

COMMONWEALTH OF DOMINICA

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2018 ANTI-TERRORISM ACT

COMMONWEALTH OF DOMINICA

ACT NO. OF 2018

BILL

FOR

AN ACT TO CRIMINALISE TERRORISM AND THE FINANCING OF TERRORISM, TO PROVIDE FOR THE DETECTION, PREVENTION, PROSECUTION, CONVICTION AND PUNISHMENT OF TERRORIST ACTIVITIES AND THE CONFISCATION, FORFEITURE AND SEIZURE OF TERRORISTS' ASSETS AND OF THOSE INVOLVED IN THE FINANCING OF TERRORISM AND FOR RELATED MATTERS.

(Gazetted , 2018.)

BE IT ENACTED by the Parliament of the Commonwealth of Dominica as follows:

PART I
PRELIMINARY

1. This Act may be cited as the —

Short Title.

ANTI-TERRORISM ACT.

Interpretation.

2. (1) In this Act —

Act No. 8 of 2011.

“Asset Forfeiture Fund” means the Asset Forfeiture Fund established under section 36 of the Money Laundering (Prevention) Act, 2011;

“bearer negotiable instrument” includes —

(a) a monetary instrument such as travellers’ cheque, negotiable instrument including cheque, promissory note and money order that is either in bearer form, endorsed without restriction, made out to a fictitious payee, or otherwise in such form that title thereto passes or payment is made upon delivery;

(b) an incomplete instrument including a cheque, promissory note and money order signed, but with the payee’s name omitted;

“cash” includes coins and notes in any currency, postal orders, cheques of any kind including travellers’ cheques, bankers’ drafts, bearer bonds, bearer shares and bearer negotiable instruments and other bearer negotiable instruments in any currency; and

“Commissioner of Police” means the Chief of Police within the meaning of the Constitution;

“computer” means a device or group of interconnected or related devices which follows a program or external instruction to perform automatic processing of information or electronic data;

First Schedule

“Convention” means any of the conventions set out in the First Schedule;

“declared geographical area” means an area declared by the Minister in accordance with section 19;

“designation” means the identification of a person or entity that is subject to targeted financial sanctions pursuant to —

- (a) United Nations Security Council resolution 1267 (1999) and its successor resolutions;
- (b) Security Council resolution 1373 (2001), including the determination that the relevant sanctions will be applied to the person or entity and the public communication of that determination;
- (c) Security Council resolution 1718 (2006) and its successor resolutions;
- (d) Security Council resolution 1737 (2006) and its successor resolutions; and
- (e) any future Security Council resolutions which impose targeted financial sanctions in the context of the financing of proliferation of weapons of mass destruction;

“entity” means a partnership, joint venture, association, corporation, network, group or sub-group, or any forms of business collaboration;

“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;

“Financial Action Task Force” means the task force established by the Group of Seven to develop and provide national and

international policies to combat money laundering and terrorist financing;

Act No. 7 of 2011.

“FIU” means the Financial Intelligence Unit established under section 3 of the Financial Intelligence Unit Act 2011;

Act No. 8 of 2011.

“financial institution” has the meaning assigned to it in section 2 of the Money Laundering (Prevention) Act, 2011;

“foreign terrorist fighter” means an individual who is guilty of an offence under section 18;

“funds” means assets of any kind, whether tangible or intangible, moveable or immovable, however acquired 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, payment cards, payment instruments, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts, letters of credit whether situated in Dominica or elsewhere, and includes a legal or equitable interest, whether full or partial, in any such property, oil and other natural resources and their refined products, modular refineries and related material and other economic resources which may be used to obtain funds, goods or services;

“Group of Seven” means the meeting of Finance Ministers of France, Italy, Germany, Japan, United Kingdom, United States and Canada formed in 1976;

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

“international organisation” means an organisation 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 Dominica;

“legal entity” means a body corporate, foundation, partnership, association or other similar body that can establish a permanent customer relationship with a financial institution or otherwise own property;

“listed entity” means an individual or entity declared to be a listed entity under section 33;

“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;

“non-profit organisation” means a legal entity or organisation that primarily engages in raising or disbursing funds for purposes such as charitable, religious, cultural, educational, social or fraternal purposes or for the carrying out of other types of philanthropic work;

“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” includes money and funds;

Act No. 8 of 2011.

“scheduled business” has the meaning assigned to it in section 2 of the Money Laundering Prevention Act 2011;

“terrorist” includes a person who —

- (a) commits or attempts to commit a terrorist act by any means directly or indirectly, unlawfully and willfully;
- (b) participates as an accomplice in terrorist acts or the financing of terrorism;
- (c) organises or directs others to commit terrorist acts or the financing of terrorism; or
- (d) contributes to the commission of terrorists acts or the financing of terrorism by an individual or a group of persons acting with a common purpose where the contribution is made intentionally —
 - (i) with the aim of furthering the terrorist act or the financing of terrorism; or
 - (ii) with the knowledge of the intention of the individual or group of persons to commit the terrorist act or the financing of terrorism;

“terrorist act” means an act which constitutes an offence under Part II, Part III or Part IV;

“terrorist organisation” means a legal entity or group of terrorists that —

- (a) commits a terrorist act by any means, directly or indirectly, unlawfully and wilfully;
- (b) participates as an accomplice in terrorist acts or the financing of terrorism;
- (c) organises or directs others to commit terrorist acts or the financing of terrorism; or
- (d) contributes to the commission of terrorists acts or the financing of terrorism by an individual or a group of persons acting with a common purpose where the contribution is made intentionally and with the aim of furthering the terrorist act or the financing of terrorism with the knowledge of the intention of the group to commit the terrorist act or the financing of terrorism;

“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 or terrorist organisation; or
- (d) property belonging to a terrorist or terrorist organisation;

“vessel” means anything 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.

(3) Parts II, III and IV apply whether or not an offence is committed inside or outside of Dominica.

PART II OFFENCES

Terrorist Act.

3. (1) A person who —

- (a) with the intent to compel a government or an international organisation to do or refrain from doing any act or intimidate the public or a section of the public, for the purpose of advancing a political, ideological or a religious cause does any act which causes or is likely to cause —
 - (i) loss of human life or serious bodily harm;
 - (ii) damage to property;
 - (iii) endangers a person’s life, other than the life of the person taking the action;
 - (iv) creates a serious risk to the health or safety of the public or a section of the public; or

(v) prejudice to national security or disruption of public safety including disruption —

(A) in the provision of emergency services;

(B) to any computer or electronic system; or

(C) to the provision of services directly related to banking, communications, infrastructure, financial services, public utilities, transportation or other essential infrastructure; or

(b) threatens to commit an act referred to in this Part; or

(c) takes any preparatory steps, including but not limited to acquiring material or participating in the planning of an act referred to in paragraph (a),

is guilty of the offence of a terrorist act and is liable, where no other penalty is specified, on conviction on indictment to imprisonment for twenty-five years.

(2) When a terrorist act involves the commission of a crime under some other law, the person who commits the crime is 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 the crime shall run consecutively to that imposed under subsection (1).

4. A person who intentionally or knowingly, directly or indirectly, provides or makes available financial or other related services to —

Provision of services for commission of terrorist acts.

(a) be used, in whole or in part, for the purpose of

committing or facilitating the commission of, a terrorist act;

(b) a terrorist;

(c) a terrorist organisation;

(d) a listed entity;

(e) an entity owned or controlled, directly or indirectly by a listed entity; or

(f) a person or entity acting on behalf of, or at the direction of, a designated person or listed entity,

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

Making available or provision of property to commit terrorist acts.

5. A person who, intentionally or knowingly, directly or indirectly provides or make available property —

(a) to be used to commit a terrorist act;

(b) to a terrorist;

(c) to a terrorist organisation;

(d) to a listed entity;

(e) to an entity owned or controlled, directly or indirectly by a listed entity; or

(f) to a person or entity acting on behalf of, or at the direction of, a designated person or entity,

is guilty of an offence and is liable, on conviction on indictment, to a fine of two million, five hundred thousand dollars and to imprisonment for twenty-five years.

6. A person who —

Use or possession of property for commission of terrorist acts.

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

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

7. A 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 is guilty of an offence and shall, on conviction on indictment, be liable to imprisonment for twenty years.

Arrangements for retention or control of terrorist property.

8. A person who knowingly —

Dealing with terrorist property.

- (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,

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

9. (1) A person who knowingly supports or solicits support for —

Soliciting or giving support for the commission of terrorist acts.

- (a) the commission of a terrorist act;
- (b) a terrorist;
- (c) a terrorist organisation; or
- (d) a listed entity,

is guilty of an offence and is liable, on conviction on indictment, 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 documents; and
- (c) entering or remaining in any country,

for the purpose of committing or facilitating a terrorist act.

Harbouring of persons
committing terrorist acts.

10. A 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, is guilty of an offence and is liable, on conviction on indictment, to imprisonment for twenty years.

Provision of devices.

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 is guilty of an offence and is liable, on conviction on indictment, to imprisonment for twenty-five years.

Recruitment of persons
for terrorist purposes.

12. A person who agrees to recruit or recruits any other person to participate in the commission of a terrorist act, is guilty

of an offence and is liable, on conviction on indictment, to imprisonment for twenty years.

13. A person who knowingly joins a terrorist organisation is guilty of an offence and is liable on conviction on indictment to imprisonment for twenty years.

Joining a terrorist organization.

14. A person who knowingly agrees to provide instruction or training or provides instruction or training in —

Provision of instruction or training to persons committing terrorist acts.

(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, is guilty of an offence and is liable, on conviction on indictment, to imprisonment for twenty-five years.

15. (1) A person who knowingly attends or receives any instruction or training in —

Attending or receiving training to commit a terrorist act.

(a) the making or use of any explosive or other lethal device; or

(b) the practice of military exercises or movements,

whether in person or through electronic or other means, for the purposes of carrying out a terrorist act, is guilty of an offence and is liable, on conviction, on indictment, to imprisonment for twenty years.

(2) A person who knowingly attends or receives any instruction or training from a terrorist or a terrorist organisation, whether in person or through electronic or other means, is guilty

of an offence and is liable, on conviction on indictment, to imprisonment for twenty years.

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

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

Providing facilities in support of terrorist acts.

17. A person who being the —

- (a) agent, charterer, lessee, master, operator or owner in charge of a vessel permits that vessel to be used;
- (b) agent, charterer, lessee, operator, owner or pilot;
- (c) in charge of an aircraft permits that aircraft to be used;
- (d) lessee, occupier, owner or person in charge of any place or premises permits a meeting to be held in that place or building; or
- (e) lessee, owner or person in charge of any equipment or facility that may be used for conferencing, recording of 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, is guilty of an offence and is liable, on conviction on indictment, to imprisonment for twenty years.

Travelling for the purpose of committing a terrorist act.

18. A person who knowingly travels for the purpose of —

- (a) planning a terrorist act;
- (b) committing a terrorist act;

-
- (c) supporting a terrorist act;
 - (d) facilitating the commission of a terrorist act;
 - (e) attending or receiving any instruction or training in —
 - (i) the making or use of any explosive or other lethal device; or
 - (ii) the practice of military exercises or movements,for the purpose of carrying out a terrorist act; or
 - (f) attending or receiving any instruction or training from a terrorist or a terrorist organisation; or
 - (g) joining a terrorist organisation,

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

19. (1) The Minister may for the purposes of this section, by Order, designate a geographical area in a foreign country as a “declared geographical area” if he is satisfied that a listed entity is engaging in terrorist activities in that geographical area of the foreign country.

Minister to designate geographical areas.

(2) Notwithstanding subsection (1), the Minister shall not designate an entire country as a declared geographical area.

(3) Where the Minister is satisfied that a declared geographical area no longer meets the criteria for declaration, he shall revoke the Order made under subsection (1).

(4) A Dominica citizen or a person resident in Dominica

who travels to, enters or remains in a declared geographical area shall be presumed to have travelled for a purpose specified in section 18(1).

(5) The presumption under subsection (4) does not apply to a person who has given notice with reasons under section 20 unless the reasons given are false in any material particular.

(6) Where a Dominica citizen or a resident of Dominica is within a declared geographical area before an Order is made under subsection (1), he shall, unless he has reasonable excuse, leave the declared geographical area within thirty days of the designation, failing which he is presumed to have committed an offence under section 18.

Notice of travel to
declared geographical
area.

20. (1) A person who wishes to travel to a declared geographical area shall prior to travel give notice to the Commissioner of Police, in the form approved by the Commissioner of Police.

(2) A notice under subsection (1) shall be accompanied by reasons for such travel to the declared geographical area.

(3) A person who travels to a declared geographical area without giving prior notice under subsection (1) shall immediately upon his return to Dominica, provide the Commissioner of Police with —

(a) reasons for his travel to the declared geographical area;

(b) reasons as to why he was unable to give prior notice; and

(c) documentary evidence substantiating the reasons given under paragraph (b).

(4) The Commissioner of Police shall notify the Minister,

the Attorney General and the Chief Immigration Officer in writing of all notices received under this section.

(5) A person who upon giving notice under this section provides reasons which are false in any material particular is guilty of an offence and is liable on summary conviction to a fine of fifty thousand dollars and imprisonment for two years.

PART III CONVENTION OFFENCES

21. A threat to commit any offence under this Part is an offence and a person who commits such offence is liable to the same penalty as provided for the offence.

Threats to commit offences under this Part.

22. The taking of preparatory steps including but not limited to acquiring material or participating in the planning of an offence under this Part is an offence and a person who commits such offence is liable to the same penalty as provided for the offence.

Taking of Preparatory steps to commit an offence.

23. A person who, in respect of a ship registered in Dominica or within the archipelagic or territorial waters of Dominica unlawfully and intentionally—

Endangering the safety of maritime navigation.

- (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 the 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,

is guilty of 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.

24. (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 State or government means of transport, 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,

is guilty of 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.

25. (1) A person who kidnaps an internationally protected person is guilty of an offence and is liable, on conviction on indictment, to imprisonment for life.

Protection of internationally protected persons.

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

- (a) where the attack causes death, sentenced in accordance with the 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,

is guilty of an offence and is liable, on conviction on indictment, 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 on 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 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) is guilty of an offence and is liable, on conviction on indictment, to imprisonment for ten years.

(8) A person who—

- (a) willfully 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 Dominica; or
- (b) refuses to depart from such building or premises after a request by an employee of a foreign government or an international organisation, if the employee is authorised to make the request,

is guilty of 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.

Offences relating to fixed platforms.

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

- (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 Dominica, 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,

is guilty of 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.

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

Offences with regard to nuclear matter or facilities.

(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 organisation or a State to do or refrain from doing an act,

is guilty of 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,

is guilty of an offence.

(3) A person who is guilty 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.

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

28. (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,

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 who is 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.

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

Use of chemical, biological or nuclear weapons.

(a) against a citizen of Dominica or a person ordinarily resident in Dominica while either such person is outside Dominica;

(b) against any person within Dominica; or

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

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

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

PART IV FINANCING OF TERRORISM

Interpretation.

30. In this Part —

“Committee” means the ISIL (Da’esh) & Al-Qaida Sanctions Committee established by the United Nations Security Council pursuant to resolutions 1267 (1999) , 1989 (2011) and 2253 (2015) concerning ISIL (Da’esh) Al-Qaida and associated individuals, groups, undertakings and entities; and

“designated entities” means individuals or entities and their associates designated as terrorist entities by the Security Council of the United Nations;

“ISIL (Da’esh) and Al-Qaida Sanctions List” means the ISIL (Da’esh) and Al-Qaida Sanctions List prepared by the ISIL (Da’esh) & Al-Qaida Sanctions Committee.

Offence of financing of terrorism.

31. (1) Any person who by any means, directly or indirectly, willfully provides or collects funds, or attempts to do so, with the intention or in the knowledge that such funds are to be used in whole or in part —

- (a) in order to carry out a terrorist act;
- (b) by a terrorist;
- (c) by a terrorist organisation;
- (d) in order to facilitate travel by an individual to a foreign State for the purpose of —
 - (i) carrying out a terrorist act; or
 - (ii) participating in, or provide instruction or training to carry out a terrorist act;
- (e) by a listed entity;
- (f) by an entity owned or controlled, directly or indirectly by a listed entity;
- (g) by a person or entity acting on behalf of, or at the direction of, a designated person or listed entity; or
- (h) to facilitate the travel or activities of a foreign terrorist fighter,

is guilty of the offence of financing of terrorism.

(2) A person is guilty of an offence under subsection (1) irrespective of whether —

- (a) the funds are actually used to commit or attempt to commit a terrorist act;
- (b) the funds are linked to a terrorist act; or
- (c) the person alleged to have committed the offence

is in the same country or a different country from the one in which the terrorist or terrorist organisation is located or the terrorist act occurred or will occur.

(3) A person who contravenes this section is guilty of an offence and is liable on conviction on indictment to a fine of twelve million five hundred thousand dollars and to imprisonment for twenty-five years.

(4) A director or person in charge of a legal entity who is guilty of an offence under this section is liable on conviction on indictment to a fine of twelve million, five hundred thousand dollars and to imprisonment for twenty-five years.

(5) Where a body corporate or its director, manager, secretary or other similar officer concerned with the management of a body corporate has been convicted of an offence under this section, the Court shall have the power to —

- (a) revoke business licences;
- (b) order that the body corporate be wound up;
- (c) forfeit the assets and properties of the body corporate to the Asset Forfeiture Fund; and
- (d) prohibit the body corporate from performing any further activities.

(6) The taking of preparatory steps including but not limited to acquiring material or participating in the planning of an offence under this section is an offence and a person who is guilty of an offence under this section is liable to the same penalty as provided for the offence.

Special provisions for designated entities.

32. (1) For the purposes of section 34, the FIU is responsible for —

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- (a) maintaining a list of designated entities;
 - (b) maintaining contact with the United Nations at frequent intervals to ensure that the list of designated entities remains current;
 - (c) circulating the list referred to in paragraph (a) or (b) immediately, to financial institutions and scheduled businesses requesting information on whether these designated entities have funds in Dominica;
 - (d) furnishing the Attorney General with information required to facilitate an application under section 34 and section 60 spontaneously or on request; and
 - (e) maintaining a consolidated list of all orders issued by the Court under section 34(3) and circulating the same by facsimile transmission or other electronic means to all financial institutions and listed businesses immediately at intervals of three months.

(2) Notwithstanding its obligation to circulate the consolidated list under subsection (1)(c), the FIU shall, when new information has been obtained before the expiration of three months, circulate any additions to that list or a new list immediately by facsimile transmission.

33. As soon as a financial institution or scheduled business receives the list of designated entities or the consolidated list referred to in section 32(2)(c) or (e), the following procedures shall apply:

Certain procedures apply.

- (a) the financial institution shall immediately inform the FIU in the prescribed form and manner, if any person or entity named on either list has funds with the financial institution or scheduled business;

- (b) if the financial institution or scheduled business has reasonable grounds to believe that a person or entity named on either list has funds in Dominica, it shall immediately inform the FIU on the prescribed form; and
- (c) if a person or entity named on that list attempts to enter into a transaction or continue a business relationship, the financial institution or scheduled business shall submit a suspicious activity report to the FIU immediately and shall not enter into or continue a business transaction or business relationship with such person or entity.

Listing of terrorist entities.

34. (1) Where the Attorney General receives information that —

(a) an individual or entity —

(i) committed or participated in the commission of a terrorist act; or

(ii) is acting on behalf of, at the direction of, or in association with a designated entity or an individual or entity that has knowingly committed or participated in the commission of a terrorist act; or

(iii) committed an indictable offence for the benefit of —

(A) a terrorist;

(B) a terrorist organisation; or

(C) a listed entity; or

- (b) an entity is owned or controlled directly or indirectly by a listed entity,

he shall cause an investigation to be carried out in respect of that allegation and may for that purpose refer the matter to the Commissioner of Police who shall cause an investigation to be carried out in respect of the individual or entity.

(2) Where the Commissioner of Police receives a referral from the Attorney General under subsection (1), he shall as soon as the results of the investigation are known, provide the Attorney General with the results of the investigation.

(3) The Attorney General shall apply to a judge for an order under subsection (5) in respect of —

- (a) an entity, where the entity is a designated entity; or
- (b) an entity or individual where there are reasonable grounds to believe that the entity or individual —
 - (i) has knowingly committed or participated in, or facilitated the commission of a terrorist act; or
 - (ii) is knowingly acting on behalf of, or at the direction of, or in association with, an entity referred to in paragraph (a) or subparagraph (i);
 - (iii) has knowingly committed an indictable offence for the benefit of or in association with—
 - (A) a terrorist;
 - (B) a terrorist organisation; or

(C) a listed entity; or

(c) in respect of an entity owned or controlled directly or indirectly by a listed entity.

(4) An application under subsection (3) shall be —

(a) *ex parte*; and

(b) accompanied by an affidavit deposing to the matters referred to in subsection (3).

(5) Upon an application under subsection (3) the judge shall, by order —

(a) declare an individual or a designated or legal entity to be a listed entity for the purposes of this Act if the judge is satisfied as to the matters referred to in subsection (3); and

(b) freeze the property —

(i) that is owned or controlled by the listed entity;

(ii) that is wholly or jointly owned or controlled, directly or indirectly, by the listed entity;

(iii) derived or generated from funds or other assets owned or controlled directly or indirectly by the listed entity;

(iv) of persons or entities acting on behalf of, or at the direction of, the listed entity; or

(v) of any entity that is owned or controlled, directly or indirectly by the listed entity.

(6) A person likely to be affected by an order made under subsection (5) may at any time after the publication of the order under subsection (13), apply to a judge for a review of the order.

(7) Where an application for review is made under subsection (6), the Attorney General shall be served with a copy of the application and given the opportunity to make representations to the Court in respect of any proceedings for the review of an order made under subsection (5).

(8) Subject to section 56, an order under subsection (5) may —

(a) be made subject to any other condition that the Court considers reasonable;

(b) prohibit the listed entity from possessing or controlling cash in excess of an amount to be prescribed by the judge; and

(c) indicate into which account held in a financial institution any excess cash shall be placed.

(9) Notwithstanding section 34(5), where a listed entity is in possession of cash in excess of an amount prescribed in an order made under section 34(5), the listed entity shall pay the excess amount into a bank account owned by him in Dominica as specified by the Court.

(10) Section 33(c) does not apply to a listed entity where he conducts a transaction in accordance with subsection (9).

(11) Where an order is made under subsection (5), the Court —

(a) may serve the order on the listed entity, the financial institution or scheduled business; and

(b) shall serve the order on the FIU immediately, in accordance with the Eastern Caribbean Supreme Court Civil Procedure Rules, 2000.

(12) Where an order is served on a financial institution or scheduled business under subsection (9), action shall immediately be taken to restrict the availability of the funds, subject to the order, in accordance with the terms of the order.

(13) Where an order is made under subsection (5), (17)(d) or (21), the Attorney General shall, within seven days after the date of the order, cause to be published in the Gazette and in two daily newspapers of general circulation in Dominica —

(a) a copy of the order; and

(b) in the case of an order under subsection (5), a statement that the matter will be reviewed every six months.

(14) Where the Attorney General reasonably believes that a listed entity who is the subject of an order under this section, has funds in another jurisdiction, he may apply to the relevant authorities in the jurisdiction for the enforcement of an order made under this section.

(15) The Attorney General may, where he considers it necessary, make a request to another country to initiate proceedings for the entity or individual to be a listed entity in that country.

(16) Within sixty days after the date of publication of an order under subsection (13), the individual or entity in respect of which the order is made may apply to a judge for a review of the order and shall notify the Attorney General of the application.

(17) Upon an application made under subsection (16), the judge shall —

- (a) hear any evidence or other information that may be presented by the Attorney General and may, at the request of the Attorney General, hear all or part of that evidence or information in the absence of the applicant or any counsel representing the applicant, if the judge is of the opinion that the disclosure of the information would be prejudicial to national security or endanger the safety of any person;
- (b) provide the applicant with a statement summarising the information available to the judge, so as to enable the applicant to be reasonably informed of the reasons for the making of the order, without disclosing any information the disclosure of which would, in the opinion of the judge, be prejudicial to national security or endanger the safety of any person;
- (c) provide the applicant with a reasonable opportunity to be heard; and
- (d) determine whether or not the order should be revoked on the basis of the information available to the judge and, if he determines that the order should be revoked, make an order for the revocation of the order.

(18) For the purposes of an application or review under this section, the judge may receive in evidence anything that, in the opinion of the judge, is reliable and relevant.

(19) The Attorney General shall , every six months —

- (a) review all orders made under subsection (5) so as to determine whether the circumstances referred to in subsection (1) continue to exist in respect of the listed entity; and

(b) if he determines that such circumstances no longer exist, apply to a judge for the revocation of the order in respect of the listed entity.

(20) Nothing in this section shall preclude the Attorney General at any time from —

(a) conducting a review of the circumstances relative to an order made under subsection (5) to determine whether the circumstances referred to in subsection (1) continue to exist in respect of the listed entity; or

(b) applying to a judge for the variation or revocation of the order in respect of the listed entity if he determines that such circumstances no longer exist.

(21) Upon an application under subsection (19), the judge shall, if satisfied as to the matters referred to in that subsection, make an order for the revocation, which order shall be —

(a) published in the *Gazette* and in two daily newspapers of general circulation in Dominica; and

(b) served on the FIU.

(22) Where an order has been made under subsection (21) the FIU shall remove the individual or entity from the list referred to in section 32(2)(e) and immediately circulate the list by facsimile transmission or other electronic means to all financial institutions and scheduled businesses.

(23) For the purposes of this section, “control” means the power of a person to —

(a) exercise more than fifty per cent of the voting rights at any general meeting of an entity;

- (b) elect a majority of the directors of an entity; or
- (c) exercise direct or indirect influence that, if exercised, would result in control in fact of the entity.

35. Where an order under section 34(3), in respect of a listed entity which is not a designated entity, is being made the Court may in the order —

Considerations for listed entities.

- (a) make provision for meeting out of the property or specified part of the property, reasonable living expenses, including but not limited to —
 - (i) mortgage or rent payments;
 - (ii) allowances for food, medicine and medical treatment;
 - (iii) any payments due as a result of an order of the Court;
 - (iv) provision for the reasonable living expenses of dependents including educational expenses; and
 - (v) provision for taxes, insurance premiums and public utilities;
- (b) make provision for reasonable legal expenses, including expenses incurred in defending a criminal charge or any proceedings connected thereto and any proceedings under this Act;
- (c) make provision for expenses necessary to enable a person to carry on any trade, business, profession or occupation;
- (d) make provision for fees or service charges for routine

holding or maintenance of frozen funds or other financial assets or economic resources; and

- (e) make the listed entity subject to any other condition that the Court considers reasonable.

Considerations for designated entities.

36. (1) Where an order under section 34 has been made in respect of a designated entity, the Attorney General shall not apply to the Court for a variation of the Order in accordance with section 33 (20) to make provision for meeting out of the property or specified part of the property-

- (a) any consideration under section 35 (a)(i), (ii) and (v), (b), (c) or (d) unless he has first notified the Committee of his intention to apply to the Court for such an Order and the Committee has not indicated its objection to such an application to the Court within forty-eight hours of said notice; or
- (b) any other consideration unless he has first obtained the consent of the Committee for such an application to the Court.

(2) For the avoidance of doubt, where after an Order has been made under section 34(3) the Committee has raised no objection in accordance with subsection (1)(a) or has granted its consent under subsection (1)(b), the Attorney General may apply to the Court in accordance with section 34(20) for a variation of the Order to provide for matters under subsection (1).

Power to search to determine compliance.

37. (1) A police officer may for the purpose of determining whether a listed entity against whom an order under section 34(3) is made, is complying with measures specified in the order, apply to a magistrate for a warrant.

(2) A warrant issued under subsection (1), in respect of a listed entity, may authorize a police officer to —

-
- (a) search an individual who is a listed entity;
 - (b) enter and search —
 - (i) the place of residence of an individual who is a listed entity; or
 - (ii) any other premises that are specified in the warrant; or
 - (c) seize any document, computer or electronic device.

38. (1) Where the Attorney General receives information that a person or entity may meet the criteria for being placed on the ISIL (Da'esh) and Al-Qaida Sanctions List for the time being in force, he shall cause an investigation to be carried out and may for that purpose refer the matter to the Commissioner of Police who shall cause an investigation to be carried out in respect of the person or entity.

Attorney General to propose names to the UNSC.

(2) Where the Commissioner of Police receives a referral from the Attorney General under subsection (1), he shall as soon as the results of the investigation are known, provide the Attorney General with the results of the investigation.

(3) Where, on the basis of the investigation under subsection (1), the Attorney General is satisfied that there are reasonable grounds to believe that the entity or individual meets the criteria for being placed on the ISIL (Da'esh) and Al-Qaida Sanctions List for the time being in force, he may make a request to the Committee for the individual or entity to be placed on the list.

(4) Notwithstanding subsection (2), the Attorney General shall not make a request to the Committee for an individual or entity to be placed on the ISIL (Da'esh) and Al-Qaida Sanctions List unless that individual or entity has been listed in accordance with section 34(5)(a).

(5) Where an individual or entity has been placed on the ISIL (Da'esh) and Al-Qaida Sanctions List on the basis of a request by the Attorney General, and he is satisfied that an entity listed pursuant to section 38(3) no longer meets the criteria for listing, he may petition the Committee for removal of the individual or entity from the list.

(6) Where an entity or individual has been placed on the ISIL (Da'esh) and Al-Qaida Sanctions List, the Attorney General shall, as far as practicable, inform the entity or individual of the availability of the UN office of the Ombudsperson for the purposes of petitioning the removal from the ISIL (Da'esh) and Al-Qaida Sanctions List.

(7) For the purposes of this section —

“the Committee” means the ISIL (Da'esh) & Al-Qaida Sanctions Committee established by the United Nations Security Council pursuant to resolutions 1267 (1999), 1989 (2011) and 2253 (2015) concerning ISIL (Da'esh) Al-Qaida and associated individuals, groups, undertakings and entities; and

“ISIL (Da'esh) and Al-Qaida Sanctions List” means the ISIL (Da'esh) and Al-Qaida Sanctions List prepared by the ISIL (Da'esh) & Al-Qaida Sanctions Committee.

Attorney General to receive requests for declaration of a listed entity.

39. (1) The Attorney General shall receive all requests on behalf of another country for the declaration of an individual or entity as a listed entity.

(2) Where a request is made on behalf of a country for the declaration of an individual or entity as a listed entity, a record of the case shall be furnished, which shall include —

(a) a document summarising the evidence available to that country for use in the designation of the individual or entity, including—

-
- (i) sufficient identifying information to allow for the accurate and positive identification of the individual or entity; and
 - (ii) evidence that the individual or entity meets the relevant criteria for designation as set out in section 34; and
- (b) particulars of the facts upon which the request is being made.

(3) The Attorney General shall, on receipt of a request made for the purposes of this section on behalf of any country, cause an investigation to be carried out in respect of that allegation and may for that purpose refer the matter to the Commissioner of Police who shall cause an investigation to be carried out in respect of the request.

(4) Where, on the basis of an investigation under subsection (3), the Attorney General is satisfied that the individual or entity referred to under subsection (1) meets the criteria under section 34(1)(b) or (c), he shall make an application to a judge for an order under section 34(5)(a).

40. (1) Where a financial institution or scheduled business knows or has reasonable grounds to suspect that funds within the financial institution or scheduled business belong to an individual or legal entity who —

Reporting requirements.

- (a) commits terrorist acts or participates in or facilitates the commission of terrorist acts or the financing of terrorism; or
- (b) is a designated entity,

the financial institution or scheduled business shall report the existence of such funds to the FIU.

(2) Every financial institution or scheduled business shall —

(a) pay special attention to and report all —

(i) business transactions between individuals, corporate persons and financial institutions in or from other countries which do not comply with, or who comply insufficiently with the recommendations of the Financial Action Task Force; and

(ii) complex, unusual, or large transactions, whether completed or not, unusual patterns of transactions and significant but periodic transactions which have no apparent economic or visible lawful purpose, to the FIU;

(b) examine the background and purpose of all transactions which have no economic or visible legal purpose under paragraph (a)(i) and make available to the FIU, written findings after its examinations, where necessary;

(c) keep and retain records relating to financial activities for seven years or any other period that may be prescribed;

(d) develop and implement a written compliance programme, reasonably designed to ensure compliance with this Act; and

(e) monitor compliance with the Regulations made under section 65(2).

(3) Where a financial institution or scheduled business knows or has reasonable grounds to suspect that funds are linked or related to, or to be used for terrorism, terrorist acts or by

terrorist organisations or those who finance terrorism, the financial institution or scheduled business shall make a suspicious transaction, or a suspicious activity report to the FIU in the prescribed forms and manner.

(4) Subject to section 41, where a financial institution or scheduled business makes a suspicious transaction or suspicious activity report to the FIU under this section, the Director or staff of the FIU or of such financial institution or scheduled business shall not disclose the fact or content of such report to any person.

(5) A person who contravenes subsection (4) is guilty of an offence and is liable on summary conviction to a fine of one million, five hundred thousand dollars and to imprisonment for five years.

(6) A report to which subsection (3) refers shall be made within fourteen days of the date on which the financial institution or scheduled business knew or had reasonable grounds to suspect that the funds were linked or related to, or were to be used for terrorism, terrorist acts or by terrorist organisations or those who finance terrorism.

(7) When the report referred to in this section is made in good faith, the financial institution or scheduled business and their employees, staff, directors, owners or other representatives as authorized by law, are exempt from criminal, civil or administrative liability, as the case may be, for complying with this section or for breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision, regardless of the result of the communication.

41. Where the FIU receives information from a financial institution or scheduled business and it considers that an investigation may disclose that funds in the possession of any individual or legal entity are being used, have been used or are intended for use in the financing of terrorism, it shall forward such information to the Commissioner of Police for further investigation.

Identification of offence
of financing of terrorism.

FIU may suspend certain transactions.

42. (1) The FIU may instruct a financial institution or scheduled business in writing, to suspend the processing of a transaction for a period not exceeding five working days, pending the completion of an evaluation and analysis of a suspicious transaction or suspicious activity report.

(2) Where instructions are given under subsection (1), a financial institution, listed business or any other aggrieved person, may apply to a judge to discharge the instructions of the FIU and shall serve notice on the FIU, to join in the proceedings, save however, that the instructions shall remain in force until the judge determines otherwise.

(3) After the FIU has concluded its evaluation and analysis of a suspicious transaction or suspicious activity report, and where the Director of the FIU is of the view that the circumstances warrant investigation, the FIU shall submit a report to the Commissioner of Police for investigation to determine whether an offence of financing of terrorism has been committed and whether the funds are located in Dominica or elsewhere.

PART V INVESTIGATION OF OFFENCES

Detention Orders.

43. (1) Subject to subsection (2), a police officer may, 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 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.

(6) The police shall keep an accurate and continuous record in accordance with the Second Schedule, in respect of a detainee for the whole period of his detention.

Second Schedule.

44. (1) Subject to subsection (2), a police officer may, for the purpose of an investigation of an offence under this Act, apply ex parte to a judge for an order for the gathering of information from named persons.

Power to gather information.

(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;
 - (iii) 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 thing document, computer or electronic device in his control or possession for the purpose of the examination.

(5) An order made under subsection (3) may be executed anywhere in Dominica.

(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 any thing, document, computer or electronic device 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 any thing, document, computer or electronic device 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 thing, document, computer or electronic device.

(9) A person shall not be excused from answering a question or producing a, thing, document, computer or electronic device on the ground that the answer, thing, document,

computer or electronic device may incriminate him or subject him to any penalty or proceedings.

(10) Notwithstanding subsection (9) any —

(a) answer given by;

(b) thing, document, computer or electronic device produced by;

(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 an attorney-at-law at any stage of the proceedings under this section and the attorney-at-law 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, computer or electronic device 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, computer or electronic device be given into the custody of the police officer.

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

Authority for search.

45. (1) A police officer may, for the purposes of an investigation into the offence of financing of terrorism apply to a judge for a warrant under this section.

(2) On such application the judge may issue a warrant authorising a police officer to enter and search the premises if the judge is satisfied in relation to the offence of financing of terrorism —

- (a) that there are reasonable grounds for suspecting that an individual or legal entity is linked to the commission of that offence;
 - (b) that there are reasonable grounds for suspecting that there are on the premises material relating to the commission of that offence; and
 - (c) that it would be appropriate to make an order in relation to the material because —
 - (i) it is not practicable to communicate with any person entitled to produce the material;
 - (ii) it is not practicable to communicate with any person entitled to grant access to the material or entitled to grant entry to the premises on which the material is situated; or
 - (iii) the investigation for the purposes of which the application is made might be seriously prejudiced unless a police officer could secure immediate access to the material.
- (3) Where a police officer has entered the premises in the execution of a warrant issued under this section, he may seize and retain any material, other than items subject to legal privilege, which is likely to be of substantial value, whether by itself or together with other material, to the investigation for the purposes of which the warrant was issued.
- (4) The person to whom a search warrant is issued shall furnish a report in writing, within ten days after the execution of the warrant or the expiry of the warrant, whichever occurs first, to the judge who issued the warrant —
- (a) stating whether or not the warrant was executed;

(b) if the warrant was executed, setting out a detailed description of anything seized; or

(c) if the warrant was not executed, setting out briefly the reasons why the warrant was not executed.

Customer Information
Order.

46. (1) A judge may on application made by a police officer and if the conditions set out in subsection (2) are met, make an order that a financial institution or scheduled business provide to an authorised officer any such customer information relating to the person or account specified in the application.

(2) An application under subsection (1) shall state that—

(a) there is an investigation of financing of terrorism or other offence under this Act and the order is sought for purposes of a criminal investigation of that offence; and

(b) the judge is satisfied that there are reasonable grounds for believing that the financial institution or scheduled business may have information that is relevant in the investigation.

(3) Customer information is information as to whether a person holds, or has held an account or accounts at the financial institution or scheduled business whether solely or jointly, and information identifying a person who holds an account, and includes all information as to—

(a) the account number or numbers;

(b) the person's full name;

(c) his date of birth;

- (d)* his most recent address and any previous addresses;
 - (e)* the date or dates on which he began to hold the account or accounts and, if he has ceased to hold the account or any of the accounts, the date or dates on which he did so;
 - (f)* such evidence of his identity as was obtained by the financial institution;
 - (g)* the full name, date of birth and most recent address, and any previous addresses, of any person who holds, or has held, an account at the financial institution jointly with him;
 - (h)* the account number or numbers of any other account or accounts held at the financial institution to which he is a signatory and details of the person holding the other account or accounts; and
 - (i)* any other information which the Court specifies in the customer information order.
- (4) Where the customer is a legal entity, the customer information shall include—
- (a)* a description of any business which it carries on;
 - (b)* the country or territory in which it is incorporated or otherwise established and any number allocated to it;
 - (c)* its registered office, and any previous registered offices;
 - (d)* the full name, date of birth and most recent address and any previous addresses of any person who is a signatory to the account or any of the accounts; and

(e) any other information which the Court specifies in the customer information order.

(5) A financial institution or scheduled business shall provide the information to the authorised officer in such manner, and at or by such time, as is specified in the order.

(6) An authorised officer for purposes of this section is the FIU.

(7) An obligation to maintain the confidentiality of information held by a financial institution or scheduled business, whether imposed by a law or contract, does not excuse compliance with an order made under this section.

(8) Where a financial institution or scheduled business subject to an order under this section, knowingly —

(a) fails to comply with the order; or

(b) provides false or misleading information in purported compliance with the order,

the financial institution or scheduled business is guilty of an offence and is liable on conviction on indictment to a fine of five hundred thousand dollars.

(9) A financial institution or scheduled business that has been served with an order under this section shall not disclose the existence or operation of the order to any person except —

(a) an officer or agent of the institution for the purpose of complying with the order; or

(b) an authorised officer referred to in the order.

(10) Where a financial institution or scheduled business

contravenes subsection (9), it is guilty of an offence and is liable on conviction on indictment to a fine of two million, five hundred thousand dollars.

47. (1) A police officer may apply, *ex parte* to a judge for a monitoring order directing a financial institution, schedule business or non-profit organisation to provide certain information. Monitoring Order.

(2) An application under subsection (1) shall be supported by an affidavit deposing to matters referred to in subsection (4).

(3) A monitoring order shall —

(a) direct a financial institution, scheduled business or non-profit organisation to disclose information it obtained relating to transactions conducted through an account held by a particular person with the financial institution, scheduled business or non-profit organisation;

(b) not have retrospective effect; and

(c) only apply for a period not exceeding three months from the date it is made.

(4) A judge shall issue a monitoring order only if he is satisfied that there are reasonable grounds for believing that —

(a) the person in respect of whose account the order is sought —

(i) has committed or was involved in the commission, or is about to commit or be involved in the commission of, an offence; and

(ii) has benefited directly or indirectly, or is about

to benefit directly or indirectly, from the commission of an offence; or

(b) the account is relevant to identifying, locating or quantifying terrorist property.

(5) A monitoring order shall specify —

(a) the name or names in which the account is believed to be held; and

(b) the class of information that the financial institution, scheduled business or non-profit organisation is required to give.

(6) Where a financial institution, scheduled business or non-profit organisation subject to an Order under this section, knowingly —

(a) fails to comply with the order; or

(b) provides false or misleading information in purported compliance with the order,

the financial institution, scheduled business or non-profit organisation is guilty of an offence and is liable on conviction on indictment to a fine of five hundred thousand dollars.

(7) A financial institution, scheduled business or non-profit organisation that is or has been subject to a monitoring order shall not knowingly disclose the existence or operation of the order to any person except —

(a) an officer or agent of the financial institution, scheduled business or non-profit organisation, for the purpose of ensuring compliance with the order;

(b) a legal adviser for the purpose of obtaining legal advice or representation in respect of the order; or

(c) the authorised officer referred to in the order.

(8) Where a financial institution, scheduled business or non-profit organisation contravenes subsection (7), it is guilty of an offence and is liable on conviction on indictment to a fine of two million, five hundred thousand dollars.

(9) Nothing in this section prevents the disclosure of information concerning a monitoring order for the purposes of or in connection with legal proceedings or in the course of proceedings before a Court.

(10) Nothing in this section shall be construed as requiring a legal adviser to disclose to any Court the existence or operation of a monitoring order.

PART VI JURISDICTION AND TRIAL OF OFFENCES

48. (1) The Courts of Dominica shall have jurisdiction in respect of any offence referred to in this Act if —

Jurisdiction of Dominica
Courts.

(a) the alleged perpetrator of the offence is arrested in Dominica, or on board a ship registered in Dominica or an aircraft registered in Dominica; and

(b) the offence was committed —

(i) in Dominica, or committed elsewhere, if the act is punishable in terms of the domestic laws of Dominica, including this Act or in terms of the obligations of Dominica under international law;

(ii) on board a vessel or a ship or fixed platform registered in Dominica or an aircraft which is registered under the laws of Dominica at the time the offence is committed;

(iii) outside of Dominica, and the person who has committed the act is, after the commission of the act, present in Dominica; or

(c) the evidence reveals any other basis recognised by law.

(2) An act or omission committed outside Dominica which would, if committed in Dominica, constitute an offence under this Act shall be deemed to have been committed in Dominica if the person committing the act or omission is present in Dominica 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 Dominica 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 and may refer the matter to the Commissioner of Police who shall 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) Where the Commissioner of Police receives a referral from the Attorney General under subsection (3), he shall as soon as the results of the investigation are known, provide the Attorney General with the results of the investigation.

(5) 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.

(6) The Attorney General and the Director of Public Prosecutions shall consult in relation to the exercise of powers under subsection (5) 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.

(7) 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.

(8) 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.

(9) 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.

Extradition from
Dominica.
Chap. 12:04.

49. The proceedings referred to in the Extradition Act, shall apply with the necessary changes in respect of any surrender referred to in section 48.

Evidence by a certificate.

50. 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, a hazardous, radioactive or a harmful substance, a toxic chemical or microbial or other 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 VII
INFORMATION SHARING, EXTRADITION
AND MUTUAL
ASSISTANCE IN CRIMINAL MATTERS

Exchange of information
relating to terrorist acts.

51. 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.

52. (1) Where Dominica becomes a party to a treaty and there is in force, an extradition arrangement between the Government of Dominica and another State which is a party to that treaty, the extradition arrangement is deemed, for the purpose of the Extradition Act, to include provision for extradition in respect of offences falling within the scope of that treaty.

Treaty to be used as basis for extradition.

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

53. (1) Where Dominica becomes a party to a treaty and there is in force, an arrangement between the Government of Dominica and another State which is a party to that treaty, for

Treaty to be used as basis for Mutual Assistance in Criminal Matters.

mutual assistance in criminal matters, the arrangement is 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.

(2) Where Dominica becomes a party to a treaty and there is no arrangement between the Government of Dominica 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 the House, treat the treaty as an arrangement between the Government of Dominica 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.

54. 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, is, for the purposes of extradition or of mutual assistance, 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 VIII DISCLOSURE AND SHARING INFORMATION

Duty to disclose information relating to offences and terrorist acts.

55. (1) Every person or regulatory authority 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 or the

Central Authority as defined under the Mutual Assistance in Criminal Matters Act.

(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 under subsection (1).

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

(5) For the purposes of this section, “regulatory authority” means the Eastern Caribbean Central Bank, the Eastern Caribbean Securities Exchange Commission, the Financial Intelligence Unit, the Dominica Stock Exchange, the Financial Services Unit.

56. (1) Every person shall forthwith disclose to the FIU —

- (a) the existence of any property in his possession or control, which to his knowledge is terrorist property or property to which an order made under section 34 applies, or which there are reasonable grounds to believe is terrorist property or property to which an order made under section 34 applies;
- (b) any information regarding a transaction or proposed transaction in respect of terrorist property or property to which an order made under section 34 applies; or
- (c) any information regarding a transaction or proposed transaction which there are reasonable

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

grounds to believe may involve terrorist property or property to which an order made under section 34 applies.

(2) The FIU 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 FIU —

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

(5) Every person who fails to comply with subsection (1) or (3) is guilty of an offence and shall, on conviction on indictment, be liable to imprisonment for five years.

PART IX SEIZURE AND FORFEITURE OF TERRORIST PROPERTY

Application for restraint
Order.

57. (1) This section applies to property that is being —

(a) brought to any place in Dominica for the purpose of being exported from;

(b) exported from; or

(c) imported into,

Dominica.

(2) Where a customs officer, immigration officer, or police officer reasonably believes that property in the possession of a person is —

(a) property intended to be used for the purpose of a terrorist act or for financing terrorism;

(b) terrorist property;

(c) property of a person or entities designated by the United Nations Security Council; or

(d) property of an individual or entity who participates in the commission of a terrorist act,

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

(3) Where information is forwarded to the Commissioner of Police under section 41, and he has reasonable grounds to believe that funds should be restrained, the Commissioner of Police or a police officer authorized by him may apply to the Court for an order to restrain such funds.

(4) Subject to subsection (6), a restraint order made under subsections (2) and (3), is valid for a period of sixty days, and may, on application, be renewed by a judge, 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.

(5) A restraint order made under subsections (2) and (3)

may make such provision as the Court thinks fit for living expenses and legal expenses of an individual or legal entity, as the case may be.

(6) A judge may release any property referred to in a restraint order made under subsections (1) and (3) 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) no 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.

(7) No civil or criminal proceedings shall lie against an officer for a seizure of property, made in good faith, under subsections (2) and (3).

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

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

58. (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 —

(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.

(4) The proceeds of the sale of any property forfeited to the State under subsection (1) shall be paid into the Asset Forfeiture Fund.

59. (1) Where on an *ex parte* application made by the Director of Public Prosecutions to a judge, 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 60, the judge may issue —

Orders for seizure and restraint of property.

(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 59; 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) The Director of Public Prosecutions shall inform the Attorney General of any application, warrant or order made under this section.

(3) 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).

(4) The power to manage or otherwise deal with property under subsection (3) 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.

(5) Before a person appointed under subsection (3) destroys any property referred to in subsection 3, he shall apply to a judge for a destruction order.

(6) 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.

(7) A judge may order that any property in respect of

which an application is made under subsection (5), be destroyed if he is satisfied that the property has little or no financial or other value.

(8) A management order under subsection (3) 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.

(9) The Director of Public Prosecutions may at any time apply to a judge to cancel or vary a warrant or order issued under this section.

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

Orders for forfeiture of 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 59 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) This section does not affect the operation of any other provision of this Act respecting forfeiture.

Sharing of forfeited property.

61. (1) Notwithstanding sections 58(4) and 60(7), Dominica may, pursuant to any agreement with any other State, share with

that State on a reciprocal basis the property derived from forfeiture under this Act.

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

62. (1) Any customs officer or police officer may seize and detain part of or the whole amount of any cash where there are reasonable grounds for suspecting that it is —

Seizure and detention of cash.

(a) intended for use in the commission of an offence under this Act; or

(b) is terrorist property.

(2) Cash detained under subsection (1) shall not be detained for more than ninety-six hours after seizure, unless a judge orders its continued detention for a period not exceeding three months from the date of the initial seizure and the detained cash shall be paid into Court.

(3) A judge may order a detention under subsection (1) upon being satisfied that the continued detention of the cash is justified while —

(a) its origin or derivation is further investigated; or

(b) consideration is given to the institution in Dominica or elsewhere of criminal proceedings against any person for an offence with which the seized item is connected.

(4) A judge may subsequently order continued detention of the cash if satisfied of the matters set forth in subsections (2) and (3), but the total period of detention shall not exceed two years from the date of the order made under those subsections.

(5) Subject to subsection (6), cash detained under this section may be released in whole or in part to the person on whose behalf it was transported by order of a judge, that its continued detention is no longer justified upon application by or on behalf of that person and after considering any views of a police officer.

(6) Cash detained under this section shall not be released where an application for restraint or forfeiture of the cash is pending under this Act or if proceedings have been instituted in Dominica or elsewhere against any person for an offence with which the cash is connected, unless and until the proceedings on the application or the proceedings related to an offence have been concluded.

(7) Where the application relates to cash that is commingled with other cash, all the cash is subject to continued detention under this subsection.

(8) Upon an application by a police officer, a judge shall order forfeiture of any cash which has been seized and detained under this section if satisfied on the balance of probabilities that the cash directly or indirectly represents —

(a) terrorist property; or

(b) proceeds of an offence or intended for use in the commission of an offence.

(9) Before making an order of forfeiture under subsection (8), the Court shall order that notice be provided to any person who has asserted an interest in the cash and provide an opportunity for that person to be heard.

PART X MISCELLANEOUS POWERS

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

Duty to disclose information relating to passengers of aircraft and vessels.

- (a) departing from Dominica; or
- (b) registered in Dominica departing from any place outside Dominica,

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 Dominica, 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.

Power to refuse refugee application.

64. 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.

Offences and penalties.

65. (1) Subject to subsection (2), a financial institution or scheduled business which fails to comply with —

(a) sections 33 or 40(1), (2) or (3) is guilty of an offence and is liable on summary conviction to a fine of three hundred thousand dollars and to imprisonment for two years and on conviction on indictment, to a fine of one million, five hundred thousand dollars and to imprisonment for seven years; or

(b) Regulations made under section 65(2) is liable on summary conviction to a fine of two hundred and fifty thousand dollars and to imprisonment for two years.

(2) Where a company is guilty of an offence under sections 33 and 40(1), (2) and (3), any officer, director or agent of the company —

(a) who directed, authorised, assented to, or acquiesced in the commission of the offence; or

(b) to whom any omission is attributable,

is a party to the offence and is liable on summary conviction or on conviction on indictment, to the penalty prescribed in subsection (1)(a).

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

Power to make
Regulations.

(2) The Minister to whom responsibility for the FIU is assigned may make Regulations, subject to negative resolution of the House prescribing —

- (a) the type of records to be kept by a financial institution or scheduled business and the type of information to be included in these records;
- (b) the procedure to be followed in implementing section 40(2)(d);
- (c) the periods for which and the methods by which the records referred to in paragraph (a) may be retained;
- (d) the measures which a financial institution or scheduled business shall implement to —
 - (i) ascertain the identity of persons with whom they are dealing; and
 - (ii) treat with circumstances in which sufficient identification data is not made available by an applicant or business;
- (e) the measures that may be taken by a Supervisory Authority to secure compliance with this Act or to prevent the commission of an unsafe or unsound practice, including —

-
- (i) administrative sanctions; and
 - (ii) disciplinary actions when possible; and
 - (f) generally, for the purpose of giving effect to Part IV of this Act.

(3) Regulations made under subsection (1) shall be subject to negative resolution of the House.

Repeal.
Act No. 31 of 2003.

67. The Suppression of the Financing of Terrorism Act 2003 is repealed.

FIRST SCHEDULE

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 Hos-

tages, adopted by the General Assembly of the United Nations on 17th December 1979;

- (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;
- (m) The Biological Weapons Convention entered into force on 26 March 1975; and
- (n) The Chemical Weapons Convention (CWC) adopted by the Conference on Disarmament in Geneva on 3 September 1992.

SECOND SCHEDULE**CUSTODY RECORD FOR DETAINED PERSONS**

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 above the rank

of sergeant 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.

OBJECTS AND REASONS

This Bill seeks to criminalise terrorism and the financing of terrorism, provide for the detection, prevention, prosecution, conviction and punishment of terrorist activities. The Bill also provides for the confiscation, forfeiture and seizure of terrorists' assets. Part 1 of the Bill provides for preliminary matters and defines certain terms used in the Bill.

Part 2 provides for offences.

Clause 3 establishes the commission of a terrorist act as an offence.

Clause 4 would make it an offence for any person to directly or indirectly, provide financial or other related services for the purpose of committing or facilitating the commission of a terrorist act, or for the benefit of any person who is committing or facilitating the commission of a terrorist act.

Clause 5 would make it an offence for a person to provide or make available money or other property, with the intention, knowledge or reasonable belief that it would be used to carry out a terrorist act.

Clause 6 would prohibit the use of property, directly or indirectly for the purpose of committing or facilitating the commission of a terrorist act.

Clause 7 would prohibit arrangements that would facilitate the acquisition, retention, or control by or on behalf of another.

Clause 16 would prohibit the incitement or promotion of the commission of a terrorist act or the solicitation of property for the commission of a terrorist act.

Clause 17 would make it an offence to provide a building,

premises, room or place or any facilities for the commission of a terrorist act or for any of the purposes under Clause 16. The penalty for commission of this offence would be imprisonment for twenty-five years.

Part 3 of the Bill seeks to criminalize offences that are prohibited under certain conventions that have been described as counter-terrorism conventions.

Clause 23 would prohibit certain acts that would endanger the safety of maritime navigation in respect of any ship registered in Dominica or within the territorial waters of Dominica.

Clause 24 would make it an offence to deliver, place, discharge or detonate an explosive or other lethal device into a public place, state or government facility, public transport facility or an infrastructure facility with the intent to cause death or serious bodily injury or with the intent to cause extensive damage or destruction of the place or facility which would result in major economic loss.

Clause 25 would prohibit the murdering or kidnapping of an internationally protected person. Several other offences are established in this Clause, which seek to prohibit the destruction or damage to the residence or official premises of an internationally protected person.

Clause 26 seeks to prohibit the commission of offences related to a fixed platform on the continental shelf, exclusive economic zone or any fixed platform on the high seas, which would endanger safety of the platform or injure or kill any person.

Clause 27 seeks to establish offences relating to the use and acquisition of radioactive materials or designs for the purpose of causing death, serious bodily injury or damage to property or the environment.

Clause 28 would prohibit hoaxes involving noxious substances,

noxious thing, lethal device or weapon of mass destruction. The penalty for the commission of an offence under this Clause would be imprisonment for fifteen years.

Clause 29 would proscribe the use of chemical, biological or nuclear weapons against a citizen of Dominica or a person ordinarily resident in Dominica while the person is outside Dominica, against any person within Dominica or against property in Dominica. The penalty for the commission of this offence would be imprisonment for life.

Part 4 of the Bill deals with the financing of terrorism.

Clause 32 seeks to establish the offence of financing of terrorism. This clause would prohibit any person from providing or collecting funds or attempting to do so intending or knowing that the funds are to be used to finance terrorism. The penalty for this offence is a fine of twelve million, five hundred thousand dollars and imprisonment for twenty-five years.

Clause 34 provides for the listing of certain entities as terrorist entities. This clause would empower the Attorney General to make an application to the court for an order that an entity or individual be declared a listed entity.

Clause 40 would require a financial institution or scheduled business to report suspicious activities and transactions.

Part 5 of the Bill deals with the investigation of offences.

Clause 43 would authorize a police officer, with the prior written approval of the Director of Public Prosecutions, to apply ex parte to a Judge of the High Court for a detention order, for the purpose of preventing the commission of an offence under this Act. A detention order would only be valid for forty-eight hours in the first instance and may be extended for a period not exceeding five days.

Clause 44 would empower a police officer, with the prior written approval of the Director of Public Prosecutions to apply ex parte to a Judge of the High Court for an order for the gathering of information.

Part 6 of the Bill deals with jurisdiction and the trial of offences.

Clause 48 delimits the jurisdiction of the courts of Dominica in respect of any of the offences referred to in the Bill. Where the Attorney General receives information that an alleged offender may be present in Dominica, this Clause would mandate the Attorney General to order an investigation to be conducted and to inform any foreign State, which may also have jurisdiction, of the findings, and to indicate any intention to prosecute.

Clause 49 would make the provisions of the Extradition Act, Chapter 12:04 applicable in respect of surrender under Clause 48.

Part 7 deals with information sharing, extradition and mutual assistance in criminal matters.

Clause 51 would allow the Minister after consultation with the Attorney General, to accede to requests from the appropriate authority of a foreign State, for information relating to terrorist groups or terrorist activities. The disclosure, however, should not be prejudicial to national security or public safety.

Clause 52 would enable treaties to which Dominica is party, to be used as the basis for extradition in respect of offences falling within the scope of those treaties.

Clause 53 would enable treaties to which Dominica is party, to be used as the basis for mutual legal assistance in criminal matters in respect of offences falling within the scope of those treaties.

Clause 54 would establish a proviso that offences under this Act would be deemed not be offences of a political character for the

purposes of the Extradition Act and Mutual Assistance in Criminal Matters Act.

Part 8 of the Act addresses disclosure and sharing of information. Clause 55 would impose a duty on every person to disclose any information, which would assist in the prevention of the commission a terrorist act, or securing the arrest and prosecution of the offender.

Clause 56 would impose a duty on a person to disclose to the Financial Intelligence Unit any information relating to terrorist property in his possession or which to his knowledge is terrorist property or which there are reasonable grounds to believe is terrorist property.

Part 9 deals with seizure and forfeiture of property.

Clause 57 would empower any customs officer, immigration officer or police officer to apply to a judge in Chambers for a restraint order in respect of property he has reasonable grounds to believe is intended for use in the commission of a terrorist act or that the property is terrorist property.

Clause 58 would enable the forfeiture of property used in the commission of terrorist acts or property obtained as proceeds of crime where a person has been convicted of a terrorist offence. The property would be forfeited to the State.

Clause 59 would empower the Director of Public Prosecutions to apply to a judge in Chambers, where he has reasonable grounds to believe that there is property in a building, place or vessel in respect of which a forfeiture order may be made under Clause 60, for a warrant authorizing a police officer to search for and seize the property, if found.

Clause 60 would enable the Attorney General to apply to judge of the High Court for an order of forfeiture in respect of terrorist property.

Clause 61 would allow Dominica to share the property forfeited under this Act with another State pursuant to any existing agreements. The property would be utilized to compensate victims of offences under this Act.

Part 10 of the Bill contains miscellaneous provisions.

Clause 63 would impose a duty on the operator of an aircraft or the master of a vessel departing from Dominica, or on the operator of an aircraft or master of a vessel registered in Dominica but departing from another place, to provide information, to the Chief Immigration Officer, relating to the passengers on board, or those persons expected to be on board, or any other information as required under the Regulations.

Clause 64 would enable the Minister to refuse a refugee application, on the basis of national security and public safety, if he has reasonable grounds to believe that the applicant has committed a terrorist act, is or likely to be involved in the commission of a terrorist act.

Clause 65 would empower the Minister to make Regulations for the administration of the Act, and these Regulations would be subject to a negative resolution of Parliament.

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