

**ANTIGUA AND BARBUDA**



**PREVENTION OF TERRORISM (AMENDMENT) ACT 2017**

**NO. OF 2017**



**A**

**BILL FOR**

**AN ACT TO AMEND THE PREVENTION OF TERRORISM ACT 2005 NO.12**

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**ANTIGUA AND BARBUDA**

**PREVENTION OF TERRORISM (AMENDMENT) ACT 2017**

**NO. 7. 2017**

**An Act** to amend the Prevention of Terrorism Act. 2005 No. 12

**Enacted** by the Parliament of Antigua and Barbuda as follows:

**1. Short Title**

This Act may be cited as the Prevention of Terrorism (Amendment) Act. 2017

**2. Interpretation**

In this Act

“biological weapon” has the same meaning assigned to it under the Biological Weapons Act, Cap.52;

“chemical weapon” has the same meaning as assigned to it under the Convention on the prohibition of the development, production, stockpiling and use of chemical weapons and or their destruction (including annexes to that Convention);

“nuclear” has the same meaning assigned to it under the Nuclear Material (Offences) Act; 1993;

“weapon of mass destruction” or “WMD” means any weapon designed to kill, harm, or infect people, animals or plants through the effect of nuclear explosion or dispersion of the toxic properties of chemical weapon or the infectious or toxic properties of a biological weapon, and includes a delivery system designed, adapted or intended for the deployment of such weapons and their material;”.

**3. Amendment of section 3 of the principal Act**

(1) Section 3 of the principal Act is amended -

(1) by deleting the words “he may recommend to the Attorney General that an Order be made under subsection (2) in respect of that entity”, appearing at the end of subsection (1) and substituting the following words “he may apply to a Judge in Chambers for an order to be made in respect of that entity.;

(2) by repealing subsection (2) and substituting the following:

“(2) An application under subsection (1) must be supported by a certificate of urgency as well as affidavit evidence.”;

(3) by adding following new subsection (2A):

“(2A) If the court is satisfied that there is evidence to support the application, an order may be made-

- (a) declaring the entity in respect of which the application was made to be a specified entity;
- (b) directing any financial institution in Antigua and Barbuda to freeze any account or other property held by the financial institution on behalf of the specified entity; and
- (c) direct that the order made shall be served on an officer of the specified entity.”;

(4) by repealing subsection (3) and substituting the following:

“(3) An order under subsection (2A) must be published in the *Gazette*, no earlier than seven days from the date of such order.”;

(5) by adding after subsection (3) the following new subsections as subsections (3A) to (3F) :

“(3A) Without prejudice to anything in this section, where by virtue of a Security Council resolution under which Antigua and Barbuda has a legal obligation to act, and

- (a) the entity or individual is named in the resolution;
- (b) the Minister of Foreign Affairs had given effect to the measures specified in such resolution,

the Attorney General or the Director of the ONDCP may apply to a Judge in Chambers to freeze all property of entity or individual, in the manner prescribed in subsection (2).

(3B) If the Judge, in all the relevant circumstances of the case, makes the order for which the application was made; the Judge may adjourn to open court for the reading of the order depending on all the circumstances.

(3C) The Judge may further order that the content of the order shall not be published in any journal or newspaper, on the internet; in any form, or radio or television for a period of seventy hours, after such reading of the order.

- (3D) An officer of the financial institution on whom the order under section (2A) or (3B) on whom an order was served and who fails or refuses to freeze the property specified in such order commits an offence and is liable –
- (a) on summary conviction to a fine fifty thousand dollars or to imprisonment for one year, or both such fine and imprisonment; or
  - (b) on indictment, to a fine of one hundred thousand dollars or imprisonment for three years, or both such fine and imprisonment.
- (3E) A person who claims to be the owner of property frozen by the Court may seek judicial review not more than 14 days after the date of the Order.
- (3F) For the purposes of this section, “officer of a financial institution”, includes the chief financial officer, the chief executive officer, the chief operations officer, manager, chairman of the board of directors, a director, accountant, executive officer, public relations officer or a shareholder, of the financial institution.”.

#### **4. Amendment of section 5 of the principal Act**

(1) Section 5 of the principal Act is amended

- (a) by deleting the word “or” appearing at the end of paragraph (a);
- (b) by replacing the comma with a semi colon followed by the word “or”; and
- (c) by inserting the following as a new paragraph  
“(c) promotes or facilitates any terrorist act or any act preparatory to or in furtherance to a terrorist act.;

#### **5. Repeal and replacement of section 6 of the principle Act**

Section 6 of the principal Act is repealed and replaced by the following:

“6. Criminalization of financing of terrorism

(1) A person who for any purpose provides or collects, by any means, directly or indirectly, funds, intending, knowing or having reasonable grounds to believe that the funds so provided or collected for are on behalf of any terrorist group or terrorist individual, commits an offence and shall on conviction on indictment, be liable to a term of imprisonment not exceeding twenty-five years ;or to a fine not exceeding five hundred thousand dollars, or to both such fine and imprisonment.

(2) A person who provides or collects by an means, directly or indirectly provides any funds, intending, knowing or having reasonable grounds to believe that the funds may be used in full or part to carry out a terrorist act commits an offence and shall, on

indictment be liable to a term of imprisonment not exceeding twenty-five years or to a fine of five hundred thousand dollars, or to both such fine and imprisonment.”

(3) A person who finances any activity of a person who is designated a specified entity, whether such activity is a terrorist act or not, commits an offence and shall on conviction, or indictment, be liable to a term of imprisonment not exceeding twenty five years on to a fine of five hundred thousand dollars.”

#### **6. Amendment of section 7 of the principal Act**

Section 7 of the principal Act is amended by adding the following new paragraph as paragraph (c):

- “(c) for any purpose that in whole or in part, they will be used by, or is likely to be a terrorist individual commits an offence, and
  - (a) is liable on summary conviction to a fine of one hundred thousand dollars or imprisonment for a term not exceeding five years; or
  - (b) or indictment to a fine five hundred thousand dollars, or to imprisonment for a term not exceeding twenty five years.”

#### **7. Amendment of section 8 of the principal Act**

Section 8 of the principal Act is amended by deleting the last word “or” in subparagraph (a), and inserting the following new subparagraphs after subparagraph (b):

- “(c) uses property, directly or indirectly, in whole or in part, knowing that it will benefit a terrorist individual, or
- (d) possesses property intending that it be used for any purpose by or for the benefit or a terrorist individual.”.

#### **8. Amendment of section 10 of the principal Act**

Section 10 of the principal Act is amended:

- (a) by inserting the words “or terrorist individual” in subsection 10 (1)(a), after the word “group”;
- (b) by inserting the words “or terrorist individual” in subsection 10 (2) after the word “group”.

#### **9. Amendment of section 12 of the principal Act**

Section 12 of the principal Act is amended by inserting after paragraph (c) the following:

“(a) a terrorist individual.”

### **10. Amendment of principal Act**

The principal Act is amended by inserting, after section 12, the following new sections as sections 12A, 12B and 12C:

#### “12A. Possession or financing of WMD

(1) No shall have in his possession or be involved in the development of, a weapon of mass destruction without authorization from the[ ].

(2) A person in breach of subsection (1) commits an offence and is liable on conviction, on indictment, to imprisonment for twenty years or to a fine of one hundred thousand dollars, on to both such fine and imprisonment.

#### 12B. Knowingly financing the manufacture, production, acquisition retention or transportation of WMD

(1) A person who knowingly finances the manufacture, production, development, acquisition, retention, transfer or transportation of a weapon of mass destruction commits an offence and is liable on conviction, on indictment, to imprisonment for twenty years or to a fine of seventy five thousand dollars, both fine and imprisonment and fine.

#### 12C. Transfer or transportation of WMD

Every person who transfers, transports, or is concerned in the transfer or transportation of a weapon of mass destruction, commits an offence and is liable on conviction, on indictment, to imprisonment for ten years or to a fine of fifty thousand dollars, or to both such fine and imprisonment.

### **11. Amendment of principal Act**

The principal Act is amended by inserting after section 19 the following new section as section 19A:

“19 Travel for the purpose of engaging in terrorist activity.

(1) Any citizen of Antigua and Barbuda who travels or attempts to travel to a State other than his State of citizenship or residence, and any non-citizen who travels or attempts to travel from Antigua and Barbuda to a State, other than his States of citizenship or residence, for the purpose of perpetrating, planning or preparation of, or participation in, terrorist acts, or providing or receiving or terrorist training commits an offence.



(2) Any citizen of or person within Antigua and Barbuda who willfully provides or collects funds, by any means, directly or indirectly, with the intention that the funds should be used, or in the knowledge that they are to be used, in order to finance the travel of individuals to a State other than their States of citizenship or residence, for the purpose of perpetrating, planning or preparation of, or participation in, terrorist acts, or the providing or receiving of terrorist training commits an offence.

(3) Any citizen of or person within Antigua and Barbuda who willfully organizes, or otherwise facilitates including acts of recruitment, the travel of individuals to a State other than their States of citizenship or residence, for the purpose of perpetrating, planning or preparation of, or participating in, terrorist acts, or the providing or receiving of terrorist training commits an offence.

(4) A person who commits an offence under this section shall on conviction, on indictment, be liable to imprisonment for a term not exceeding fifteen years or to a fine or five hundred thousand dollars, or to both such fine and to imprisonment.”

### **EXPLANATORY MEMORANDUM**

**Clause 2:** Included in this clause is the meaning of a weapon of mass destruction or WMD.

**Clause 3:** This clause seeks to modify section 3 of the Act which is concerned with application for orders declaring certain person and entities to be specified entities. The new procedure is for such an application to be made to a Judge in Chambers. The wider purpose here is that matter of a Security Council resolution with persons named in such a resolution and the legal obligations that fall on Antigua and Barbuda with respect to such a person or entity to have their property frozen.

**Clause 4:** This clause seeks to amend section 5 of the principal act in order to provide two further prohibitions which are criminal offences.

**Clause 5:** This clause repeals and replaces section 6 of the act in order to criminalise the financing of terrorism.

**Clause 6:** This clause adds a further limb to the provision of collection of funds to commit terrorist act.

**Clause 7:** This clause also adds to the use of property for the purpose of commission of terrorists acts

**Clause 8:** Clause 8 now adds the term “terrorist individual” to the list of persons who can solicit and give support to terrorist groups or commission of terrorist acts.

**Clause 9:** This clause adds a new paragraph (d) to section 12 of the Act.

**Clause 10** This clause adds new sections to the principal Act, as section 12C, 12D and 12E. These are aimed at possession of WMD, knowingly financing, manufacture, production, acquisition or transportation of WMD.

**Clause 11** This clause seeks to insert a new section 19A whereby a number of new offences are emerge with respect to terrorist. And, in the circumstances both citizens of Antigua and Barbuda and non-citizens who travel to a state, other than their own, to engage in varying aspects of terrorism are within the ambit of the new offences accordingly, the mens rea is wide and varied as is need to punish offenders for different aspects of terrorism, whether it is actual taking part, funding or otherwise.