

COMMONWEALTH OF DOMINICA

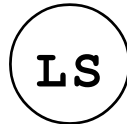
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COMMONWEALTH OF DOMINICA

ACT NO. 5 OF 2022.

I assent**CHARLES A. SAVARIN**
President

24th August, 2022

**AN ACT TO PROVIDE FOR THE AMENDMENT OF
THE SUPPRESSION OF THE FINANCING OF
TERRORISM ACT, CHAP. 73:04.***(Gazetted 25th August, 2022.)*BE IT ENACTED by the Parliament of the Commonwealth of
Dominica as follows –

1. This Act may be cited as the –

Short title.

**SUPPRESSION OF THE FINANCING OF
TERRORISM (AMENDMENT) ACT, 2022.**

Interpretation.
Chap. 73:04

2. In this Act “the Act” means the Suppression of the Financing of Terrorism Act.

Amendment of
section 2.

3. Section 2 of the Act is amended by inserting the following definitions in appropriate alphabetical order:

““bank” means any person whose regular business is the carrying on of banking business;

Chap. 73:01. “banking business” has the meaning assigned in the Banking Act;

“designated entity” means an individual or entity and their associates designated under section 11 or designated as a terrorist or terrorist group by the Security Council of the United Nations;

“Securities Regulatory Commission” means the Eastern Caribbean Securities Regulatory Commission established by Article 3 of the Agreement establishing the Eastern Caribbean Securities Regulatory Commission made on the 24th November 2000;

“Sanctions Committee” means the Sanctions Committee established by section 13F;

Chap. 73:03. “scheduled business” has the meaning assigned in section 2 of the Money Laundering (Prevention) Act;

“Supervisory Authority” means –

- (a) in relation to banks, the Central Bank;
- (b) in relation to securities exchange, the Securities Regulatory Commission;

- (c) in relation to financial institutions other than those mentioned in paragraph (a) or (b), the Financial Services Unit;

“terrorist entity” means a person who is owned or controlled by a terrorist or terrorist group;

“UNSCR” means United Nations Security Council Resolution;

“UN Sanctions List” means a sanctions list maintained by a UNSCR Committee;

“UNSCR Committee” means a Committee established by the United Nations Security Council by United Nations Security Council Resolution:

(a) 1267/1999 and its successor resolutions;

(b) 1373 (2001) and its successor resolutions;
or

(b) 1988/2011 and its successor resolutions.”.

4. Section 4 of the Act is amended in subsection (3) –

Amendment of
section 4.

(a) in paragraph (d) by deleting the full stop which appears at the end and substituting a semi-colon;

(b) by inserting the following new paragraph (e), immediately after paragraph (d):

“(e) provides or collects, by any means, directly or indirectly, property within Dominica to finance the travel of another person seeking to travel to a country or territory other than that

person’s country or territory of residence or nationality for the purpose of committing, planning, preparation of, or participation in, terrorist acts or providing or receiving terrorist training.”.

Amendment of section 5.

5. Section 5(1) of the Act is amended –

(a) in paragraph *(a)* by deleting the word “two” and substituting the word “five”;

(b) in paragraph *(b)* by deleting the word “one” and substituting the word “two”.

Amendment of section 7.

6. Section 7 of the Act is amended by inserting the words “or a scheduled business” immediately after the word “institution” wherever it appears.

Insertion of new section 10A.

7. The Act is amended in Part IV by inserting after the heading “DESIGNATION OF TERRORISTS AND TERRORIST GROUPS” the following new section 10A:

“Proposals
for
designation. **10A.** (1) The Attorney General is the competent authority for proposing persons for designation to a UNSCR Committee.

(2) The Attorney General shall consider the criteria for designation to the relevant UNSCR Committee and make proposals for designation under subsection (1) when he is satisfied after consideration of the criteria, notification and any other relevant information that there is a reasonable basis for proposing the designation of the person to the relevant UNSCR Committee.

(3) When the Attorney General makes a proposal for designation of a person under subsection (2) he shall:

- (a) provide as much information as possible on the person proposed to be designated;
- (b) ensure that the proposal includes a statement of case which contains as much detail on the basis of the listing;
- (c) where the proposal for designation is made to the 1267/1989 UNSCR Committee, specify whether the status of the person proposed to be designated may be made known;
- (d) follow the procedures and standard forms for listing as adopted by the relevant UNSCR Committee.

(4) The Attorney General shall employ procedures and mechanisms to collect or solicit as much information as possible to identify persons that would meet the relevant criteria for designation to the relevant UNSCR Committee.

(5) Where the Attorney General makes a proposal for designation under subsection (2), the Attorney General shall cause notice of the proposal for designation to be given to the financial institutions, scheduled businesses and any other person who might be holding targeted funds or other assets that belong to the person proposed for designation within twenty-four hours of the proposal being made.

(6) Where the Attorney General gives notice under subsection (5) the Attorney General shall provide

relevant guidance to financial institutions, scheduled businesses or other person on the treatment of the targeted funds of other assets that belong to the person or entity proposed for designation.

(7) The Attorney General may from time to time review the circumstances that form the basis of all designations made under this section.”.

Amendment of
section 11.

8. Section 11 of the Act is amended by deleting subsection (1) and substituting the following:

“(1) The Minister may designate by order a person a terrorist, terrorist group or terrorist entity if the Minister has reasonable grounds to believe that the person —

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

Amendment of
section 11A.

9. Section 11A of the Act is amended –

(a) by deleting subsection (1);

(b) in subsection (2):

(i) in the chapeau by deleting the words “Financial

Services Unit” and substituting the words “Supervisory Authority”,

(ii) in paragraph (c) by inserting the words “and scheduled businesses” immediately after the word “institutions”,

(iii) in paragraph (e) by deleting the words “financial institutions” and substituting the words “financial institutions, scheduled businesses”

(c) in subsection (3) by deleting the words “Financial Services Unit” and substituting the words “Supervisory Authority”.

10. Section 11B of the Act is amended –

Amendment of
section 11B.

(a) in paragraph (a) by:

(i) inserting the words “or scheduled business” immediately after the word “institution” where it first appears,

(ii) inserting the words “, scheduled business” immediately after the word “institution” where it appears second,

(iii) deleting the words “Financial Services Unit” and substituting the words “Supervisory Authority”;

(b) in paragraph (b) by:

(i) inserting the words “or scheduled business” immediately after the word “institution” wherever it appears,

(ii) deleting the words “Financial Services Unit” and

substituting the words “Supervisory Authority”;

(c) in paragraph (c) by inserting the words “or scheduled business” immediately after the word “institution” wherever it appears;

(d) in paragraph (d) by inserting the words “, scheduled business” immediately after the word “institution”.

Amendment of section 11C.

11. Section 11C of the Act is amended in subsection (1) by inserting the words “or scheduled business” immediately after the word “institution”.

Amendment of section 12.

12. Section 12 of the Act is amended –

(a) in subsection (1) by inserting the words “or scheduled business” immediately after the word “institution” wherever it appears;

(b) in subsection (2) by inserting the words “or scheduled business” immediately after the word “institution”;

(c) in subsection (3) by inserting the words “or scheduled business” immediately after the word “institution” wherever it appears;

(d) in subsection (4) by inserting the words “or scheduled business” immediately after the word “institution” wherever it appears;

(e) by inserting after subsection (4) the following new subsection:

“(5) Access may be authorised to funds or other assets determined in accordance with UNSCR 1452 and its successor resolutions to be necessary for basic expenses, the payment of certain types of fees and service charges or extraordinary expenses.”.

13. The Act is amended by inserting the following new sections immediately after section 13:

Insertion of
new sections.

“Application
for review.

13A. (1) A person who is likely to be affected by a designation order or freezing order shall, as far as practicable be served with a copy of the order and may, after the publication of the order under section 11(2), apply to a judge for a review of the order.

(2) Where an application for review is made under subsection (1), the Attorney General shall be served with a copy of the application and given the opportunity to make representations to the Court in respect of any proceedings for the review of a designation order or freezing order.

(3) A person likely to be affected by an order may include a person with the same or similar name to a person named in a designation order.

13B. (1) A person shall freeze without delay and without prior notice the funds or other assets of a designated entity.

Freeze funds
without delay.

(2) For the purposes of subsection (1), a person shall freeze the funds or other assets:

- (a) that are owned or controlled by the designated entity and it is not necessary that those funds or assets are tied to a particular terrorist act, plot or threat;
- (b) that are wholly or jointly owned or controlled, directly or indirectly, by the designated entity;

(c) derived or generated from funds or other assets owned or controlled directly or indirectly by a designated entity; and

(d) of person and entities acting on behalf of, or at the direction of designated entities.

(3) Where a person freezes funds or other assets under this section the person shall maintain that action for a period not exceeding seven days.

(4) Where funds or other assets of a designated entity are frozen under subsection (1), then before the expiry of the seven-day period, the Attorney General may apply to the Court ex parte for a freezing order in respect of the funds or other assets.

(5) A person who contravenes subsection (1) is guilty of 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.

Prohibition
of access to
funds and
resources.

13C. Where a person is designated by a UNSCR Committee pursuant to a proposal made under section 10A, a person shall not make available any funds or other assets, economic resources, or financial or other resources directly or indirectly, wholly or jointly, for the benefit of a designated entity or to any persons acting on behalf of a designated person.

Notification
of freezing
or other
action

13D. (1) Where a financial institution or scheduled business takes action under section 13B or 13C the financial institution or scheduled business shall notify the Attorney General, the Financial Intelligence Unit

and the Financial Services Unit of the action taken to prohibit the dealing in funds, assets or other economic resources.

(2) A notification under subsection (1) shall include any attempted transactions made by the designated entity or any person acting on behalf of the designated entity.

De-listing.

13E. (1) Where a person is a designated entity and the Attorney General is satisfied that the designated person no longer meets the designation criteria, he may petition the relevant UNSCR Committee for removal of the person from the relevant UN Sanctions List.

(2) Where a person is removed from a UN Sanctions List pursuant to subsection (1), the Attorney General shall cause notice of the de-listing to be given to financial institutions, scheduled business and any other person to whom notice was given under section 10A(5) within twenty-four hours of receipt of notification of the de-listing.

(3) A notice under subsection (2) must indicate that the person named in the notice is no longer a person to whom sections 13B, 13C and 13D apply.

(4) Where a person has been placed on a UN Sanctions List maintained by the UNSCR Committee 1267/1989, 1988 or 2253 the Attorney General shall, as far as practicable, inform the person of the availability of the UN office of the Ombudsperson or focal point for De-Listing, as appropriate for petitioning the removal from a UN Sanctions List.

(5) The Attorney General shall cause to be published guidance on de-listing procedures.

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FINANCING OF TERRORISM

Sanctions
Committee.

13F. (1) There shall be established a Sanctions Committee appointed by the Minister and consisting of representatives of the following agencies:

- (a) the Financial Services Unit;
- (b) the Financial Intelligence Unit;
- (c) the Commonwealth of Dominica Police Force;
- (d) the Customs Division;
- (e) the Inland Revenue Division;
- (f) the Chambers of the Attorney General;
- (g) any other relevant Government agency or statutory body.

(2) The Sanctions Committee is responsible for

- (a) keeping up-to-date with and considering the designation criteria;
- (b) keeping up-to-date with the UN Sanctions Lists;
- (c) identifying persons who satisfy the criteria for designation;
- (d) coordinating and conducting the necessary investigations for the purposes of paragraph (c);

(3) The Sanctions Committee may regulate its own procedure.

(4) The validity of any proceedings of the Sanctions Committee shall not be affected by any vacancy among the members or by any defect in the appointment of a member.

Sanctions
Committee to
support
competent
authority.

13G. (1) When the Sanctions Committee identifies an individual, group, undertaking or entity on a UN Sanctions List or as an individual, group, undertaking or entity that satisfies designation criteria, the Sanctions Committee shall notify the relevant competent authority referred to in section 10A or section 11.

(2) A notice under subsection (5) must be supported by as much information as possible on the person identified, the designation criteria that the person is believed to have satisfied and the grounds for believing that the person is satisfied the designation criteria.

Regulations.

13H. The Minister may make regulations respecting

- (a) the criteria for designation;
- (b) procedures and standard forms for listing, providing for statements of case;
- (c) procedures for particulars and sufficiency of identifying information;
- (d) mechanisms for communicating designations to the financial sector, scheduled businesses and any other person or entity after designation pursuant to a proposal for designation
- (e) the treatment of funds or assets held

by designated entities;

- (f) measures for the protection of the rights and interests of bona fide third parties acting in good faith;
- (g) the procedural requirements of freezing and prohibiting delay without delay in funds or other assets of designated entities;
- (h) de-listing from sanctions lists;
- (i) the Sanctions Committee.”.

Amendment of section 14.

14. Section 14 of the Act is amended in paragraph (a) of subsection (1) by deleting the words “terrorist or terrorist group so designated in accordance with section 11(2)” and substituting the words “person designated under section 11”.

Amendment of section 15.

15. Section 15 of the Act is amended by inserting the words “or scheduled business” immediately after the word “institution”.

Amendment of section 19A.

16. Section 19A of the Act is amended in subsections (1), (2) and (3) by inserting the words “or scheduled business” immediately after the word “institution”.

Amendment of section 19C.

17. Section 19C of the Act is amended by inserting the words “or scheduled business” immediately after the word “institution”.

Amendment of section 19D.

18. Section 19D is amended -

(a) in subsection (1) –

- (i) in paragraph (d) by deleting the full stop appearing at the end of that paragraph and substituting a semi-colon;

(ii) by inserting the following new paragraph (e) immediately after paragraph (d):

“(e) the Central Bank or the Securities Regulatory Commission carrying out its functions under anti-money laundering and suppression of terrorist financing laws.”;

(iii) by inserting the words “or scheduled business” immediately after the word “institution”;

(b) in subsection (2) by inserting the words “or scheduled business” immediately after the word “institution”.

19. Section 19E of the Act is amended by inserting the words “or scheduled business” immediately after the word “institution”.

Amendment of
section 19E.

20. Section 36 of the Act is amended in –

Amendment of
section 36.

(a) subsections (1)(a) and (2)(a) and (b) by deleting the words “terrorist group” and substituting the words “designated entities”;

(b) in subsection (2) by:

(i) inserting the words “and scheduled businesses” immediately after the word institution;

(ii) deleting the words the words “Financial Services Unit” and substituting the words “Supervisory Authority”;

(c) in subsection (4) by deleting the words the words “Financial Services Unit” wherever they appear and substituting the words “Supervisory Authority”.

Amendment of
section 47.

21. Section 47 of the Act is amended –

(a) in subsection (1) by:

(i) deleting the words “Financial Services Unit” and substituting the words “Supervisory Authority”,

(ii) inserting the words “, scheduled businesses” immediately after the word “institutions” wherever it appears.

(b) in subsection (2):

(i) in paragraph (a) by deleting the words “Financial Services Unit” and substituting the words “Supervisory Authority”,

(ii) in the chapeau and in paragraphs (a) and (b) by inserting the words “, scheduled business” immediately after the word “institution”,

(iii) in paragraph (c) by inserting the words “or scheduled business” immediately after the word “institution”.

Amendment of
section 48.

22. Section 48 of the Act is amended in paragraph (b) of subsection (1) by deleting the words “Financial Services Unit” and substituting the words “Supervisory Authority”.

23. Schedule 2 of the Act is amended by –

Amendment of
Schedule 2.

(a) deleting the full-stop appearing at the end of the schedule and substituting a semi-colon;

(b) inserting after item 16 the following new item 17:

“17. Virtual asset business.”.

Passed in the House of Assembly this 22nd day of August, 2022.

DANIEL JAMES

Clerk of the House of Assembly

DOMINICA

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