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THE CONVENTION FOR THE SUPPRESSION OF THE FINANCING OF TERRORISM ACT 2003

Act 37/2003

Proclaimed by [\[Proclamation No. 31 of 2003\]](#) w.e.f 22nd November 2003

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AN ACT

To give effect to the International Convention for the Suppression of the Financing of Terrorism

ENACTED by the Parliament of Mauritius, as follows –

1. Short title

This Act may be cited as the **Convention for the Suppression of the Financing of Terrorism Act 2003**.

2. Interpretation

In this Act -

"act of terrorism" has the same meaning as in the Prevention of Terrorism Act 2002;

"Convention" means the International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations on 9 December 1999;

"funds" -

- (a) means assets of every kind, whether tangible or intangible, movable or immovable, however acquired;
- (b) includes legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including but not limited to, bank credits, travellers' cheques, bank cheques, money orders, shares, securities, bonds, drafts and letters of credit;
- (c) includes financial services or such other related financial services as may be prescribed;

"Minister" means the Minister to whom responsibility for the subject of national security is assigned;

"proceeds" means any funds derived from, or obtained through, the commission of an offence under section 4;

"proscribed organisation" has the same meaning as in the Prevention of Terrorism Act 2002;

"terrorist property" has the same meaning as in the Prevention of Terrorism Act 2002.

Amended by [\[Act No. 9 of 2019\]](#)

3. Convention to have force of law

Subject to this Act, the Convention shall have the force of law in Mauritius.

4. Financing of terrorism

- (1) Any person who, by any means whatsoever, wilfully and unlawfully, directly or indirectly, provides or collects funds with the intention or knowledge that it will be used, or having reasonable grounds to believe that they will be used, in full or in part, to commit in Mauritius or abroad -

(a) an offence in breach of an enactment specified in the Third Schedule; or (b) an act of terrorism, shall commit an offence.

(1A) (a) Any person who, by any means whatsoever, wilfully and unlawfully, directly or indirectly, provides funds to any individual to travel to a State, other than that individual's State of residence, for the purpose of perpetration, planning, or preparation of, or participation in, terrorist acts or the provision or the receiving of terrorist training, shall commit an offence.

(b) For an act to constitute an offence under paragraph (a), it shall not be necessary that the terrorist act or attempted terrorist act has been carried out or that the individual has perpetrated, planned, prepared, or participated in terrorist acts, or has participated in terrorist activities.

(2) For an act to constitute an offence under subsection (1), it shall not be necessary that the funds were actually used to carry out the offence in breach of the enactment specified in the Second Schedule or the act of terrorism, as the case may be.

(3) Any person who commits an offence under subsection (1) or (1A) shall, on conviction, be liable to penal servitude for a term of not less than 3 years.

(4) The Court before which a person is convicted of an offence under this section may, in addition to any penalty imposed by the Court, order the forfeiture of funds which -

(a) were, or intended to be, used for, or in connection with, the offence; or

(b) constitute the proceeds of the offence.

(5) Before making an order under subsection (4), the Court shall give every person appearing to have an interest in the funds in respect of which the order is proposed to be made, an opportunity of being heard.

(6) Funds forfeited to the State by an order under subsection (1) shall vest in the State -

(a) if no appeal is made against the order, at the end of the period within which an appeal may be made against that order; and

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

Amended by [\[Act No. 9 of 2019\]](#)

5. Orders for seizure and restraint of property

- (1) Where the Judge in Chambers is satisfied, on an *ex parte* application made by the Commissioner of Police, 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 6, the Judge may issue -
 - (a) a warrant authorising a police officer to search the building, place or vessel for that property and to seize that property if found, and any other property in respect of which that police officer believes, on reasonable grounds, that an order of forfeiture may be made under section 6;
 - (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 in Chambers, may, where the circumstances so require –
 - (a) appoint the Official Receiver or any other suitable person to take control of, and manage or otherwise deal with, the whole or a part of the property, in accordance with the directions of the Judge;
 - (b) require any person having possession of the property to give possession thereof to the person appointed under paragraph (a).
- (3) The power to manage or otherwise deal with property under subsection (2) includes –
 - (a) in the case of perishable or rapidly depreciating property, the power to sell that property; and
 - (b) in the case of dangerous property or property that has little or no value, the power to destroy that property.
- (4) Before a person appointed under subsection (2) destroys any property referred to in subsection (3)(b), he shall apply to the Judge in Chambers for a destruction order.
- (5) Before making a destruction order in relation to any property, the Judge in Chambers -

- (a) shall require notice to be given, in such manner as the Judge in Chambers may direct, to any person who, in the opinion of the Judge in Chambers, appears to have an interest in the property; and
 - (b) may provide that person with a reasonable opportunity to be heard.
- (6) A Judge in Chambers 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 Commissioner of Police may at any time apply to a Judge in Chambers to cancel or vary a warrant or order issued under this section.

6. Orders for forfeiture of property

- (1) The Commissioner of Police may make an application to a Judge in Chambers for an order of forfeiture in respect of terrorist property.
- (2) Notice of an application under subsection (1) shall be given to the respondents named in the application in such manner as the Judge in Chambers may direct.
- (3) The Commissioner of Police 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.
- (4) If he is satisfied, on a balance of probabilities, that the property, which is the subject of the application, is terrorist property, the Judge in Chambers shall order that the property be forfeited to the State to be disposed of as directed by the Judge.
- (5) Where he refuses an application under subsection (1), the Judge shall make an order that describes the property and declare that it is not property referred to in that subsection.
- (6) On an application under subsection (1), a Judge in Chambers may require notice to be given to any person, who in the opinion of the Judge, appears to have an interest in the property, and any such person shall be entitled to be added as a respondent to the application.
- (7) If the Judge is satisfied that a person referred to in subsection (6) –

- (a) has an interest in the property which is the subject of the application;
 - (b) has exercised reasonable care to ensure that the property is not the proceeds of a terrorist act, would not be used to commit or facilitate the commission of an act of terrorism and would not be used by a proscribed organisation; and
 - (c) is not a member of a proscribed organisation, the Judge shall order that the interest shall not be affected by the order and shall declare in the order the nature and extent of the interest in question.
- (8) A person who claims an interest in property that has been forfeited and who has not been given notice under subsection (6) may make an application to the Supreme Court to vary or set aside an order made under subsection (4) not later than 60 days after the day on which the forfeiture order was made.
- (9) Pending the determination of an appeal against an order of forfeiture made under this section, property restrained under section 5 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.

7. Jurisdiction

- (1) A Mauritian Court shall have jurisdiction to try an offence under section 4 in every case where the act constituting the offence –
- (a) is committed in the Republic of Mauritius;
 - (b) is committed on board a vessel or aircraft registered in the Republic of Mauritius;
 - (c) is committed by a national of the Republic of Mauritius, whether the act constituting the offence is committed within, or outside, the Republic of Mauritius;
 - (d) is directed towards, or results in, the commission of an act referred to in section 4(1)(a) or 4(1)(b) against a state or governmental facility in any other country;

- (e) is directed towards, or results in, the commission of an act referred to in section 4(1)(a) or 4(1)(b) in an attempt to compel the Republic of Mauritius to do, or abstain from doing, any act;
 - (f) is committed by a stateless person whose habitual residence is in the Republic of Mauritius, whether the act constituting the offence is committed within or outside Republic of Mauritius;
 - (g) is committed on board an aircraft operated by the Republic of Mauritius;
 - (h) is committed by a person who is, after the commission of the act, present in the Republic of Mauritius whether the act constituting the offence is committed within or outside the Republic of Mauritius and he cannot be extradited to a foreign state having jurisdiction over the offence.
- (2) In subsection (1)(d), “state or governmental facility” includes any permanent or temporary facility or conveyance that is used or occupied by -
- (a) the President or Vice-President of the Republic of Mauritius;
 - (b) the Prime Minister or a Minister of the Government of the Republic of Mauritius;
 - (c) the representatives of the Government of the Republic of Mauritius;
 - (d) a member of the National Assembly of the Republic of Mauritius;
 - (e) a member of the judiciary of the Republic of Mauritius;
 - (f) an official or employee of the Government of the Republic of Mauritius or any other intergovernmental organisation, in connection with his official duties.

8. Extradition

- (1) The offence described in section 4 shall be deemed to be an extraditable offence under the Extradition Act, and the provisions of that Act shall apply to, and in relation to, extradition in respect of that offence.
- (2) Where there is, on the date on which this Act comes into operation, an extradition arrangement in force between the Republic of Mauritius and a

Convention State, such arrangement shall, for the purposes of the Extradition Act, be deemed to include provision for extradition in respect of the offence described in section 4.

- (3) Where there is no extradition arrangement between the Republic of Mauritius and a Convention State, the Minister of Foreign Affairs may, by Order published in the Gazette, treat the Convention, for the purposes of the Extradition Act, as an extradition arrangement between the Republic of Mauritius and such Convention State providing for extradition in respect of the offence described in section 4.
- (4) Where the Republic of Mauritius accedes to a request by a Convention State for the extradition of a person accused of the offence specified in section 4, the act constituting such offence shall, for the purposes of the Extradition Act, be deemed to have been committed not only in the place where it was committed but also within the jurisdiction of the requesting Convention State.
- (5) Notwithstanding anything in the Extradition Act, an offence described in section 4 shall, for the purposes of that Act, be deemed not to be a fiscal offence or an offence of a political character or an offence connected with a political offence or an offence inspired by political motives, for the purpose only of the extradition of a person accused of any such offence as between the Republic of Mauritius and a Convention State.
- (6) For the purposes of this section, "Convention State" means such State as the Minister responsible for foreign affairs may certify to be a State Party to the Convention.

9. Regulations

- (1) The Minister may, for the purposes of this Act, make such regulations as he thinks fit.
- (2) Regulations made under subsection (1) may provide for the amendment of the Second Schedule.

10. Consequential amendments

- (1) The Registration of Associations Act is amended in sections 7(1)(b) and 15(1)(b), by adding immediately after the words "public order", the words "or has made, is making or is likely to make, available any resources, directly or indirectly, to a terrorist or a terrorist organisation or for the purposes of terrorism".
- (2) The Prevention of Terrorism Act 2002 is amended -

- (a) by repealing sections 11, 13 and 14;
 - (b) in sections 27, 30 and 32, by deleting the figures "11" and "14" wherever they appear.
- (3) The Prevention of Terrorism (Denial of Bail) Act 2002 is amended in section 3 by deleting the words "11," and ",14".

11. Commencement

Proclaimed by [Proclamations No. 31 of 2003] w.e.f 22nd November 2003 -----

FIRST SCHEDULE – Repealed by [\[Act No. 9 of 2019\]](#)

SECOND SCHEDULE

(section 4)

Civil Aviation (Hijacking and Other Offences) Act, sections 4, 5, 6, and 6A

Prevention of Terrorism Act, sections 3, 4, 5, 5A, 6, 7, 12, 12A, 12B and 15.

Amended by [\[GN No. 130 of 2017\]](#)