

COMMONWEALTH OF DOMINICA

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COMMONWEALTH OF DOMINICA

ACT No. 3 OF 2003

I assent



Vernon L. Shaw
President

29th May, 2003.

**AN ACT TO SUPPRESS, PREVENT AND DETECT
ACTIVITIES RESPECTING THE FINANCING
OF TERRORISM AND FOR MATTERS
RELATED THERETO.**

(Gazetted 5th June, 2003).

WHEREAS terrorist acts in all their forms threaten the stability of the constitution and economy of many countries and their development, the rule of law and the rights of citizens of those countries to live in peace, freedom and security;

AND WHEREAS the United Nations Security Council unanimously adopted a wide-ranging anti-terrorism Resolution (United Nations Security Council Resolution 1373 (2001) on 28th September, 2001;

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AND WHEREAS it is necessary to cooperate with other states in suppressing terrorism by implementing the United Nations and other International Instruments relating to combating terrorism;

AND WHEREAS the Government of the Commonwealth of Dominica is desirous of preventing and suppressing the financing of terrorism, of criminalizing the wilful and intentional provision and collection of funds for terrorism-related purposes, and of freezing funds, financial assets and other economic resources of terrorists and persons and entities directly or indirectly facilitating or attempting to facilitate terrorism related activity and deny safe haven to such persons and entities;

BE IT THEREFORE ENACTED by the Parliament of the Commonwealth of Dominica as follows:

PART I

PRELIMINARY

Short title.

- 1.** This Act may be cited as the -

**SUPPRESSION OF THE FINANCING OF
TERRORISM ACT 2003.**

Interpretation.

- 2. (1)** In this Act unless the context otherwise requires-

“banking or financial institution” means a banking or financial institution licensed under the laws of Dominica to make loans, advances, investments or receive deposits of money from the public;

“Central Bank” means the Eastern Caribbean Central Bank established by the Agreement establishing the Eastern Caribbean Central Bank done at Port-of- Spain, Trinidad on 5th July, 1983;

“Competent Authority” means the Attorney General of Dominica;

“counter-terrorism convention” means any convention listed in the Schedule to this Act;

Schedule.

“entity” means a partnership, joint venture, association, corporation, network, group, or sub-group, or any form of business collaboration and “entities” shall be construed accordingly;

“explosive or other lethal device” means-

- (a) an explosive or incendiary weapon or device that is designed or has the capacity to cause death, serious bodily injury or substantial material damage;
- (b) a weapon or device that is designed or has the capacity to cause death, serious bodily injury or substantial material damage;

“funds” means assets 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 assets including but not limited to bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts and letters of credit;

“the Government” means the Government of Dominica;

“Minister” means the Minister responsible for national security;

“person” includes entity;

“proceeds” means any funds derived from or obtained directly or indirectly through the commission of any offence under this Act;

“property” includes money and funds

“state or governmental facility” includes any facility or conveyance, whether permanent or temporary, used or occupied by a representative or member of the Legislature or Judiciary of any country, or any official or employee of any inter-governmental organization in connection with the official duties of any such person;

“terrorist” means an individual who performs a terrorist act or engages in a terrorist activity;

“terrorist act” means -

- (a) an act that involves a violent act or an act dangerous to human life, property or infrastructure and such act is intended or, by its nature and context, may reasonably be regarded as being intended to-
 - (i) intimidate or coerce a civilian population;
 - (ii) influence the policy of any Government by intimidation or coercion; or
 - (iii) affect the conduct of a government by mass destruction, assassination, kidnapping or hostage taking;
- (b) an act intended to cause death or serious bodily injury to a civilian or any other person not taking an active part in the hostilities in a situation of armed conflict and such act is intended or, by its nature and context, may reasonably be regarded as being intended to-
 - (i) intimidate or coerce a civilian population;
 - (ii) influence the policy of any Government by intimidation or coercion; or
 - (iii) affect the conduct of a government by mass destruction, assassination, kidnapping or hostage taking;
- (c) an act that constitutes an offence within the scope of any counter-terrorism convention listed in the Schedule to this Act.

“Unit” means the Financial Intelligence Unit established under section 12 of the Money Laundering (Prevention) Act, 2000.

“vessel” means anything made or adopted for the conveyance by water, of people or property;

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

(2) An act or omission which disrupts any government or essential service and which is committed in pursuance of a protest, demonstration or stoppage of work which is accepted as a legitimate means of ventilating grievances in a democratic society, shall not be deemed a terrorist act within the meaning of this Act so long and so long only as the act or omission does not-

- (a) involve any serious bodily harm to a person;
- (b) involve damage to property;
- (c) endanger the life of a person; or
- (d) create a serious risk to the health or safety of the public or a section of the public.

3. (1) The main purpose of this Act is to give effect to the United Nations Security Council Resolution 1373 (2001) of September 2001 and the International Convention for the Suppression of the Financing of Terrorism adopted by the General Assembly of the United Nations in Resolution 54/109 of 9th December 1999 (hereinafter referred to as the “1999 Convention”) in a manner consistent with the principles of human rights and the rule of law.

Statement of purpose.

(2) This Act shall also give effect to other United Nations counter-terrorism conventions.

PART II OFFENCES AND PENALTIES

4. (1) A person commits an offence within the meaning of 1999 Convention, if that person by means, directly or indirectly,

Offence of terrorist financing.

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unlawfully and wilfully provides or collects funds with the intention or in the knowledge that such funds shall be used in full or part in order to carry out a terrorist act.

(2) For an act to constitute an offence within the meaning of subsection (1), it shall not be necessary that the funds were actually used to carry out an offence referred to in subsection (1).

(3) A person commits an offence within the meaning of subsection (1) if that person knowingly or intentionally-

- (a) attempts to commit the offence;
- (b) participates as an accomplice in the commission of the offence referred to in paragraph (a) of this subsection;
- (c) organizes or directs others to commit the offence or to participate as an accomplice in the commission of an offence under this subsection; or
- (d) contributes to the commission of an offence referred to in paragraph (a), (b) or (c).

(4) For the purpose of subsection (3) (d) the contribution shall either be made -

- (a) with the aim of furthering the criminal activity or criminal purpose of the group where such activity or purpose involves the commission of an offence as set out in subsection (1); or
- (b) in the knowledge of the intention of the group to commit an offence as set out in subsection (1).

Penalties.

5. A person who commits any offence referred to in section 4 is liable on conviction on indictment to a fine of one hundred thousand dollars or imprisonment for a term of twenty-five years or to both such fine and imprisonment.

6. Where an offence as set out in section 4 (1) or (3) is committed by a body of persons, the body of persons is liable on conviction to a fine of five hundred thousand dollars without prejudice to the penalty that may be imposed on any individual directly involved in the commission of the offence under this Act.

Body of persons liable in certain circumstances.

7. Where a financial institution within the meaning of the Banking Act 1991, the Offshore Banking Act 1996 or any other enactment is found guilty of the commission of an offence under this Act, without prejudice to any punishment that may be imposed on any individual of that financial institution, the licence issued to the financial institution is liable to be cancelled.

Liability of financial institutions.
1 of 1991.
8 of 1996.

8. (1) Where a person is convicted of an offence under this Part, in addition to any penalty the Court may impose, the Court may order forfeiture to the State of -

Orders for forfeiture of property on conviction for offences.

- (a) the funds collected or retained by that person or by any other person on behalf of the convicted person for the commission of the offence;
- (b) any property used for, or in connection with the commission of the offence; and
- (c) any funds, property or asset derived from any transaction by the convicted person or in relation to which the offence is committed.

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

(3) Property, funds and assets forfeited to the State under subsection (1) shall vest automatically in the State -

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

PART III
IMPLEMENTATION, ADMINISTRATION
AND JURISDICTION

Implementation and
Administration.

9. (1) Notwithstanding the provisions of any enactment, the Attorney General shall for the purposes of administering and implementing the provisions of this Act and for other purposes related to the suppression and prevention of terrorism regulate, prohibit, review or cause to be reviewed -

(a) any transaction in foreign exchange currency or securities; or

(b) any transfer or credit or payment by, through or to any bank or financial institution to the extent that such transfer, credit or payment involves any interests of any foreign State or national thereof.

(2) The Unit may require any financial institution or any person having possession of, or control over any assets of any person frozen under this Act to keep and maintain proper record of the frozen assets or any record of any other assets under investigation pursuant to this Act.

Jurisdiction.

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

(2) An offence under this Act is committed when it is committed -

(a) in Dominica;

(b) by a national or citizen of Dominica;

(c) on board a vessel flying the flag of Dominica or an aircraft registered under the laws of Dominica at the time of the commission of the offence.

(3) The High Court shall also have jurisdiction when the offence -

(a) is a terrorist act within the meaning of this Act;

- (b) is committed by a stateless person who is ordinarily resident in Dominica; or
- (c) is committed on board an aircraft operated by the Government.

(4) Except where expressly provided in this Act, no Court has jurisdiction to review, quash, reverse, restrain, or otherwise interfere with any proceedings, decision, or order of the Minister, Attorney General, Chief Immigration Officer or an immigration officer made or given under the authority of and in accordance with this Act relating to the detention, forfeiture or deportation of any person upon any ground whatsoever unless such person is a citizen or a permanent resident of Dominica.

PART IV DESIGNATION OF TERRORISTS AND TERRORIST GROUPS

11. (1) The Minister may designate by order a person a terrorist or terrorist group if the Minister has reasonable grounds to believe that the person -

Orders designating persons terrorists or terrorist groups.

- (a) has knowingly engaged in, committed, attempted to commit, participated in committing or facilitated the commission of a terrorist act; or
- (b) is knowingly acting on behalf of, at the direction of or in association with a terrorist or terrorist group.

(2) The Minister shall, by Order published in the *Gazette*, specify the name of any person who has been designated in accordance with this section as a terrorist or terrorist group and shall include in such publication to the extent possible-

- (a) in the case of an individual, the name, the date of birth, place of birth, nationality or citizenship, address, telephone number, passport number and tax account number and any other means of identification that he considers necessary; and

(b) in the case of an entity, the name, date of incorporation, place of incorporation, address, telephone number, facsimile number and the particulars of any affiliated group.

(3) 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 the Government of Dominica to apply those measures, the Minister may by Order published in the *Gazette* make such provision as may appear to him to be necessary or expedient to enable those measures to be effectively applied.

(4) Where an Order under subsection (3) makes provision to the effect that there are reasonable grounds to believe that a person specified in the Order is engaged in a terrorist activity, that person shall be deemed with effect from the date of the Order, to have been declared a terrorist or terrorist group under this section.

(5) The Attorney General may from time to time review the circumstances that form the basis of the Order referred to in subsection (2).

(6) The Minister may, on the advice of the Attorney General, amend or revoke an Order issued under this section other than an Order under subsection (3) if the circumstances that form the basis for the Order change or no longer exist or if the national security of Dominica or any other state is no longer in danger.

(7) The revocation, pursuant to subsection (6), of an Order does not affect any action taken or proceedings based on conduct committed prior to the effective date of such revocation.

Attorney General to
issue freezing orders.

12. (1) The Attorney General shall, upon publication of an Order under section 11 (2), order a financial institution in Dominica requiring it to freeze any account, funds or property held by that financial institution on behalf of a person designated a terrorist or terrorist group.

(2) Any financial institution which freezes an account pursuant to subsection (1) shall, as soon as practicable, notify the holder of the account that the account has been frozen.

(3) Subject to subsection (4), an Order made by the Attorney General shall be effective for three months unless previously revoked by him or by order of the Court.

(4) The Court may, upon an application of the Minister, order the extension of a freezing order made pursuant to subsection (1) if the Court is satisfied that the conditions referred to in subsection (1) still apply.

(5) An application under subsection (4) may be heard *ex-parte*.

(6) For the avoidance of doubt, an application filed pursuant to subsection (4) shall not operate as a stay of the freezing order in respect of which an order is sought.

13. (1) No later than thirty days after publication of a designation order or the receipt of a freezing order, a person-

(a) designated as a terrorist or a terrorist group;

(b) in receipt of the freezing order,

may apply to a Judge of the High Court for an order to amend or revoke the designation order or the Freezing Order, as the case may be.

(2) The Court may, upon an application made pursuant to subsection (1), amend or revoke the designation order or freezing order if the applicant proves that -

(a) person who is the subject of the designation order is not a terrorist or terrorist group; or

(b) the funds or the property which is the subject of the freezing order is legally and beneficially owned by him and is not subject to any interest held by the terrorist or terrorist group named in the designation order.

Review of designation orders and freezing orders.

(3) An application for the amendment or revocation of a designation order or a freezing order shall not affect any action taken under this Act unless the Court makes a final order setting aside the designation order or freezing order.

PART V
PROHIBITIONS RESPECTING TERRORISTS
AND TERRORIST GROUPS

Dealings with the property of terrorists or terrorist groups prohibited.

14. (1) Except as otherwise provided in this Act, no person in or under the jurisdiction of Dominica shall knowingly conduct, deal or in any way be involved in a transaction-

- (a) in respect of property or interest in property (whether situate in Dominica or elsewhere or held by or on behalf of) of a terrorist or terrorist group so designated in accordance with section 11(2);
- (b) that evades or avoids or has the effect of evading or avoiding, or attempts or conspires to violate any prohibition in this Act.

(2) Without limiting the generality of subsection (1), no person shall knowingly enter into or become concerned in any arrangement which facilitates the acquisition, retention or control by or on behalf of another person of property referred to in subsection (1)-

- (a) by concealment;
- (b) by a removal out of jurisdiction;
- (c) by transfer to a nominee; or
- (d) in any other way;

(3) A person who becomes aware that he has possession of or control over any property, funds or assets in which a terrorist or terrorist group has an interest shall -

- (a) retain possession and maintain control over

such property, funds or assets;

(b) report to the Competent Authority the existence of such property, funds or assets.

(4) For the purposes of this Part a person holds an interest in property if the property is subject to a designation order and the person has parted with such interest by way of gift to another person within six years of the date of the publication of the designation order or if the property is subject to his effective control.

15. Except as provided in this Act, no financial institution licensed in Dominica shall directly or indirectly, unlawfully or wilfully, transact business with any terrorist or terrorist group as the Minister may by Order published in the *Gazette* designate.

Financial institutions prohibited from transacting business with terrorists or terrorist groups.

16. No person in or under the jurisdiction of Dominica shall unlawfully acquire in, make available, or provide financial or other services to, from or for the benefit or on the direction or order of any terrorist or terrorist group whether known or designated under this Act.

Use of financial services.

17. (1) No person shall directly or indirectly, knowingly or intentionally supply, sell or transfer to any terrorist or terrorist group-

Supply and support to terrorists and terrorist groups.

(a) any arms, weapons, ammunition, military vehicles or equipment, paramilitary equipment, aircraft, ships or spare parts or material related thereto;

(b) technical advice, assistance or training respecting military activities or armed personnel; and

(c) the chemical acetic anhydride or any chemical, biological or nuclear weapon of mass destruction.

(2) Without limiting the generality of subsection (1), no person shall directly or indirectly, knowingly offer to provide any terrorist or terrorist group-

- (a) any explosive or lethal device;
- (b) any training or instruction in the use of making of any explosive or lethal device;
- (c) any training or instruction in carrying out a terrorist act.

(3) No person shall knowingly solicit or offer to solicit property for the benefit of a terrorist, terrorist group for the commission of a terrorist act.

(4) The owner of any -

- (a) facility or equipment that allows for recording, conferencing or meetings via technology;
- (b) premises, vessel or aircraft,

shall not knowingly permit that facility or equipment, premises, vessel or aircraft to be used for the purposes of committing or, the planning, promoting or supporting of the commission of an offence or terrorist act under this Act.

(5) For the purposes of this section “owner” includes-

- (a) in the case of any facility or equipment, the lessee or person in charge of the facility or equipment;
- (b) in the case of any premises, the occupier, lessee or person in charge of the premises;
- (c) in case of a vessel, the charterer, lessee, operator, agent or master of the vessel;
- (d) in case of an aircraft, the charterer, lessee, operator or pilot in charge of the aircraft.

Incitement of, promotion of and participation in the commission of offences and terrorist acts.

18. No person shall knowingly -

- (a) incite or promote the commission of a terrorist act;
- (b) attempt or conspire to commit an offence under this Act; or

(c) aid, abet, counsel or procure the commission of an offence under this Act.

19. Any person who contravenes section 14, 15, 16, 17 or 18 commits an offence and is liable on conviction on indictment to a fine of one hundred thousand dollars or imprisonment for a term of twenty-five years or to both such fine and imprisonment

Penalties.

PART VI INVESTIGATIONS

20. (1) The Unit shall, for the purposes relating to the prevention and suppression of terrorism, investigate -

Financial Intelligence Unit to investigate certain dealings.

- (a) any transaction in foreign exchange currency or securities;
- (b) any transaction or credit or payment by, through or to any banking or financial institution to the extent that such transfer, credit or payment involves any interest of a foreign country or national thereof; or
- (c) such moneys as may be frozen pursuant to section 12.

(2) The Unit may require any financial institution or person having possession of or control over any funds or assets of any person frozen under this Act to keep and maintain proper record of the frozen assets or the record of any other assets under investigation pursuant to this Act.

(3) The Unit shall in any investigation under this section request the production of any records or document in relation to any matter in connection with any frozen funds or assets under this Act.

21. (1) Where the Commissioner of Police receives an information from any source within or outside Dominica that a person who has committed or is alleged to have committed an offence under this Act or an offence under the corresponding Act

Investigation presence of offenders in Dominica.

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of any other State may be present in Dominica, the Commissioner of Police shall take such measures as may be necessary to investigate the facts contained in the information.

(2) Where on investigation, it is found that an offender or alleged offender is in Dominica, the Commissioner of Police shall make a report to the Director of Public Prosecutions who shall take such measures as are necessary to prosecute or extradite the offender as the circumstances warrant.

(3) Where measures referred to in subsection (2) are taken against an offender or alleged offender who is not a national or citizen of Dominica or a person ordinarily resident in Dominica, such a person shall be entitled to -

- (a) communicate without delay with the nearest appropriate representative of the State of which that person is a national or which is otherwise entitled to protect the rights of that person;
- (b) in the case of a stateless person, communicate without delay with the nearest representative of the State or territory of which that person habitually resides;
- (c) be visited by a representative of the State referred to in paragraph (a) or (b) as the case may be;
- (d) and be informed of his rights under this subsection.

(4) The rights referred to in subsection (3) shall be subject to the laws of Dominica.

(5) The rights conferred on any offender or alleged offender under subsection (3) shall be without prejudice to the rights-

- (a) of any State which claims jurisdiction in respect of such an offender; or
- (b) to invite the International Committee of the Red Cross to communicate with and visit the offender or alleged offender.

22. Where a person is taken into custody consequent to an investigation undertaken under section 21, the Director of Public Prosecutions shall inform the Attorney General who shall cause the Government to notify, through the Secretary General of the United Nations, the State or territory which establishes jurisdiction of the circumstances which warrant the detention.

Notification to appropriate States.

23. (1) The Commissioner of Police may seize any property where he has reasonable grounds for suspecting that the property has been or is being used to commit the offence under this Act.

Police power to seize property used in the commission of terrorist acts.

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

(3) A Judge to whom an application is made under subsection (2) shall not make a detention order in respect of the property referred to in the application unless he -

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

(b) has reasonable grounds to believe that the property has been, or is being used to commit an offence under this Act.

(4) Subject to subsection (5), a detention order made under subsection (4), shall be valid for three months from its date of first issue but may on application be renewed by a Judge of the High Court for such period as the Court considers necessary until such time as the property referred to in the detention order is produced in court in proceedings for an offence under this Act in respect of that property.

(5) A Judge of the High Court may release any property referred to in a detention order made under subsection (4) if -

(a) he no longer has reasonable grounds to believe that the property has been or is being used to

commit an offence under this Act; or

- (b) no proceedings are instituted for an offence in respect of that property within nine months of the date of first issue of the detention order.

Evidence by certificate.

24. 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 an appropriate authority to the effect that the 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, 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 VII EXTRADITION AND MUTUAL ASSISTANCE IN CRIMINAL MATTERS

The offences related to terrorist and activities to be treated as extradition crimes.
Ch. 12:04.

25. The Extradition Act is amended in the Schedule to that Act which sets out the extradition crimes by the insertion of the following item immediately after item 28 thereof :

“ 29 . An offence against the law relating to the suppression of financing of terrorism.”

Counter terrorism convention to be used as basis for extradition.
(Ch. 12:04)

26. (1) Where Dominica becomes a party to a counter-terrorism convention and there is in force an extradition arrangement between the Government and another State which is a party to that counter-terrorism convention, the extradition arrangement shall be deemed for the purposes of the Extradition Act to include provisions for extradition in respect of offences falling within the scope of that counter-terrorism convention.

(2) Where Dominica becomes a party to a counter-terrorism convention and there is no extradition arrangement between the Government 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 an extradition arrangement between the Government and that other State providing for extradition in respect of offences falling within the scope of that counter-terrorism convention.

27. Where the Competent Authority in Dominica receives a request from another State to extradite a person over whom that other State establishes jurisdiction in accordance with the provisions of this Act for the commission of an offence in that other State, the request shall be considered whether or not there is an extradition treaty between Dominica and that State.

Request for extradition to be considered irrespective of any arrangement.

28. For the purposes of extradition every offence under this Act shall be deemed as if it had been committed not only in the place in which it occurred but also in any state or territory which establishes jurisdiction in accordance with the provisions of this Act in respect of the offence.

Scope of jurisdiction for extradition.

29. Notwithstanding anything in the Extradition Act or in any other enactment, all extradition treaties entered by Dominica with any State or extended to Dominica shall be deemed amended to the extent necessary to give effect to the 1999 Convention.

Existing extradition treaties to be deemed amended to give effect to the 1999 Convention. Ch. 12:04.

30. Notwithstanding any thing in any other enactment, no offence under this Act shall be regarded for the purposes of extradition or mutual legal assistance as a political offence or as an offence inspired by political motives.

Offences not to be treated as offences of a political character.

31. Notwithstanding anything in any other law, no offence under this Act shall be regarded as a fiscal offence for the purposes of extradition or mutual legal assistance.

Offences not to be treated as fiscal offences.

32. Where a person is detained under this Act or any other law or is serving a sentence in Dominica and his presence in another State is requested for the purposes of identification, testimony or otherwise providing assistance in obtaining evidence for the

Conditions for transfer of persons detained.

investigation or prosecution of relevant offences that person may be transferred if -

- (a) the person freely gives his informed consent; and
- (b) the competent authority in Dominica and that of the other State agree subject to such conditions that Dominica and that other State consider appropriate.

Offenders to be prosecuted if not extradited.

33. Where a person who commits an offence under this Act is present in Dominica and that person is not extradited to a State which establishes jurisdiction over that person, the Director of Public Prosecutions shall prosecute the person for the commission of the offence.

PART VIII DISCLOSURE AND SHARING OF INFORMATION

Exchange of information relating to terrorists, terrorist groups and terrorist acts and activities

34. The Competent Authority may, on request made by the appropriate authority of a foreign state, disclose to the appropriate authority any information in the possession of the competent authority or in the possession of any government department relating to any of the following -

- (a) the actions or movements of terrorists or persons suspected of involvement in the commission of terrorists acts;
- (b) the use of forged or falsified travel documents by persons suspected of involvement in the commission of terrorist acts;
- (c) traffic in weapons and sensitive materials by terrorists or persons suspected of involvement in the commission of terrorist acts;

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

35. (1) A person who has information which will be of assistance 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,

Duty to disclose information relating to offences and terrorist acts.

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

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

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

(4) A person who fails to comply with subsection (1) commits an offence and on conviction is liable to imprisonment for a term of two years.

36. (1) A person shall forthwith disclose to the Unit -

- (a) the existence of any property in his possession or control, which is to his knowledge, owned or controlled by or on behalf of a terrorist group;
- (b) any information which the person has reasonable grounds to suspect is information regarding a transaction or proposed transaction in respect of any property referred to in paragraph (a).

Duty to disclose information respecting property of terrorist groups.

(2) Every financial institution shall report, every three months, to the Unit and the Eastern Caribbean 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 property owned or controlled by or on behalf of a terrorist group and the particulars relating to the persons,

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accounts and transactions involved and the total value of such 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 and 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 Unit or the Eastern Caribbean Central Bank or the Commissioner of Police as the case may be on a request made in that behalf to disclose to the Unit or appropriate authority of a foreign State any information in the possession of the Unit, Bank or Commissioner of Police relating to any property owned or controlled by or on behalf of a terrorist group.

(5) No civil or criminal proceedings shall lie against a person for making a disclosure or report in good faith under this section.

(6) A person who fails to comply with subsection (1), (2) or (3) as the case may be commits an offence and on conviction is liable to imprisonment for a term of two years.

**PART IX
SEIZURE AND FORFEITURE OF TERRORIST
PROPERTY**

Order for seizure and restraint of property.

37. (1) Where on an *ex parte* application made to a Judge in Chambers, the Judge is satisfied that there are reasonable grounds to believe that there is property in respect of which an order of forfeiture may be made under section 8, the Judge may issue-

(a) a warrant authorizing a police officer to search 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 8;

(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 restraining order.

(2) On an application made under subsection (1), the Judge may on 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 of that property 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), the person shall apply to a Judge in Chambers for a destruction order.

(5) Before making a destruction order, 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) The Judge may order that any property in respect of which an application is made under subsection (4) be destroyed

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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 Attorney General may at any time apply to a Judge in Chambers to cancel or vary a warrant or order issued under this section.

Order for forfeiture of property.

38. (1) The Attorney General may apply to a Judge for an order of forfeiture in respect of -

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

- (a) 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; and
- (b) give notice of the application, in such manner as the Judge may direct, to the respondents named in it.

(3) If the Judge is satisfied, on a balance of probabilities, that the property which is the subject of the application is property referred in subsection (1), the Judge shall order that the property be forfeited to the State or be disposed of as he may direct.

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

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

(6) If the Judge is satisfied that a person referred to in subsection (5) -

- (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 activity; and
- (c) is not a terrorist or a member of or linked to a terrorist group;

the Judge shall order that the interest shall not be affected by the order and declare the nature and extent of the interest in question.

(7) A person who claims an interest in property that has been forfeited under subsection (3) and who has not been given notice under subsection (5) may make an application to the High Court to vary or set aside the forfeiture order made not later than sixty days after the day on which that forfeiture order was made.

(8) Pending the determination of an appeal against a forfeiture order made under this section -

- (a) property restrained under section 37 shall continue to be restrained;
- (b) property seized under a warrant issued under section 37 shall continue to be detained; and
- (c) any person appointed to manage, control or otherwise deal with the property under section 37 shall continue in that capacity.

(9) 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.

39. (1) Where the Minister has reasonable grounds to believe that a person outside Dominica is committing or is likely to commit a terrorist act in Dominica, the Minister may by Order published in the *Gazette*, prohibit all persons in Dominica and all citizens of Dominica resident outside Dominica from making funds available to, or for 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 Order under subsection (1) shall cease to have effect at the end of a period of sixty days from the date of its publication in the *Gazette* unless revoked at an earlier date by the Minister.

(3) A person who does any act in contravention of an Order made under this section commits an offence and is liable on conviction to imprisonment for a term not less than five years but not exceeding ten years

PART X CHARITIES

Refusal of application for registration and revocation of registration, of charities linked to terrorist groups.

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

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

(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 authorized by the Minister shall-

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

(5) Upon the filing of a certificate in the Court, a Judge in Chambers shall -

- (a) examine all the information considered by the Minister and the Minister responsible for finance before signing the certificate and hear any evidence or such other information that may be presented by or on behalf of those Ministers (whether or not such information is admissible) and may on the request of the Minister hear all or part of that evidence or such information in the absence of the registered charity or applicant or any legal representative thereof, if the Judge is of the opinion that disclosure of the evidence or information would be prejudicial to national security or endanger the safety of any person;
- (b) provide the registered charity or applicant with a statement summarizing the information and evidence available to the Judge so as to enable the registered charity or applicant to be reasonably informed of the circumstances giving rise to the

certificate, 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 registered charity or applicant with a reasonable opportunity to be heard; and
- (d) determine whether the certificate is reasonable on the basis of all the evidence and information available to the Judge or if found unreasonable quash the certificate.

(6) Where the Judge determines, under subsection (5), that a certificate is reasonable -

- (a) the Minister shall cause the certificate to be published in the *Gazette*; and
- (b) that certificate shall be deemed for all purposes to be sufficient grounds for -
 - (i) the revocation of the registration of the charity referred to in the certificate; or
 - (ii) the refusal of the application for registration of the charity referred to in the certificate.

(7) A determination under subsection (5) shall not be subject to appeal or review by any court.

PART XI BORDER CONTROL

Provision of information relating to passengers of vessels and aircraft and to immigrants and emigrants.

41. (1) The operator or pilot in charge of an aircraft or the master of a vessel departing from Dominica may, subject to Regulations made under subsection (6), provide -

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

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

(2) The operator or pilot in charge of an aircraft registered in Dominica or the master of a vessel registered in Dominica departing from any State outside of Dominica may, subject to Regulations made under subsection (6), provide -

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

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

(3) The Chief Immigration Officer may subject to subsection (5) and to Regulations made under subsection (6), provide to the competent authority in a foreign State any information in his possession relating to persons entering or leaving Dominica as the case may be, and required by the laws of that foreign State.

(4) The provision of information under this section shall be deemed not to be in contravention of any provision of law prohibiting the disclosure of information.

(5) No information provided to the Commissioner of Police shall be used or disclosed by him except for the purpose of protecting national security or public safety.

(6) 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 prevent entry and order for the removal of persons.

42. (1) Notwithstanding anything in the Immigration and Passport Act or any other enactment, an immigration officer may in his absolute discretion prohibit the entry into Dominica of any person if the immigration officer has reasonable grounds to believe that that person has been, is or will be involved in the commission of a terrorist act.

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

(3) A person with respect to whom an order under subsection (2) is made -

- (a) shall leave Dominica and shall, so long as the Order is in force, remain out of Dominica; and
- (b) may be detained pending deportation in such a manner as may be directed by the Minister responsible for immigration and may be placed in a vessel or aircraft leaving Dominica.

PART XII MISCELLANEOUS

General power of detention.

43. Any person in respect of whom an inquiry or investigation is to be held or an extradition order has been made may be detained pending inquiry, investigation, appeal or extradition as the case may be at such place satisfactory to the Minister.

Power to refuse refugee applications.

44. The Minister responsible for immigration may, having regard to the interests of national security and public safety, refuse the application of any person applying for status as a refugee if that Minister 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.

45. A person who contravenes or fails to comply with any other provisions of this Act, where the provision does not expressly create any offence or provide for a penalty, commits an offence and is liable on conviction -

General penalty.

(a) in the case of an individual, to a fine of one hundred thousand dollars or to imprisonment to a term of two years or to both such fine and imprisonment; or

(b) in the case of an entity, to a fine of two hundred and fifty thousand dollars.

46. Where an offence under this Act has been committed by an entity and is proved to have been committed with the consent or connivance of or to be attributable to any neglect or default on the part of any director, manager, secretary, or other similar officer of the entity or any person who purported to act in any such capacity, that director, manager, secretary, other similar officer or person also commits the offence and is liable to the penalty prescribed by this Act for the offence.

Offences committed by entities.

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

Regulations.

(2) All Regulations made under this Act shall be subject to negative resolution of the House of Assembly within six months.

SCHEDULE

1. Convention on Offences and certain other Acts committed on Board Aircraft signed at Tokyo on 14th December, 1963;

2. Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on 16th December, 1970.

3. Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, done at Montreal on 23rd September, 1971.

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4. 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.

5. International Convention against the taking of Hostages, adopted by the General Assembly of the United Nations on 17th December, 1979.

6. Convention on the Physical Protection of Nuclear Material adopted at Vienna on 3rd March, 1980.

7. 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.

8. Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, done at Rome on 10th March 1988.

9. 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.

10. Convention on the Making of Plastic Explosive for the Purposes of Detection, signed at Montreal on 1st March, 1991;

11. International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly at the United Nations on 15th December, 1997;

12. International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations on 9th December, 1999.

Passed in the House of Assembly this 29th day of April, 2003.

ALEX F. PHILLIP (MRS.)
Clerk of the House of Assembly

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