

PREVENTION OF TERRORISM ACT, 2004*(Act 7 of 2004)***ARRANGEMENT OF SECTIONS****Part I – Preliminary****Section**

1. Short title and commencement
2. Interpretation

Part II – Specified Entities

3. Specified Entity Order

Part III – Offences

4. Offence of terrorist act
5. Provision or collection of funds to commit terrorist acts
6. Collection of property or provision of property or services for commission of terrorist acts
Use of property for commission of terrorist acts
8. Arrangements for retention or control of terrorist property
9. Dealing in property owned or controlled by terrorist groups
10. Soliciting and giving of support to terrorist groups or for the commission of terrorist acts
11. Harboursing of persons committing terrorist acts
12. Provision of weapons to terrorist groups

13. Recruitment for terrorist groups or terrorist acts
14. Training terrorist groups and persons
15. Promotion or facilitation of terrorism in foreign States
16. Promotion of offences under section 15
17. Conspiracy to commit offences under this Act
18. Membership of terrorist groups
19. Arrangement of meetings in support of terrorist groups
20. Participation in the commission of offences under this Act

Part IV – Investigation of Offences

21. Powers of arrest
22. Right to be released
23. Remand by court
24. Power to gather information
25. Power to intercept communications and the admissibility of intercepted communications
26. Power to seize property used in commission of terrorist acts

Part V – Trial of Offences

27. Jurisdiction to try offences under this Act
28. Evidence by certificate
29. Order for forfeiture of property on conviction of offences under this Act

Part VI – Extradition and Mutual Assistance in**Criminal Matters**

30. Exchange of information relating to terrorist groups and terrorist acts
31. Counter-terrorism conventions to be used as basis for extradition
32. Counter-terrorism conventions to be used as basis for mutual assistance in criminal matters
33. Certain terrorist acts extraditable despite political nature of acts

Part VII– Miscellaneous

34. Duty to disclose information relating to terrorist acts etc.
35. Duty to disclose information relating to property of terrorist groups or property used for commission of offences under this Act
36. Orders for seizure and restraint of property
37. Orders for forfeiture of property
38. Power to prohibit making funds available to persons in foreign States to commit terrorist acts
39. Refusal of applications for registration, and the revocation of registration, of associations linked to terrorist groups
40. Provision of information relating to persons entering and leaving the country
41. Power to refuse refugee application
42. Power to make Regulations



PREVENTION OF TERRORISM ACT, 2004

(Act 7 of 2004)



I assent

J. A. Michel
President

25th June, 2004

AN ACT to provide for measures to prevent and suppress terrorism and for connected matters.

ENACTED by the President and the National Assembly.

PART I - PRELIMINARY

1. This Act may be cited as the Prevention of Terrorism Act, 2004 and shall come into operation on such date as the Minister may, by notice in the Official Gazette, appoint.

Short title and commencement

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; or
- (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;
- (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 ofa 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

4. Every person who commits -

Offence of
terrorist act

- (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 7 years and not more than 30 years.

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 7 years and not more than 20 years.

Provision or
collection of
funds to
commit
terrorist acts

Collection of property or provision of property and 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 7 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 7 years and not more than 20 years.

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 -

Arrangements
for retention
or control 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 7 years and not more than 20 years.

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,

Dealing in
property
owned or
controlled by
terrorist groups

is guilty of an offence and shall, on conviction, be liable to imprisonment for a term not less than 7 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 7 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 7 years and not more than 20 years.

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

Provision of weapons to terrorist groups

- (a) a terrorist group;
- (b) a member of a terrorist group;
- (c) 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 7 years and not more than 20 years.

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

Recruitment for terrorist groups or terrorist acts

- (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 7 years and not more than 20 years.

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

Training terrorist groups and persons

- (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 7 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 7 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 7 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 7 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.

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

Arrangement
of meetings in
support of
terrorist groups

- (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 7 years and not more than 20 years.

(2) In this section, "meeting" means a meeting of 3 or more persons, whether or not the public are admitted.

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,

Participation
in the
commission of
offences under
this Act

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

Power 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 suspect's 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.

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.

Remand by
court

- (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 subsections (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.

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 subparagraph (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 subparagraph (ii) from the person first referred to in that subparagraph.
- (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-General's 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.

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 -

- (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 6 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

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

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.

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.

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.

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

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-General's view, be prejudicial to national security or public safety.

Counter-terrorism convention 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.

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.

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

(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.

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

Certain terrorist acts extraditable despite political nature of acts

- (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 3 years and not exceeding 15 years.

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;

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

- (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 3 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 shall 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 36 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 is 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 3 years and not exceeding 5 years.

Refusal of applications for registration, and the revocation of the 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

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.

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,

Provision of information relating to persons entering and leaving the country

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.

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.

Power to make
Regulations

(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).

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 25th May, 2004.

3.



Mrs. Sheila Banks
Clerk to the National Assembly