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Third Session Eighth Parliament Republic of
Trinidad and Tobago



REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 26 of 2005

[L.S.]

AN ACT to criminalize terrorism, to provide for the detection, prevention, prosecution, conviction and punishment of terrorist activities and the confiscation, forfeiture and seizure of terrorists' assets

[Assented to 13th September, 2005]

Enactment ENACTED by the Parliament of Trinidad and Tobago as follows:—

PART I

PRELIMINARY

Short title 1. This Act may be cited as the Anti-Terrorism Act, 2005.

Interpretation 2. (1) In this Act—

“Convention” means any of the following Conventions:

- (a) Convention on Offences and certain Other Acts committed on Board Aircraft signed at Tokyo on 14th September, 1963;
- (b) Convention for the Suppression of Unlawful Seizure of Aircraft done at The Hague on 16th December, 1970;
- (c) Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23rd September, 1971;
- (d) Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14th December, 1973;
- (e) International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17th December, 1979;

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- (f) Convention on the Physical Protection of Nuclear Material, adopted at Vienna on 3rd March, 1980;
 - (g) Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 24th February, 1988;
 - (h) Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10th March, 1988;
 - (i) Protocol for the Suppression of Unlawful Acts against the Safety of fixed Platforms located on the continental shelf, done at Rome on 10th March, 1988;
 - (j) Convention on the Marking of Plastic Explosives for the Purposes of Detection, signed at Montreal, on 1st March, 1991;
 - (k) International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15th December, 1997;
 - (l) International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations on 9th December, 1999.

No. 55 of 2000

“Designated Authority” has the meaning assigned to it under section 2 of the Proceeds of Crime Act;

“explosive or other lethal device” means—

(a) a weapon; or

(b) an explosive or incendiary weapon,

that is designed or has the capability to cause death, serious bodily injury or substantial material damage;

No. 18 of 1993

“financial institution” means a financial institution defined in the Financial Institutions Act;

“imprisonment for life” in relation to an offender means imprisonment for the remainder of the natural life of the offender;

“international organization” means an organization constituted by States to which its Member States have transferred competence over matters governed by a Convention of the United Nations;

“judge” means a judge of the High Court of Trinidad and Tobago;

“master” in relation to a vessel, means the owner or person (except a harbour master or pilot) having for the time being command or charge of the vessel;

“Minister” means the minister to whom responsibility for national security is assigned;

“money” means—

(a) bankers’ drafts;

(b) coins and notes in any currency;

(c) postal order;

(d) travellers cheques; and

(e) any other kind of monetary instrument specified by Order by the Minister with responsibility for finance;

“operator” in relation to an aircraft, means the owner or person for the time being in charge or command or control of the aircraft;

“property” means any asset of every kind, whether corporaeal or incorporeal, moveable or immovable, tangible or intangible, and legal documents or instruments in any form including electronic or digital evidencing title to, or interest in, such assets, including but not limited to bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts, letters of credit;

“terrorist act” means—

- (a) an act whether committed in or outside of Trinidad and Tobago which causes or is likely to cause—
 - (i) loss of human life or serious bodily harm;
 - (ii) damage to property; or
 - (iii) prejudice to national security or disruption of public safety including disruption in the provision of emergency services or to any computer or electronic system or to the provision of services directly related to banking, communications, infrastructure, financial services, public utilities, transportation or other essential infrastructure,

and is intended to—

(iv) compel a government or an international organization to do or refrain from doing any act; or

(v) intimidate the public or a section of the public,

for the purpose of advancing a political, ideological or a religious cause; or

(b) an offence under any of the Conventions;

“terrorist property” means—

(a) proceeds from the commission of a terrorist act;

(b) property which has been, is being, or is likely to be used to commit a terrorist act; or

(c) property which has been collected for the purpose of funding a terrorist act;

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

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

(2) An act which—

(a) causes death or serious bodily harm to a person taking active part in armed conflict in accordance with the applicable rules of international law; or

(b) disrupts any service and is committed in pursuance of a demonstration, protest or stoppage of work and is not intended to result in any harm referred to in paragraph (a) of the definition of “terrorist act”,

shall not be considered a terrorist act.

PART II

OFFENCES

3. (1) A person who commits a terrorist act is guilty of Terrorist Act an offence and is liable to imprisonment for twenty-five years.

(2) When a terrorist act involves the commission of a crime under some other law, the person committing it shall be liable to be punished for that crime as well as for the offence created by subsection (1), and any term of imprisonment imposed in respect of such crime shall run consecutively to that imposed under subsection (1).

(3) The penalty specified in this section does not apply to offences referred to in Part III.

4. A person who, directly or indirectly, provides or makes Provision of services for commission of terrorist acts available financial or other related services intending that they be used, in whole or in part, for the purpose of committing or facilitating the commission of, a terrorist act commits an offence and shall, on conviction on indictment, be liable to imprisonment for twenty years.

5. A person who collects, provides, or makes available Collection or provision of property to commit terrorist acts property having reasonable grounds to believe that the property will be used to commit a terrorist act, commits an offence and shall, on conviction on indictment, be liable to imprisonment for twenty years.

Use of property for
commission of
terrorist acts

6. A person who—

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

commits an offence and shall, on conviction on indictment, be liable to imprisonment for twenty years.

Arrangements for
retention or control
of terrorist property

7. Any person who knowingly becomes concerned in or enters into an arrangement which facilitates the acquisition, control or retention of terrorist property by or on behalf of another person commits an offence and shall, on conviction on indictment, be liable to imprisonment for twenty years.

Dealing with
terrorist property

8. Any person who knowingly—

- (a) acquires or possesses terrorist property;
- (b) conceals, converts or disguises terrorist property;
- (c) deals directly or indirectly with any terrorist property; or
- (d) enters into or facilitates directly or indirectly any transaction in relation to terrorist property,

commits an offence and shall, on conviction on indictment, be liable to imprisonment for twenty years.

9. (1) Any person who knowingly—

- (a) supports; or
- (b) solicits support for,

Soliciting or giving support for the commission of terrorist acts

the commission of a terrorist act, commits an offence and shall, on conviction on indictment, be liable to imprisonment for twenty years.

(2) For the purposes of subsection (1) “support” includes but is not limited to—

- (a) an offer to provide or the provision of expertise or a skill;
- (b) an offer to provide or the provision of falsified or forged documents; and
- (c) entering or remaining in any country,

for the purpose of committing or facilitating a terrorist act.

10. Any person who conceals or harbours another person or hinders, interferes with or prevents the apprehension of, any other person having reason to believe or knowing that that other person has committed, is planning or is likely to commit a terrorist act, commits an offence and shall, on conviction on indictment, be liable to imprisonment for twenty years.

Harbouring of persons committing terrorist acts

11. A person who knowingly offers to provide, or provides any explosive or other lethal device for the purpose of committing or facilitating a terrorist act commits an offence and shall, on conviction on indictment, be liable to imprisonment for twenty-five years.

Provision of devices

12. A person who agrees to recruit or recruits any other person to participate in the commission of a terrorist act, commits an offence and shall, on conviction on indictment, be liable to imprisonment for twenty years.

Recruitment of persons for terrorist purposes

Provision of instruction or training to persons committing terrorist acts

13. Any person who knowingly agrees to provide instruction or training or provides instruction or training in—

- (a) carrying out a terrorist act;
- (b) the making or use of any explosive or other lethal device; or
- (c) the practice of military exercises or movements,

to a person engaging in or preparing to engage in the commission of a terrorist act, commits an offence and shall, on conviction on indictment, be liable to imprisonment for twenty-five years.

Incitement, promotion or solicitation of property for the commission of terrorist acts

14. A person who, knowingly incites or promotes the commission of a terrorist act, or solicits property for the commission of a terrorist act, commits an offence and shall, on conviction on indictment, be liable to imprisonment for twenty-five years.

Providing facilities in support of terrorist acts

15. Any person who being the—

- (a) agent, charterer, lessee, master, operator or owner in charge or a vessel permits that vessel to be used;
- (b) agent, charterer, lessee, operator, owner or pilot in charge of an aircraft permits that aircraft to be used;
- (c) lessee, occupier, owner or person in charge of any place or premises permits a meeting to be held in that place or building; or
- (d) lessee, owner or person in charge of any equipment or facility that may be used for conferencing, recording or meetings through the use of technological means permits the equipment or facility to be used,

to facilitate the commission of an offence under this Act, commits an offence and shall, on conviction on indictment be liable to imprisonment for twenty years.

PART III

CONVENTION OFFENCES

16. A person who, in respect of a ship registered Endangering the safety of maritime navigation in Trinidad and Tobago or within the archipelagic or territorial waters of Trinidad and Tobago unlawfully and intentionally—

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

commits an offence and is liable, on conviction on indictment—

- (i) to imprisonment for twenty years;
- (ii) if the death of any person results from any act prohibited by this section, to be sentenced in accordance with the penalty prescribed for the offence.

Bombing offences

17. (1) A person who unlawfully and intentionally delivers, places, discharges or detonates an explosive or other lethal device in, into or against a place of public use, a state or government facility, a public transport facility, a public transportation system or an infrastructure facility—

- (a) with the intent to cause death or serious bodily injury; or
- (b) with the intent to cause extensive damage to, or destruction of the place, facility or system, where the destruction results in or is likely to result in major economic loss,

commits an offence and is liable, on conviction on indictment, to imprisonment for life.

(2) This section does not apply to the military forces of a State—

- (a) during an armed conflict; or
- (b) in respect of activities undertaken in the exercise of their official duties.

Protection of internationally protected persons

18. (1) A person who kidnaps an internationally protected person commits an offence and shall, on conviction on indictment, be liable to imprisonment for life.

(2) A person who commits any other attack upon the person or liberty of an internationally protected person commits an offence and shall, on conviction on indictment be liable—

- (a) where the attack causes death, to be sentenced in accordance with the penalty prescribed for the offence;

- (b) where the attack causes grievous bodily harm, to imprisonment for twenty years; or
- (c) in any other case, to imprisonment for ten years.

(3) A person who intentionally destroys or damages otherwise than by means of fire or explosive—

- (a) official premises, private accommodation or means of transport, of an internationally protected person; or
- (b) other premises or property in or upon which an internationally protected person is present, or is likely to be present,

commits an offence and shall, on conviction on indictment, be liable to imprisonment for ten years.

(4) A person who intentionally destroys or damages otherwise than by means of fire or explosive—

- (a) official premises, private accommodation or means of transport, of an internationally protected person; or
- (b) other premises or property in or upon which an internationally protected person is present, or is likely to be present,

with intent to endanger the life of that internationally protected person by that destruction or damage commits an offence and shall, on conviction on indictment, be liable to imprisonment for twenty years.

(5) A person who intentionally destroys or damages by means of fire or explosive—

- (a) official premises, private accommodation or means of transport, of an internationally protected person; or
- (b) other premises or property in or upon which an internationally protected person is present, or is likely to be present,

is guilty of an offence and is liable on conviction on indictment to imprisonment for fifteen years.

(6) A person who intentionally destroys or damages by means of fire or explosive—

- (a) official premises, private accommodation or means of transport, of an internationally protected person; or
- (b) other premises or property in or upon which an internationally protected person is present, or is likely to be present,

with intent to endanger the life of that internationally protected person by that destruction or damage is guilty of an offence and is liable on conviction on indictment to imprisonment for twenty-five years.

(7) A person who threatens to do anything that would constitute an offence against subsections (1) to (6) commits an offence and shall, on conviction on indictment, be liable to imprisonment for ten years.

(8) A person who—

- (a) wilfully and unlawfully, with intent to intimidate, coerce, threaten or harass, enters or attempts to enter any building or premises which is used or occupied for official business or for diplomatic, consular, or residential purposes by an internationally protected person within Trinidad and Tobago; or
- (b) refuses to depart from such building or premises after a request by an employee of a foreign government or an international organization, if such employee is authorized to make such request,

commits an offence, and is liable on conviction on indictment to a fine of one hundred thousand dollars and to imprisonment for five years.

(9) For the purposes of this section “internationally protected person” has the meaning assigned to it in the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents.

- 19. (1)** A person who unlawfully and intentionally— Offences relating to fixed platforms
- (a) seizes or exercises control over a fixed platform on the continental shelf, or in the exclusive economic zone or any fixed platform on the high seas while it is located on the continental shelf of Trinidad and Tobago, by force or threat thereof or by any other form of intimidation;
 - (b) performs an act of violence against a person on board such a fixed platform if that act is likely to endanger the platform’s safety;
 - (c) destroys such a fixed platform or causes damage to it which is likely to endanger its safety;
 - (d) places or causes to be placed on such 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;
 - (e) injures or kills any person in connection with the commission or the attempted commission of any of the offences referred to in paragraphs (a) to (d); or
 - (f) damages or destroys any off-shore installation,

commits an offence.

(2) A person convicted of an offence referred to in subsection (1) is—

- (a) liable, on conviction on indictment, to imprisonment for twenty years; and
- (b) in the case where death results from the commission of the offence, liable on conviction on indictment to be sentenced to death.

(3) In this section “fixed platform” means an artificial island, installation or structure attached to the seabed for the purpose of exploration or exploitation of resources or for other economic purposes.

Offences with regard to nuclear matter or facilities

20. (1) A person who unlawfully and intentionally—

- (a) intends to acquire or possesses nuclear material or designs or manufactures or possesses a device, or attempts to manufacture or acquire a device, with the intent—
 - (i) to cause death or serious bodily injury; or
 - (ii) to cause damage to property or the environment;
- (b) uses in any way nuclear material or a device, or uses or damages a nuclear facility in a manner which releases or risks the release of nuclear material with the intent—
 - (i) to cause death or serious bodily injury;
 - (ii) to cause damage to property or the environment; or
 - (iii) to compel a natural or legal person, an inter-governmental organization or a State to do or refrain from doing an act,

commits an offence.

(2) A person who—

(a) threatens, under circumstances which indicate the credibility of the threat, to commit an offence referred to in subsection (1)(b); or

(b) unlawfully and intentionally demands radioactive material, a device or control of a nuclear facility by threat, under circumstances which indicate the credibility of the threat, or by use of force,

commits an offence.

(3) A person convicted of an offence under this section is liable on conviction on indictment to imprisonment for life.

(4) In this section “device” means a weapon of mass destruction.

21. (1) A person is guilty of an offence if he—

(a) places any substance or other thing in any place; or

(b) sends any substance or other thing from one place to another by any means whatsoever,

Hoaxes involving
noxious substances
or things or
explosives or other
lethal material

with the intention of inducing in a person anywhere in the world a belief that it is likely to be or contain a noxious substance or other noxious thing or a lethal device or chemical, biological or nuclear weapon.

(2) A person is guilty of an offence if he communicates any information which he knows or believes to be false with the intention of inducing in a person anywhere in the world a belief that a noxious substance or other noxious thing or a lethal device or a weapon of mass destruction is likely to be present, whether at the time the information is communicated or later, in any place.

(3) A person guilty of an offence under this section is liable on conviction on indictment to imprisonment for fifteen years.

(4) For a person to be guilty of an offence under this section it is not necessary for him to have any particular person in mind as the person in whom he intends to induce the belief in question.

(5) The court, in imposing a sentence on a person who has been convicted of an offence under subsection (1), may order that person to reimburse any party incurring expenses incident to any emergency or investigating response to that conduct, for those expenses.

(6) A person ordered to make reimbursement under subsection (5) shall be jointly and severally liable for such expenses with each other person, if any, who is ordered to make reimbursement under subsection (5) for the same expenses.

(7) An order of reimbursement under subsection (5) shall, for the purposes of enforcement, be treated as a civil judgment.

(8) 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.

Use of chemical,
biological or nuclear
weapons

22. (1) A person who, unlawfully and intentionally uses, threatens or attempts or conspires to use chemical, biological or nuclear weapons—

- (a) against a citizen of Trinidad and Tobago or a person ordinarily resident in Trinidad and Tobago while either such person is outside Trinidad and Tobago;
- (b) against any person within Trinidad and Tobago; or

- (c) against any property that is owned, leased or used by the Government of Trinidad and Tobago, whether the property is within or outside of Trinidad and Tobago,

commits an offence and is liable on conviction on indictment to imprisonment for life.

(2) A citizen of Trinidad and Tobago or person ordinarily resident within Trinidad and Tobago who, unlawfully and intentionally, uses chemical, biological or nuclear weapons outside of Trinidad and Tobago commits an offence and is liable on conviction on indictment to imprisonment for life.

PART IV

INVESTIGATION OF OFFENCES

23. (1) Subject to subsection (2), a police officer may, Detention Orders for the purpose of preventing the commission of an offence under this Act or preventing interference in the investigation of an offence under this Act, apply *ex parte*, to a Judge in Chambers for a detention order.

(2) A police officer may make an application under subsection (1) only with the prior written consent of the Director of Public Prosecutions.

(3) A judge may make an order under subsection (1) for the detention of the person named in the application if he is satisfied that there are reasonable grounds to believe that the person is—

- (a) interfering or is likely to interfere with an investigation of;
- (b) preparing to commit; or
- (c) facilitating the commission of,

an offence under this Act.

(4) An order under subsection (3) shall be for a period not exceeding forty-eight hours in the first instance and may be extended for a further period provided that the maximum period of detention under the order does not exceed fourteen days.

(5) Every order shall specify the place at which the person named in the order is to be detained and conditions in respect of access to a medical officer.

Schedule

(6) An accurate and continuous record shall be kept in accordance with the Schedule, in respect of any detainee for the whole period of his detention.

Power to gather information

24. (1) Subject to subsection (2), a police officer of the rank of Inspector or above may, for the purpose of an investigation of an offence under this Act, apply *ex parte* to a judge in chambers for an order for the gathering of information from named persons.

(2) A police officer may make an application under subsection (1) only with the prior written consent of the Director of Public Prosecutions.

(3) A judge may make an order under subsection (1) for the gathering of information if he is satisfied that the written consent of the Director of Public Prosecutions was obtained and—

(a) that there are reasonable grounds to believe that an offence under this Act has been committed and that—

(i) information concerning the offence; or

(ii) information that may reveal the whereabouts of a person suspected by the police officer of having committed the offence,

is likely to be obtained as a result of the Order, or

(b) that—

- (i) there are reasonable grounds to believe that an offence under this Act will be committed;
- (ii) there are reasonable grounds to believe that a person has direct and material information that relates to the offence referred to in subparagraph (i); or
- (iii) there are reasonable grounds to believe that a person has direct and material information that may reveal the whereabouts of a person who the police officer suspects may commit the offence referred to in subparagraph (i); and
- (iv) reasonable attempts have been made to obtain the information referred to in subparagraph (ii) or (iii) from the person referred to therein.

(4) An Order made under subsection (3) may—

- (a) include conditions or terms which the judge considers reasonable;
- (b) order the examination on oath of the person named in the order;
- (c) order the person to attend at a time and place fixed by the judge, for the purpose of being examined; and
- (d) order the person to bring and produce any document or thing in his control or possession for the purpose of the examination.

(5) An Order made under subsection (3) may be executed anywhere in Trinidad and Tobago.

(6) The judge who made the order under subsection (3), or another judge of the same court, may vary its terms and conditions.

(7) A person named in an order made under subsection (3) shall answer questions put to the person by the Director of Public Prosecutions or the Director of Public Prosecution's representative, and shall produce to the presiding judge documents or things that the person was ordered to bring, but may, subject to the ruling of the judge under subsection (8), refuse to do so if answering a question or producing a document or thing would disclose information that is protected by the law relating to non-disclosure of information or privilege.

(8) The presiding judge shall rule on every objection or issue relating to a refusal to answer any question or to produce any document or thing.

(9) A person shall not be excused from answering a question or producing a document or thing on the ground that the answer, document or thing may incriminate him or subject him to any penalty or proceedings.

(10) Notwithstanding subsection (9) any—

- (a) answer given;
- (b) document or thing produced; or
- (c) evidence obtained,

from that person shall not be used or received against him in any criminal proceedings other than in a prosecution for perjury.

(11) A person may retain and instruct counsel at any stage of the proceedings under this section and counsel so retained may attend and represent the person named in the order when he is being examined.

(12) The presiding judge, if satisfied that any document or thing produced during the course of the examination is likely to be relevant to the investigation of any offence under this Act, shall order that the document or thing be given into the custody of the police officer or someone acting on the police officer's behalf.

(13) Subject to subsection (8), nothing in this section requires the disclosure of any information which is protected by privilege.

PART V

JURISDICTION AND TRIAL OF OFFENCES

25. (1) The Courts of Trinidad and Tobago shall have Jurisdiction of
Trinidad and Tobago
Courts jurisdiction in respect of any offence referred to in this Act if—

- (a) the alleged perpetrator of the offence is arrested in Trinidad and Tobago, or on board a ship registered in Trinidad and Tobago or an aircraft registered in Trinidad and Tobago; and
- (b) the offence was committed—
 - (i) in Trinidad and Tobago, or committed elsewhere, if the act is punishable in terms of the domestic laws of Trinidad and Tobago, including this Act or in terms of the obligations of Trinidad and Tobago under international law;
 - (ii) on board a vessel or a ship or fixed platform registered in Trinidad and Tobago or an aircraft which is registered under the laws of Trinidad and Tobago at the time the offence is committed;
 - (iii) outside of Trinidad and Tobago, and the person who has committed the act is, after the commission of the act, present in Trinidad and Tobago; or
- (c) the evidence reveals any other basis recognized by law.

(2) An act or omission committed outside Trinidad and Tobago which would if committed in Trinidad and Tobago constitute an offence under this Act shall be deemed to have been committed in Trinidad and Tobago if the person committing the act or omission is present in Trinidad and Tobago and cannot be extradited to a foreign State having jurisdiction over the offence constituted by such act or omission.

(3) Where the Attorney General receives information that there may be present in Trinidad and Tobago a person who is alleged to have committed an offence under this Act, the Attorney General shall—

- (a) cause an investigation to be carried out in respect of that allegation;
- (b) inform any other foreign State which might also have jurisdiction over the alleged offence promptly of the findings of the investigation; and
- (c) indicate promptly to other foreign States which might also have jurisdiction over the alleged offence whether to the best of his knowledge, information and belief a prosecution is intended by the Director of Public Prosecutions.

(4) In furtherance of subsection (3), in deciding whether to prosecute, the Director of Public Prosecutions shall take into account the adequacy of evidence against the accused.

(4A) The Attorney General and the Director of Public Prosecutions shall consult in relation to the exercise of powers under subsection (4) in respect of—

- (a) considerations of international law, practice and comity;

- (b) international relations; and
- (c) any prosecution that is being or might be taken by a foreign State.

(5) If a person has been taken into custody to ensure the person's presence for the purpose of prosecution or surrender to a foreign State in terms of this section, the Director of Public Prosecutions shall, immediately after the person is taken into custody, notify the Attorney General.

(6) The Attorney General shall inform any foreign State which might have jurisdiction over the offence concerned, and any other State that he considers it advisable to inform or notify either directly or through the Secretary General of the United Nations, of—

- (a) the fact that the person is in custody; and
- (b) the circumstances that justify the person's detention.

(7) When the Director of Public Prosecutions declines to prosecute, and another foreign State has jurisdiction over the offence concerned, he shall inform such foreign State, accordingly with the view to the surrender of such person to such foreign State for prosecution by that State.

26. The proceedings referred to in the Extradition (Commonwealth and Foreign Territories) Act, 1985 (hereinafter referred to as "the Extradition Act") shall apply with the necessary changes in respect of any surrender referred to in section 25.

Extradition from
Trinidad and Tobago
No. 36 of 1985

27. Where in any proceedings for an offence under this Act, a question arises as to whether any thing or substance is a weapon, a hazardous, radioactive or a harmful substance, a toxic chemical or microbial or other biological agent or toxin, a certificate purporting to be signed by an appropriate authority to the effect that the thing or substance, described in the certificate is a weapon, hazardous, radioactive or harmful substance, a toxic chemical or microbial or other

Evidence by a
certificate

biological agent or toxin, shall be admissible in evidence without proof of the signature or authority of the person appearing to have signed it and shall, in the absence of evidence to the contrary, be proof of the facts stated therein.

PART VI

INFORMATION SHARING, EXTRADITION AND MUTUAL ASSISTANCE IN CRIMINAL MATTERS

Exchange of information relating to terrorist acts

28. The Minister may, after consultation with the Attorney General, on a request made by the appropriate authority of a foreign State, disclose to that authority, any information in his possession or, with the necessary permission, in the possession of any other government, department or agency, relating to any of the following:

- (a) the actions or movements of persons suspected of involvement in the commission of terrorist acts;
- (b) the use of forged or falsified travel papers by persons suspected of involvement in the commission of terrorist acts;
- (c) traffic in explosives or other lethal devices or sensitive materials by persons suspected of involvement in the commission of terrorist acts; or
- (d) the use of communication technologies by persons suspected of involvement in the commission of terrorist acts,

if the disclosure is not prohibited by any law and will not, in the Minister's view be prejudicial to national security or public safety.

Treaty to be used as basis for extradition

29. (1) Where Trinidad and Tobago becomes a party to a treaty and there is in force, an extradition arrangement between the Government of Trinidad and Tobago and another State which is a party to that treaty,

the extradition arrangement shall be deemed, for the purpose of the Extradition Act, to include provision for extradition in respect of offences falling within the scope of that treaty.

(2) Where Trinidad and Tobago becomes a party to a treaty and there is no extradition arrangement between the Government of Trinidad and Tobago and another State which is a party to that treaty, the Attorney General may, by Order, subject to a negative resolution of Parliament treat the treaty, for the purposes of the Extradition Act, as an extradition arrangement between the Government of Trinidad and Tobago and that State, providing for extradition in respect of offences falling within the scope of that treaty.

30. (1) Where Trinidad and Tobago becomes a party to a treaty and there is in force, an arrangement between the Government of Trinidad and Tobago and another State which is a party to that treaty, for mutual assistance in criminal matters, the arrangement shall be deemed, for the purposes of the Mutual Assistance in Criminal Matters Act, to include provision for mutual assistance in criminal matters in respect of offences falling within the scope of that treaty.

Treaty to be used as basis for Mutual Assistance in Criminal Matters No. 39 of 1997

(2) Where Trinidad and Tobago becomes a party to a treaty and there is no arrangement between the Government of Trinidad and Tobago and another State which is a party to that treaty for mutual assistance in criminal matters, the Attorney General may, by Order subject to a negative resolution of Parliament, treat the treaty as an arrangement between the Government of Trinidad and Tobago and that State providing for mutual assistance in criminal matters in respect of offences falling within the scope of that treaty.

Offences under this Act not deemed to be offences of a political character

31. Notwithstanding anything in the Extradition Act or the Mutual Assistance in Criminal Matters Act, an offence under this Act or an offence under any other Act where the act or omission constituting the offence also constitutes a terrorist act, shall, for the purposes of extradition or of mutual assistance, be deemed not to be an offence of a political character or an offence connected with a political offence or an offence inspired by political motives.

PART VII

DISCLOSURE AND SHARING INFORMATION

Duty to disclose information relating to offences and terrorist acts

32. (1) Every person who has any information which will assist in—

- (a) preventing the commission by another person, of a terrorist act; or
- (b) securing the arrest or prosecution of another person for an offence under this Act, or an offence under any other law and which also constitutes a terrorist act,

shall forthwith disclose the information to a police officer not below the rank of sergeant.

(2) Notwithstanding subsection (1) a person referred to in subsection (1), shall not be required to disclose any information which is protected by privilege.

(3) Civil or criminal proceedings shall not lie against any person for disclosing any information in good faith pursuant to subsection (1).

(4) Any person who fails to comply with subsection (1) commits an offence and is liable on conviction on indictment to a fine of ten thousand dollars and to imprisonment for two years.

33. (1) Every person shall forthwith disclose to the designated authority—

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

- (a) the existence of any property in his possession or control, which to his knowledge is terrorist property, or which there are reasonable grounds to believe is terrorist property;
- (b) any information regarding a transaction or proposed transaction in respect of terrorist property; or
- (c) any information regarding a transaction or proposed transaction which there are reasonable grounds to believe may involve terrorist property.

(2) The designated authority shall disclose to the appropriate authority, any information in his possession relating to any terrorist property if such information is requested or if the Minister is of the view that the information would be relevant to a foreign State.

(3) Every financial institution shall report, every three months, to the Designated Authority—

- (a) if it is not in possession or control of terrorist property, that it is not in possession or control of such property; or
- (b) if it is in possession or control of terrorist property, that it is in possession or control of such property, and the particulars relating to the persons, accounts and transactions involved and the total value of the property.

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

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

(6) Every person who fails to comply with subsections (1), (3) or (4) commits an offence and shall on conviction on indictment, be liable to imprisonment for five years.

PART VIII

SEIZURE AND FORFEITURE OF TERRORIST PROPERTY

Application for
restraint order

34. (1) Any customs officer, immigration officer or police officer who has reasonable grounds to believe that property in the possession of any person is—

- (a) intended to be used for the purpose of a terrorist act; or
- (b) terrorist property,

may apply to a judge in Chambers for a restraint order in respect of that property.

(2) This section applies to property that is being—

- (a) brought to any place in Trinidad and Tobago for the purpose of being exported from;
- (b) exported from; or
- (c) imported into,

Trinidad and Tobago.

(3) Subject to subsection (4), a restraint order made under subsection (1), shall be valid for a period of sixty days, and may, on application, be renewed by a Judge of the High Court, for a further period of sixty days or until such time as the property referred to in the order is produced in court in proceedings for an offence under this Act in respect of that property whichever is the sooner.

(4) A Judge of the High Court may release any property referred to in a restraint order made under subsection (1) if—

- (a) he no longer has reasonable grounds to suspect that the property has been, is being or will be used to commit an offence under this Act; or
- (b) proceedings are instituted in the High Court for an offence under this Act in respect of that property within one hundred and twenty days of the date of the restraint order.

(5) No civil or criminal proceedings shall lie against an officer for a seizure of property, made in good faith, under subsection (1).

(6) An appeal from a decision of the judge made under this section shall lie to the Court of Appeal.

35. (1) Where a person is convicted of an offence under this Act, or an offence under any other Act where the act or omission also constitutes a terrorist act, the court may order that any property—

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

- (a) used for, or in connection with; or
- (b) obtained as proceeds from,

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

(2) Before making a forfeiture order the judge shall give an opportunity to be heard to any person who—

- (a) appears to the court to have an interest in; or
- (b) claims to be the owner of,

the property.

(3) Property forfeited to the State under subsection (1) shall vest in the State—

- (a) if no appeal has been made against the order, at the end of the period within which an appeal may be made against the order; or
- (b) if an appeal has been made against the order, on the final determination of the matter, where the decision is made in favour of the State.

Orders for seizure
and restraint of
property

36. (1) Where on an *ex parte* application made by the Director of Public Prosecutions to a judge in chambers, the judge is satisfied that there are reasonable grounds to believe that there is in any building, place or vessel, any property in respect of which an order of forfeiture may be made under section 37, the judge may issue—

- (a) a warrant authorizing a police officer to search the building, place or vessel for that property and to seize that property if found, and any other property in respect of which that police officer believes, on reasonable grounds, that an order of forfeiture may be made under section 37; or
- (b) a restraint order prohibiting any person from disposing of, or otherwise dealing with any interest in, that property, other than as may be specified in the order.

(2) On an application made under subsection (1), the judge may, at the request of the Attorney General and if the judge is of the opinion that the circumstances so require—

- (a) appoint a person to take control of, and manage or otherwise deal with, the whole or a part of the property, in accordance with the directions of the judge; and

(b) require any person having possession of the property to give possession thereof to the person appointed under paragraph (a).

(3) The power to manage or otherwise deal with property under subsection (2) includes in the case of perishable or rapidly depreciating property, the power to sell that property; and in the case of property that has little or no value, the power to destroy that property.

(4) Before a person appointed under subsection (2) destroys any property referred to in subsection 3, he shall apply to a Judge of the High Court for a destruction order.

(5) Before making a destruction order in relation to any property, the judge shall require notice to be given, in such manner as the judge may direct, to any person who, in the opinion of the judge, appears to have an interest in the property and may provide that person with a reasonable opportunity to be heard.

(6) A judge may order that any property in respect of which an application is made under subsection (4), be destroyed if he is satisfied that the property has little or no financial or other value.

(7) A management order under subsection (2) shall cease to have effect when the property which is the subject of the management order is returned to an applicant in accordance with the law or forfeited to the State.

(8) The Director of Public Prosecutions may at any time apply to a Judge of the High Court to cancel or vary a warrant or order issued under this section.

Orders for forfeiture
of property

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

(2) The Attorney General shall be required to name as respondents to an application under subsection (1) only those persons who are known to own or control the property that is the subject of the application.

(3) The Attorney General shall give notice of an application under subsection (1) to the respondents named in the application, in such manner as the judge may direct.

(4) Where a judge is satisfied, on a balance of probabilities, that the property which is the subject of the application is terrorist property, the judge shall order that the property be forfeited to the State to be disposed of as directed by the judge.

(5) Where a judge refuses an application under subsection (1), the judge shall make an order that describes the property and declare that it is not terrorist property.

(6) On an application under subsection (1), a judge may require notice to be given to any person not named as a respondent who in the opinion of the judge, appears to have an interest in the property, and any such person shall be entitled to be added as a respondent to the application.

(7) Where a judge is satisfied that a person—

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

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

the judge shall order that the interest shall not be affected by the order made under subsection (4) and the order shall also declare the nature and extent of the interest in question.

(8) A person who claims an interest in property that has been forfeited and who has not been named as a respondent or been given notice under subsection (6) may make an application to the High Court to vary or set aside an order made under subsection (4), not later than sixty days after the day on which the forfeiture order was made.

(9) Pending the determination of an appeal against an order of forfeiture made under this section, property restrained under section 37 shall continue to be restrained, property seized under a warrant issued under that section shall continue to be detained, and any person appointed to manage, control or otherwise deal with the property under that section shall continue in that capacity.

(10) The provisions of this section shall not affect the operation of any other provision of this Act respecting forfeiture.

38. (1) Trinidad and Tobago may, pursuant to any agreement with any other State, share with that State on a reciprocal basis the property derived from forfeiture pursuant to this Act. Sharing of forfeited property

(2) Property referred to under subsection (1), may be utilized to compensate victims of the offences referred to under this Act.

PART IX

MISCELLANEOUS POWERS

Duty to disclose
information relating
to passengers of
aircraft and vessels

39. (1) The operator of an aircraft or master of a vessel—

- (a) departing from Trinidad and Tobago; or
- (b) registered in Trinidad and Tobago departing from any place outside Trinidad and Tobago,

shall, in accordance with Regulations made under this section provide to the—

- (i) Chief Immigration Officer any information in his possession relating to persons on board or expected to be on board the aircraft or vessel; or
- (ii) competent authority of a foreign state any information in his possession relating to persons on board or expected to be on board the aircraft or vessel in accordance with the law of that foreign State.

(2) Any information provided to the Chief Immigration Officer shall not be used or disclosed by him except for the purpose of protecting national security or public safety.

(3) The Minister may, subject to Regulations made under subsection (4), provide to the competent authority in a foreign state any information in his possession relating to persons entering or leaving Trinidad and Tobago, by land, and that is required by the laws of that foreign State.

(4) No information provided to the Chief Immigration Officer under subsection (1) shall be used or disclosed by the Chief Immigration Officer except for the purpose of protecting national security or public safety.

(5) The Minister may make Regulations generally to give effect to the purposes of this section, including Regulations—

- (a) respecting the types or classes of information that may be provided under this section;
- (b) specifying the foreign States to which the information may be provided.

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

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

(2) Regulations made under subsection (1) shall be subject to negative resolution of Parliament.

SCHEDULE

(Section 23)

CUSTODY RECORD FOR DETAINED PERSON

1. Entries shall be made in respect of all matters relevant to the detention of the arrested person and shall be referred to as the Custody Record. In particular, the entries shall be made in respect of the following:

- (a) an accurate record of the time and place of—
 - (i) the arrest;
 - (ii) the issue of the direction; and
 - (iii) each interview, including any interview immediately following the arrest of the person detained;

- (b) the place or places where the interview takes place;
- (c) the time at which the interview begins and the time at which it ends;
- (d) any break during the interview;
- (e) the names of persons present at the interviews;
- (f) the time and reason for any transfer of the detained person from one place of custody to another as well as the time at which the detention ends;
- (g) any property secured from the person on his arrest or during his detention;
- (h) the name and rank of the police officer upon whose authority any action in relation to the detained person is taken; and
- (i) the ground or grounds, on which the detention is based.

2. The Custody Record shall be opened as soon as practicable after the start of a person's detention.

3. The person making an entry in the Custody Record shall insert the time at which the entry is made and his signature against the entry made.

4. The Custody Record or copy of the Record shall accompany a detained person to any other place where he is transferred.

5. A copy of the Custody Record shall be supplied to the person detained or his legal representative as soon as is practicable after he or the representative makes a request upon his release from detention or his being taken to court.

6. The person detained shall be allowed to check and shall be made to insert his signature in respect of any entry in the Custody Record.

7. An entry shall be made in respect of any refusal of the person detained to insert his signature where such signature is required.

8. Entries in the Custody Record shall be made as soon as practicable after the occurrence of the events to which they relate.

9. A police officer of the rank of Inspector or above shall be responsible for ensuring the accuracy and completeness of the Custody Record and that the Custody Record or a copy of the Record accompanies the detained person on his transfer.

10. Entries in a computerized Custody Record shall be timed and shall contain evidence of the computer operator's identity.

Passed in the House of Representatives this 18th day of February, 2005.

J. SAMPSON-JACENT

Clerk of the House

Passed in the Senate this 29th day of August, 2005.

N. JAGASSAR

Acting Clerk of the Senate

Senate amendments agreed to by the House of Representatives this 5th day of September, 2005.

J. SAMPSON-JACENT

Clerk of the House