

**CONSOLIDATED TO 31 DECEMBER 2015**

**LAWS OF SEYCHELLES**

**PREVENTION OF TERRORISM ACT, 2004**

*[1st December 2004]*

Act 7 of 2004  
S.I. 32 of 2004

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**ARRANGEMENT OF SECTIONS**

**PREVENTION OF TERRORISM ACT, 2004**

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### PART I – PRELIMINARY

#### **Short title**

1. This Act may be cited as the Prevention of Terrorism Act, 2004.

#### **Interpretation**

2. In this Act -

“aircraft” includes an aeroplane, glider and helicopter;

"communication" means a communication received or transmitted by post or a telegraphic, telephonic or other communication received or transmitted by electricity, magnetism or other means;

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

"competent authority" in relation to a foreign State, means the Attorney-General or the like officer of that State;

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

"financial institution" means a commercial bank or any other institution which makes loans, advances or investments or accepts deposits of money from the public;

"master", in relation to a vessel, means the owner or person other than a harbour master or pilot having for the time being command or charge of the vessel;

"Minister" means the minister responsible for internal affairs;

"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" means any movable or immovable property;

"specified entity" means an entity in respect of which an order under section 3 has been made, or is deemed by reason of the operation of section 42(3) to have been made, and is for the time being in force;

"terrorist act" means an act or threat of action which -

- (a) involves the death of, or serious bodily harm to, a person;
- (b) involves serious damage to property;
- (c) endangers a person's life;
- (d) creates a serious risk to the health or safety of the public or a section of the public;
- (e) involves the use of firearms or explosives;
- (f) involves releasing into the environment or any part thereof or distributing or exposing the public or any section thereof to -
  - (i) any dangerous, hazardous, radioactive or harmful substance;
  - (ii) any toxic chemical;
  - (iii) any microbial or other biological agent or toxin;
- (g) is designed or intended to disrupt any computer system or the provision of services directly related to communications infrastructure, banking or financial services, utilities, transportation or other essential infrastructure;
- (h) is designed or intended to disrupt the provision of essential emergency services such as police, civil defence or medical services;
- (i) involves prejudice to national security or public safety;

and is intended, or by its nature and context may reasonably be regarded as being intended, to -

- (i) intimidate the public or a section of the public; or
- (ii) seriously destabilise or destroy the religious, political, constitutional, economic or social institutions of a country, or an international organisation; or
- (iii) compel a government or an international organisation to do, or refrain from doing, any act:

Provided that an act which disrupts any services and is committed in pursuance of a protest, demonstration or stoppage of work shall be deemed not to be a terrorist act within the meaning of this definition so long and so long only as the act is not intended to result in any harm referred to in paragraph (a), (b), (c) or (d);

"terrorist group" means –

- (a) an entity that has, as one of its activities and purposes, the committing of, or the facilitation of the commission of, a terrorist act; or
- (b) a specified entity;

"terrorist property" means -

- (a) proceeds from the commission of a terrorist act,
- (b) money or other property which has been, is being, or is likely to be used to commit a terrorist act, or
- (c) money or other property which has been, is being, or is likely to be used by a terrorist group;

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

"weapon" includes a firearm or explosive or a chemical, biological or nuclear weapon.

## **PART II – SPECIFIED ENTITIES**

### **Specified Entity Order**

3. (1) Where the Attorney-General has reasonable grounds to believe that -
  - (a) an entity has knowingly -
    - (i) committed;
    - (ii) attempted to commit;

(iii) participated in committing; or

(iv) facilitated the commission of a terrorist act, or

(b) an entity is knowingly acting -

(i) on behalf of,

(ii) at the direction of, or

(iii) in association with

an entity referred to in paragraph (a), the Attorney-General may recommend to the Minister that an Order be made under subsection (2) in respect of that entity.

(2) If the Minister is satisfied that there is material to support a recommendation made under subsection (1), the Minister may, by Order published in the Gazette, declare the entity in respect of which the recommendation has been made, to be a specified entity.

(3) A specified entity may apply to the Attorney-General requesting the Attorney-General to recommend to the Minister the revocation of an Order made under subsection (2), or deemed under section 42(3) to have been made, in respect of that entity.

(4) If, on an application made under subsection (3), the Attorney-General -

(a) decides that there are reasonable grounds for making the recommendation requested in the application, the Attorney-General shall make such recommendation to the Minister;

(b) decides that there are no reasonable grounds for making the recommendation requested in the application, the Attorney-General shall refuse the application and shall, within 60 days of receiving the application, inform the applicant of the decision.

(5) Within 60 days of receiving information of the decision referred to in subsection (4), the applicant may apply to the Supreme Court for a review of that decision.

(6) Upon an application being made under subsection (5), the Supreme Court shall -

(a) examine in chambers, any security or intelligence reports considered in recommending or making an Order under subsection (2) in respect of the applicant and hear any other evidence or information that may be presented by or on behalf of 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 Court considers 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 Court, so as to enable the applicant to be reasonably informed of the reasons for the decision, without disclosing any information the disclosure of which would, in the opinion of the Court 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 the decision is reasonable on the basis of the information available to the Court and, if found not to be reasonable, make an order requiring the Attorney-General to recommend to the Minister, the revocation of the Order made, or deemed to have been made, in respect of the applicant.

(7) The Court may receive in evidence anything, including information obtained from the government or institution or agency of a foreign state or from an international organisation that, in the opinion of the Court, is reliable and relevant, even if the thing would not otherwise be admissible in law, and may base its decision on that evidence.

(8) The Attorney-General shall, every six months, review all the Orders made under subsection (2) to determine whether there are still reasonable grounds, as set out in subsection (1), for any such Order to continue to apply to a specified entity, and if the Attorney-General determines that there are no such reasonable grounds, shall recommend to the Minister the revocation of the Order made under subsection (2) in respect of that specified entity.

### **PART III – OFFENCES**

#### **Offence of terrorist act**

4. Every person who commits -

(a) a terrorist act that causes the death of a person commits an offence and shall on conviction be liable to imprisonment for life;

(b) any other terrorist act commits an offence and shall on conviction be liable to imprisonment for a period not less than seven years and not more than 30 years.

#### **Provision or collection of funds to commit terrorist acts**

5. Every person who provides or collects, by any means, directly or indirectly, any funds intending, knowing or having reasonable grounds to believe that the funds will be used in full or in part to carry out a terrorist act commits an offence and shall, on conviction, be liable to imprisonment for a term not less than seven years and not more than 20 years.

#### **Collection of property or provision of property or services for commission of terrorist acts**

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

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

(b) knowing that in whole or in part, they will be used by, or will benefit, a

terrorist group,

is guilty of an offence and shall, on conviction, be liable to imprisonment for a term not less than seven years and not more than 20 years.

### **Use of property for commission of terrorist acts**

7. Every person who -

(a) uses property, directly or indirectly, in whole or in part, for the purpose of committing or facilitating the commission of a terrorist act; or

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

is guilty of an offence and shall, on conviction, be liable to imprisonment for a term not less than seven years and not more than 20 years.

### **Arrangements for retention or control of terrorist property**

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

(a) by concealment,

(b) by a removal out of jurisdiction,

(c) by transfer to a nominee, or

(d) in any other way,

is guilty of an offence and shall, on conviction, be liable to imprisonment for a term not less than seven years and not more than 20 years.

### **Dealing in property owned or controlled by terrorist groups**

9. (1) Every person who knowingly -

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

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

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

is guilty of an offence and shall, on conviction, be liable to imprisonment for a term not less than seven years and not more than 20 years.

(2) A person who acts reasonably in taking or omitting to take measures to comply with subsection (1) shall not be liable in any civil action arising from having taken, or omitted



to have taken, those measures if the person proves that he or she took all reasonable action to satisfy himself or herself that the relevant property was not owned or controlled by or on behalf of a terrorist group.

### **Soliciting and giving of support to terrorist groups or for the commission of terrorist acts**

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

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

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

is guilty of an offence and shall on conviction, be liable to imprisonment for a term not less than seven years and not more than 20 years.

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

### **Harbouring of persons committing terrorist acts**

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

(a) has committed a terrorist act or is planning, or is likely to commit, a terrorist act; or

(b) is a member of a terrorist group;

is guilty of an offence and shall on conviction, be liable to imprisonment for a term not less than seven years and not more than 20 years.

### **Provision of weapons to terrorist groups**

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

(a) a terrorist group;

(b) a member of a terrorist group;

(c) to any other person for use by, or for the benefit of, a terrorist group or a member of a terrorist group,

is guilty of an offence and shall, on conviction, be liable to imprisonment for a term not less than seven years and not more than 20 years.

### **Recruitment for terrorist groups or terrorist acts**

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

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

(b) to participate in the commission of a terrorist act,

is guilty of an offence and shall, on conviction, be liable to imprisonment for a term not less than seven years and not more than 20 years.

### **Training terrorist groups and persons**

14. Every person who knowingly agrees to provide training or instruction, or provides training or instruction -

(a) in the making or use of any weapon;

(b) in carrying out a terrorist act,

(c) in the practice of military exercises or movements

to a member of a terrorist group or a person engaging in, or preparing to engage in, the commission of a terrorist act is guilty of an offence and shall, on conviction, be liable to imprisonment for a term not less than seven years and not more than 20 years.

### **Promotion or facilitation of terrorism in foreign states**

15. Every person who in Seychelles -

(a) knowingly promotes or facilitates the doing of any act in a foreign State for the purpose of achieving any of the following objectives whether or not the objective is achieved-

(i) the overthrow, by force or violence, of the government of that foreign State;

(ii) causing, by force or violence, the public in that foreign State to be in fear of death or bodily injury;

(iii) causing death of, or bodily injury to a person who -

(a) is the Head of State of that foreign State; or

(b) holds or performs any of the duties of a public office of that foreign State;

(b) recruits another person to become a member of, or to serve in any capacity with a body or association of persons the objectives of which are, or include, the objectives referred to in paragraph (a);

(c) accumulates, stockpiles or otherwise keeps, any weapons for the purpose of doing any act referred to in paragraph (a);

(d) trains or drills, or participates in the training or drilling of, any other person in the use of weapons or in the practice of military exercises or movements to prepare that person to do any act referred to in paragraph (a);

(e) allows himself or herself to be trained or drilled in the use of weapons or

in the practice of military exercises or movements for the purpose of doing any act referred to in paragraph (a);

(f) gives any money or goods to, or performs services for, any other person or body or association of persons for the purpose of doing an act referred to in paragraph (a); or

(g) receives or solicits money or goods or the performance of services for the purpose of promoting or supporting the doing of an act referred to in paragraph (a)

is guilty of an offence and shall on conviction, be liable to imprisonment for a term not less than seven years and not more than 20 years.

### **Promotion of offences under section 15**

16. Every person who being -

(a) the owner, occupier, lessee or person in charge of any building, premises, room or place knowingly permits a meeting of persons to be held in that building, premises, room or place,

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

for the purpose of committing an offence under section 15, or promoting or supporting the commission of an offence under section 15 is guilty of an offence and shall, on conviction, be liable to imprisonment for a term not less than seven years and not more than 20 years.

### **Conspiracy to commit offences under this Act**

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

(2) Every person who conspires with another person in a place outside Seychelles to do any act in Seychelles which constitutes an offence under this Act shall be deemed to have conspired in Seychelles to do that act.

### **Membership of terrorist groups**

18. (1) Every person who is a member of, or professes to be a member of, a terrorist group is guilty of an offence and shall, on conviction, be liable to imprisonment for a term not less than seven years and not more than 20 years.

(2) It shall be a defence for a person charged with an offence under this section to prove that the entity in respect of which the charge is brought was not a terrorist group at or on the date that he or she became a member of, or professed to be a member of, that entity, or that he or she has not taken part in the activities of that entity after it became a terrorist group.

### **Arrangement of meetings in support of terrorist groups**

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

- (a) to support a terrorist group;
- (b) to further the activities of a terrorist group;
- (c) to be addressed by a person who belongs or professes to belong to a terrorist group,

is guilty of an offence and shall, on conviction, be liable to imprisonment for a term not less than seven years and not more than 20 years.

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

### **Participation in the commission of offences under this Act**

20. Every person who -

- (a) aids and abets the commission of;
- (b) attempts to commit;
- (c) conspires to commit;
- (d) counsels or procures the commission of,

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

## **PART IV – INVESTIGATION OF OFFENCES**

### **Powers of arrest**

21. Any police officer may arrest without warrant any person who has committed or is committing or is suspected by the police officer on reasonable grounds to have committed or to be committing an offence under this Act.

### **Right to be released**

22. (1) A person arrested under section 21 (hereinafter referred to as the "suspect") shall be released within 24 hours of the arrest unless-

- (a) the suspect is produced before a court and the court has ordered that the suspect be remanded in custody; or
- (b) the police officer holding the suspect has reasonable grounds for believing that it is necessary to continue holding the suspect to secure or preserve evidence relating to an offence for which the suspect is under arrest or to obtain the evidence by questioning the suspect; and

it is not reasonably practicable, having regard to the distance from the place where the suspect is held to the nearest court, the non-availability of a judge or magistrate, or force majeure to produce the suspect before court not later than 24 hours after the arrest of the suspect.

(2) Where a suspect is held under subsection (1)(b) -

(a) the police officer who is holding the suspect shall not more than 24 hours after the expiry of the first 24 hours after the arrest of the suspect, and thereafter not more than 24 hours after the last review, review if the conditions specified in the subsection are still being satisfied for the purpose of determining whether to continue holding the suspect; and

(b) the suspect shall, unless released earlier, be produced before a court as soon as is reasonably practicable.

(3) The police officer holding the suspect may release the suspect at any time before the expiry of the period of 24 hours on condition that the suspect appears before the court or such other place as may be specified in writing by the police officer and may, for this purpose, require the suspect to execute a bond for a reasonable sum on the suspects own recognisance.

(4) A suspect who is released under this section shall not be rearrested without a warrant for the offence for which the suspect was previously arrested unless new evidence justifying a further arrest has come to light since the suspect was released.

### **Remand by court**

23. (1) Subject to section 22, a police officer who is holding a suspect may, where the police officer has reasonable grounds for believing that the holding of the suspect beyond the period specified in section 22 is necessary –

(a) produce the suspect before a court; and

(b) apply in writing to the court for the further holding of the suspect.

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

(a) the nature of the offence for which the suspect has been arrested;

(b) the general nature of the evidence on which the suspect was arrested;

(c) what inquiries relating to the offence have been made by the police and what further inquiries are proposed to be made by the police;

(d) the reasons for believing the continued holding of the suspect to be necessary for the purpose of any further inquiries,

and shall be supported by an affidavit.

(3) A court shall not hear an application under this section unless the suspect has been served with a copy of the application.

(4) Where an application is made under subsection (1) the court shall release the suspect unconditionally or where the court has reasonable grounds for doing so, upon reasonable condition, unless the court, having regard to the circumstances specified in subsection (5), determines that it is necessary to remand the suspect in custody.

(5) The circumstances referred to in subsection (4) and (7) are -

(a) there being substantial grounds for believing that the suspect will fail to appear for trial, or will interfere with witnesses, or will otherwise obstruct the course of justice or will commit an offence while on release;

(b) the necessity to keep the suspect in custody for the suspect's own protection or where the suspect is a minor for the suspect's welfare;

(c) the suspect serving a custodial sentence;

(d) the suspect having been arrested pursuant to a previous breach of a condition of release for the same offence.

(6) Subject to this section, where a court makes an order under subsection (1) for the remand in custody of a suspect the period of remand shall not exceed 30 days.

(7) The police officer holding a suspect in respect of whom an order for remand was made by a court under this section may, where the police officer has reasonable ground for so doing at any time before the expiry of the period of remand, apply to court for a further period of extension of the remand but the court shall not grant an extension unless, having regard to the circumstances specified in subsection (5), the court determines that it is necessary to grant the extension, and the periods of extension granted under this subsection shall not, together with the period for which the suspect was first remanded in custody, exceed 90 days.

(8) The reasonable conditions referred to in subsection (4) are those necessary to secure that the suspect -

(a) does not, while on release, commit an offence or interfere with witnesses or otherwise obstruct the course of justice whether in relation to himself or any other person;

(b) is available for the purpose of enabling inquiries or a report to be made to assist the court in dealing with the offence of which the suspect is accused;

(c) appear at a later date at the time and place required in connection with proceedings preliminary to a trial or with the trial of the offence or for the purpose of assisting the police with their inquiries.

(9) A court may under subsection (4) for the purpose of ensuring that the suspect attend at the time and place under subsection (8)(c) require the suspect -

(a) to execute a bond for such reasonable amount as the court thinks necessary in the circumstances; and

(b) to provide one or more suitable securities for the bond.

(10) A suspect who has been released by a court under this section shall not be rearrested without a warrant for the same offence for which the suspect was previously arrested unless new evidence justifying a further arrest has come to light since the suspect was released.

### **Power to gather information**

24. (1) Subject to subsection (2), a police officer may, for the purpose of an investigation of an offence under this Act, apply ex-parte to a judge of the Supreme Court for an order for the gathering of information. The application shall be supported by an affidavit.

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

(3) A judge to whom an application is made under subsection (1) may make an order for the gathering of information if the judge is satisfied that the written consent of the Attorney General has been obtained as required by subsection (2) and -

(a) that there are reasonable grounds to believe that -

(i) an offence under this Act has been committed, and

(ii) information concerning the offence or information that may reveal the whereabouts of a person suspected by the police officer 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 an offence referred to in sub-paragraph (i), or that may reveal the whereabouts of a person who the police officer suspects may commit that offence, and

(iii) reasonable attempts have been made to obtain the information referred to in sub-paragraph (ii) from the person first referred to in that sub-paragraph.

(4) An order made under subsection (3) may -

(a) order the examination, on oath or not, of a person named in the order;

(b) order the person to attend at the place fixed by the judge, or by the judge designated under paragraph (d), as the case may be, for the examination and to remain in attendance until excused by the presiding judge;

(c) order the person to bring to the examination any document or thing in his or her possession or control, and produce it to the presiding judge;

(d) designate another judge as the judge before whom the examination is to

take place;

(e) include any other terms or conditions that the judge considers desirable, including terms or conditions for the protection of the interests of the person named in the order and of third parties or for the protection of any current investigation.

(5) The judge who made the order under subsection (3), or another judge of the Supreme Court, may vary its terms and conditions.

(6) A person named in an order made under subsection (3) shall answer questions put to the person by the Attorney-General or the Attorney-Generals representative, and shall produce to the presiding judge documents or things that the person was ordered to bring, but may 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 nondisclosure of information or privilege.

(7) The presiding judge shall rule on an objection or other issue relating to a refusal to answer a question or to produce a document or thing.

(8) No person shall be excused from answering a question or producing a document or thing under subsection (6) on the ground that the answer or document or thing may tend to incriminate the person or subject the person to any proceedings or penalty, but -

(a) no answer given or document or thing produced under subsection (6) shall be used or received against the person in any criminal proceedings against that person, other than in a prosecution for perjury or giving false evidence; and

(b) no evidence derived from the evidence obtained from the person shall be used or received against the person in any criminal proceedings against that person, other than in a prosecution for perjury or giving false evidence.

(9) A person has the right to retain and instruct counsel at any stage of the proceedings under this section.

(10) 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 document or thing be given into the custody of the police officer or someone acting in the police officer's behalf.

### **Power to intercept communications and the admissibility of intercepted communications**

25. (1) Subject to subsection (2), a police officer may, for the purpose of obtaining evidence of the commission of an offence under this Act, apply, ex-parte, to a judge of the Supreme Court for an interception of communications order. The application shall be supported by an affidavit.

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

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

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

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

if the judge is satisfied that the written consent of the Attorney-General has been obtained as required by subsection (2) and that there are reasonable grounds to believe that material information relating to -

(i) the commission of an offence under this Act, or

(ii) the whereabouts of the person suspected by the police officer to have committed the offence,

is contained in that communication or communications of that description.

(4) Any information contained in a communication –

(a) intercepted and retained pursuant to an order under subsection (3);

(b) intercepted and retained in a foreign State in accordance with the law of that foreign State and certified by a judge of that foreign State to have been so intercepted and retained,

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

### **Power to seize property used in commission of terrorist acts**

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

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

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

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

(a) has given every person appearing to have an interest in the property a reasonable opportunity of being heard;

(b) has reasonable grounds to believe that the property has been, or is being,

used to commit an offence under this Act.

(5) Subject to subsection (6), every detention order made under subsection (4) shall be valid for a period of 60 days and may, on application, be renewed by a judge of the Supreme Court for a further period of 60 days until such time as the property referred to in the order is, where applicable, produced in Court in proceedings for an offence under this Act in respect of that property.

(6) A judge of the Supreme Court may release any property referred to in a detention order made under subsection (4) if -

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

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

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

(8) No civil or criminal proceedings shall lie against the Commissioner of Police for a seizure of property made in good faith under subsection (1).

## **PART V – TRIAL OF OFFENCES**

### **Jurisdiction to try offences under this Act**

27. (1) The Supreme Court shall have jurisdiction to try offences under this Act.

(2) The Supreme Court shall have jurisdiction to try an offence under this Act if the act or omission constituting the offence is committed in Seychelles.

(3) For the purposes of subsection (2) an act or omission committed outside Seychelles which would if committed in Seychelles constitute an offence under this Act shall be deemed to have been committed in Seychelles if -

(a) the person committing the act or omission is -

(i) a citizen of Seychelles;

(ii) not a citizen of any country but is ordinarily resident in Seychelles;

(b) the act or omission is committed to compel the Government of Seychelles to do or refrain from doing any act;

(c) the act or omission is committed against a citizen of Seychelles;

(d) the act or omission is committed against property belonging to the Government of Seychelles outside Seychelles; or

(e) the person who commits the act or omission is, after its commission,

present in Seychelles.

### **Evidence by certificate**

28. Where in any proceedings for an offence under this Act a question arises as to whether any thing or a substance is a weapon, a hazardous, radioactive or a harmful substance, a toxic chemical or microbial or other biological agent or toxin, a certificate purporting to be signed by the Director General of the Seychelles Bureau of Standards to the effect that the thing or substance described in the certificate is a weapon, hazardous, radioactive or harmful substance, a toxic chemical or microbial or other biological agent or toxin, shall be admissible in evidence without proof of the signature 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.

### **Order for forfeiture of property on conviction of offences under this Act**

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

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

(b) received as payment or reward for,

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

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

(3) Property forfeited to the 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; and

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

## **PART VI – EXTRADITION AND MUTUAL ASSISTANCE IN CRIMINAL MATTERS**

### **Exchange of information relating to terrorist groups and terrorist acts**

30. The Attorney-General may, on a request made by the competent authority of a foreign State, disclose to that authority, any information in his or her possession or in the possession of any other government department or agency, relating to any of the following -

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

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

(c) traffic in weapons and sensitive materials by terrorist groups or persons

suspected of involvement in the commission of terrorist acts;

(d) the use of communications technologies by terrorist groups;

if the disclosure is not prohibited by any provision of law and will not, in the Attorney-Generals view, be prejudicial to national security or public safety.

#### **Counter-terrorism conventions to be used as basis for extradition**

31. Where Seychelles becomes a party to a counter-terrorism convention and there is no extradition arrangement between the Government of Seychelles and another State which is a party to that counter-terrorism convention, the Minister may, by Order published in the Gazette, treat the counter-terrorism convention, for the purposes of the Extradition Act, as a treaty within the meaning of the Extradition Act between the Republic of Seychelles and that State providing for extradition in respect of offences falling within the scope of that counter-terrorism convention.

#### **Counter-terrorism conventions to be used as basis for mutual assistance in criminal matters**

32. (1) Where Seychelles becomes a party to a counter-terrorism convention and there is in force a treaty between the Government of Seychelles and another State which is a party to that counter-terrorism convention for mutual assistance in criminal matters, the treaty 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 counter-terrorism convention.

(2) Where Seychelles becomes a party to a counter-terrorism convention and there is no treaty between the Government of Seychelles and another State which is a party to that counter-terrorism convention, for mutual assistance in criminal matters, the Minister may, by Order published in the Gazette, treat the counter terrorism-convention as a treaty within the meaning of the Mutual Assistance in Criminal Matters Act between the Government of Seychelles and that State providing for mutual assistance in criminal matters in respect of offences falling within the scope of that counter-terrorism convention.

#### **Certain terrorist acts extraditable despite political nature of acts**

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

(a) death or serious bodily harm to a person, or

(b) serious damage to property,

shall, for the purposes of extradition under that Act, 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 – MISCELLANEOUS**

#### **Duty to disclose information relating to terrorist acts etc.**

34. (1) Every person who has any information which will be of assistance in -

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

shall forthwith disclose the information at a police station to an officer not below the rank of a Superintendent of Police.

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

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

(4) Any person who fails to comply with subsection (1) is guilty of an offence and shall, on conviction, be liable to imprisonment for a term not less than three years and not exceeding 15 years.

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

35. (1) Every person shall forthwith disclose to the Commissioner of Police -

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

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

(2) Every financial institution shall report every three months to the Central Bank -

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

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

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

(4) It shall be the duty of the Central Bank or the Commissioner of Police, as the case may be, on a request made in that behalf, to disclose through the Attorney-General to the competent authority of a foreign State, any information in the possession of the Central Bank or the Commissioner of Police, as the case may be, relating to any property owned or controlled by or on behalf of a terrorist group.

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

(6) Every person who fails to comply with subsection (1) or (2) or (3) is guilty of an offence and shall, on conviction, be liable to a fine not exceeding R100,000 or to imprisonment for a term not exceeding three years.

### **Orders for seizure and restraint of property**

36. (1) Where a judge of the Supreme Court is satisfied, on an ex parte application made to the judge in chambers, supported by an affidavit, 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 sections 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 any order of forfeiture may be made under section 37;

(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;

(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 -

(a) in the case of perishable or rapidly depreciating property, the power to sell that property; and

(b) 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)(b), that person shall apply to a judge of the Supreme Court 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 the judge 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 Attorney-General may at any time apply to a judge of the Supreme Court to cancel or vary a warrant or order issued under this section.

### **Orders for forfeiture of property**

37. (1) The Attorney-General may make an application to a judge of the Supreme Court for an order of forfeiture in respect of -

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

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

(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) If the judge is satisfied, on a balance of probabilities, that the property which is the subject of the application is property referred to in subsection (1)(a) or (b), 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 property referred to in that subsection.

(6) On an application under subsection (1), a judge may require notice to be given to any person 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) If a judge is satisfied that a person referred to in subsection (6) -

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

(b) has exercised reasonable care to ensure that the property would not be used to commit or facilitate the commission of a terrorist act; and

(c) is not a member of a terrorist group,

the judge shall order that the interest shall not be affected by the order. 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 given notice under subsection (6) may make an application to the Supreme Court to vary or set aside an order made under subsection (4) not later than 60 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 35 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.

### **Power to prohibit making funds available to persons in foreign states to commit terrorist acts**

38. (1) Where the Minister has reasonable grounds to believe that a person outside Seychelles is committing, or likely to commit, a terrorist act in Seychelles, the Minister may, by Order published in the Gazette, prohibit -

(a) all persons in Seychelles; and

(b) all citizens of Seychelles resident outside Seychelles,

from making funds available to, or for the use or benefit of, the first mentioned person who shall be named in the Order or be identified by reference to a description of persons set out in the Order.

(2) Every person who does any act in contravention of an Order made under this section is guilty of an offence and shall on conviction, be liable to imprisonment for a term not less than three years and not exceeding five years.

### **Refusal of applications for registration, and the revocation of registration, of associations linked to terrorist groups**

39. (1) The Minister may sign a certificate stating that it is the Minister's opinion, based on information received including any security or criminal intelligence reports, that there are reasonable grounds to believe that an applicant for registration as an association (in this section referred to as "the applicant") or a registered association has made, is making, or is likely to make available, any resources, directly or indirectly, to a terrorist group.

(2) Upon the signing of a certificate under subsection (1) the Minister shall cause to be served on -

(a) the Registrar of Associations, and

(b) the applicant or the registered association, personally or by registered letter sent to the last known address of the applicant or the registered association as the case may be, with a copy of the certificate and a notice that the certificate will be referred to the Supreme Court not earlier than seven days after the service of the notice, and that, if the certificate is determined to be reasonable, the applicant will not be eligible to be registered as an association or the registration of the association will be revoked, as the case may be.

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



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

(a) file a copy of the certificate in the Supreme Court for the Court to make a determination under subsection (5); and

(b) cause the applicant or registered association to be served, personally or by registered letter sent to the last known address, with a notice of the filing of the certificate.

(5) Upon the filing of a certificate in the Supreme Court under subsection (4), a judge of that Court shall -

(a) examine in chambers the information including any security or criminal or intelligence reports considered by the Minister before signing the certificate and hear any evidence or information that may be presented by or on behalf of the Minister (whether or not such information is admissible in a court of law), and may, on the request of the Minister, hear all or part of that evidence or information in the absence of the applicant or registered association, or any counsel representing the applicant or the registered association, 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 or the registered association with a statement summarising the information available to the judge so as to enable the applicant or the registered association to be reasonably informed of the circumstances giving rise to the certificate, without disclosing any information any disclosure of which would, in the judge's opinion, be prejudicial to national security or endanger the safety of any person;

(c) provide the applicant or registered association with a reasonable opportunity to be heard, and

(d) determine whether the certificate is reasonable on the basis of all the information available to the judge or, if found not reasonable, quash it.

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

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

### **Provision of information relating to persons entering and leaving the country**

40. (1) The -

(a) operator of an aircraft or master of a vessel, departing from Seychelles; or

(b) operator of an aircraft registered in Seychelles or master of a vessel registered in Seychelles, departing from any place outside Seychelles,

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

(i) to the Commissioner of Police any information in his or her possession relating to persons on board or expected to be on board the aircraft or vessel, as the case may be;

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

(2) The Director General of Immigration may, subject to regulations made under subsection (5), provide to the competent authority in a foreign State any information in his or her possession relating to persons entering or leaving Seychelles.

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

(4) No information provided to the Commissioner of Police under subsection (1) shall be used or disclosed by the Commissioner of Police except for the purposes of 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**

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

### **Power to make Regulations**

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

(2) Where the Security Council of the United Nations decides, in pursuance of Article 41 of the Charter of the United Nations, on the measures to be employed to give effect to any of its decisions and calls upon member States to apply those measures, the Minister may, by regulations make such provisions as may appear to the Minister to be necessary or expedient to enable those measures to be applied.

(3) Where a regulation under subsection (2) declares that there are reasonable grounds to believe that an entity specified in the regulation is engaged in terrorist activity, that entity shall be deemed with effect from the date of publication of the regulation to have been declared a specified entity under section 3(2).

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**SUBSIDIARY LEGISLATION – SECTION 42(2) - PREVENTION OF TERRORISM  
(IMPLEMENTATION OF UNITED NATIONS SECURITY COUNCIL  
RESOLUTIONS ON SUPPRESSION OF TERRORISM) REGULATIONS, 2015**

**[Section 42(2)]**

*[24th August 2015]*

SI 39 of 2015.

**PART I - PRELIMINARY**

**Citation.**

1. These Regulations may be cited as the Prevention of Terrorism (Implementation of United Nations Security Council Resolutions on Suppression of Terrorism) Regulations, 2015.

**Interpretation.**

2. In these Regulations, unless the context otherwise requires—

(1) “Act” means the Prevention of Terrorism Act, 2004;

(2) “AML Act” means the Anti-Money Laundering Act, 2006;

(3) “Committee” means the National Countering Financing of Terrorism Committee established under regulation 4;

(4) “competent authority” means a supervisory authority, security, intelligence or law enforcement agency, or other relevant regulatory or administrative agency of Seychelles;

(5) “dealing” in relation to property, means any of the acts specified in section 3(1)(a) to (c) of the AML Act;

(6) “designated entity” means a person or other entity designated pursuant to the applicable United Nations Security Council Resolutions adopted under Article 41 of Chapter VII of the United Nations Charter;

(7) “designation” or “listing” means the identification of a person or other entity that is subject to targeted financial sanctions pursuant to the applicable United Nations Security Council Resolutions or the making of a specified entity order under section 3 of the Act;

(8) “Director” means the Director of Financial Intelligence Unit appointed under section 17 of the AML Act;

(9) “entity” has the meaning assigned to it by section 2 of the Act;

(10) “financing of terrorism” has the meaning assigned to it by section 2 of the AML Act;

(11) “Financial Intelligence Unit” means the Financial Intelligence Unit established under Part 3 of the AML Act;

(12) “freeze” means to prevent or restrain property from being dealt with, without affecting the ownership thereof;

(13) “Minister” means the Minister responsible for internal affairs;

(14) “non-profit organisation” means an association as defined in section 2 of the Registration of Associations Act;

(15) “PoC Act” means the Proceeds of Crime (Civil Confiscation) Act, 2008;

(16) “property” means any funds or other assets, including, but not limited to, financial assets, economic resources, property of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such funds or other assets, including, but not limited to, bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts, or letters of credit, and any interest, dividends or other income on or value accruing from or generated by such funds or other assets;

(17) “property of a listed entity” includes property owned or controlled, directly or indirectly, by or on behalf of that entity, including property that is derived or generated from such property and property of entities acting on behalf or at the direction of that entity;

(18) “regulated non-profit organisation” means a non-profit organisation which is the subject of a current determination by the Minister under regulation 19(1) of these Regulations;

(19) “reporting entity” has the meaning assigned to it by section 2 of the AML Act and includes a regulated non-profit organisation;

(20) “Resolution 1267/1989 (Al-Qaida)” means Resolutions 1267 (1999) and 1989 (2011) of the Security Council and includes their successor resolutions, including Resolutions 1333(2000), 1390(2002), 1455(2003), 1526 (2004), 1617 (2005), 1735 (2006), 1822 (2008), 1904 (2009), 2083 (2012) and 2161 (2014);

(21) “Resolution 1373” means Resolution 1373 (2001) of the Security Council and includes its successor resolutions;

(22) “Resolution 1718 (DPRK)” means Resolution 1718 (2006) of the Security Council and includes its successor resolutions, including Resolutions 1874 (2009), 2087 (2013) and 2094 (2013);

(23) “Resolution 1988 (Taliban)” means Resolution 1988 (2011) of the Security Council and includes its successor resolutions, including Resolutions 2082 (2012) and 2160 (2014);

(24) “Sanctions Committee” means a committee of the Security Council established under a Resolution of the Security Council;

(25) “sanctions list” means the 1267/1989 Al-Qaida Sanctions list and the 1988 Sanctions list or other similar lists issued by the Security Council;

(26) “Security Council” means the Security Council of the United Nations established under Article 7 of Chapter III of the United Nations Charter;

(27) “Seychelles list” means the list compiled by the Committee and distributed under regulation 11;

(28) “specified entity” has the meaning assigned to it by section 2 of the Act;

(29) “supervisory authority” means a supervisory authority of a reporting entity;

(30) “terrorist group” has the meaning assigned to it by section 2 of the Act;

(31) “United Nations list” means a United Nations designation or sanctions list received and distributed under regulation 8.

#### **Application.**

3. These Regulations shall apply to designated entities and specified entities.

### **PART II - IMPLEMENTATION COMMITTEE**

#### **National Countering Financing of Terrorism Committee.**

4. (1) There is hereby established a Committee to be known as the National Countering Financing of Terrorism Committee.

(2) The Committee shall consist of—

- (a) the Minister, who shall be the chairperson;
- (b) the Minister responsible for finance, or his or her representative;
- (c) the Minister responsible for foreign affairs, or his or her representative;
- (d) the Attorney-General;
- (e) the Commissioner of Police;
- (f) the Director; and
- (g) a Secretary to the Committee, to be nominated by the Minister.

#### **Functions of Committee.**

5. (1) The functions of the Committee shall be to—

(a) implement Resolution 1267/1989, 1373, 1718 and 1988, resolutions relating to the suppression of financing of terrorism and the prevention, suppression and disruption of the proliferation of, and financing of, dealings with weapons of mass destruction and such other related resolutions in accordance with these Regulations;

(b) formulate and supervise the implementation of the National Strategy and Action Plan on Countering Financing of Terrorism;

(c) advise the Minister and the Attorney-General in the performance of their functions under the Act, in accordance with these Regulations;

(c) advise the Registrar of Associations in protecting the non-profit organisation sector from misuse by terrorist groups, in accordance with the Registration of Associations Act and these Regulations;

[Note: Section 5(1)(c) is repeated in the Gazette.]

(d) advise the National Anti-Money Laundering Committee and the Financial Intelligence Unit to ensure a coordinated and effective approach to implementation and enforcement of the Act, the AML Act and the PoC Act; and

(e) perform such other functions as may be conferred on it by or any other written law.

(2) The Secretary to the Committee shall notify relevant competent authorities of measures taken by the Committee in accordance with these Regulations.

#### **Powers of Committee.**

6. (1) The Committee shall have all the powers necessary for the performance of its functions under these Regulations and shall regulate its own procedure for the conduct of its business.

(2) Without prejudice to the generality of subregulation (1), the Committee shall have the powers to—

(a) meet and conduct business remotely;

(b) establish such sub-committees or working groups as it may consider necessary;

(c) co-opt any person to the Committee or nominate any person to its sub-committees or working groups on an ad hoc basis; and

(d) recommend the issuance of such directives, guidelines, or instructions as the Committee may consider necessary for the effective implementation of these Regulations.

#### **Confidentiality.**

7. A member of the Committee or any other person shall not, without the consent of the

Committee in writing, publish or disclose to any person other than in the course of his or her duties, the contents of any document, communication or information which relates to, and which has come to his or her knowledge in the course of his or her duties under these Regulations.

### **PART III - DESIGNATION AND LISTING OF TERRORIST GROUPS**

#### **United Nations designation and sanctions lists.**

8. (1) The Seychelles Mission to the United Nations shall immediately submit to the Ministry responsible for foreign affairs, all designations made by the Security Council and any sanctions list or other similar list issued in connection therewith.

(2) The Ministry responsible for foreign affairs shall, immediately upon receipt of a list under paragraph (1), submit such list to the Secretary to the Committee and the Director.

(3) The Secretary to the Committee shall, immediately upon receipt of a list under subregulation (2)—

(a) circulate the list to the other members of the Committee; and

(b) cause the list to be published on the website of one or more competent authority.

(4) The Director shall, immediately upon receipt of a list under subregulation (2), circulate the list to—

(a) all supervisory authorities;

(b) the Registrar of Associations;

(c) such other competent authorities as the Director or the Committee may consider necessary; and

(d) any other person who is authorized—

(i) to detect, freeze or seize the property of a designated entity under any written law; or

(ii) to take such action as may be necessary to give effect to Resolution 1267/1989, 1373, 1718, 1988 or such other relevant Resolutions.

(5) An entity described in subregulation (4)(a) to (c) shall, immediately upon receipt of a list submitted to it under subregulation (4)—

(a) circulate the list to the entities under its purview for their information and action;

(b) where necessary, provide guidance to the entities holding property of a listed entity, in relation to their obligations under these Regulations; and

(c) ensure that the entities comply with the requirements of these

Regulations.

**Designated entities deemed to be terrorist groups.**

9. Where a United Nations list is distributed under regulation 8—

(a) a designated entity listed therein shall be deemed to be an entity that has, as one of its activities and purposes, the commission of, or a facilitation of the commission of, a terrorist act;

(b) the Minister shall declare in a regulation made under section 42(2) of the Act that there are reasonable grounds to believe that each entity designated in the list is engaged in terrorist activity.

**Domestic designations and third country requests.**

10. (1) The Committee may, on its own motion or upon request by a country pursuant to Resolution 1373, advise the Attorney-General that there appear to be reasonable grounds to support a recommendation to the Minister to make an Order declaring any entity as a specified entity under section 3 of the Act.

(2) Upon publication of an Order referred to in subregulation (1) declaring an entity as a specified entity, the Committee shall, as soon as practicable—

(a) consider whether to propose the designation of that entity by—

(i) another country or countries, pursuant to Resolution 1373; or

(ii) the relevant Sanctions Committee; and

(b) where that entity is in Seychelles, make reasonable efforts to inform the entity of—

(i) the designation and its implications;

(ii) any publicly-releasable information concerning the reasons for designation; and

(c) the procedure for de-listing in accordance with regulation 13.

(3) A designation or request for designation by another country pursuant to Resolution 1373 shall be submitted to—

(a) the Seychelles Mission in that country; or

(b) where a Seychelles Mission does not exist in that country, the Ministry responsible for foreign affairs in Seychelles.

(4) Upon receipt of a request under subregulation (3), the Seychelles Mission or the Ministry shall immediately submit the request to the Committee for consideration and the Committee shall, as soon as practicable, consider whether there are reasonable grounds to advise the Attorney-General to recommend to the Minister that an Order be made declaring an entity as a specified entity under section 3 of the Act.



**Seychelles list.**

11. (1) The Committee shall compile and maintain a Seychelles list comprising—
  - (a) in Part 1 (Domestic list), specified entities designated under section 3 of the Act; and
  - (b) in Part 2 (International list), specified entities deemed by reason of the operation of section 42(3) to have been designated under section 3 of the Act.
- (2) The Seychelles list shall include, where available, the following information in relation to a specified entity—
  - (a) name including any alias or title of the entity;
  - (b) place and date of birth, establishment or incorporation, as the case may be;
  - (c) original or acquired nationality of persons;
  - (d) passport, identity card, or registration numbers, as the case may be;
  - (e) sex, in case of individuals;
  - (f) residential and postal addresses and registered address in the case of an incorporated entity;
  - (g) occupation or business;
  - (h) telephone numbers and other contact details; and
  - (i) any other information which the Committee may consider relevant.
- (3) The Committee shall, immediately upon publication in the Gazette of an Order under section 3 of the Act or a regulation under section 42(2) of the Act, update the Seychelles list.
- (4) The Committee shall update the Seychelles list from time to time to reflect updated or additional information in relation to specified entities.
- (5) When the Seychelles list is updated—
  - (a) the Secretary to the Committee shall immediately cause the updated Seychelles list to be published on the website of one or more competent authority;
  - (b) the Director shall circulate the updated Seychelles list in accordance with regulation 8(4);
  - (c) a supervisory authority shall circulate the updated Seychelles list in accordance with regulation 8(5);
  - (d) the Ministry responsible for foreign affairs shall submit the updated

Seychelles list to the relevant Sanctions Committee and countries.

**Review and de-listing of designated and specified entities.**

12. (1) The Committee shall review Part 1 (Domestic list) of the Seychelles list compiled under regulation 11(1)(a) annually to consider whether there are still reasonable grounds, as set out in section 3(1) of the Act for any Order in relation to each specified entity to continue to apply.

(2) The Committee shall, if satisfied that there exists no reasonable grounds for any Order in relation to a specified entity to continue, advise the Attorney-General in the discharge of his or her functions under section 3(8) of the Act, to make an appropriate recommendation to the Minister.

(3) A specified entity may apply to the Attorney-General seeking revocation of the order made in relation to that entity in accordance with section 3(3) of the Act.

(4) The Attorney-General may, on receipt of an application under subregulation (3), refer the application to the Committee for its examination and report.

(5) A designated entity may make an application to the relevant Sanctions Committee for de-listing.

(6) An application made to a Sanctions Committee under subregulation (5) or to the Attorney-General under section 3(3) of the Act may be made on the following grounds—

- (a) mistaken identity;
- (b) relevant and significant change of facts or circumstances including the inclusion of the applicant in a witness protection program;
- (c) the death, dissolution or liquidation of a designated or specified entity; or
- (d) any other circumstance which would show that the basis for designation no longer exists.

(7) Where the Sanctions Committee deletes the name of an entity appearing on a sanctions list, the Director shall, within 24 hours of notification of the deletion, circulate notice of the deletion in accordance with regulation 8(4).

(8) A notice of deletion circulated under subregulation (7) shall have the effect of revoking any freeze and any other sanction imposed against the entity whose name is deleted from the list.

(9) Notwithstanding subregulation (5), an entity designated pursuant to Resolutions 1267/1989 (Al-Qaida) or Resolutions 1988/2082 (Taliban) may make a request for his or her de-listing in accordance with subregulation (10).

(10) A request made by an entity designated—

- (a) under Resolutions 1267/1989 (Al-Qaida) shall be submitted to the Office of the Ombudsperson through the address specified under Part A of the First Schedule appended to these Regulations or through such other address as

may be specified by the Sanctions Committee; or

(b) under Resolution 1988, shall be submitted to the Focal Point for De-Listing through the address specified under Part B of the First Schedule appended to these Regulations or through such other address as may be specified by the Sanctions Committee.

#### **PART IV - AUTHORITY AND OBLIGATION TO FREEZE**

##### **Authority to freeze property of designated and specified entities.**

13. (1) The distribution of a United Nations list or the Seychelles list in accordance with these Regulations shall be deemed to authorise any person or other entity who is in possession or control of property of a listed entity to freeze such property until further notice.

(2) Subregulation (1) shall not affect any existing authority to freeze that is conferred upon a competent authority by the Act, the AML Act or the PoC Act.

##### **Action to be taken on receipt of lists.**

14. (1) Upon distribution of a United Nations list or the Seychelles list in accordance with these Regulations, every person shall take immediate steps in accordance with section 35 of the Act to ascertain whether he or she is in possession or control of property of a listed entity or holds any information regarding a transaction or proposed transaction in respect of any such property.

(2) Every person or other entity who identifies property or information described in subregulation (1) shall—

(a) immediately, without notice to the listed entity, take the necessary measures to freeze any such property until further notice from the Financial Intelligence Unit;

(b) within 24 hours, disclose the details of the property or information to the Financial Intelligence Unit in the Form provided in the Second Schedule appended to these Regulations; and

(c) on the advice of the Financial Intelligence Unit, take such other action as may be necessary to give effect to Resolutions 1267/1989, 1373, 1718 and 1988.

(3) Compliance with subregulation (2)(b) shall be deemed sufficient compliance—

(a) with section 35(1) of the Act; and

(b) in the case of a reporting entity or supervisory authority or auditor, with the obligation to file a suspicious transaction report under section 10(1) or section 11 of the AML Act, as the case maybe.

(4) Every person or other entity who has frozen property under subregulation (2) shall notify the Financial Intelligence Unit of any attempted dealing with such property within 24 hours of such attempt.

(5) The Director shall report to the Committee on all freezes effected under this regulation.

**Periodic reporting by financial institutions.**

15. Every financial institution which is required to make quarterly reports under section 35(2) of the Act shall—

(a) prepare the report on the basis of the most recent United Nations list and Seychelles list; and

(b) provide an electronic copy of the report to the Financial Intelligence Unit.

**Persons inadvertently affected by freezing mechanism.**

16. (1) A person or other entity who claims to have been inadvertently affected by a freeze effected under regulation 14(2) may make an application to the Minister to unfreeze specified property.

(2) An application made under subregulation (1) shall be in writing and supported by sufficient information to demonstrate to the satisfaction of the Minister that—

(a) the entity is not a terrorist group;

(b) the entity has an enforceable interest in the specified property; and

(c) the specified property is not owned or controlled by or on behalf of a terrorist group.

(3) An application made under subregulation (1) shall be determined by the Minister, after consultation with the Committee, within 10 days from the date of receipt of the application.

(4) Where the Minister determines that specified property has been inadvertently frozen, the Director shall, within 24 hours of the determination, circulate notice of the determination in accordance with regulation 8(4).

(5) A notice of determination circulated under subregulation (4) shall have the effect of revoking any freeze in relation to the property specified in the notice.

**Humanitarian exemptions.**

17. (1) An entity which has been designated as a terrorist group shall not deal with any property in Seychelles unless—

(a) the property is necessary to cover the basic and necessary expenses or extraordinary expenses of the entity; and

(b) the entity has applied for and obtained an authorisation in accordance with this regulation.

(2) An entity which requires funds to cover its basic and necessary or extraordinary expenses may make an application for that purpose to the Committee.

(3) The Committee shall consider an application made under subregulation (2) within seven days from the date of receipt of the application and make a preliminary recommendation to the Minister.

(4) Where the applicant is a specified entity, the Minister may, if he or she considers necessary and reasonable the withdrawal of funds for the purpose referred to in subregulation (2), authorise the withdrawal of such funds.

(5) Where the applicant is a designated entity, the Minister shall—

(a) if he or she finds merit in an application made under subregulation (2);  
and

(b) prior to authorising the withdrawal of funds requested under the application,

notify the relevant Sanctions Committee of the application and request the Sanctions Committee to submit to him or her its recommendations on the matter.

(6) The Minister may, within 10 days from the date of notification of the Sanctions Committee under subregulation (5) and in the absence of negative recommendations from the Sanctions Committee, authorise the withdrawal of such funds as he or she considers necessary and reasonable to cover the basic and necessary expenses of the entity.

(7) Where an application is for the withdrawal of funds to cover extraordinary expenses of a designated entity, the Minister may grant an authorisation for the withdrawal of such funds as he or she considers necessary and reasonable for that purpose only with the prior written approval of the relevant Sanctions Committee.

(8) For the purposes of this regulation—

(a) “basic and necessary expenses” includes—

(i) monthly family expenses, payments for foods, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges;

(ii) reasonable professional fees and reimbursement of expenses related to the provision of legal services; or

(iii) fees or service charges incurred for the routine holding or maintenance of frozen funds or other property;

(b) “extraordinary expenses” means any expenses that are not basic or necessary expenses.

(9) Any action taken in good faith to give effect to an authorisation granted by the Minister under this regulation shall not constitute an act of financing of terrorism.

## **PART V - PROTECTION OF NON-PROFIT ORGANISATION SECTOR**

### **Strategic planning and information-gathering.**

18. (1) The Committee shall, in formulating the National Strategy and Action Plan on Countering Financing of Terrorism, have regard to the objective of ensuring that terrorist groups are prevented from misusing non-profit organizations—

- (a) to pose as legitimate entities;
- (b) to exploit legitimate entities as conduits for the financing of terrorism; or
- (c) to conceal or disguise the diversion of funds for the purposes of financing of terrorism.

(2) The Registrar of Associations shall submit periodic reports to the Committee on the activity, size, and other relevant features of the non-profit organisation sector, including but not limited to a specific report on each non-profit organisation that accounts for—

- (a) a significant portion of the financial resources under the control of the non-profit organisation sector; and
- (b) a substantial share of the non-profit organisation sector's international activities.

### **Regulated non-profit organisations.**

19. (1) The Minister may, in consultation with the Registrar of Associations and the Director, determine that any non-profit organisation that has been the subject of a report under regulation 18(2), or is otherwise regarded by the Minister as potentially vulnerable to misuse by terrorist groups, shall be a regulated non-profit organisation.

(2) Where the Minister makes a determination under subregulation (1)—

- (a) the Registrar of Associations shall immediately inform the regulated non-profit organisation of the declaration and its implications; and
- (b) the Director shall circulate notice of the determination in accordance with regulation 8(4).

(3) A regulated non-profit organisation shall be deemed for all purposes to be a reporting entity.

(4) A determination made under subregulation (1) may be reviewed by the Minister at any time on his or her own motion or upon the application of a regulated non-profit organisation.

## **PART VI - MISCELLANEOUS**

### **Right of appeal.**

20. An appeal against the determinations of the Minister on applications under regulation 16, regulation 17, or regulation 19(4) shall lie to the Supreme Court in accordance with the

Appeal Rules (S.I. 11 of 1961) made under the Courts Act (Cap 52).

**Protection from liability.**

21. No proceedings shall lie against any person, including reporting entities and competent authorities, in respect of any action taken in good faith for the purpose of implementing these Regulations.

**Internal rules.**

22. A competent authority and any person concerned with the implementation of these Regulations may lay down administrative instructions in relation to procedure to be followed by its employees, agents, or staff for the purposes of implementing the obligations imposed under these Regulations.

**Penalties.**

23. (1) A person who contravenes the provisions of these Regulations commits an offence and shall be liable, on conviction, to a fine not exceeding SCR 20,000 or to imprisonment for a term not exceeding two years.

(2) Subregulation (1) shall not operate to prevent the prosecution of a person for an offence under any other written law in respect of an act or omission that also constitutes a contravention of these Regulations.

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**FIRST SCHEDULE**

**[Regulation 12(8)(a) and (b)]**

**ADDRESSES FOR DE-LISTING REQUESTS**

**PART A**

Office of the Ombudsperson Room TB-08041D United Nations New York, NY 10017 United States of America Tel: +1 212 963 2671 Fax: +1 212 963 1300/3778 E-mail: ombudsperson@un.org

**PART B**

Focal Point for De-listing Security Council Subsidiary Organs Branch Room TB-08041B United Nations New York, N.Y. 10017 United States of America Tel. +1 917 367 9448 Fax.+1 212963 1300/3778 Email: delisting@un.org

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**SECOND SCHEDULE**

Form for disclosure of information: PT001.pdf, available through [www.seylii.org/greybook](http://www.seylii.org/greybook).

