

PROTECTION OF  
CONSTITUTIONAL  
DEMOCRACY  
AGAINST  
TERRORIST  
AND RELATED  
ACTIVITIES ACT

## Protection of Constitutional Democracy Against

## Terrorist and Related Activities Act (POCDATARA)

PROTECTION OF CONSTITUTIONAL DEMOCRACY AGAINST  
TERRORIST AND RELATED ACTIVITIES ACT, 2004 (ACT 33 OF 2004)

ASSENTED TO 4 FEBRUARY 2005

DATE OF COMMENCEMENT: 20 MAY 2005 (English text signed by the  
President)

### ACT

To provide for measures to prevent and combat terrorist and related activities; to provide for an offence of terrorism and other offences associated or connected with terrorist activities; to provide for Convention offences; to give effect to international instruments dealing with terrorist and related activities; to provide for a mechanism to comply with United Nations Security Council Resolutions, which are binding on member States, in respect of terrorist and related activities; to provide for measures to prevent and combat the financing of terrorist and related activities; to provide for investigative measures in respect of terrorist and related activities; and to provide for matters connected therewith.

#### PREAMBLE

**WHEREAS** the Republic of South Africa is a constitutional democracy where fundamental human rights, such as the right to life and free political activity, are constitutionally enshrined.

**AND WHEREAS** terrorist and related activities, in whichever form, are intended to achieve political and other aims in a violent or otherwise unconstitutional manner, and thereby undermine democratic rights and values and the Constitution.

**AND WHEREAS** terrorist and related activities are an international problem, which can only be effectively addressed by means of international co-operation;

**AND WHEREAS** the Government of the Republic of South Africa has committed itself in international fora such as the United Nations, the African Union and the Non- Aligned Movement, to the prevention and combating of terrorist and related activities;

**AND WHEREAS** the United Nations Security Council Resolution 1373/2001, which is binding on all Member States of the United Nations, as well as the Convention for the Prevention and Combating of Terrorism, adopted by the Organisation of African Unity, requires Member States to become Party to instruments, dealing with terrorist and related activities, as soon as possible;

**AND WHEREAS** the Republic of South Africa has already become Party to the following instruments of the United Nations:

- (a) The Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963. The Republic became a Party thereto, by accession on 26 May 1972;
- (b) the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970. The Republic became a Party thereto by ratification on 30 May 1972;
- (c) the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, concluded at Montreal on 23 September 1971. The Republic became a Party thereto by ratification on 30 May 1972;
- (d) the 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 14 December 1973. The Republic became a Party thereto by accession on 23 September 2003;
- (e) the International Convention Against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979. The Republic became a Party thereto by accession on 23 September 2003;

- (f) the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, adopted at Montreal on 24 February 1988. The Republic became a Party thereto by accession on 21 September 1998;
- (g) the Convention on the Marking of Plastic Explosives for the Purpose of Detection, signed at Montreal on 1 March 1991. The Republic became a Party thereto by accession on 1 December 1999;
- (h) the International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997. The Republic became a Party thereto by ratification on 1 May 2003;
- (i) the International Convention on the Suppression of the Financing of Terrorism, adopted by the United Nations General Assembly on 9 December 1999. The Republic became a Party thereto by ratification on 1 May 2003;
- (j) the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA Convention), adopted at Rome on 10 March 1988. The Republic became a Party thereto by accession on 8 July 2005;
- (k) the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf (SUA Protocol), adopted at Rome on 10 March 1988. The Republic became a Party thereto by accession on 8 July 2005;
- (l) the International Convention for the Suppression of Acts of Nuclear Terrorism, adopted by the United Nations General Assembly on 13 April 2005. The Republic became a Party thereto by ratification on 9 May 2007;
- (m) the Convention on the Physical Protection of Nuclear Material, adopted in Vienna on 26 October 1979. The Republic became a Party thereto by ratification on 17 September 2007; and
- (n) the Treaty on the Non-Proliferation of nuclear weapons, adopted at New York on 12 June 1968. The Republic acceded thereto on 10 July 1991;

**AND WHEREAS** the Republic of South Africa desires to become a Party to the following remaining instruments of the United Nations, not yet ratified or acceded to by the Republic:

- (a) The Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation, adopted at Beijing on 10 September 2010 and signed on behalf of the Republic on 26 September 2013; and
- (b) the Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft, adopted at Beijing on 10 September 2010, and signed on behalf of the Republic on 26 September 2013;
- (c) .....

**AND WHEREAS** the following international instruments have been adopted, but the Republic has not signed and is not a Party thereto:

- (a) The Protocol to Amend the Convention on Offences and Certain Other Acts Committed on Board Aircraft, adopted at Montreal on 4 April 2014;
- (b) the Amendment to the Convention on the Physical Protection of Nuclear Material, adopted at Vienna on 8 July 2005;
- (c) the Protocol to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, adopted at London on 14 October 2005; and
- (d) the Protocol to the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf, adopted at London on 14 October 2005;

**AND WHEREAS** the Republic of South Africa has become a Party—

- (a) by ratification, on 7 November 2002, to the Convention on the Prevention and Combating of Terrorism, adopted by the Organisation of African Unity at Algiers on 14 July 1999; and
- (b) by ratification, on 25 March 2007, to the Protocol to the Organisation of African Unity Convention on the Prevention and Combating of Terrorism, adopted by the Assembly of the African Union at Addis Ababa on 8 July 2004;

**AND WHEREAS** the United Nations Security Council from time to time passes resolutions under Chapter VII of the United Nations Charter, requiring Member States to combat terrorist and related activities, including taking effective measures to prevent and combat the financing of

terrorist and related activities, and the freezing of funds, assets or economic resources of persons who commit terrorist and related activities  
**AND WHEREAS** our national laws do not meet all the international requirements relating to the prevention and combating of terrorist and related activities;

**AND WHEREAS** international law, and in particular international humanitarian law, including the purposes and principles of the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the said Charter recognizes acts committed in accordance with such international law during a struggle waged by peoples, including any action during an armed struggle, in the exercise or furtherance of their legitimate right to national liberation, self-determination and independence against colonialism, or occupation or aggression or domination by alien or foreign forces, as being excluded from terrorist activities;

**AND REALISING** the importance to enact appropriate domestic legislation necessary to implement the provisions of relevant international instruments dealing with terrorist and related activities, to ensure that the jurisdiction of the courts of the Republic of South Africa enables them to bring to trial the perpetrators of terrorist and related activities; and to cooperate with and provide support and assistance to other States and relevant international and regional organisations to that end;

**AND MINDFUL** that the Republic has, since 1994, become a legitimate member of the community of nations and is committed to bringing to justice persons who commit such terrorist and related activities; and to carrying out its obligations in terms of the international instruments dealing with terrorist and related activities.

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**BE IT THEREFORE ENACTED** by the Parliament of the Republic of South Africa, as follows:—

# CHAPTER 1

## DEFINITIONS AND INTERPRETATION

### 1. Definitions

(1) In this Act, unless the context indicates otherwise—  
“access” refers to a person who accesses a computer data storage medium or a computer system as contemplated in section 2(2)(b) of the Cybercrimes Act;

“appropriate government body”, with reference to section 15, means an appropriate government body as defined in section 1 of the International Cooperation in Criminal Matters Act, 1996 (Act No. 75 of 1996);

“computer” means computer as defined in section 1 of the Cybercrimes Act;

“computer data storage medium” means computer data storage medium as defined in section 1 of the Cybercrimes Act;

“computer system” means computer system as defined in section 1 of the Cybercrimes Act;

“Convention offence” means—

(a) an offence, created in fulfilment of the Republic’s international obligations in terms of instruments dealing with terrorist and related activities, referred to in Part 2 of Chapter 2;

(b) an offence referred to in section 56(1)(h) of the Nuclear Energy Act 1999 (Act No. 46 of 1999); or

(c) an offence referred to in section 133 or 142(6) of the Civil Aviation Act, 2009 (Act No. 13 of 2009);

“Criminal Procedure Act” means the Criminal Procedure Act, 1977 (Act No. 51 of 1977);

“critical infrastructure” means critical infrastructure as defined in section 1 of the Critical Infrastructure Protection Act;

“critical infrastructure complex” means critical infrastructure complex as defined in section 1 of the Critical Infrastructure Protection Act;

“Critical Infrastructure Protection Act” means the Critical Infrastructure Protection Act, 2019 (Act No. 8 of 2019);

“crypto asset” means a digital representation of perceived value that can be traded or transferred electronically within a community of users of the internet who consider it as a medium of exchange, unit of account or store of value and use it for payment or investment purposes, but does not include a digital representation of a fiat currency or a security as defined in the Financial Markets Act, 2012 (Act No. 19 of 2012);

“Cybercrimes Act” means the Cybercrimes Act, 2020 (Act No. 19 of 2020);

“data” means data as defined in section 1 of the Cybercrimes Act;

“Directorate” means the Directorate for Priority Crime Investigation established by section 17C of the South African Police Service Act;

“Director of Public Prosecutions” means a Director of Public Prosecutions appointed under section 13(1) of the National Prosecuting Authority Act, 1998(Act No. 32 of 1998);

“electronic communications service provider” means electronic communications service provider as defined in section 1 of the Cybercrimes Act;

“engages in a terrorist activity”, with reference to sections 2 and 3, includes—

- (a) the commission, performance or carrying out of;
- (b) the facilitation of, participation or assistance in, or contribution to the commission, performance or carrying out of;
- (c) the performance of an act in preparation for or planning of; or
- (d) instructing, directly or indirectly, the—
  - (i) commission, performance, carrying out of;
  - (ii) facilitation of, participation or assistance in, or contribution to the commission, performance or carrying out of; or
  - (iii) performance of an act in preparation for or planning of, a terrorist activity, and the expressions “to engage in a terrorist activity”, “engaging in a terrorist activity” and

“engagement in a terrorist activity” shall be construed accordingly;

“entity”, with reference to sections 3, 4, and 14 (in so far as it relates to the aforementioned sections), 22 and 23, means a natural person, or a group of two or more natural persons (whether acting in the furtherance of a common purpose or conspiracy or not), or a syndicate, gang, agency, trust, partnership, fund or other unincorporated association or organisation, or any incorporated association or organisation or other legal person, and includes, where appropriate, a cell, unit, section, sub-group or branch thereof or any combination thereof, and also any entity referred to in a Resolution of the United Nations Security Council and announced in a notice referred to in section 26A(3) of the Financial Intelligence Centre Act;

“explosive”, with reference to the definition of “explosive or other lethal device” in this section, and sections 5, 6, 10 and 13, means –

- (a) a substance, or a mixture of substances, in a solid or liquid state, which is capable of producing an explosion;
- (b) a pyrotechnic substance in a solid or liquid state, or a mixture of such substances, designed to produce an effect by heat, light, sound, gas or smoke, or a combination of these, as the result of non-detonative self-sustaining exothermic chemical reaction, including pyrotechnic substances which do not evolve gases;
- (c) any article or device containing one or more substances contemplated in paragraph (a);
- (d) any plastic explosive; or
- (e) any other substance or article, which the Minister may from time to time, by notice in the Gazette, declare to be an explosive;

“explosive or other lethal device”, with reference to sections 3, 5, 6, 10 and 13, means —

- (a) an explosive or incendiary weapon or device which is designed or manufactured, or has the capability, to cause death, serious bodily injury or material damage;

- (b) a weapon or device which is designed or manufactured, or has the capability, to cause death, serious bodily injury or material damage through the release, dissemination or impact of toxic chemicals, biological agents or toxins or similar substances or radiation or radioactive material; or
- (c) any weapon of mass destruction, as defined in section 1 of the Non-Proliferation of Weapons of Mass Destruction Act,;

“Financial Intelligence Centre Act” means the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001);

“fixed platform”, with reference to sections 6 and 15, means an artificial island, installation, or structure permanently attached to the sea-bed for the purpose of exploration or exploitation of resources or for economic purposes, but does not include a ship;

“Hazardous Substances Act” means the Hazardous Substances Act, 1973 (Act No. 15 of 1973);

“information infrastructure” means any data, computer data storage medium, computer system or computer program, as defined in the Cybercrimes Act, or any part thereof that is of such a significant economic, public, social or strategic importance that if any service rendered by the information infrastructure is disrupted, destroyed or degraded, it will have a significant effect on—

- (a) the Republic’s ability to function, deliver basic public services or maintain law and order; or
- (b) the environment, the health or safety of the public or any segment of the public, or any other infrastructure that may negatively affect the functions and functioning of the information infrastructure in question;

“infrastructure facility”, with reference to the definition of “terrorist activity” in this section and section 5, means any publicly or privately owned facility providing or distributing services for the benefit of the public, such as water, sewage, energy, fuel or communications.

“instruments dealing with terrorist and related activities”, means any of the following instruments:

- (a) The Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963;
- (b) the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970;
- (c) the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, concluded at Montreal on 23 September 1971;
- (d) the 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 14 December 1973;
- (e) the International Convention Against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979;
- (f) the Convention on the Physical Protection of Nuclear Material, adopted at Vienna on 26 October 1979;
- (g) the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, adopted at Montreal on 24 February 1988;
- (h) the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 1988, adopted at Rome on 10 March 1988;
- (i) the Protocol for the Suppression of Unlawful Acts against the Safety of fixed Platforms on the Continental Shelf, 1988, adopted at Rome on 10 March 1988;
- (j) the Convention on the Marking of Plastic Explosives for the Purpose of Detection, signed at Montreal on 1 March 1991;
- (k) the International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997;

- (l) the Convention on the Prevention and Combating of Terrorism, adopted by the Organisation of African Unity at Algiers on 14 July 1999;
- (m) the International Convention on the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations on 9 December 1999;
- (n) the Protocol to the Organisation of African Unity Convention on the Prevention and Combating of Terrorism, adopted at Addis Ababa by the Assembly of the African Union on 8 July 2004;
- (o) the International Convention for the Suppression of Acts of Nuclear Terrorism, adopted by the United Nations General Assembly on 13 April 2005;
- (p) Amendment to the Convention on the Physical Protection of Nuclear Material, adopted by the Parties to the Convention on 8 July 2005;
- (q) the Protocol to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, adopted by the International Maritime Organisation on 14 October 2005;
- (r) the Protocol to the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms located on the Continental Shelf, adopted by the International Maritime Organisation on 14 October 2005;
- (s) the Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation, concluded at Beijing on 10 September 2010;
- (t) the Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft, concluded at Beijing on 10 September 2010; and
- (u) the Protocol to Amend the Convention on Offences and Certain Acts Committed on Board Aircraft, concluded at Montreal on 4 April 2014;

“international organisation”, with reference to the definitions of “intergovernmental organisation”, “internationally protected person” and “terrorist activity” in this section, means an international organisation of states, and includes an intergovernmental organisation; “intergovernmental organisation”, with reference to the definitions of “international organisation”, “internationally protected person”, “State or government facility” and “terrorist activity” in this section, and section 7, means an international organisation established by the governments of states;

“internationally protected person”, with reference to section 8, means—

- (a) a Head of State, including any member of a collegial body performing the functions of a Head of State under the constitution of the State concerned, a Head of Government or a Minister for Foreign Affairs, whenever any such person is in the Republic, as well as members of his or her family accompanying him or her; or
- (b) any representative or official of a State or any official or other agent of an international organisation or intergovernmental organisation or of an intergovernmental character who, at the time when and in the place where a crime against him or her or his or her official premises, his or her private accommodation or his or her means of transport is committed, is entitled, pursuant to international law to special protection from any attack on his or her person, freedom or dignity, as well as members of his or her family forming part of his or her household;

“judge” means a Judge of the High Court;

“Minister” means the Minister for Safety and Security;

“National Commissioner” means the National Commissioner of the South African Police Service appointed in terms of section 207(1) of the Constitution;

“National Director” means the National Director of Public Prosecutions appointed in terms of section 179(1) of the Constitution;



“Non-Proliferation of Weapons of Mass Destruction Act” means the Non-Proliferation of Weapons of Mass Destruction Act, 1993 (Act No. 87 of 1993);

“Nuclear Energy Act” means the Nuclear Energy Act, 1999 (Act No. 46 of 1999);

“place of public use”, with reference to section 5, includes those parts of any building, land, street, waterway or other location that are at any time accessible or open to members of the public, whether continuously, periodically or occasionally;

“police official” means a “member” as defined in section 1 of the South African Police Service Act and with reference to section 24, includes a member of the South African National Defence Force employed in co-operation with the South African Police Service, in terms of section 201(2)(a) of the Constitution in the prevention and combating of crime, and maintenance and preservation of law and order within the Republic, as contemplated in section 19(1) of the Defence Act, 2002 (Act No. 42 of 2002);

“property” means any –

- (a) money;
- (b) movable property;
- (c) immovable property;
- (d) corporeal thing;
- (e) incorporeal thing; or
- (f) crypto asset,

and includes any rights, privileges, claims and securities and any interest therein and all proceeds thereof;

“public transportation system”, with reference to section 5, means all facilities, conveyances and instrumentalities, whether publicly or privately owned, that are used in or for publicly available services for the transportation of persons or cargo;

“Regulation of Interception of Communications and Provision of Communication-related Information Act” means the Regulation of

Interception of Communications and Provision of Communication-related Information Act, 2002 (Act No. 70 of 2002);

“ship”, with reference to the definition of “fixed platform” in this section and section 10, means a vessel of any type whatsoever not permanently attached to the sea-bed, including dynamically supported craft, submersibles or other floating craft, but does not include a ship which has been withdrawn from navigation or laid up;

“software or hardware tool” means a software or hardware tool as defined in section 4(2) of the Cybercrimes Act;

“South African Police Service Act” means the South African Police Service Act, 1995 (Act No. 68 of 1995);

“specified offence”, with reference to section 4, 14 (in so far as it relates to section 4), and 23, means—

- (a) the offence of terrorism referred to in section 2, an offence associated or connected with terrorist activities referred to in section 3, a Convention offence, or an offence referred to in section 13 or 14 (in so far as it relates to the aforementioned sections); or
- (b) any activity outside the Republic which constitutes an offence under the law of another state and which would have constituted an offence referred to in paragraph (a), had that activity taken place in the Republic;

“State or government facility”, with reference to section 5, includes any permanent or temporary facility or conveyance that is used or occupied by representatives of a State, members of Government, the legislature or the judiciary or by officials or employees of a State or any other public authority or entity of the Republic or by employees or officials of an intergovernmental organisation in connection with their official duties;

“terrorist and related activities” means any act or activity related to or associated or connected with the commission of the offence of terrorism,

or an offence associated or connected with a terrorist activity, or a Convention offence, or an offence referred to in sections 11 to 14.

- (2) For purposes of this Act, “act” includes “omission”.
- (3) For the purposes of paragraph (a)(vi) and (vii) of the definition of “terrorist activity”, any act which is committed in pursuance of any advocacy, protest, dissent or industrial action and which does not intend the harm contemplated in paragraph (a)(i) to (v) of that definition, shall not be regarded as a terrorist activity within the meaning of that definition.
- (4) ...
- (5) notwithstanding any provision in any other law, a political, philosophical, ideological, racial, ethnic, religious or any similar motive, shall not be considered for any reason, including for purposes of prosecution or extradition, to be a justifiable defense in respect of an offence of which the definition of ‘terrorist activity’ forms an integral part.
- (6) For the purposes of this Act a person has knowledge of a fact if—
- (a) the person has actual knowledge of that fact; or
  - (b) the court is satisfied that—
    - (i) the person believes that there is a reasonable possibility of the existence of that fact; and
    - (ii) he or she fails to obtain information to confirm the existence of that fact.
- (7) For the purposes of this Act a person ought reasonably to have known or suspected a fact if the conclusions that he or she ought to have reached, are those which would have been reached by a reasonably diligent and vigilant person having both—
- (a) the general knowledge, skill, training and experience that may reasonably be expected of a person in his or her position; and
  - (b) the general knowledge, skill, training and experience that he or she in fact has.

## CHAPTER 2

### OFFENCES AND PENALTIES

#### PART 1

#### **Offence of terrorism and offences associated or connected with terrorist activities**

##### **2. Offence of terrorism**

Any person who engages in a terrorist activity is guilty of the offence of terrorism.

##### **3. Offences associated or connected with terrorist activities**

(1) Any person who—

- (a) does anything which will, or is likely to, enhance the ability of any entity to engage in a terrorist activity, including to provide or offering to provide a skill or an expertise;
- (b) enters, departs from, transits through or remains in any country; or
- (c) makes himself or herself available, for the benefit of, at the direction of, or in association with any entity engaging in a terrorist activity, and who knows or ought reasonably to have known or suspected, that such act was done for the purpose of joining, supporting or in any other manner enhancing the ability of such entity to engage in a terrorist activity, is guilty of the offence associated with a terrorist activity.

(2) Any person who—

- (a) provides or offers to provide any –
  - (i) weapon; or
  - (ii) software or hardware tool,to any other person for use by or for the benefit of an entity;
- (b) solicits support for or gives support to an entity;
- (c) provides, receives or participates in training or instruction, or recruits an entity to receive training or instruction;

- (d) recruits any entity , or compels, intimidates, forces, coerces, induces or causes any person, including a vulnerable person, to join an entity;
  - (e) collects or makes a document; or
  - (f) possesses a thing, connected with the engagement in a terrorist activity, and who knows or ought reasonably to have known or suspected that such weapons, software or hardware tools, soliciting, training, recruitment, joining, document or thing is so connected, is guilty of an offence connected with terrorist activities.
- (3) For the purposes of this section, training, whether in person, online or in any other manner, includes training in any of the following skills:
- (a) The making, handling or use of any explosive or other lethal device, or any poisonous or noxious substance, including any substance, mixture of substance, product or material contemplated in section 2(1) of the Hazardous Substances Act;
  - (b) the use of any method or technique for doing anything else that is capable of being done—
    - (i) for the purposes of terrorism; or
    - (ii) in connection with the commission or preparation of a terrorist activity or a Convention offence; or
  - (c) the design or adaptation for the purposes of terrorism of any method or technique for doing anything in connection with the commission or preparation of a terrorist activity or Convention offence.
- (4) A person commits an offence if he or she provides or receives training and is aware that such training is, wholly or partly, provided for purposes connected with the commission or preparation of terrorist activities or Convention offences.
- (5) It is an offence to—
- (a) establish any entity engaging in or planning to engage in a terrorist activity, or to support such an entity; or

- (b) belong to or become a member of an entity contemplated in paragraph (a).

## **PART 2**

### **Convention Offences**

#### **4. Offences associated or connected with financing of specified offences**

- (1) Any person who, directly or indirectly, in whole or in part, and by any means or method—
  - (a) acquires property;
  - (b) collects property;
  - (c) uses property;
  - (d) possesses property;
  - (e) owns property;
  - (f) provides or makes available, or invites a person to provide or make available property;
  - (g) provides or makes available, or invites a person to provide or make available any financial or other service;
  - (h) provides or makes available, or invites a person to provide or make available economic support; or
  - (i) solicits or facilitates the acquisition, collection, use or provision of property, or the provision of any financial or other service, or the provision of economic support, intending that the property, financial or other service or economic support, as the case may be, be used, or while such person knows or ought reasonably to have known or suspected that the property, service or support concerned will be used, directly or indirectly, in whole or in part—

- (i) solicits or facilitates the acquisition, collection, use or provision of property, or the provision of any financial or other service, or the provision of economic support;
- (ii) for the benefit of, or on behalf of, or at the direction of, or under the control of an entity which commits or attempts to commit or facilitates the commission of a specified offence;
- (iiA) for the benefit of, or on behalf of, or at the direction of, or under the control of, a specific entity identified in an order made under section 23; or
- (iii) for the benefit of a specific entity identified pursuant to a Resolution of the United Nations Security Council relating to the identification of entities—
  - (aa) that commit, or attempt to commit, any terrorist and related activity or participate in or facilitate the commission of any terrorist and related activity; or
  - (bb) against which Member States of the United Nations must take the actions specified in that Resolution in order to combat or prevent terrorist and related activities, and which are announced in a notice referred to in section 26A(3) of the Financial Intelligence Centre Act.

(2) Any person who, directly or indirectly, in whole or in part, and by any means or method—

- (a) deals with, enters into or facilitates any transaction or performs any other act in connection with property which such person knows or ought reasonably to have known or suspected to have been acquired, collected, used, possessed, owned or provided—
  - (i) to commit or facilitate the commission of a specified offence;



- (ii) for the benefit of, or on behalf of, or at the direction of, or under the control of an entity which commits or attempts to commit or facilitates the commission of a specified offence;
  - (iiA) for the benefit of, or on behalf of, or at the direction of, or under the control of, a specific entity identified in an order made under section 23; or
  - (iii) for the benefit of a specific entity identified pursuant to a Resolution of the United Nations Security Council relating to the identification of entities—
    - (aa) that commit, or attempt to commit, any terrorist and related activity or participate in or facilitates the commission of any terrorist and related activity; or
    - (bb) against which Member States of the United Nations must take the actions specified in that Resolution in order to combat or prevent terrorist and related activities, and which are announced in a notice referred to in section 26A(3) of the Financial Intelligence Centre Act; or
- (b) provides financial or other services in respect of property referred to in paragraph (a), is guilty of an offence.
- (3) Any person who knows or ought reasonably to have known or suspected that property is property referred to in subsection (2) (a) and enters into, or becomes concerned in, an arrangement which in any way has or is likely to have the effect of—
- (a) facilitating the retention or control of such property by or on behalf of, or for the benefit of —
    - (i) an entity which commits or attempts to commit or facilitates the commission of a specified offence;
    - (iA) a specific entity identified in an order made under section 23; or

- (ii) a specific entity identified pursuant to a Resolution of the United Nations Security Council relating to the identification of entities—
  - (aa) that commit, or attempt to commit, any terrorist and related activity or participate in or facilitates the commission of any terrorist and related activity; or
  - (bb) against which Member States of the United Nations must take the actions specified in that Resolution in order to combat or prevent terrorist and related activities, and announced in a notice referred to in section 26A(3) of the Financial Intelligence Centre Act;
- (b) converting such property;
- (c) concealing or disguising the nature, source, location, disposition or movement of such property, the ownership thereof or any interest anyone may have therein
- (d) removing such property from a jurisdiction; or
- (e) transferring such property to a nominee, is guilty of an offence.

#### **4A. Offence relating to attempt to leave Republic**

Any person who directly or indirectly, by any means or method, attempts to leave the Republic for the purpose of committing an act or omission outside the Republic that, if committed in the Republic, would be an offence under this or any other Act for the benefit of, at the direction of, or in association with a terrorist group, is guilty of an offence.

#### **5. Offences relating to explosive or other lethal devices**

Any person who intentionally delivers, places, discharges or detonates an explosive or other lethal device in, into or against a place of private or public use, a state or government facility, a public transport facility, a public

transportation system, or an infrastructure facility, with the purpose, amongst others, of causing—

- (a) death or serious bodily injury; or
- (b) extensive damage to, or destruction of such a place, facility or system, where such destruction results in or is likely to result in major economic loss, is guilty of an offence relating to explosive or other lethal devices.

## **6. Offences relating to hijacking, destroying or endangering safety of fixed platform**

- (1) Any person who intentionally—
  - (a) seizes or exercises control over a fixed platform by force or any other form of intimidation;
  - (b) performs an act of violence against a person on board a fixed platform, which act is likely to endanger the safety of that fixed platform;
  - (c)
    - (i) destroys such a fixed platform; or
    - (ii) causes damage to it, which damage is likely to endanger the safety of that fixed platform;
  - (d) places or causes to be placed on a fixed platform, by any means whatsoever, a device or substance, which is likely to destroy that fixed platform or likely to endanger its safety; or
  - (e) injures or kills any person in connection with the commission of any of the acts referred to in paragraphs (a) to (d), is guilty of an offence relating to the hijacking, destroying or endangering of a fixed platform.
- (2) Any person who, for the purpose of intimidating a population, or to compel a government or an international organisation to do or to abstain or refrain from doing any act intentionally—
  - (a) uses against or on a fixed platform or discharges from a fixed platform any explosive or other lethal device in a manner that causes or is likely to cause death or serious injury or damage;

- (b) discharges from a fixed platform, oil, liquefied natural gas or another hazardous, poisonous or noxious substance, in such quantity or concentration that causes or is likely to cause death or serious injury or damage; or
- (c) uses any other means to disable, damage or render useless a fixed platform, is guilty of an offence.

## **7. Offences relating to taking hostage**

Any person who intentionally—

- (a) seizes or detains; and
- (b) threatens to kill, to injure or to continue to detain, any other person (hereinafter referred to as a hostage), in order to compel a third party, namely a State, an intergovernmental organisation, a natural or juridical person, or a group of persons to do or abstain from doing any act as an explicit or implicit condition for the release of the hostage, is guilty of an offence of taking a hostage.

## **8. Offences relating to causing harm to internationally protected persons**

Any person who, knowing that a person is an internationally protected person, intentionally—

- (a) murders or kidnaps or otherwise violently attacks the person or liberty of that person; or
- (b) executes a violent attack upon the official premises, the private accommodation or the means of transport of that person, which attack is likely to endanger his or her person or liberty, is guilty of an offence relating to causing harm to an internationally protected person.

## **9. Offences relating to hijacking aircraft**

Any person who intentionally, by force or threat thereof, or by any other form of intimidation, or any other means, seizes or exercises control of an aircraft and with the purpose of—

- (a) causing any person on board the aircraft to be detained against his or her will;
- (b) causing any person on board the aircraft to be transported against his or her will to any place other than the next scheduled place of landing of the aircraft;
- (c) holding any person on board the aircraft for ransom or to service against his or her will; or
- (d) causing that aircraft to deviate from its flight plan, is guilty of an offence of hijacking an aircraft.

**10. Offences relating to hijacking ship or endangering safety of maritime navigation**

- (1) Any person who intentionally—
  - (a) seizes or exercises control over a ship by force or threat thereof or any other form of intimidation;
  - (b) performs any act of violence against a person on board a ship if that act is likely to endanger the safe navigation of that ship;
  - (c) destroys a ship or causes damage to a ship or to its cargo which is likely to endanger the safe navigation of that ship;
  - (d) places or causes to be placed on a ship, by any means whatsoever, a device or substance which is likely to destroy that ship, or causes damage to that ship or its cargo which endangers or is likely to endanger the safe navigation of that ship;
  - (e) destroys or seriously damages maritime navigational facilities or seriously interferes with their operation, if such acts are likely to endanger the safe navigation of a ship;
  - (f) communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safe navigation of a ship; or
  - (g) injures or kills a person, in connection with the commission of any of the acts set forth in paragraphs (a) to ( f ), is guilty of an offence

relating to hijacking a ship or endangering the safety of maritime navigation.

- (2) For purposes of this section—
- (a) 'radioactive material' means radioactive material as defined in section 1 of the Nuclear Energy Act, and a Group IV hazardous substance as defined in section 1 of the Hazardous Substances Act;
  - (b) 'source material' means source material as defined in section 1 of the Nuclear Energy Act; and
  - (c) 'special nuclear material' means special nuclear material as defined in section 1 of the Nuclear Energy Act.
- (3) Any person who unlawfully and intentionally performs any of the following acts commits an offence:
- (a) Intimidating a population, or compelling a government or an international organisation, to do or to abstain from doing any act by—
    - (i) using against or on a ship, or discharges from a ship any explosive, radioactive material or weapon of mass destruction as defined in the Non-Proliferation of Weapons of Mass Destruction Act, or a hazardous substance referred to in section 2 of the Hazardous Substances Act, in a manner that causes or is likely to cause death or serious injury or damage;
    - (ii) discharging from a ship, oil, liquefied natural gas, or poisonous or noxious substance, in such quantity or concentration that causes or is likely to cause death or serious injury or damage;
    - (iii) using a ship in a manner that causes death or serious injury or damage;
    - (iv) threatening to commit an offence as contemplated in subparagraph (i) or (ii); or

- (v) using any other means to interfere with the safe navigation of a ship, including interference with the navigation or information system thereof; or
- (b) transporting on board a ship—
  - (i) any explosive or radioactive material, knowing that it is intended to be used to cause, or in a threat to cause death or serious injury or damage for the purpose of intimidating a population, or compelling a government or an international organisation to do or to abstain or refrain from doing any act;
  - (ii) any weapon of mass destruction, as defined in section 1 of the Non-Proliferation of Weapons of Mass Destruction Act, knowing it to be such a weapon;
  - (iii) any source material, special nuclear material, equipment, or material especially designed or prepared for the processing, use or production of special nuclear material, knowing that it is intended to be used in a nuclear explosive activity or in any other nuclear activity not under safeguards pursuant to an International Atomic Energy Agency comprehensive safeguards agreement; or
  - (iv) any equipment, materials, software or related technology that significantly contributes to the design, manufacture or delivery of a weapon of mass destruction, as defined in section 1 of the Non-Proliferation of Weapons of Mass Destruction Act, with the intention that it will be used for such purpose.
- (4) For the purposes of this section—
  - (a) it is not an offence to transport an item, material, software or related technology referred to in subsection (3)(b)(ii) or (iv), if such item, material, software or related technology is transported subject to control in accordance with section 13 of the Non-Proliferation of Weapons of Mass Destruction Act; and

- (b) it is not an offence to transport an item or material referred to in subsection (3)(b)(iii) or, insofar as it relates to a nuclear weapon or other nuclear explosive device, if such item or material is transported to or from the territory of, or is otherwise transported under the control of, a State Party to the Treaty on the Non-Proliferation of Nuclear Weapons where—
- (i) the resulting transfer or receipt, including internal to a State, of the item or material is not contrary to the Republic's obligations under the Treaty on the Non-Proliferation of Nuclear Weapons; and
  - (ii) if the item or material is intended for the delivery system of a nuclear weapon or other nuclear explosive device of a State Party to the Treaty on the Non-Proliferation of Nuclear Weapons and the holding of such weapon or device is not contrary to the Republic's obligations under that Treaty.
- (5) Any person who unlawfully and intentionally transports another person on board a ship knowing that the person has committed an act that constitutes an offence in terms of this section and intending to assist that person to evade criminal prosecution, is guilty of an offence.

### **PART 3**

#### **OTHER OFFENCES**

##### **11. Offences relating to harbouring or concealment of persons committing specified offences**

Any person who harbours or conceals any person, whom he or she knows, or ought reasonably to have known or suspected, to be a person who has committed the offence of terrorism referred to in section 2, an offence associated or connected with terrorist activities referred to in section 3, any Convention offence, or an offence referred to in section 13 or 14, or who is likely to commit such an offence, is guilty of an offence.



**12. Duty to report presence of person suspected of intending to commit or having committed offence and failure to so report**

- (1) Any person who—
  - (a) has reason to suspect that any other person intends to commit or has committed an offence referred to in this Chapter; or
  - (b) is aware of the presence at any place of any other person who is so suspected of intending to commit or having committed such an offence, must report as soon as reasonably possible such suspicion or presence, as the case may be, or cause such suspicion or presence to be reported to any police official.
- (2) Any person who fails to comply with the provisions of subsection (1) (a) or (b), is guilty of an offence.
- (3) Upon receipt of a report referred to in subsection (1), the police official involved, must take down the report in the manner directed by the National Commissioner, and forthwith provide the person who made the report with an acknowledgement of receipt of such report.
- (4)
  - (a) The National Commissioner must, at the commencement of this Act, publish the direction contemplated in subsection (3) in the Gazette.
  - (b) Any direction issued under subsection (3) must be tabled in Parliament.
- (5) A person required to make a report in terms of subsection (1) concerning a suspicion that any other person intends to commit or has committed an offence referred to in section 4, may continue with and carry out any transaction to which such a suspicion relates, unless directed in terms of subsection (6) not to proceed with such a transaction.
- (6) If a police official authorised thereto by the National Commissioner, after consulting with a person required to make a report contemplated in subsection (5), has reasonable grounds to suspect that a transaction referred to in that subsection may constitute an offence contemplated in section 4, that police official may direct that person, in writing, not to proceed with the carrying out of that transaction or any other transaction

in respect of the property affected by that transaction for a period as may be determined by that police official, which may not be more than five days.

- (7) For the purposes of calculating the period of five days in subsection (6), Saturdays, Sundays and proclaimed public holidays must not be taken into account.
- (8) Subsection (6) does not apply to the carrying out of a transaction to which the rules of an exchange licensed in terms of the Stock Exchanges Control Act, 1985 (Act 1 of 1985), or the Financial Markets Control Act, 1989 (Act 55 of 1989), apply.
- (9) For the purposes of this Act, no duty of secrecy or confidentiality or any other restriction on the disclosure of information, whether imposed by legislation or arising from the common law or agreement, affects the duty of compliance with this section by an accountable institution, supervisory body or reporting institution as defined in section 1 of the Financial Intelligence Centre Act, or any other person.
- (10) Subsection (9) does not apply to the common law right to legal professional privilege as between an attorney and the attorney's client in respect of communications made in confidence between—
  - (a) the attorney and the attorney's client for the purposes of legal advice or litigation which is pending or which has commenced; or
  - (b) a third party and an attorney for the purposes of litigation which is pending or has commenced.

### **13. Offences relating to hoaxes**

- (1) (a) Any person who, with the intention of inducing in a person anywhere in the world a false belief that an offence under sections 2, 3 and 5 to 10 will be committed, is guilty of an offence.
- (b) Any person who, directly or indirectly, communicates any information, which he or she knows, or ought reasonably to have known or suspected, or believes to be false, with the intention of inducing in a person anywhere in the world a belief

that a noxious substance or thing or an explosive or other lethal device is likely to be present (whether at the time the information is communicated or later) in or at any place, is guilty of an offence.

- (c) Any person who directly or indirectly communicates any information which he or she knows, or ought reasonably to have known or suspected, or believes to be false and which involves threats of violence or of any other offence that will be committed at any place with a view to intimidate any person to avoid certain places or to divert police resources in order to commit a crime under this Act, is guilty of an offence.
  - (d) If any police resources have been diverted as a result of a crime committed under paragraph (c), the offender is liable for any costs proven by the State in that regard.
    - (e) Upon conviction of an offence under paragraph (c), the court may order the accused, in addition to any fine or imprisonment imposed by the court, to pay the costs related to such diversion of resources.
- (2) For the purposes of this section “substance” includes any biological agent and any other natural or artificial substance (whatever its form, origin or method of production).

#### **14. Threat, attempt, conspiracy and inducing another person to commit offence**

Any person who—

- (a) threatens;
- (b) attempts;
- (c) conspires with any other person; or
- (d) aids, abets, induces, incites, instigates, instructs or commands, counsels or procures another person, to commit an offence in terms of this Chapter, is guilty of an offence.

## CHAPTER 3

### PROVISIONS RELATING TO OFFENCES AND PENALTIES

#### PART 1

#### PROVISIONS RELATING TO OFFENCES

##### 15. Jurisdiction in respect of offences

- (1) A court of the Republic has jurisdiction and the Directorate may, upon information about the commission of any offence mentioned in this subsection, initiate an investigation, or the National Director may institute a prosecution in respect of the offence of terrorism referred to in section 2, an offence associated or connected with terrorist activities referred to in section 3, any Convention offence, or an offence referred to in section 13 or 14, if—
- (a) the accused was arrested in the territory of the Republic, or in its territorial waters or on board a ship or aircraft registered or required to be registered in the Republic; or
- (b) the offence was committed—
- (i) in the territory of the Republic;
  - (ii) on board a vessel, a ship, an off-shore installation, or a fixed platform, or an aircraft registered or required to be registered in the Republic at the time the offence was committed;
  - (iii) by a citizen of the Republic or a person ordinarily resident in the Republic;
  - (iv) against the Republic, a citizen of the Republic or a person ordinarily resident in the Republic;

- (v) on board an aircraft in respect of which the operator is licensed in terms of the Air Services Licensing Act, 1990 (Act 115 of 1990), or the International Air Services Act, 1993 (Act 60 of 1993);
  - (vi) against a government facility of the Republic abroad, including an embassy or other diplomatic or consular premises, or any other property of the Republic;
  - (vii) when during its commission, a national of the Republic is seized, threatened, injured or killed;
  - (viii) in an attempt to compel the Republic to do or to abstain or to refrain from doing any act; or
- (c) the evidence reveals any other basis recognised by law.
- (2) Any act alleged to constitute an offence under this Act and which is committed outside the Republic by a person other than a person contemplated in subsection (1), shall, regardless of whether or not the act constitutes an offence or not at the place of its commission, be deemed to have been committed also in the Republic if that—
- (a) act affects or is intended to affect a public body, any person or business in the Republic;
  - (b) person is found to be in the Republic; and
  - (c) person is for one or other reason not extradited by the Republic or if there is no application to extradite that person.
- (2A) Any person referred to in subsection (2) may be arrested to appear in court pending a determination on the issue of extradition.
- (3) Any offence committed in a country outside the Republic as contemplated in subsection (1) or (2), is, for the purpose of determining the jurisdiction of a court to try the offence, deemed to have been committed—
- (a) at the place where the accused is ordinarily resident;
  - (b) at the accused person's principal place of business;
  - (c) at the place where the accused was arrested or charged in the Republic;
  - (d) at the place where the victim resided; or
  - (e) at the place where the police registered the complaint,

whichever is the most applicable to the facts of the particular case.

- (3A) Where it is not possible to obtain a warrant of arrest for an accused on the grounds provided for in section 43(1)(b) of the Criminal Procedure Act, the magistrate of the district where the police registered the complaint may issue the warrant.
- (4) Where a person is charged with conspiracy or incitement to commit an offence or as an accessory after that offence, the offence is deemed to have been committed not only at the place where the act was committed, but also at every place where the conspirator, inciter or accessory acted or, in case of an omission, should have acted.
- (5) Whenever the National Commissioner receives information from an appropriate government body of a foreign State that a person who is alleged to have committed or is convicted of or is sentenced in respect of any Convention offence in respect of which—
- (a) a court in the Republic has jurisdiction as referred to in subsection (1); or
- (b) any court in a foreign State may have jurisdiction, may be present in the Republic, the National Commissioner must cause such measures to be taken as he or she may deem necessary to investigate the matter.
- (6) Where it appears on reasonable grounds from the investigation referred to in subsection (5) that extradition or criminal proceedings may be instituted against such person, that person may be arrested as contemplated in section 40(1) of the Criminal Procedure Act, in order to ensure his or her presence at such proceedings.
- (7) The National Director must, upon an arrest contemplated in subsection (6), promptly be notified thereof by the police official effecting such arrest.
- (8) Upon being notified in terms of subsection (7), the National Director must promptly notify any foreign State that might have jurisdiction over the offence in question, either directly or through the Secretary General of the United Nations—

- (a) of the fact that the person is in custody;
  - (b) of the circumstances that justify the person's detention; and
  - (c) whether he or she intends to prosecute the person, with a view to the surrender of such person to a foreign State for prosecution by that State, should the National Director decline to prosecute.
- (9) The provisions of this section must be exercised subject to the provisions of the Extradition Act, 1962 (Act 67 of 1962).

(10) When a person who is—

- (a) not a citizen of the Republic;
- (b) not habitually resident in the Republic; or
- (c) a stateless person,

is arrested by a member of the South African Police Service or the National Commissioner or the National Head of the Directorate for an alleged contravention of a Convention Offence, the Secretary-General of the United Nations or the government or governments with established jurisdiction must immediately be notified, through the diplomatic channel, of the arrest.

(11) The National Commissioner or the National Head of the Directorate may consider to inform any other interested government about a person in custody and the circumstances which warranted that person's arrest.

(12) A person referred to in subsection (10) must as soon as possible, upon arrest, be informed of his or her rights to—

- (a) request that the relevant government be informed of his or her arrest;
- (b) have access to communicate with a consular representative of the relevant government; and
- (c) expect that any communication addressed to the relevant consular post about the arrested person is forwarded by the relevant authorities without delay.

## **16. Consent of National Director to institute proceedings and reporting obligations**

- (1) No prosecution under Chapter 2 may be instituted without the written authority of the National Director, except in the case of a prosecution under section 13 which is not linked to any other offence under this Act, in which case the written authority of the relevant Director of Public Prosecutions must be obtained before the institution of a prosecution.
- (2) The National Director must communicate the final outcome of the proceedings promptly to—
  - (a) the Secretary General of the United Nations, so that he or she may transmit the information to other members of the United Nations, if a person is prosecuted for an offence referred to in section 4, 5, 7 or 8;
  - (b) the Council of the International Civil Aviation Organization, if a person is prosecuted for an offence referred to in section 9; or
  - (c) the Secretary General of the International Maritime Organization, if a person is prosecuted for an offence referred to in section 6 or 10.

#### 17. **Evidential matters and exclusions**

- (1) If in any proceedings in a court of law any question arises as to whether or not any person is an internationally protected person, or is pursuant to international law entitled to special protection from any attack on his or her person, freedom or dignity, a certificate under the hand or issued under the authority of the Director General of the Department responsible for International Relations and Cooperation, stating any fact relating to that question, is *prima facie* evidence of that fact.
- (2) A person commits an offence under section 2, 3, 4, 11, 12 (2) or 14 (in so far as it relates to the aforementioned sections), notwithstanding whether the terrorist activity occurs or not.
- (3) A person commits an offence under section 3, 4, 11 or 14 (in so far as it relates to the aforementioned sections), whether or not—
  - (a) the actions of the accused actually enhance the ability of any person to commit a specified offence; or
  - (b) the accused knows or ought reasonably to have known or suspected the specific offence that may be committed.



- (4) Nothing in section 4 makes it an offence to provide or collect funds intending that they be used, or knowing or while a person ought reasonably to have known or suspected that they are to be used, for the purpose of advocating democratic government or the protection of human rights.
- (5) If a person reports the presence of a person referred to in section 11, as soon as possible in accordance with section 12, he or she shall not be liable for prosecution, under section 11.
- (6) A person charged with committing an offence under section 4 may raise as a defence—
  - (a) the fact that he or she had performed any act in connection with the property in question, or allowed or facilitated the performance of any act in connection with that property, solely for the purpose of preserving the value of that property; or
  - (b) that he or she acted in good faith and reported his or her suspicion in accordance with section 12 of this Act, or section 29 of the Financial Intelligence Centre Act, 2001 (Act 38 of 2001), as the case may be.
- (7) No action, whether criminal or civil, lies against a person complying in good faith with section 12(1).
- (8) A person who has made, initiated or contributed to a report in terms of section 12(1) concerning a suspicion that any other person intends to commit or has committed an offence referred to in section 4 is competent, but not compellable, to give evidence in criminal proceedings arising from the report.
- (9) No evidence concerning the identity of a person who has made, initiated or contributed to a report in terms of section 12(1) concerning a suspicion that any other person intends to commit or has committed an offence referred to in section 4, is admissible as evidence in criminal proceedings unless that person testifies at those proceedings.
- (10) A person who acts reasonably in taking or omitting to take measures to comply with section 4 (2) 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 steps to satisfy himself or herself that the relevant property was not owned, controlled or possessed by, or on behalf of or for the benefit of or at the direction of, an entity referred to in the said section 4 (2).

(11) A person is guilty of an offence under section 13(1)(a) or (b), whether or not he or she has any particular person in mind as the person in whom he or she intends to induce the belief in question.

## **PART 2**

### **PENALTIES AND MATTERS RELATING TO PENALTIES**

#### **18. Penalties**

- (1) Any person who is convicted of an offence referred to in—
  - (a) section 2, 5, 6, 7, 8, 9 or 10 is liable—
    - (i) in the case of a sentence to be imposed by a High Court, to a fine or to imprisonment for a period up to imprisonment for life;
    - (ii) in the case of a sentence to be imposed by a regional court, to a fine or to imprisonment for a period not exceeding 18 years;
    - (iii) in the case of a sentence to be imposed by any magistrate's court, to a fine or to imprisonment for a period not exceeding five years;
  - (b) section 3 or 11 is liable—
    - (i) in the case of a sentence to be imposed by a High Court or a regional court, to a fine or to imprisonment for a period not exceeding 15 years;
    - (ii) in the case of a sentence to be imposed by any magistrate's court, to any penalty which may lawfully be imposed by that court;
  - (c) section 4 or 4A, is liable—
    - (i) in the case of a sentence to be imposed by a High Court or a regional court, to a fine not exceeding R100 million or to imprisonment for a period not exceeding 30 years;
    - (ii) in the case of a sentence to be imposed by any magistrate's court, to a fine not exceeding R250 000,00, or to imprisonment for a period not exceeding five years;

- (d) section 13(1)(a), (b) or (c) is liable—
    - (i) in the case of a sentence to be imposed by a High Court or a regional court, to a fine or to imprisonment for a period not exceeding 15 years;
    - (ii) in the case of a sentence to be imposed by any magistrate's court, to any penalty which may lawfully be imposed by that court;
  - (e) section 12(2), is liable—
    - (i) in the case of a sentence to be imposed by a High Court or a regional court, to a fine or to imprisonment for a period not exceeding 15 years;
    - (ii) in the case of a sentence to be imposed by any magistrate's court, to any penalty which may lawfully be imposed by that court;
  - (f) section 14, is liable to the punishment laid down in paragraph (a), (b), (c), (d) or (e) for the offence which that person threatened, attempted or conspired to commit or aided, abetted, induced, instigated, instructed, commanded, counselled or procured another person to commit; and
  - (g) section 24A(10) or (11), is liable to a fine or imprisonment not exceeding one year, or to both such fine and imprisonment.
- (2)(a) The court, in imposing a sentence on a person who has been convicted of an offence under section 13(1)(a) or (b), may order that person to reimburse any party incurring expenses incidental to any emergency or investigative response to that conduct, for those expenses.
- (b) A person ordered to make reimbursement under paragraph (a), shall be jointly and severally liable for such expenses with each other person, if any, who is ordered to make reimbursement under that paragraph for the same expenses.
- (c) An order of reimbursement under paragraph (a), shall, for the purposes of enforcement, be treated as a civil judgment.

## **19. Declarations of forfeiture on conviction**

- (1) Whenever any person is convicted of an offence under this Act, the court in passing sentence must, in addition to any punishment which that court may impose in respect of the offence, declare any property which is reasonably believed to have been used—
  - (a) in the commission of the offence; or
  - (b) for the purpose of or in connection with the commission of the offence, and which was seized under any power exercised under section 22, or is in the possession or custody or under the control of the convicted person, to be forfeited to the State.
- (2) The court which makes a declaration of forfeiture of property referred to in subsection (1), must order the registrar of the High Court concerned or clerk of the Magistrate's Court for the district concerned to forthwith publish such declaration calling upon interested parties through the media and by notice in the Gazette.
- (3) Anything forfeited under subsection (1) must, if it was seized under any power exercised under section 22, be kept or, if it is in the possession or custody or under the control of the convicted person, be seized and kept—
  - (a) for a period of 45 days after the date of the notice published in the Gazette; or
  - (b) if any person referred to in section 20(1) has, within the period contemplated in paragraph (a), made an application to the court concerned regarding his or her interest in such thing, until a final decision has been rendered in respect of any such application.

## **20. Interests of third parties**

- (1) A declaration of forfeiture in terms of section 19(1) does not affect any interest, which any person other than the convicted person may have in the property in question, if the former person proves—

- (a) that he or she acquired the interest in that property in good faith and for consideration, whether in cash or otherwise; and
  - (b) that—
    - (i) the circumstances under which he or she acquired the interest in that property were not of such a nature that he or she knew or ought reasonably to have known or suspected that it was property used as contemplated in section 19(1); or
    - (ii) he or she could not prevent the use of that property as contemplated in that section.
- (2)(a) Subject to the provisions of subsection (1), the court concerned or, if the judge or judicial officer concerned is not available, any judge or judicial officer of that court, may at any time within a period of three years from the date of the declaration of forfeiture, on the application of any person, other than the convicted person, who claims that he or she has any interest in the property in question, inquire into and determine any such interest.
- (b) If a court referred to in paragraph (a) finds—
    - (i) that the property is wholly owned by the applicant, the court must set aside the declaration of forfeiture in question and direct that the property be returned to the applicant or, if the State has disposed of it, direct that the applicant be compensated by the State in an amount equal to the value of the property disposed of; or
    - (ii) that the applicant has an interest in the property—
      - (aa) the court must direct that the property be sold by public auction and that the applicant be paid out of the proceeds of the sale an amount equal to the value of his or her interest therein, but not exceeding the proceeds of the sale; or\
      - (bb) if the State has disposed of the property, the court must direct that the applicant be compensated by the State in an amount equal to the value of his or her interest therein.
- (3) Any person aggrieved by a determination made by the court under subsection (2), may appeal against the determination as if it were a

conviction by the court making the determination, and such appeal may be heard either separately or jointly with an appeal against the conviction as a result of which the declaration of forfeiture was made, or against a sentence imposed as a result of such conviction.

**21. Evidence in respect of declarations of forfeiture and certain interests**

In order to make a declaration of forfeiture under section 19(1) or to determine any interest under section 20(2), the court may refer to the evidence and proceedings at the trial or hear such further evidence, either orally or by affidavit, as it may deem fit.

## CHAPTER 4

### INVESTIGATING POWERS AND FREEZING ORDERS

#### 22. Investigating powers

- (1) Whenever the National Director has reason to believe that—
  - (a) any person may be in possession of information relevant to—
    - (i) the commission or intended commission of an alleged offence under Chapter 2; or
    - (ii) any property which—
      - (aa) may have been used in the commission, or for the purpose of or in connection with the commission, of an offence under this Act;
      - (bb) may have facilitated the commission of an offence under this Act, or enabled any entity to commit such an offence, or provided financial or economic support to an entity in the commission of such an offence; or
      - (cc) may afford evidence of the commission or intended commission of an offence referred to in subparagraph (i);
  - (b) there may be in any building, receptacle or place, or in the possession, custody or control of any entity any property referred to in paragraph (a)(ii); or
  - (c) any entity may be in possession, custody, or control of any documentary material relevant—
    - (i) to an alleged offence referred to in paragraph (a)(i); or
    - (ii) in respect of any property referred to in paragraph (a) (ii) or (b), he or she may, prior to the institution of any civil or criminal proceeding, under written authority direct that a Director of Public Prosecutions shall have, in respect of a specific investigation, the power to institute



an investigation in terms of the provisions of Chapter 5 of the National Prosecuting Authority Act, 1998 (Act 32 of 1998), relating to the commission or intended commission of an alleged offence referred to in paragraph (a)(i) or any property contemplated in paragraph (a)(ii), or to any property referred to in paragraph (b), or to the possession, custody or control of any documentary material referred to in paragraph (c).

- (2) For purposes of subsection (1), a reference in the said Chapter 5 to—
  - (a) the “head of the Directorate of Special Operations” or an “Investigating Director” shall be construed as a reference to a Director of Public Prosecutions authorized under subsection (1): Provided that for purposes of section 28 (2)(a) of the said Act, a Director of Public Prosecutions, may only designate a Deputy Director of Public Prosecutions;
  - (b) a “special investigator” shall be construed as to include a “police official”.
- (3) If any property, contemplated in subsection (1)(a)(ii), seized under any power exercised under subsection (1), consists of cash or funds standing to the credit of a bank account, the Director of Public Prosecutions who has instituted the investigation under that subsection, shall cause the cash or funds to be paid into a banking account which shall be opened with any bank as defined in section 1 of the Banks Act, 1990 (Act 94 of 1990), and the Director of Public Prosecutions shall forthwith report to the Financial Intelligence Centre established in terms of section 2(1) of the Financial Intelligence Centre Act, 2001 (Act 38 of 2001), the fact of the seizure of the cash or funds and the opening of the account.

### 23. Freezing order

- (1) A High Court may, on *ex parte* application by the National Director to a judge in chambers, subject to such conditions and exceptions as may be specified in the order, make an order—
  - (a) prohibiting any person from engaging in any conduct, or dealing in any manner with any property owned or controlled by or on behalf of, or at the direction of, or otherwise associated with an entity referred to in subsection (2), and may include an order to freeze any such property;
  - (b) obliging any person to cease any conduct in respect of any property referred to in paragraph (a); or
  - (c) prohibiting any person from performing any act contemplated in section 4 for the benefit of, or on behalf of, or at the direction of, or under the control of, an entity referred to in subsection (2).
- (2) An order referred to in subsection (1) may be made in respect of—
  - (a) any entity, where there are reasonable grounds to believe that the entity has committed, or attempted to commit, participated in or facilitated the commission of a specified offence; or
  - (b) a specific entity identified in a notice pursuant to a Resolution of the United Nations Security Council relating to the identification of entities—
    - (i) that has committed, or attempted to commit, any terrorist and related activity, or participates in or facilitates the commission of any terrorist and related activity; or
    - (ii) against which Member States of the United Nations must take the actions specified in the Resolution in order to combat or prevent terrorist and related

activities, and that are announced in a notice referred to in section 26A(3) of the Financial Intelligence Centre Act.

- (3) A High Court may make an interim order under subsection (1) pending its final determination of an application for such an order.
- (4) A High Court making an order under subsection (1) may make any other ancillary orders that the court considers appropriate for the proper, fair and effective execution of the order, including—
  - (a) appointing a *curator bonis*, subject to the directions of that High Court, to do any one or more of the following on behalf of a person affected by that order:
    - (i) To assume control over the property;
    - (ii) to take care of the said property;
    - (iii) to administer the said property and to perform any act necessary for that purpose;
    - (iv) where the said property is a business or undertaking, to carry on, with due regard to any law which may be applicable, the business or undertaking; and
    - (v) to dispose of property if it is not economically viable to administer it or for any other reason it is not economically possible to assume control and take care thereof;
  - (b) ordering any person holding property, subject to an order referred to in subsection (1), to immediately surrender any such property into the custody of the *curator bonis*; and
  - (c) relating to the payment of the fees and expenditure of the *curator bonis*.
- (5) The National Director must—

- (a) by publication in a national newspaper and the Gazette, give notice that an order under subsection (1) has been made; and
  - (b) maintain on the website of the National Prosecuting Authority, a record of all orders made under subsection (1).
- (6) No action, whether criminal or civil, lies against any person complying in good faith with an order made under subsection (1).

#### **24. Cordoning off, stop and search of vehicle, person and premises**

- (1) If, on written request under oath to a judge in chambers by a police official of or above the rank of Brigadier, it appears to the judge that it is necessary in order to prevent any terrorist or related activity, the judge may issue a warrant for the cordoning off, and stopping and searching of vehicles, persons and premises, with a view to preventing such terrorist or related activity, in a specified area, and such warrant applies for the period specified therein, which period may not exceed 10 days.
- (2) Under a warrant obtained in terms of subsection (1), any police official who identifies himself or herself as such, may cordon off the specified area for the period specified in the warrant and stop and search any vehicle, person or premises in that area, for articles or things which could be used or have been used for or in connection with the preparation for or the commission or instigation of any terrorist or related activity.
- (3) The police official may seize any article or thing contemplated in subsection (2), and Chapter 2 of the Criminal Procedure Act applies with the necessary changes required by the context in respect of any such article or thing.
- (4) Section 29 of the Criminal Procedure Act applies in respect of the powers conferred upon police officials in terms of this section.
- (5) The provisions of this section shall not be construed as affecting the rights of any police official or law enforcement officer to use any other power in any other law in respect of cordoning off, search or seizure.

#### 24A. Order to take-down or disable access to terrorism publications

- (1) A member of the Directorate, of or above the rank of Brigadier, may apply to a High Court, by way of an *ex parte* application to a judge in chambers, for the issuing of an order in terms of which an electronic communications service provider, whose electronic communications service is used to host a terrorism publication, is directed to take-down or disable access to such a publication.
- (2) An application referred to in subsection (1)—
  - (a) must be in writing;
  - (b) must—
    - (i) identify the applicant;
    - (ii) identify the electronic communications service provider to whom the order is to be addressed;
    - (iii) identify the electronic communications service of the electronic communications service provider that is used to host the terrorism publication;
    - (iv) be accompanied by an electronic copy of the terrorism publication;
    - (v) provide a description of the terrorism publication which must, where the publication in question is in the form of a speech, text, video or other visual representation, include a printed copy of the relevant content that will be relied upon to motivate that the publication is a terrorism publication;
    - (vi) indicate the reasons why the publication must be considered to be a terrorism publication; and
    - (vii) contain full particulars of all the facts and circumstances alleged in support of the application; and
  - (c) may be accompanied by—
    - (i) affidavits of persons who have knowledge of the matter concerned; or
    - (ii) other information relevant to the application.

- (3) The High Court must, as soon as reasonably possible, consider an application submitted to it in terms of subsection (1) and may, for that purpose, consider any such additional evidence it deems fit, including oral evidence or evidence by affidavit, which must form part of the record of proceedings.
- (4) If the High Court is satisfied that the electronic communications service of the electronic communications service provider is used to host terrorism publication, the court may, subject to such conditions as the court may deem fit to impose, issue the order applied for in terms of subsection (1).
- (5) An order issued under subsection (4) must—
  - (a) identify the electronic communications service provider to whom the order must be addressed;
  - (b) identify the applicant;
  - (c) identify and describe the terrorism publication;
  - (d) identify the electronic communications service of the electronic communications service provider that is used to host the terrorism publication;
  - (e) give reasons for the decision or finding of the court that the publication is a terrorism publication;
  - (f) order the electronic communications service provider to take-down or disable access to the terrorism publication within the period determined in the order from the date of service upon the electronic communications service provider; and
  - (g) specify any condition imposed by the court.
- (6)
  - (a) Except in a case where the High Court determines otherwise, an order under subsection (1) and a copy of the application contemplated in subsection (1) must be served upon an electronic communications service provider by a peace officer, as defined in section 1 of the Criminal Procedure Act, in accordance with the applicable rules of court.
  - (b) Where the High Court is satisfied that service cannot be effected in any manner referred to in paragraph (a), the court may make an order allowing service to be effected in a manner specified in such order.

- (7) An electronic communications service provider may, within 14 calendar days after the order has been served, apply to the relevant High Court for the setting aside or amendment of the order referred to in subsection (4).
- (8) The High Court must, as soon as is reasonably possible, consider an application submitted to it in terms of subsection (7) and may, for that purpose, consider such additional evidence as it deems fit, including oral evidence or evidence by affidavit, which shall form part of the record of the proceedings.
- (9) The High court may, for purposes of subsections (3) and (8), subpoena, or cause to be subpoenaed, any person as a witness at such proceedings, or to provide any book, document or object, if the evidence of that person, or book, document or object, appears to the court essential to the just decision of the case.
- (10) Any person who is subpoenaed in terms of subsection (9) to attend proceedings and who fails to—
  - (a) attend or to remain in attendance;
  - (b) appear at the place and on the date and at the time to which **the** proceedings in question may be adjourned;
  - (c) remain in attendance at those proceedings as so adjourned; or
  - (d) produce any book, document or object specified in the subpoena,is guilty of an offence.
- (11) Any electronic communications service provider who fails to comply with an order referred to in subsection (1), is guilty of an offence.
- (12) The provisions in respect of appeal and review as provided for in the Superior Courts Act, 2013 (Act No. 10 of 2013), apply to proceedings in terms of this section.
- (13) For purposes of this section—
  - (a) 'host a terrorism publication' means—
    - (i) to store a terrorism publication on the electronic communications network of an electronic communications service provider as part of providing an electronic communications service where it can be viewed, listened to, copied or downloaded; or

- (ii) to provide a link to the terrorism publication that has been stored on an electronic communication network of an electronic communications service provider, where it can be viewed, copied or downloaded;
- (b) 'take-down' means to delete or otherwise remove a terrorism publication stored on an electronic communications network; and
- (c) 'terrorism publication' means an electronic communication in the form of a speech, text, video or other visual representation that—
  - (i) threatens the public or segments of the public with the conduct in paragraph (a) of the definition of 'terrorist activity', or threatens the commission of an offence referred to in section 5, 6, 7, 8, 9 or 10; or
  - (ii) incites others to commit the offences referred to in subparagraph (i).



## CHAPTER 5

### RESOLUTION OF UNITED NATIONS SECURITY COUNCIL

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## CHAPTER 6

### GENERAL PROVISIONS

#### **27. Amendment and repeal of laws and transitional provisions**

- (1) The laws set out in the Schedule are hereby amended or repealed to the extent indicated in the fourth column of that Schedule.
- (1A) Any Proclamation issued under section 25(1), before the commencement of the Protection of Constitutional Democracy against Terrorist and Related Activities Amendment Act, 2022, remains valid and has the same force and effect as a notice referred to in section 26A(3) of the Financial Intelligence Centre Act.
- (1B) Any action taken in pursuance of a Proclamation issued under section 25(1), before the commencement of the Protection of Constitutional Democracy against Terrorist and Related Activities Amendment Act, 2022, remains valid.
- (2) All criminal proceedings which immediately prior to the commencement of this Act were instituted in terms of the provisions of the Internal Security Act, 1982 (Act 74 of 1982), and which proceedings have not been concluded before the commencement of this Act, shall be continued and concluded, in all respects as if this Act had not been passed.
- (3) An investigation, or prosecution or other legal proceedings, in respect of conduct which would have constituted an offence under the Internal Security Act, 1982, and which occurred after the commencement

of that Act but before the commencement of this Act, may be conducted, instituted and continued as if this Act had not been passed.

- (4) Notwithstanding the repeal or amendment of any provision of any law by this Act, such provision shall, for the purpose of the disposal of any criminal proceedings, investigation, prosecution or legal proceedings contemplated in subsection (2) or (3) remain in force as if such provision had not been repealed or amended.

## 28. **Short title and commencement**

This Act is called the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2022, and shall come into operation on a date fixed by the President by proclamation in the *Gazette*.

COMMENCEMENT OF THIS ACT

Date of commencement	The whole Act/ Sections	Proclamation No	Government <i>Gazette</i>	Date of Government <i>Gazette</i>
20 May 2005	The whole	R.18	27502	15 April 2005

## SCHEDULE

### SCHEDULE OF LAWS AMENDED OR REPEALED: SECTION 25

Act no.	Year	Title	Extent of amendment or repeal
67	1962	Extradition Act	<p>1. The amendment of section 22 by the substitution for subsection (1) of the following subsection:</p> <p>“(1) Notwithstanding the provisions of section 15, a request for extradition based on the <b>[offences referred to in section 4 or 5]</b> <u>offence of terrorism referred to in section 2, an offence associated or connected with terrorist activities referred to in section 3, a Convention offence, or an offence referred to in section 11, 13 or 14 in so far as it relates to the aforementioned sections of the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004, may not be refused on the sole ground that it concerns a political offence, or an offence connected with a political offence or an offence inspired by political motives, or that it is a fiscal offence.”</u></p>

51	1977	Criminal Procedure Act	<p>1. The amendment of section 18 by the insertion in subsection (1) after paragraph (f) of the following paragraph:  <u>“(fA) a Convention offence as defined in section 1 of the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004 (Act No. 33 of 2004), the offence of terrorism referred to in section 2 of the said Act and an offence associated or connected with terrorist activities referred to in sections 3, 13 or 14 of the said Act.”.</u></p> <p>2. The amendment of section 21 by the insertion after subsection (1) of the following subsection:  <u>“(1A) Notwithstanding any other law, an application for a warrant under this section may be made to any magistrate or justice, irrespective of whether or not the place of execution of the warrant or the place where the alleged crime has been committed falls within the jurisdiction of such magistrate or justice, in respect of the following offences under the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004 (Act No. 33 of 2004)—</u>  <u>(a) the offence of terrorism referred to in section 2 of the said Act;</u>  <u>(b) an offence associated or connected with terrorist activities referred to in section 3 of the said Act;</u>  <u>(c) a Convention offence as defined in section 1 of the said Act; or</u>  <u>(d) an offence referred to in section 13 or 14 of the said Act (in so far as it relates to the aforementioned sections).”.</u></p>
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		<p>3. The amendment of section 25 by the insertion after subsection (1) of the following subsection:</p> <p><u>“(1A) Notwithstanding any other law, an application for a warrant under this section in respect of the offences listed in section 21(1A)(a) to (d) may be made to any magistrate or justice, irrespective of whether or not the place of execution of the warrant, or the place where the alleged crime has been committed falls within the jurisdiction of such magistrate or justice.”.</u></p>
		<p>4. The amendment of section 43 by the insertion after subsection (1) of the following subsection:</p> <p><u>“(1A) Notwithstanding any other law, an application for a warrant under this section in respect of the offences listed in section 21(1A)(a) to (d) may be made to any magistrate or justice, irrespective of whether or not the place of execution of the warrant, or the place where the alleged crime has been committed falls within the jurisdiction of such magistrate or justice.”.</u></p> <p>5. The amendment of Schedule 1 by the addition of the following item:</p> <p><u>“Offences referred to in Chapter 2 of the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004 (Act No. 33 of 2004).”.</u></p>

			<p>6. The amendment of Schedule 2 by the addition to Part II and III of the following item: "<u>Any of the following offences under the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004 (Act No. 33 of 2004):</u></p> <p><u>(a) The offence of terrorism referred to in section 2 of the said Act;</u></p> <p><u>(b) an offence associated or connected with terrorist activities referred to in section 3 of the said Act;</u></p> <p><u>(c) a Convention offence as defined in section 1 of the said Act; or</u></p> <p><u>(d) an offence referred to in section 13 or 14 of the said Act (in so far as it relates to the aforementioned sections)."</u></p>
			<p>7. The amendment of Schedule 5 by the substitution for the twelfth item of the following item: "The offences referred to in section <u>3, 4 [(2) or (3)], 11, 13 or 14</u> (in so far as it relates to the aforementioned sections) of the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004."</p>

			<p>8. The amendment of Schedule 6 by the substitution for the sixth item of the following item: “The offences referred to in section 2, 3(2)(a), 4(1), <u>4A</u>, 5, 6, 7, 8, 9, 10 or 14 (in so far as it relates to the aforementioned sections) of the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004, <b>[section 2(1) and (2) of the Civil Aviation Offences Act, 1972 (Act No. 10 of 1972)]</b> <u>sections 133 or 142(2A)</u>, <u>read with section 142(6), of the Civil Aviation Act, 2009 (Act No. 13 of 2009)</u>, section 26(1)(j) of the Non-Proliferation of Weapons of Mass Destruction Act, 1993 (Act No. 87 of 1993) and section 56(1)(h) of the Nuclear Energy Act, 1999 (Act No. 46 of 1999).”.</p>
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72	1982	Intimidation Act	<ol style="list-style-type: none"><li>1. . The amendment of section 1 by the deletion of subsections (1)(b) and (2).</li><li>2. The repeal of section 1A.</li></ol>
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130	1998	Refugees Act	<p>1. The amendment of section 4 by the insertion in subsection (1) after paragraph (a) of the following paragraph:</p> <p><u>“(aA) has committed any of the following offences under the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004 (Act No. 33 of 2004):</u></p> <p><u>(i) The offence of terrorism referred to in section 2 of the said Act;</u></p> <p><u>(ii) an offence associated or connected with terrorist activities referred to in section 3 of the said Act;</u></p> <p><u>(iii) any Convention offence as defined in section 1 of the said Act; or</u></p> <p><u>(iv) an offence referred to in section 13 or 14 of the said Act (in so far as it relates to the aforementioned sections).”</u></p>
46	1999	Nuclear Energy Act	<p>1. The amendment of section 34A(2) by the substitution for paragraph (a) of the following paragraph;</p> <p><u>“(a) intentionally and without lawful authority, receive, possess, use, transfer, alter, dispose of or disperse, nuclear material, or nuclear-related equipment and material, which causes or is likely to cause death or serious bodily injury to any person or substantial damage to property or to the environment.”</u></p>

38	2001	Financial Intelligence Centre Act	<p>1. The amendment of section 26A by the deletion of subsection (2).</p> <p>2. The amendment of section 28A—</p> <p>(a) by the deletion in subsection (1) of paragraph (b); and</p> <p>(b) by the deletion in subsection (3) of paragraph (a).</p>
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## Schedule

### SCHEDULE OF LAWS AMENDED OR REPEALED: SECTION 27

Act No	Year	Title	Extent of amendment of repeal
67	1962	Extradition Act	1. Insert section 22.
51	1977	Criminal Procedure Act	<p>1. Inserts offences in Schedule 5.</p> <p>2. Inserts offences in Schedule 6.</p>
74	1982	Internal Security Act	1. Repeals the whole.
87	1993	Non-Proliferation of Weapons of Mass Destruction Act	1. Amends section 26(1) as follows: - sub-item (a) substitutes paragraph (h); sub-item (b) inserts paragraphs (j) and (k); sub-item (c) inserts sub-paragraph (v); and sub-item (d) inserts section 26A.
105	1997	Criminal Law Amendment Act	<p>1. Adds an item to Part I of Schedule 2.</p> <p>2. Adds an item to Part II of Schedule 2.</p>

Act No	Year	Title	Extent of amendment of repeal
121	1998	Prevention of Organised Crime Act	<ol style="list-style-type: none"> <li>1. Substitutes the long title.</li> <li>2. Amends the preamble as follows:               <ul style="list-style-type: none"> <li>- sub-item (a) inserts a paragraph after the tenth paragraph; and</li> <li>sub0item (b) substitutes the eleventh paragraph.</li> </ul> </li> <li>3. Amends section 1 as follows - sub-item (a) inserts the definition of "entity"; and sub-item (b) inserts the definition of "property associated with terrorist and related activities".</li> <li>4. Substitutes section 38(2).</li> <li>5. Substitutes section 50(1)</li> <li>6. Substitutes section 51.</li> <li>7. Amends section 52 as follows: - sub-item (a) substitutes subsection (2A); sub-item (b) substitutes subsection (3); and sub-item (c) substitutes subsection (4).</li> <li>8. Substitutes section 54 (8A).</li> <li>9. Substitutes section 68(b).</li> <li>10. Inserts item 32A in Schedule 1.</li> </ol>

46	1999	Nuclear Energy Act	<ol style="list-style-type: none"><li>1. Inserts section 34A.</li><li>2. Amends section 56(1) by inserting paragraph (h).</li><li>3. Amends section 56(2) by inserting paragraph (d).</li><li>4. Inserts section 56A.</li></ol>
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Act No	Year	Title	Extent of amendment of repeal
38	2001	Financial Intelligence Centre Act	<ol style="list-style-type: none"> <li>1. Substitutes the long title.</li> <li>2. Amends section 1 as follows: - sub-item (b) inserts the definition of "offence relating to the financing of terrorist and related activities".</li> <li>3. Substitutes section 3(1).</li> <li>4. Substitutes the heading to Chapter 3.</li> <li>5. Inserts section 28A.</li> <li>6. Substitutes section 34(1).</li> <li>7. Substitutes section 34(1).</li> <li>8. Amends section 35(1) by substituting paragraphs (a) and (b).</li> <li>9. Amends section 40(1) by substituting paragraph (b).</li> </ol>
70	2002	Regulation of Interception of Communications	

		and Provision of Communication-related Information Act	
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