proceedings Rules, 1998.

(4B) Where an Order is served on a financial institution or listed business under subsection (4A), action shall immediately be taken to restrict the availability of the funds, subject to the Order, in accordance with the terms of the Order.

(5) Where an Order is made under subsection (3), (7)(d) or (10), the Attorney General shall, within seven days after the date of the Order, cause to be published in the *Gazette* and in two daily newspapers of general circulation in Trinidad and Tobago—

- (a) a copy of the Order; and
- (b) in the case of an Order under subsection (3), a statement that the matter will be reviewed every six months.

(6) Within sixty days after the date of publication of an Order under subsection (5), the individual or entity in respect of which the Order is made may apply to a judge for a review of the Order and shall notify the Attorney General of the application.

(7) Upon an application made under subsection (6), the judge shall—

- (a) hear any evidence or other information that may be presented by the Attorney General and may, at the request of the Attorney General, hear all or part of that evidence or information in the absence of the applicant or any counsel representing the applicant, if the judge is of the opinion that the disclosure of the information would be prejudicial to national security or endanger the safety of any person;

- (b) provide the applicant with a statement summarising the information available to the judge, so as to enable the applicant to be reasonably informed of the reasons for the making of the Order, without disclosing any information the disclosure of which would, in the opinion of the judge, be prejudicial to national security or endanger the safety of any person;
- (c) provide the applicant with a reasonable opportunity to be heard; and
- (d) determine whether or not the Order should be revoked on the basis of the information available to the judge and, if he determines that the Order should be revoked, make an Order for such revocation.

(8) For the purposes of any application or review under this section, the judge may receive in evidence anything that, in the opinion of the judge, is reliable and relevant.

(9) The Attorney General shall, every six months—

- (a) review all Orders made under subsection (3) so as to determine whether the circumstances referred to in subsection (1) continue to exist in respect of the listed entity; and
- (b) if he determines that such circumstances no longer exist, apply to a judge for the revocation of the Order in respect of the listed entity.

(10) Upon an application under subsection (9), the judge shall, if satisfied as to the matters referred to in that subsection, make an order for the revocation, which Order shall be published in the *Gazette* and in two daily newspapers of general circulation in Trinidad and Tobago.

Reporting
requirements.
[2 of 2010
16 of 2011
15 of 2014].

22C. (1) Where a financial institution or listed business knows or has reasonable grounds to suspect that funds within the financial institution or listed business belong to an individual or legal entity who—

- (a) commits terrorist acts or participates in or facilitates the commission of terrorist acts or the financing of terrorism; or
- (b) is a designated entity,

the financial institution or listed business shall report the existence of such funds to the FIU.

(2) Every financial institution or listed business shall—

- (a) pay special attention to and report all—
 - (i) business transactions between individuals, corporate persons and financial institutions in or from other countries which do not comply with, or who comply insufficiently with the recommendations of the Financial Action Task Force; and
 - (ii) complex, unusual, or large transactions, whether completed or not, unusual patterns of transactions and significant but periodic transactions which have no apparent economic or visible lawful purpose,
 to the FIU;
- (b) examine the background and purpose of all transactions which have no economic or visible legal purpose under paragraph (a)(i) and make available to the FIU, written findings after its examinations, where necessary;
- (c) keep and retain records relating to financial activities in accordance with the Regulations made under section 41(2);

- (d) develop and implement a written compliance programme, reasonably designed to ensure compliance with this Act; and
- (e) monitor compliance with the Regulations made under section 41(2).

(3) Where a financial institution or listed business knows or has reasonable grounds to suspect that funds are linked or related to, or to be used for terrorism, terrorist acts or by terrorist organisations or those who finance terrorism, the financial institution or listed business shall make a suspicious transaction, or a suspicious activity report to the FIU in the forms as set out in the Third Schedule to the Proceeds of Crime Act.

Ch. 11:27.
Third Schedule.

(4) Subject to section 22D, where a financial institution or listed business makes a suspicious transaction or suspicious activity report to the FIU under this section, the Director or staff of the FIU or of such financial institution or listed business shall not disclose the fact or content of such report to any person.

(5) Any person who contravenes subsection (4) commits an offence and is liable on summary conviction to a fine of five million dollars and to imprisonment for five years.

(6) A report to which subsection (3) refers shall be made within fourteen days of the date on which the financial institution or listed business knew or had reasonable grounds to suspect that the funds were linked or related to, or were to be used for terrorism, terrorist acts or by terrorist organisations or those who finance terrorism.

(7) When the report referred to in this section is made in good faith, the financial institution or listed business and their employees, staff, directors, owners or other representatives as authorised by law, are exempt from criminal, civil or administrative liability, as the case may be, for complying with this section or for breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision, regardless of the result of the communication.

Identification of
offence of
financing of
terrorism.
[2 of 2010].

22D. (1) Where the FIU receives information from a financial institution or listed business and it considers that an investigation may disclose that funds in the possession of any individual or legal entity are being used, have been used or are intended for use in the financing of terrorism, it shall forward such information to the Commissioner of Police for further investigation.

FIU may
suspend certain
transactions.
[2 of 2010
14 of 2012].

22E. (1) The FIU may instruct a financial institution or listed business in writing, to suspend the processing of a transaction for a period not exceeding five working days, pending the completion of an evaluation and analysis of a suspicious transaction or suspicious activity report.

(2) Where those instructions are given, a financial institution, listed business or any other aggrieved person, may apply to a judge to discharge the instructions of the FIU and shall serve notice on the FIU, to join in the proceedings, save however, that the instructions shall remain in force until the judge determines otherwise.

(3) After the FIU has concluded its evaluation and analysis of a suspicious transaction or suspicious activity report, and where the Director of the FIU is of the view that the circumstances warrant investigation, a report shall be submitted to the Commissioner of Police for investigation to determine whether an offence of financing of terrorism has been committed and whether the funds are located in Trinidad and Tobago or elsewhere.

PART IV

INVESTIGATION OF OFFENCES

Detention
Orders.
[2 of 2010].

23. (1) Subject to subsection (2), a police officer above the rank of sergeant may, for the purpose of preventing the commission of an offence under this Act or preventing interference in the investigation of an offence under this Act, apply *ex parte*, to a judge for a detention Order.

(2) A police officer above the rank of sergeant may make an application under subsection (1) only with the prior written consent of the Director of Public Prosecutions.

(3) A judge may make an Order under subsection (1) for the detention of the person named in the application if he is satisfied that there are reasonable grounds to believe that the person is—

- (a) interfering or is likely to interfere with an investigation of;
- (b) preparing to commit; or
- (c) facilitating the commission of,

an offence under this Act.

(4) An Order under subsection (3) shall be for a period not exceeding forty-eight hours in the first instance and may be extended for a further period provided that the maximum period of detention under the Order does not exceed fourteen days.

(5) Every Order shall specify the place at which the person named in the Order is to be detained and conditions in respect of access to a medical officer.

(6) An accurate and continuous record shall be kept in accordance with the Schedule, in respect of any detainee for the whole period of his detention.

Schedule.

24. (1) Subject to subsection (2), a police officer of the rank of Inspector or above may, for the purpose of an investigation of an offence under this Act, apply *ex parte* to a judge for an Order for the gathering of information from named persons.

Power to gather information.
[2 of 2010].

(2) A police officer above the rank of sergeant may make an application under subsection (1) only with the prior written consent of the Director of Public Prosecutions.

(3) A judge may make an Order under subsection (1) for the gathering of information if he is satisfied that the written consent of the Director of Public Prosecutions was obtained and—

- (a) that there are reasonable grounds to believe that an offence under this Act has been committed and that—
 - (i) information concerning the offence; or

- (ii) information that may reveal the whereabouts of a person suspected by the police officer above the rank of sergeant of having committed the offence,
is likely to be obtained as a result of the Order, or
- (b) that—
- (i) there are reasonable grounds to believe that an offence under this Act will be committed;
 - (ii) there are reasonable grounds to believe that a person has direct and material information that relates to the offence referred to in subparagraph (i); or
 - (iii) there are reasonable grounds to believe that a person has direct and material information that may reveal the whereabouts of a person who the police officer above the rank of sergeant suspects may commit the offence referred to in subparagraph (i); and
 - (iv) reasonable attempts have been made to obtain the information referred to in subparagraph (ii) or (iii) from the person referred to therein.
- (4) An Order made under subsection (3) may—
- (a) include conditions or terms which the judge considers reasonable;
 - (b) order the examination on oath of the person named in the Order;
 - (c) order the person to attend at a time and place fixed by the judge, for the purpose of being examined; and
 - (d) order the person to bring and produce any document or thing in his control or possession for the purpose of the examination.

(5) An Order made under subsection (3) may be executed anywhere in Trinidad and Tobago.

(6) The judge who made the Order under subsection (3), or another judge of the same Court, may vary its terms and conditions.

(7) A person named in an Order made under subsection (3) shall answer questions put to the person by the Director of Public Prosecutions or the Director of Public Prosecution's representative, and shall produce to the presiding judge documents or things that the person was ordered to bring, but may, subject to the ruling of the judge under subsection (8), refuse to do so if answering a question or producing a document or thing would disclose information that is protected by the law relating to non-disclosure of information or privilege.

(8) The presiding judge shall rule on every objection or issue relating to a refusal to answer any question or to produce any document or thing.

(9) A person shall not be excused from answering a question or producing a document or thing on the ground that the answer, document or thing may incriminate him or subject him to any penalty or proceedings.

(10) Notwithstanding subsection (9) any—

- (a) answer given;
- (b) document or thing produced; or
- (c) evidence obtained,

from that person shall not be used or received against him in any criminal proceedings other than in a prosecution for perjury.

(11) A person may retain and instruct an Attorney-at-law at any stage of the proceedings under this section and the Attorney-at-law so retained may attend and represent the person named in the Order when he is being examined.

(12) The presiding judge, if satisfied that any document or thing produced during the course of the examination is likely

to be relevant to the investigation of any offence under this Act, shall order that the document or thing be given into the custody of the police officer above the rank of sergeant.

(13) Subject to subsection (8), nothing in this section requires the disclosure of any information which is protected by privilege.

Authority for
search.
[2 of 2010].

24A. (1) A police officer above the rank of sergeant may, for the purposes of an investigation into the offence of financing of terrorism apply to a judge for a warrant under this section.

(2) On such application the judge may issue a warrant authorising a police officer above the rank of sergeant to enter and search the premises if the judge is satisfied in relation to the offence of financing of terrorism—

- (a) that there are reasonable grounds for suspecting that an individual or legal entity is linked to the commission of that offence;
- (b) that there are reasonable grounds for suspecting that there are on the premises material relating to the commission of that offence; and
- (c) that it would be appropriate to make an Order in relation to the material because—
 - (i) it is not practicable to communicate with any person entitled to produce the material;
 - (ii) it is not practicable to communicate with any person entitled to grant access to the material or entitled to grant entry to the premises on which the material is situated; or
 - (iii) the investigation for the purposes of which the application is made might be seriously prejudiced unless a police officer above the rank of sergeant could secure immediate access to the material.

(3) Where a police officer above the rank of sergeant has entered the premises in the execution of a warrant issued under this section, he may seize and retain any material, other than items subject to legal privilege, which is likely to be of substantial value, whether by itself or together with other material, to the investigation for the purposes of which the warrant was issued.

(4) The person to whom a search warrant is issued shall furnish a report in writing, within ten days after the execution of the warrant or the expiry of the warrant, whichever occurs first, to the judge who issued the warrant—

- (a) stating whether or not the warrant was executed;
- (b) if the warrant was executed, setting out a detailed description of anything seized; or
- (c) if the warrant was not executed, setting out briefly the reasons why the warrant was not executed.

24B. (1) A judge may on application made by a police officer above the rank of sergeant and if the conditions set out in subsection (2) are met, make an Order that a financial institution or listed business provide to an authorised officer any such customer information relating to the person or account specified in the application.

Customer
Information
Order.
[2 of 2010
15 of 2014].

(2) An application under subsection (1) shall state—

- (a) that there is an investigation of financing of terrorism or other offence under this Act and the Order is sought for purposes of a criminal investigation of that offence; and
- (b) the judge is satisfied that there are reasonable grounds for believing that the financial institution or listed business may have information that is relevant in the investigation.

(3) Customer information is information as to whether a person holds, or has held an account or accounts at the financial

institution or listed business (whether solely or jointly), and information identifying a person who holds an account, and includes all information as to—

- (a) the account number or numbers;
- (b) the person's full name;
- (c) his date of birth;
- (d) his most recent address and any previous addresses;
- (e) the date or dates on which he began to hold the account or accounts and, if he has ceased to hold the account or any of the accounts, the date or dates on which he did so;
- (f) such evidence of his identity as was obtained by the financial institution;
- (g) the full name, date of birth and most recent address, and any previous addresses, of any person who holds, or has held, an account at the financial institution jointly with him;
- (h) the account number or numbers of any other account or accounts held at the financial institution to which he is a signatory and details of the person holding the other account or accounts; and
- (i) any other information which the Court specifies in the customer information Order.

(4) Where the customer is a legal entity, the information shall include—

- (a) a description of any business which it carries on;
- (b) the country or territory in which it is incorporated or otherwise established and any number allocated to it;
- (c) its registered office, and any previous registered offices;
- (d) the full name, date of birth and most recent address and any previous addresses of any

person who is a signatory to the account or any of the accounts; and

(e) any other information which the Court specifies in the customer information Order.

(5) A financial institution or listed business shall provide the information to the authorised officer in such manner, and at or by such time, as is specified in the Order.

(6) An authorised officer for purposes of this section is the FIU.

(7) No obligation to maintain the confidentiality of information held by a financial institution or listed business, whether imposed by a law or contract, can excuse compliance with an Order made under this section.

(8) Where a financial institution or listed business subject to an Order under this section, knowingly—

- (a) fails to comply with the Order; or
- (b) provides false or misleading information in purported compliance with the Order,

the financial institution or listed business commits an offence and is liable on conviction on indictment to a fine of one million dollars.

(9) A financial institution or listed business that has been served with an Order under this section shall not disclose the existence or operation of the Order to any person except—

- (a) an officer or agent of the institution for the purpose of complying with the Order; or
- (b) an authorised officer referred to in the Order.

(10) Where a financial institution or listed business contravenes subsection (9), it commits an offence and is liable on conviction on indictment to a fine of five million dollars.

Monitoring
Order.
[2 of 2010
15 of 2014].

24C. (1) A police officer above the rank of sergeant may apply, *ex parte* to a judge for a monitoring Order directing a financial institution, listed business or non-profit organisation to provide certain information.

(2) An application under subsection (1) shall be supported by an affidavit deposing to matters referred to in subsection (4).

(3) A monitoring Order shall—

- (a) direct a financial institution, listed business or non-profit organisation to disclose information it obtained relating to transactions conducted through an account held by a particular person with the financial institution, listed business or non-profit organisation;
- (b) not have retrospective effect; and
- (c) only apply for a period not exceeding three months from the date it is made.

(4) A judge shall issue a monitoring Order only if he is satisfied that there are reasonable grounds for believing that—

- (a) the person in respect of whose account the Order is sought—
 - (i) has committed or was involved in the commission, or is about to commit or be involved in the commission of, an offence; and
 - (ii) has benefited directly or indirectly, or is about to benefit directly or indirectly, from the commission of an offence; or
- (b) the account is relevant to identifying, locating or quantifying terrorist property.

(5) A monitoring Order shall specify—

- (a) the name or names in which the account is believed to be held; and

(b) the class of information that the financial institution, listed business or non-profit organisation is required to give.

(6) Where a financial institution, listed business or non-profit organisation subject to an Order under this section, knowingly—

- (a) fails to comply with the Order; or
- (b) provides false or misleading information in purported compliance with the Order,

the financial institution, listed business or non-profit organisation commits an offence and is liable on conviction on indictment to a fine of one million dollars.

(7) A financial institution, listed business or non-profit organisation that is or has been subject to a monitoring Order shall not knowingly disclose the existence or operation of the Order to any person except—

- (a) an officer or agent of the financial institution, listed business or non-profit organisation, for the purpose of ensuring compliance with the Order;
- (b) a legal adviser for the purpose of obtaining legal advice or representation in respect of the Order; or
- (c) the authorised officer referred to in the Order.

(8) Where a financial institution, listed business or non-profit organisation contravenes subsection (7), it commits an offence and is liable on conviction on indictment to a fine of five million dollars.

(9) Nothing in this section prevents the disclosure of information concerning a monitoring Order for the purposes of or in connection with legal proceedings or in the course of proceedings before a Court.

(10) Nothing in this section shall be construed as requiring a legal adviser to disclose to any Court the existence or operation of a monitoring Order.

PART V

JURISDICTION AND TRIAL OF OFFENCES

Jurisdiction of
Trinidad and
Tobago Courts.

25. (1) The Courts of Trinidad and Tobago shall have jurisdiction in respect of any offence referred to in this Act if—

- (a) the alleged perpetrator of the offence is arrested in Trinidad and Tobago, or on board a ship registered in Trinidad and Tobago or an aircraft registered in Trinidad and Tobago; and
- (b) the offence was committed—
 - (i) in Trinidad and Tobago, or committed elsewhere, if the act is punishable in terms of the domestic laws of Trinidad and Tobago, including this Act or in terms of the obligations of Trinidad and Tobago under international law;
 - (ii) on board a vessel or a ship or fixed platform registered in Trinidad and Tobago or an aircraft which is registered under the laws of Trinidad and Tobago at the time the offence is committed;
 - (iii) outside of Trinidad and Tobago, and the person who has committed the act is, after the commission of the act, present in Trinidad and Tobago; or
- (c) the evidence reveals any other basis recognised by law.

(2) An act or omission committed outside Trinidad and Tobago which would, if committed in Trinidad and Tobago, constitute an offence under this Act shall be deemed to have been committed in Trinidad and Tobago if the person committing the act or omission is present in Trinidad and Tobago and cannot be extradited to a foreign State having jurisdiction over the offence constituted by such act or omission.

(3) Where the Attorney General receives information that there may be present in Trinidad and Tobago a person who is alleged to have committed an offence under this Act, the Attorney General shall—

- (a) cause an investigation to be carried out in respect of that allegation;
- (b) inform any other foreign State which might also have jurisdiction over the alleged offence promptly of the findings of the investigation; and
- (c) indicate promptly to other foreign States which might also have jurisdiction over the alleged offence whether to the best of his knowledge, information and belief a prosecution is intended by the Director of Public Prosecutions.

(4) In furtherance of subsection (3), in deciding whether to prosecute, the Director of Public Prosecutions shall take into account the adequacy of evidence against the accused.

(4A) The Attorney General and the Director of Public Prosecutions shall consult in relation to the exercise of powers under subsection (4) in respect of—

- (a) considerations of international law, practice and comity;
- (b) international relations; and
- (c) any prosecution that is being or might be taken by a foreign State.

(5) If a person has been taken into custody to ensure the person's presence for the purpose of prosecution or surrender to a foreign State in terms of this section, the Director of Public Prosecutions shall, immediately after the person is taken into custody, notify the Attorney General.

(6) The Attorney General shall inform any foreign State which might have jurisdiction over the offence concerned, and any other State that he considers it advisable to inform or notify

either directly or through the Secretary-General of the United Nations, of—

- (a) the fact that the person is in custody; and
- (b) the circumstances that justify the person's detention.

(7) When the Director of Public Prosecutions declines to prosecute, and another foreign State has jurisdiction over the offence concerned, he shall inform such foreign State, accordingly with the view to the surrender of such person to such foreign State for prosecution by that State.

Extradition
from Trinidad
and Tobago.
Ch. 12:04.

26. The proceedings referred to in the Extradition (Commonwealth and Foreign Territories) Act, (hereinafter referred to as the “Extradition Act”) shall apply with the necessary changes in respect of any surrender referred to in section 25.

Evidence by a
certificate.

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

PART VI

INFORMATION SHARING, EXTRADITION AND MUTUAL ASSISTANCE IN CRIMINAL MATTERS

Exchange of
information
relating to
terrorist acts.

28. The Minister may, after consultation with the Attorney General, on a request made by the appropriate authority of a foreign State, disclose to that authority, any information in his possession or, with the necessary permission, in the possession

of any other government, department or agency, relating to any of the following:

- (a) the actions or movements of persons suspected of involvement in the commission of terrorist acts;
- (b) the use of forged or falsified travel papers by persons suspected of involvement in the commission of terrorist acts;
- (c) traffic in explosives or other lethal devices or sensitive materials by persons suspected of involvement in the commission of terrorist acts; or
- (d) the use of communication technologies by persons suspected of involvement in the commission of terrorist acts,

if the disclosure is not prohibited by any law and will not, in the Minister's view be prejudicial to national security or public safety.

29. (1) Where Trinidad and Tobago becomes a party to a treaty and there is in force, an extradition arrangement between the Government of Trinidad and Tobago and another State which is a party to that treaty, the extradition arrangement shall be deemed, for the purpose of the Extradition Act, to include provision for extradition in respect of offences falling within the scope of that treaty.

Treaty to be used as basis for extradition.

Ch. 12:04.

(2) Where Trinidad and Tobago becomes a party to a treaty and there is no extradition arrangement between the Government of Trinidad and Tobago and another State which is a party to that treaty, the Attorney General may, by Order, subject to a negative resolution of Parliament treat the treaty, for the purposes of the Extradition Act, as an extradition arrangement between the Government of Trinidad and Tobago and that State providing for extradition, in respect of offences falling within the scope of that treaty.

30. (1) Where Trinidad and Tobago becomes a party to a treaty and there is in force, an arrangement between the Government of Trinidad and Tobago and another State which is a party to that treaty, for mutual assistance in criminal matters,

Treaty to be used as basis for Mutual Assistance in Criminal Matters.
Ch.11:24.

the arrangement shall be deemed, for the purposes of the Mutual Assistance in Criminal Matters Act, to include provision for mutual assistance in criminal matters in respect of offences falling within the scope of that treaty.

(2) Where Trinidad and Tobago becomes a party to a treaty and there is no arrangement between the Government of Trinidad and Tobago and another State which is a party to that treaty for mutual assistance in criminal matters, the Attorney General may, by Order subject to a negative resolution of Parliament, treat the treaty as an arrangement between the Government of Trinidad and Tobago and that State providing for mutual assistance in criminal matters in respect of offences falling within the scope of that treaty.

Offences under this Act not deemed to be offences of a political character.
Ch. 12:04.
Ch. 11:24.

31. Notwithstanding anything in the Extradition Act or the Mutual Assistance in Criminal Matters Act, an offence under this Act or an offence under any other Act where the act or omission constituting the offence also constitutes a terrorist act, shall, for the purposes of extradition or of mutual assistance, be deemed not to be an offence of a political character or an offence connected with a political offence or an offence inspired by political motives.

PART VII

DISCLOSURE AND SHARING INFORMATION

Duty to disclose information relating to offences and terrorist acts.
[2 of 2010].

32. (1) Every person or regulatory authority who has any information which will assist in—

- (a) preventing the commission by another person, of a terrorist act; or
- (b) securing the arrest or prosecution of another person for an offence under this Act, or an offence under any other law and which also constitutes a terrorist act,

shall forthwith disclose the information to a police officer above the rank of sergeant or the Central Authority as defined under the Mutual Assistance in Criminal Matters Act.

Ch. 11:24.

(2) Notwithstanding subsection (1) a person referred to in subsection (1), shall not be required to disclose any information which is protected by privilege.

(3) Civil or criminal proceedings shall not lie against any person for disclosing any information in good faith pursuant to subsection (1).

(4) Any person who fails to comply with subsection (1) commits an offence and is liable on conviction on indictment to a fine of ten thousand dollars and to imprisonment for two years.

(5) For the purposes of this section, “regulatory authority” means the Central Bank, the Securities Exchange Commission, the Financial Intelligence Unit, the Trinidad and Tobago Stock Exchange, the Inspector of Financial Institutions and the Commissioner of Co-operatives.

33. (1) Every person shall forthwith disclose to the FIU—

- (a) the existence of any property in his possession or control, which to his knowledge is terrorist property, or which there are reasonable grounds to believe is terrorist property;
- (b) any information regarding a transaction or proposed transaction in respect of terrorist property; or
- (c) any information regarding a transaction or proposed transaction which there are reasonable grounds to believe may involve terrorist property.

Duty to disclose information relating to property used for commission of offences under this Act. [2 of 2010 [16 of 2011].

(2) The FIU shall disclose to the appropriate authority, any information in his possession relating to any terrorist property if such information is requested or if the Minister is of the view that the information would be relevant to a foreign State.

(3) Every financial institution shall report, every three months, to the FIU—

- (a) if it is not in possession or control of terrorist property, that it is not in possession or control of such property; or

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

(4) *(Deleted by Act No. 16 of 2011).*

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

(6) Every person who fails to comply with subsection (1) or (3) commits an offence and shall, on conviction on indictment, be liable to imprisonment for five years.

PART VIII

SEIZURE AND FORFEITURE OF TERRORIST PROPERTY

Application for
restraint Order.
[2 of 2010
14 of 2012
15 of 2014].

34. (1) Where a customs officer, immigration officer, or police officer above the rank of sergeant reasonably believes that property in the possession of a person is terrorist property, he may apply to a judge for a restraint Order in respect of that property.

(1A) Where information is forwarded to the Commissioner of Police pursuant to section 22D, and he has reasonable grounds to believe that funds should be restrained, the Commissioner of Police may apply to the Court for an Order to restrain such funds.

- (2) This section applies to property that is being—
- (a) brought to any place in Trinidad and Tobago for the purpose of being exported from;
 - (b) exported from; or
 - (c) imported into,

Trinidad and Tobago.

(3) Subject to subsection (4), a restraint Order made under subsections (1) and (1A), shall be valid for a period of sixty

days, and may, on application, be renewed by a judge, for a further period of sixty days or until such time as the property referred to in the Order is produced in Court in proceedings for an offence under this Act in respect of that property whichever is the sooner.

(3A) A restraint Order made under subsections (1) and (1A) may make such provision as the Court thinks fit for living expenses and legal expenses of an individual or legal entity, as the case may be.

(4) A judge may release any property referred to in a restraint Order made under subsections (1) and (1A) if—

- (a) he no longer has reasonable grounds to suspect that the property has been, is being or will be used to commit an offence under this Act; or
- (b) no proceedings are instituted in the High Court for an offence under this Act in respect of that property within one hundred and twenty days of the date of the restraint Order.

(5) No civil or criminal proceedings shall lie against an officer for a seizure of property, made in good faith, under subsections (1) and (1A).

(6) An appeal from a decision of the judge made under this section shall lie to the Court of Appeal.

35. (1) Where a person is convicted of an offence under this Act, or an offence under any other Act where the act or omission also constitutes a terrorist act, the Court may order that any property—

- (a) used for, or in connection with; or
- (b) obtained as proceeds from,

the commission of that offence, be forfeited to the State.

(2) Before making a forfeiture Order the judge shall give an opportunity to be heard to any person who—

- (a) appears to the Court to have an interest in; or
- (b) claims to be the owner of,

the property.

Orders for forfeiture of property on conviction for offences under this Act. [2 of 2010].

(3) Property forfeited to the State under subsection (1) shall vest in the State—

- (a) if no appeal has been made against the Order, at the end of the period within which an appeal may be made against the Order; or
- (b) if an appeal has been made against the Order, on the final determination of the matter, where the decision is made in favour of the State.

Orders for seizure and restraint of property. [2 of 2010].

36. (1) Where on an *ex parte* application is made by the Director of Public Prosecutions to a judge, the judge is satisfied that there are reasonable grounds to believe that there is in any building, place or vessel, any property in respect of which an Order of forfeiture may be made under section 37, the judge may issue—

- (a) a warrant authorising a police officer to search the building, place or vessel for that property and to seize that property if found, and any other property in respect of which that police officer believes, on reasonable grounds, that an Order of forfeiture may be made under section 37; or
- (b) a restraint Order prohibiting any person from disposing of, or otherwise dealing with any interest in, that property, other than as may be specified in the Order.

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

- (a) appoint a person to take control of, and manage or otherwise deal with, the whole or a part of the property, in accordance with the directions of the judge; and
- (b) require any person having possession of the property to give possession thereof to the person appointed under paragraph (a).

(3) The power to manage or otherwise deal with property under subsection (2) includes in the case of perishable

or rapidly depreciating property, the power to sell that property; and in the case of property that has little or no value, the power to destroy that property.

(4) Before a person appointed under subsection (2) destroys any property referred to in subsection 3, he shall apply to a judge for a destruction Order.

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

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

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

(8) The Director of Public Prosecutions may at any time apply to a judge to cancel or vary a warrant or Order issued under this section.

37. (1) The Attorney General may make an application to a judge for an Order of forfeiture in respect of terrorist property.

Orders for
forfeiture of
property.
[2 of 2010].

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

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

(4) Where a judge is satisfied, on a balance of probabilities, that the property which is the subject of the

application is terrorist property, the judge shall Order that the property be forfeited to the State to be disposed of as directed by the judge.

(5) Where a judge refuses an application under subsection (1), the judge shall make an Order that describes the property and declare that it is not terrorist property.

(6) On an application under subsection (1), a judge may require notice to be given to any person not named as a respondent who in the opinion of the judge, appears to have an interest in the property, and any such person shall be entitled to be added as a respondent to the application.

(7) Where a judge is satisfied that a person—

- (a) has an interest in the property which is the subject of the application; and
- (b) has exercised reasonable care to ensure that the property is not the proceeds of a terrorist act, and would not be used to commit or facilitate the commission of a terrorist act,

the judge shall order that the interest shall not be affected by the Order made under subsection (4) and the Order shall also declare the nature and extent of the interest in question.

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

(9) Pending the determination of an appeal against an Order of forfeiture made under this section, property restrained under section 37 shall continue to be restrained, property seized under a warrant issued under that section shall continue to be detained, and any person appointed to manage, control or otherwise deal with the property under that section shall continue in that capacity.

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

38. (1) Trinidad and Tobago may, pursuant to any agreement with any other State, share with that State on a reciprocal basis the property derived from forfeiture pursuant to this Act.

Sharing of
forfeited
property.

(2) Property referred to under subsection (1), may be utilised to compensate victims of the offences referred to under this Act.

38A. (1) Any customs officer or police officer above the rank of sergeant may seize and detain part of or the whole amount of any cash where there are reasonable grounds for suspecting that it is—

Seizure and
detention of
cash.
[2 of 2010].

(a) intended for use in the commission of an offence under this Act; or

(b) is terrorist property.

(2) Cash detained under subsection (1) shall not be detained for more than ninety-six hours after seizure, unless a judge orders its continued detention for a period not exceeding three months from the date of the initial seizure and the detained cash shall be paid into Court.

(3) A judge may order a detention under subsection (1) upon being satisfied that the continued detention of the cash is justified while—

(a) its origin or derivation is further investigated; or

(b) consideration is given to the institution in Trinidad and Tobago or elsewhere of criminal proceedings against any person for an offence with which the seized item is connected.

(4) A judge may subsequently order continued detention of the cash if satisfied of the matters set forth in subsections (2) and (3), but the total period of detention shall not exceed two years from the date of the Order made under those subsections.

(5) Subject to subsection (6), cash detained under this section may be released in whole or in part to the person on whose behalf it was transported by Order of a judge, that its continued detention is no longer justified upon application by or on behalf of that person and after considering any views of a police officer above the rank of sergeant.

(6) Cash detained under this section shall not be released where an application for restraint or forfeiture of the cash is pending under this Act or if proceedings have been instituted in Trinidad and Tobago or elsewhere against any person for an offence with which the cash is connected, unless and until the proceedings on the application or the proceedings related to an offence have been concluded.

(7) Where the application relates to cash that is commingled with other cash, the commingled cash is subject to continued detention under this subsection.

(8) Upon an application by a police officer above the rank of sergeant, a judge shall order forfeiture of any cash which has been seized and detained under this section if satisfied on the balance of probabilities that the cash directly or indirectly represents—

- (a) terrorist property; or
- (b) proceeds of an offence or intended for use in the commission of an offence.

(9) Before making an Order of forfeiture under subsection (8), the Court shall order that notice be provided to any person who has asserted an interest in the cash and provide an opportunity for that person to be heard.

(10) In this section—

- (a) “cash” includes coins, notes and other bearer negotiable instruments in any currency;
- (b) “bearer negotiable instrument” includes monetary instruments in bearer form such as

travellers cheques, negotiable instruments including cheques, promissory notes and money orders that are either in bearer form, endorsed without restriction made out to a fictitious payee, or otherwise in such form that title thereto passes upon delivery; incomplete instruments including cheques, promissory notes and money orders signed, but with the payee's name omitted.

PART IX

MISCELLANEOUS POWERS

- 39.** (1) The operator of an aircraft or master of a vessel—
- (a) departing from Trinidad and Tobago; or
 - (b) registered in Trinidad and Tobago departing from any place outside Trinidad and Tobago,

Duty to disclose information relating to passengers of aircraft and vessels.

shall, in accordance with Regulations made under this section provide to the—

- (i) Chief Immigration Officer any information in his possession relating to persons on board or expected to be on board the aircraft or vessel; or
- (ii) competent authority of a foreign State any information in his possession relating to persons on board or expected to be on board the aircraft or vessel in accordance with the law of that foreign State.

(2) Any information provided to the Chief Immigration Officer shall not be used or disclosed by him except for the purpose of protecting national security or public safety.

(3) The Minister may, subject to Regulations made under subsection (4), provide to the competent authority in a foreign State any information in his possession relating to persons entering or leaving Trinidad and Tobago, by land, and that is required by the laws of that foreign State.

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

(5) The Minister may make Regulations generally to give effect to the purposes of this section, including Regulations—

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

Power to refuse
refugee
application.

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

Power to make
Regulations.
[16 of 2011].

41. (1) The Minister may make Regulations in respect of all matters for which Regulations are required or authorised to be made by this Act.

(2) The Minister to whom responsibility for the FIU is assigned may make Regulations, subject to negative resolution of the Parliament prescribing—

- (a) the type of records to be kept by a financial institution or listed business and the type of information to be included in these records;
- (b) the procedure to be followed in implementing section 22C(2)(d);
- (c) the periods for which and the methods by which the records referred to in paragraph (a) may be retained;
- (d) the measures which a financial institution or listed business shall implement to—
 - (i) ascertain the identity of persons with whom they are dealing; and

- (ii) treat with circumstances in which sufficient identification data is not made available by an applicant or business;
- (e) the measures that may be taken by a Supervisory Authority to secure compliance with this Act or to prevent the commission of an unsafe or unsound practice, including—
 - (i) administrative sanctions; and
 - (ii) disciplinary actions when possible;
- (f) the manner and time frame in which due diligence may be undertaken in respect of existing customers and business relationships established prior to the coming into force of the Proceeds of Crime Act, by a financial institution or listed business; and
- (g) generally, for the purpose of giving effect to Part IIIA of this Act.

Ch. 11:27.

(3) Regulations made under subsection (1) shall be subject to negative resolution of Parliament.

42. (1) Subject to subsection (2), a financial institution or listed business which fails to comply with—

Offences and penalties.
[16 of 2011
14 of 2012
15 of 2014].

- (a) section 22AB or 22C(1), (2) or (3) commits an offence and is liable on summary conviction to a fine of five hundred thousand dollars and to imprisonment for two years and on conviction on indictment, to a fine of three million dollars and to imprisonment for seven years; or
- (b) Regulations made under section 41(2) is liable on summary conviction to a fine of five hundred thousand dollars and to imprisonment for two years.

(2) Where a company commits an offence under sections 22AB and 22C(1), (2) and (3), any officer, director or agent of the company—

- (a) who directed, authorised, assented to, or acquiesced in the commission of the offence; or

(b) to whom any omission is attributable,
is a party to the offence and is liable on summary conviction or on conviction on indictment, to the penalty prescribed in subsection (1)(a).

Section 23.
[2 of 2010].

SCHEDULE

CUSTODY RECORD FOR DETAINED PERSON

1. Entries shall be made in respect of all matters relevant to the detention of the arrested person and shall be referred to as the Custody Record. In particular, the entries shall be made in respect of the following:

- (a) an accurate record of the time and place of—
 - (i) the arrest;
 - (ii) the issue of the direction; and
 - (iii) each interview, including any interview immediately following the arrest of the person detained;
- (b) the place or places where the interview takes place;
- (c) the time at which the interview begins and the time at which it ends;
- (d) any break during the interview;
- (e) the names of persons present at the interviews;
- (f) the time and reason for any transfer of the detained person from one place of custody to another as well as the time at which the detention ends;
- (g) any property secured from the person on his arrest or during his detention;
- (h) the name and rank of the police officer above the rank of sergeant upon whose authority any action in relation to the detained person is taken; and
- (i) the ground or grounds, on which the detention is based.

2. The Custody Record shall be opened as soon as practicable after the start of a person's detention.

3. The person making an entry in the Custody Record shall insert the time at which the entry is made and his signature against the entry made.

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UPDATED TO DECEMBER 31ST 2014

4. The Custody Record or copy of the Record shall accompany a detained person to any other place where he is transferred.

5. A copy of the Custody Record shall be supplied to the person detained or his legal representative as soon as is practicable after he or the representative makes a request upon his release from detention or his being taken to Court.

6. The person detained shall be allowed to check and shall be made to insert his signature in respect of any entry in the Custody Record.

7. An entry shall be made in respect of any refusal of the person detained to insert his signature where such signature is required.

8. Entries in the Custody Record shall be made as soon as practicable after the occurrence of the events to which they relate.

9. A police officer of the rank of Inspector or above shall be responsible for ensuring the accuracy and completeness of the Custody Record and that the Custody Record or a copy of the Record accompanies the detained person on his transfer.

10. Entries in a computerised Custody Record shall be timed and shall contain evidence of the computer operator's identity.

SUBSIDIARY LEGISLATION

**FINANCIAL OBLIGATIONS (FINANCING OF
TERRORISM) REGULATIONS**

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation.
 2. Interpretation.
 3. Application of the Financial Obligations Regulations, 2010.
 4. Training of staff.
 5. Customer due diligence in the financing of terrorism.
 6. Report of suspicious transactions and suspicious activities.
 7. Technological developments.
 8. Offences and penalties.
 9. Offences by Companies and other bodies.
 10. Prosecutions.
-

**FINANCIAL OBLIGATIONS (FINANCING OF
TERRORISM) REGULATIONS**

7/2011.

made under section 41

1. These Regulations may be cited as the Financial Obligations (Financing of Terrorism) Regulations. Citation.

2. In these Regulations— Interpretation.

“financial institution” has the meaning assigned to it in the Proceeds of Crime Act; Ch. 11:27.

“FIU” means the Financial Intelligence Unit of Trinidad and Tobago, established under section 3 of the Financial Intelligence Unit of Trinidad and Tobago Act; Ch. 72:01.

“listed business” has the meaning assigned to it in the Act; Ch. 12:07.

“Supervisory Authority” has the meaning assigned to it in the Financial Obligations Regulations; Sub. Leg. 7/2010.

“terrorist organisation” has the meaning assigned to it in the Act; and

“the Act” means the Anti-Terrorism Act.

3. (1) Subject to subregulation (2), the obligations, prohibitions and offences contained in the Financial Obligations Regulations, (hereinafter referred to as “the Regulations”) shall apply *mutatis mutandis* to a financial institution or a listed business, in relation to the financing of terrorism. Application of the Financial Obligations Regulations. 7/2010.

(2) Every financial institution or listed business to which the Regulations apply, shall also comply with any additional or specific provisions contained in these Regulations.

4. (1) A financial institution or listed business shall, in addition to its training obligations under Regulations, make arrangements for the training of its directors and members of staff on the subject of the financing of terrorism. Training of staff.

(2) A programme of training for the purposes of this regulation, shall include a study of—

- (a) procedures and controls for the prevention of the misuse of technological developments in terrorist financing schemes;
- (b) new developments in methods and trends in terrorist financing; and
- (c) the appropriate internal controls and communication for the purpose of forestalling terrorist financing.

(3) The training required by subregulation (1), shall be given—

- (a) in such a manner that employees at different levels of the financial institution or listed business, would develop the ability to identify funds which may be linked or related to or may be used for terrorist acts, by any known legal entity or terrorist organisations; and
- (b) continuously, in order to ensure that information and technology available to the directors and staff are constantly being updated.

Customer due diligence in the financing of terrorism. Sub. Leg. 7/2010.

5. (1) The policies and procedures for customer due diligence established under Part III of the Regulations, shall be applied by every financial institution or listed business, where it is known or there are reasonable grounds to suspect that funds for a transaction are linked or related to or to be used in whole or in part for the financing of terrorism.

(2) A financial institution or listed business shall adopt a risk based approach in determining the standard of due diligence to be applied to a customer or to a person conducting a one-off transaction.

Report of suspicious transactions and suspicious activities

6. (1) In addition to the responsibilities given to the internal and external auditors or other competent professionals under regulation 10 of the Regulations, they shall report to the

Compliance Officer any suspicion or knowledge that a transaction is linked or related to the financing of terrorism.

(2) On receipt of such a report, the Compliance Officer shall consider the same, with a view to determining whether he should submit a suspicious activity or suspicious transaction report to the FIU.

(3) Where the Compliance Officer determines that the report referred to in subsection (2) should be submitted, he shall do so immediately, but in any case, within the statutory time frame for so doing.

7. (1) A financial institution or listed business shall pay special attention to the use of new and developing technology in terrorist financing offences and any patterns of terrorist financing arising from any technology that may favour anonymity.

Technological developments.

(2) A financial institution or listed business shall take appropriate measures to deal with such patterns referred to in subsection (1).

8. A financial institution or listed business which does not comply with these Regulations commits an offence and is liable on summary conviction or on conviction on indictment, to the penalty prescribed in the Act.

Offences and penalties.

9. (1) Where a company commits an offence under these Regulations, any officer, director or agent of the company—

Offences by Companies and other bodies.

- (a) who directed, authorised, assented to, or acquiesced in the commission of the offence; or
- (b) to whom any omission is attributable,

is a party to the offence and is liable on summary conviction or on conviction on indictment, to the penalty prescribed in the Act.

(2) Where a partnership commits an offence under these Regulations and it is proved that the acts or omissions of the partner constitute an offence in accordance with

paragraph (a) or (b) of subregulation (1), the partner and the partnership are liable on summary conviction or on conviction on indictment, to the penalty prescribed in the Act.

(3) Where an unincorporated association, other than a partnership, commits an offence and it is proved that the acts or omissions of the officer or member of the governing body, constitute an offence in accordance with paragraph (a) or (b) of subregulation (1), that officer or member as well as the unincorporated body, commits an offence and is liable on summary conviction or on conviction on indictment, to the penalty prescribed in the Act.

(4) If the affairs of a body corporate are managed by its members, subregulation (1) applies in relation to the acts and omissions of a member in connection with his functions of management, as if he were a director of the body.

(5) In this regulation—
“partner” includes a person purporting to act as a partner; and
“officer”, in relation to a body corporate, means a director, manager, secretary, Chief Executive Officer, member of the committee of management or a person acting in such a capacity.

Prosecutions.

10. Proceedings for an offence under these Regulations may not be instituted without the approval of the Director of Public Prosecutions.