PREVENTION OF TERRORISM ACT

Act 2 of 2002 – 16 March 2002

Amended 9/11; 27/16 (P 5/17 (cio 9/1/17); 11/18 (cio 9/8/18); 9/19 (cio 29/5/19); 13/19 (cio 25/7/19); 15/21 (cio 5/8/21);

ARRANGEMENT OF SECTIONS

Section

1. Short title

PART I – INTRODUCTORY

2. Interpretation

PART II – ACTS OF TERRORISM AND RELATED OFFENCES

3. Prohibition of acts of terrorism
4. Act of terrorism by any 2 or more persons
5. Terrorist meetings

5A. Terrorist training

6. Support
7. Harbouring terrorist
8. Information about acts of terrorism

8A. Terrorism hoax

9. Obstruction of terrorist investigation
10. –
11. –
12. Hostages

PART IIA – TERRORIST GROUPS

12A. Recruiting persons in terrorist groups

12B. Participating in terrorist groups

PART III – TERRORIST CASH AND TERRORIST PROPERTY

13. – 14. –
15. Dealing in terrorist property
16. –
17. –

PART IV – COUNTERTERRORISM UNIT AND COUNTERTERRORISM COMMITTEE –

18. Counterterrorism Unit
19. Functions of Counterterrorism Unit
20. Staff of Counterterrorism Unit
21. Counterterrorism Committee
22. Meetings of Committee

22A. Functions of Committee

22B. Disclosure of interest

22C. Dissemination of information by Director
PART IVA – PROTECTION MEASURES
22D. Protection of informers
PART V – INVESTIGATION
23. – 24. –
25. Intelligence gathering
25A. Special powers of enquiry
26. Detention of aircraft or vessel
27. Detention for offences related to terrorism
28. Custody record and video recording
PART VA – CONTROL ORDER
28A. Control order
PART VB – ACCOUNT MONITORING ORDER
28B. Account Monitoring Order
PART VI – PROSECUTION
29. Prosecution for offence
30. Extraterritorial jurisdiction
31. Competent Court
32. Penalties
PART VII – MISCELLANEOUS
33. Regulations
34. – 35. –
FIRST SCHEDULE
SECOND SCHEDULE
THIRD SCHEDULE
FOURTH SCHEDULE

PREVENTION OF TERRORISM ACT

1. Short title

This Act may be cited as the Prevention of Terrorism Act.

PART I – INTRODUCTORY

2. Interpretation

In this Act –

"Account Monitoring Order" means an Order made under section 28B;
[Inserted 15/21 (cio 5/8/21).]

"act of terrorism" –

(a) means an act specified in section 3; and

(b) includes a terrorist act as defined in the United Nations (Financial Prohibitions, Arms Embargo and Travel Ban) Sanctions Act 2019;
[RR 13/19 (cio 25/7/19).]

"bank" –

(a) has the same meaning as in the Banking Act; and

(b) includes any person licensed under the Banking Act to carry on deposit taking business;

"cash dealer" has the same meaning as in the Banking Act;

"Commissioner" means the Commissioner of Police;

"Committee" means the Committee set up under section 21;
[Inserted 27/16 (cio 9/1/17).]

"control order" means an order issued under section 28A;
[Inserted 27/16 (cio 9/1/17).]

"Director" means Director of the Counterterrorism Unit referred to in section 18;
[Inserted 27/16 (cio 9/1/17).]

"financial institution" means any institution or person regulated by any of the enactments specified in the First Schedule;

"Government" means the Government of the Republic of Mauritius or of any other State;

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

"proscribed organisation" means a terrorist organisation as defined in the United Nations (Financial Prohibitions, Arms Embargo and Travel Ban) Sanctions Act 2019;
[RR 9/19 (cio 29/5/19); RR 13/19 (cio 25/7/19).]

"terrorist investigation" means an investigation of –

(a) the commission, preparation or instigation of an act of terrorism or any other offence under this Act;

(b) any act or omission reasonably suspected to have been done for an act of terrorism or any other offence under this Act;

(c) the resources of a proscribed organisation;

"terrorist property" means property which –

(a) has been, is being or is likely to be used for any act of terrorism;

(b) has been, is being or is likely to be used by a proscribed organisation;

(c) is the proceeds of an act of terrorism; or

(d) is gathered for the pursuit of, or in connection with, an act of terrorism;

"trustee" has the same meaning as in the Trusts Act.

[S. 2 amended by s. 26 of Act 14 of 2005 w.e.f. 21 April 2005; s. 3 of Act 27 of 2016 w.e.f. 9 January 2017; s.15 of Act 9 of 2019 w.e.f. 29 May 2019; s. 42 of Act 13 of 2019 w.e.f. 25 July 2019; s. 68 of Act 15 of 2021 w.e.f. 5 August 2021.]

PART II – ACTS OF TERRORISM AND RELATED OFFENCES

3. Prohibition of acts of terrorism

(1) Any person who –

(a) does, participates in, collaborates in, consents to, threatens to do, or does an act preparatory to, or in furtherance of, an act of terrorism;
[RR 27/16 (cio 9/1/17).]

(aa) promotes, encourages or exhorts one or more persons to commit an act of terrorism; or
[Inserted 27/16 (cio 9/1/17).]

(b) omits to do anything that is reasonably necessary to prevent an act of terrorism,

shall commit an offence.

(2) In this section, "act of terrorism" means an act which –

(a) may seriously damage a country or an international organisation; and

(b) is intended or can reasonably be regarded as having been intended to –

(i) seriously intimidate a population;

(ii) unduly compel a Government or an international organisation to perform or abstain from performing any act;

(iii) seriously destabilise or destroy the fundamental political, constitutional, economic or social structures of a country or an international organisation; or

(iv) otherwise influence such Government, or international organisation; and

(c) involves or causes, as the case may be –

(i) attacks upon a person's life which may cause death;

(ii) attacks upon the physical integrity of a person;

(iii) kidnapping of a person;

(iv) extensive destruction to a Government or public facility, a transport system, an infrastructure facility, including an information system, a fixed platform located on the continental shelf, a public place or private property, likely to endanger human life or result in major economic loss;

(v) the seizure of an aircraft, a ship or other means of public or goods transport;

(vi) the manufacture, possession, acquisition, transport, supply or use of weapons, explosives or of nuclear, biological or chemical weapons, as well as research into, and development of, biological and chemical weapons;

(vii) the release of dangerous substance, or causing of fires, explosions or floods, the effect of which is to endanger human life;

(viii) interference with or disruption of the supply of water, power or any other fundamental natural resource, the effect of which is to endanger life.

[S. 3 amended by s. 4 of Act 27 of 2016 w.e.f. 9 January 2017.]

4. Act of terrorism by any 2 or more persons

Any 2 or more persons who associate for the purpose of –

(a) committing, or attempting to commit, an act of terrorism;

(b) participating as an accomplice in an act of terrorism;

(c) organising, or directing, any other person to commit an act of terrorism; or

(d) contributing to the commission of an act of terrorism by a group of persons acting with a common purpose where the contribution is made intentionally and with the aim of furthering the act of terrorism or with the knowledge of the intention of the group to commit an act of terrorism;

shall commit an offence and shall on conviction be liable to penal servitude for a term of not less than 5 years and not more than 35 years.

[S. 4 amended by s. 5 of Act 27 of 2016 w.e.f. 9 January 2017; s. 42 of Act 13 of 2019 w.e.f. 25 July 2019.]

5. Terrorist meetings

Any person who—

(a) arranges, manages, or assists in arranging or managing, or participates in a meeting, or an activity, which he knows is concerned with an act of terrorism;

(b) provides logistics, equipment or facilities for a meeting, or an activity, which he knows is concerned with an act of terrorism; or

(c) attends a meeting, which he knows is to support a proscribed organisation, or to further the objectives of a proscribed organisation,

shall commit an offence.

5A. Terrorist training

(1) Any person who knowingly attends a place in or outside Mauritius for the purpose of receiving instructions or training in relation to acts of terrorism shall commit an offence.

[Amended 13/19 (cio 25/7/19).]

(2) Any person who receives training from, or in any manner participates in training with, a proscribed organisation shall commit an offence.

[Added 13/19 (cio 25/7/19).]

[S. 5A inserted by s. 6 of Act 27 of 2016 w.e.f. 9 January 2017; amended by s. 42 of Act 13 of 2019 w.e.f. 25 July 2019.]

6. Support

(1) Any person who, in any manner or form –

(a) solicits support for, or tenders support in relation to, an act of terrorism, or

(b) solicits support for, or tenders support to, a proscribed organisation,

[Amended 11/18 (cio 9/8/18); 13/19 (cio 25/7/19);.]

shall commit an offence.

(2) For the purposes of subsection (1), "support" includes –

(a) instigation to the cause of terrorism;

(b) (i) offer of material assistance, weapons including biological, chemical or nuclear weapons, explosives, training, transportation, false documentation or identification;

(ii) offer or provision of moral assistance, including invitation to adhere to a proscribed organisation;

(c) the provision of, or making available, such financial or other related services as may be prescribed.

(3) A police officer, not below the rank of Superintendent of Police, or duly authorised by a Superintendent of Police, may, without warrant, arrest a person who, in a public place –

(a) wears an item of clothing; or

(b) carries or displays an object,

in such a way or in such circumstances as to arouse reasonable suspicion that he belongs to a proscribed organisation.

[Added 27/16 (cio 9/1/17).]

(4) Where a person is arrested under subsection (3), he shall be brought without undue delay before a Court.

[Added 27/16 (cio 9/1/17).]

[S. 6 amended by s. 7 of Act 27 of 2016 w.e.f. 9 January 2017; s. 55 of Act 11 of 2018 w.e.f. 9 August 2018; s. 42 of Act 13 of 2019 w.e.f. 25 July 2019.]

7. Harbouring terrorist

Any person who harbours, conceals, or causes to be harboured or concealed, any person whom he knew to have committed, or to have been

convicted of, an act of terrorism, or against whom he knew that a warrant of arrest or imprisonment for such an act had been issued, shall commit an offence.

8. Information about acts of terrorism

(1) Subject to subsections (2) and (3), where a person has information which he knows or believes might be of material assistance –

(a) in preventing the commission by another person of an act of terrorism; or

(b) in securing the apprehension, prosecution or conviction of another person for an offence under this Act,

and that person fails to disclose to a police officer at any police station the information as soon as reasonably practicable, he shall commit an offence.

(2) It shall be a defence for a person charged under subsection (1) to prove that he has reasonable excuse for not making the disclosure.

(3) Subsection (1) does not require disclosure by a law practitioner of any information, or a belief or suspicion based on any information, which he obtained in privileged circumstances.

(4) For the purpose of subsection (3), information is obtained by a law practitioner in privileged circumstances where it is disclosed to him –

(a) by his client in connection with the provision of legal advice, not being a disclosure with a view to furthering a criminal purpose;

(b) by any person for the purpose of actual or contemplated legal proceedings, and not with a view to furthering a criminal purpose.

8A. Terrorism hoax

(1) Any person who communicates to another person any information, which he knows or should have known to be false, with the intention of inducing

in that other person or any other person a belief that an act of terrorism will take place shall commit an offence.

(2) Any person who does any other act with the intention of inducing in any other person a false belief that an act of terrorism will take place shall commit an offence.

[S. 8A inserted by s. 8 of Act 27 of 2016 w.e.f. 9 January 2017.]

9. Obstruction of terrorist investigation

(1) Any person who –

(a) discloses to another anything which is likely to prejudice a terrorist investigation;

(b) interferes with material which is likely to be relevant to a terrorist investigation,

shall commit an offence.

(2) It shall be a defence for a person charged with an offence under subsection (1) to prove –

(a) that he did not know and had no reasonable cause to suspect that the disclosure was likely to affect a terrorist investigation; or

(b) that he had a reasonable excuse for the disclosure or interference.

(3) Subsection (1) does not apply to a disclosure which is made by a law practitioner –

(a) to his client in connection with the provision of legal advice, not being a disclosure with a view to furthering a criminal purpose;

(b) to any person for the purpose of actual or contemplated legal proceedings, and not with a view to furthering a criminal purpose.

10. –

[S. 10 repealed by s.15 of Act 9 of 2019 w.e.f. 29 May 2019.]

11. –

[S. 11 repealed by s. 10 (2) (a) of Act 37 of 2003 w.e.f. 22 November 2003.]

12. Hostages

(1) Any person who –

(a) seizes or detains;

(b) threatens to kill, injure or continue to detain,

another person in order to compel a third party to do or abstain from doing any act, as an explicit or implicit condition for the release of the hostage, shall commit an offence.

(2) In this section, "third party" means a State, an international governmental organisation, a natural or juridical person or a group of persons.

PART IIA – TERRORIST GROUPS

[Inserted 27/16 (cio 9/1/17).]

12A. Recruiting persons in terrorist groups

Any person who recruits another person so that he belongs to a group or an organisation, knowing that the group or organisation –

(a) is a proscribed organisation; or

(b) carries out, or participates in the carrying out of one or more acts of terrorism,

shall commit an offence.

[S. 12A inserted by s. 9 of Act 27 of 2016 w.e.f. 9 January 2017.]

12B. Participating in terrorist groups

Any person who participates in a group or an organisation, knowing that the group or organisation –

(a) is a proscribed organisation; or

(b) carries out, or participates in the carrying out of one or more acts of terrorism,

shall commit an offence.

[S. 12B inserted by s. 9 of Act 27 of 2016 w.e.f. 9 January 2017.]

PART III – TERRORIST CASH AND TERRORIST PROPERTY

13. – 14. –

[Ss. 13 and 14 repealed by s. 10 (2) (a) of Act 37 of 2003 w.e.f. 22 November 2003.]

15. Dealing in terrorist property

(1) Any person who enters into, or becomes concerned in, an arrangement which facilitates the retention or control by, or on behalf of, another person of terrorist property, in any manner, including –

(a) by concealment;
(b) by removal from the jurisdiction; or

(c) by transfer to any other person,

shall commit an offence.

(2) It shall be a defence for a person charged under subsection (1) to prove that he did not know and had no reasonable cause to suspect that the arrangement related to terrorist property.

16. –

[S. 16 repealed by s. 65 of Act 9 of 2011 w.e.f. 1 February 2012.]

17. –

[S. 17 repealed by s. 65 of Act 9 of 2011 w.e.f. 1 February 2012.]

PART IV – COUNTERTERRORISM UNIT AND COUNTERTERRORISM COMMITTEE

[Inserted 27/16 (cio 9/1/17).]

18. Counterterrorism Unit

There shall be for the purposes of this Act within the Prime Minister's Office a Counterterrorism Unit which shall be headed by a Director.

[S. 18 inserted by s. 10 of Act 27 of 2016 w.e.f. 9 January 2017.]

19. Functions of Counterterrorism Unit

The Counterterrorism Unit shall –

(a) collect, collate and analyse terrorism-related intelligence;

(b) disseminate to investigatory authorities such intelligence concerning any suspicious person or activity or terrorism-related offence;

(c) transmit terrorism-related information to the Commissioner;

(d) educate the public against terrorism;

(e) enlist and foster public support in combating terrorism.

[S. 19 inserted by s. 10 of Act 27 of 2016 w.e.f. 9 January 2017.]

20. Staff of Counterterrorism Unit

(1) The Secretary to Cabinet and Head of the Civil Service may, on the recommendation of the Prime Minister's Office and subject to the Public Service Commission Regulations –

(a) designate such public officers as may be necessary to assist the Counterterrorism Unit;

(b) enlist, as may be necessary, the services of suitable counterterrorism experts to advise the Counterterrorism Unit.

(2) Any officer designated or expert enlisted under subsection (1) shall be under the administrative control of the Director.

[S. 20 inserted by s. 10 of Act 27 of 2016 w.e.f. 9 January 2017.]

21. Counterterrorism Committee

(1) There is set up for the purposes of this Act a Committee which shall consist of –

(a) a Chairperson, who shall be the Secretary to Cabinet and Head of the Civil Service;

(b) the Secretary for Home Affairs;

(c) the Commissioner of Police;

(d) the National Security Advisor;

(e) the Solicitor-General or his representative;

(f) the Director-General of the National Security Service; and

(g) the Director of the Counterterrorism Unit.

(2) The Prime Minister may appoint any such other person as he may determine to form part of the Committee.

[S. 21 inserted by s. 10 of Act 27 of 2016 w.e.f. 9 January 2017.]

22. Meetings of Committee

(1) The Committee shall meet at least once every 3 months and at such time and place as the Chairperson of the Committee may determine.

(2) At any meeting of the Committee, 4 members, including the Chairperson, shall constitute a quorum.

(3) Where the Chairperson is absent from a meeting the members present shall elect from among themselves a member to chair the meeting.

(4) The Committee shall regulate its meetings and proceedings, in such manner as it may determine.

[S. 22 inserted by s. 10 of Act 27 of 2016 w.e.f. 9 January 2017.]

22A. Functions of Committee

The functions of the Committee shall be to –

(a) ensure that the Counterterrorism Unit discharges its functions under section 19 of the Act;

(b) ensure that general preparedness plans in relation to counterterrorism are activated at all levels;

(c) review the adequacy of counterterrorism legislation in Mauritius;

(d) advise the Minister on counterterrorism issues; and

(e) take such other measures as may be appropriate in the circumstances.

[S. 22A inserted by s. 10 of Act 27 of 2016 w.e.f. 9 January 2017.]

22B. Disclosure of interest

(1) Where a member of the Committee or a person related to the member by blood or marriage, has a pecuniary or other material interest in relation to any matter before the Committee, the member shall –

(a) disclose the nature of the interest before or at the meeting convened to discuss that matter; and

(b) not take part in any deliberation relating to that matter.

(2) A disclosure of interest made under subsection (1) shall be recorded in the minutes of proceedings of the meeting of the Committee convened to discuss that matter.

[S. 22B inserted by s. 10 of Act 27 of 2016 w.e.f. 9 January 2017.]

22C. Dissemination of information by Director

(1) Where there are grounds to suspect any terrorism-related activity, the Director shall disseminate information and the results of the analysis to the Commissioner or, where appropriate, to the overseas intelligence agencies, for appropriate action.

(2) Notwithstanding any other enactment, where the Director becomes aware of any information which gives rise to a reasonable suspicion that a terrorism-related activity might have been committed or is about to be committed, the Director may request any such information from any institution that may provide useful elements relevant to the terrorism-related activity, and the institution shall, as soon as practicable, furnish the Director with the requested information.

(3) In this section –

"institution" means any Government or non-government organisation, financial or non-financial institution, law enforcement authority or any other regulatory body.

[S. 22C inserted by s. 10 of Act 27 of 2016 w.e.f. 9 January 2017.]

[Part IV amended by s. 25 (4) (a) of Act 35 of 2003 w.e.f. 15 November 2003; .]

18. – 22. –

[Ss. 18 to 22 repealed by s. 25 (4) (b) of Act 35 of 2003 w.e.f. 15 November 2003; inserted by s. 10 of Act 27 of 2016 w.e.f. 9 January.]

PART IVA – PROTECTION MEASURES

[Inserted 27/16 (cio 9/1/17).]

22D. Protection of informers

(1) (a) Where any information is received by any person other than a police officer concerning an act of terrorism, any other activity relating to terrorism or any preparatory act in that connection in Mauritius or elsewhere, that person shall –

(i) forthwith report the matter to a police officer at the nearest police station; and

(ii) not disclose the information or the name of the informer to any other person.

(b) Any matter relating to information referred to in paragraph (a) which is received by a person other than a police officer shall –

(i) be privileged; and

(ii) not be disclosed in any proceedings before any Court, tribunal or other authority.

(2) Where any record which is given in evidence, or liable to inspection in any proceedings contains an entry relating to the informer or the information given by the informer, the person having custody of the record shall cause every part relating to the informer or the information given to be concealed from view so as to protect the identity of the informer.

(3) Any person who contravenes this section shall commit an offence.

(4) Any person who commits an act of victimisation against a person who makes a report under subsection (1) shall commit an offence.

(5) In this section –

"victimisation" means an act –

(a) which causes injury, damage or loss;

(b) of intimidation or harassment;

(c) of discrimination, disadvantage or adverse treatment in relation to a person's employment; or

(d) amounting to a threat of reprisals.

[S. 22D inserted by s. 11 of Act 27 of 2016 w.e.f. 9 January 2017.]

PART V – INVESTIGATION

23. – 24. –

[Ss. 23 and 24 repealed by s. 25 (4) (b) of Act 35 of 2003 w.e.f. 15 November 2003.]

25. Intelligence gathering

(1) Notwithstanding any other enactment, the Minister may, for the purpose of the prevention or detection of offences, or the prosecution of offenders, under this Act, give such directions as may be necessary to –

(a) communication service providers generally;

(b) communication service providers of a specified description;

(c) any particular communication service provider –

(i) not to disclose any data or data of any description;

(ii) to retain any data subject to such requirements or restrictions as he may determine.

[R 27/16 (cio 9/1/17).]

(2) Before giving a direction under this section, the Minister may consult any communication service provider he deems fit to consult.

(3) A direction under this section shall specify the maximum period for which a communication service provider may be required not to disclose or retain communications data, as the case may be.

(3A) Any person who fails to comply with a direction issued under this section shall commit an offence.

[Inserted 27/16 (cio 9/1/17).]

(4) In this section –

"communication service provider" means a person who provides a postal, or an information and communication, including telecommunications, service;

"data" means information recorded in a form in which it can be processed by equipment operating automatically in response to instructions given for that purpose.

[S. 25 amended by s. 12 of Act 27 of 2016 w.e.f. 9 January 2017.]

25A. Special powers of enquiry

(1) Notwithstanding any other enactment, where the Commissioner has reasonable ground to believe that an offence under this Act has been, is being or is likely to be committed by any person, he may apply to a Judge in Chambers for an order authorising a police officer not below the rank of Superintendent to use such electronic and technical device as may be required for the purpose of intelligence gathering or surveillance.

(2) Where, on an application under subsection (1), the Judge in Chambers is satisfied that the Commissioner has reasonable ground to suspect that an offence has been, is being or is likely to be committed, the Judge may grant the order.

[S. 25A inserted by s. 13 of Act 27 of 2016 w.e.f. 9 January 2017.]

26. Detention of aircraft or vessel

(1) An authorised person may issue a detention order in respect of an aircraft or vessel if he is of opinion that –

(a) a threat has been made to commit an act of violence against the aircraft or vessel, or against any person or property on board the aircraft or vessel; or

(b) an act of violence is likely to be committed against the aircraft or vessel, or against any person or property on board the aircraft or vessel.

(2) Where the operator of an aircraft or vessel fails to comply with a detention order under subsection (1), the authorised person may –

(a) enter, or authorise any other person to enter, the aircraft or vessel;

(b) arrange for a person or thing to be removed from the aircraft or vessel,

and may use reasonable force, or authorise the use of reasonable force, by another person for any such purpose.

(3) The authorised person shall give written notice to the operator of the aircraft or vessel of any detention order issued under this section.

(4) Where the operator of an aircraft or vessel objects to a detention order, the Minister may, after hearing the interested parties, confirm, vary or cancel the order.

(5) Any person who –

(a) without reasonable excuse, fails to comply with the requirement of a detention order;

(b) intentionally obstructs or hinders any person acting in accordance with subsection (2),

shall commit an offence.

(6) For the purposes of this section, the Minister may, in writing, designate as an authorised person such person as he deems appropriate.

27. Detention for offences related to terrorism

(1) Where any person is arrested under reasonable suspicion of having committed any offence under section 3, 4, 5, 6, 7, 12 or 15, a police officer not

below the rank of Superintendent of Police may, subject to this section, direct that the person arrested be detained in police custody for a period not exceeding 36 hours from his arrest, without having access to any person other than a police officer not below the rank of Inspector, or a Government Medical Officer and, in any such case, that person shall be detained accordingly.

(2) No direction under subsection (1) shall be made unless the Police officer has reasonable grounds to believe that giving access to any person other than the Police officer not below the rank of Inspector or the Government Medical Officer specified in that subsection –

(a) will lead to interference with or harm to evidence connected with an offence under section 3, 4, 5, 6, 7, 12 or 15, or to interference with, or physical injury to, other persons; or

(b) will lead to the alerting of other persons suspected of having committed such an offence but not yet arrested for it; or

(c) will hinder the tracking, search and seizure of terrorist property.

(3) As soon as a direction is issued under subsection (1), the person detained shall be informed that he may, if he so wishes, be examined by a Government Medical Officer.

[S. 27 amended by s. 10 (2) (b) of Act 37 of 2003 w.e.f. 22 November 2003.]

28. Custody record and video recording

(1) A custody record containing the information specified in the Third Schedule shall be kept in respect of any person detained pursuant to the powers conferred by section 27.

(2) A video recording shall be made and kept in the manner specified in the Fourth Schedule in respect of any person detained pursuant to the powers conferred by section 27.

(3) A video recording under this section shall, notwithstanding the common law rule against hearsay, be admissible in evidence in the course of any

judicial proceedings to the same extent and in the same manner as documentary evidence would be admissible.

(4) In this section, "video recording" includes the recording of visual images or sound by electronic or other technological means.

PART VA – CONTROL ORDER

[Inserted 27/16 (cio 9/1/17).]

28A. Control order

(1) The Commissioner may apply to the Judge in Chambers for a control order to be issued to any person to –

(a) protect the public from an act of terrorism;

(b) prevent the provision of support for, or the facilitation of, an act of terrorism; or

(c) prevent the provision of support for, or the facilitation of the engagement in, an act of terrorism in another State.

(2) A control order may, for such time as may be specified in the order –

(a) prevent the person from –

(i) remaining in any locality or leaving Mauritius;

(ii) communicating or associating with certain persons;

(iii) purchasing or otherwise requiring provision of such object as may be specified in the order;

(iv) carrying out a specified activity; or

(v) accessing certain forms of technology, including the Internet; or

(b) require that person to –

(i) remain on specified premises for not more than 12 hours within any period of 24 hours;

(ii) wear a tracking device;

(iii) report to a police officer at a certain time and place; or

(iv) allow himself to be photographed and his fingerprints to be taken.

(3) The Judge in Chambers may, on an application made under subsection (1), grant the order where he is satisfied that –

(a) making the order would assist in preventing or detecting an act of terrorism;

(b) the person has provided training to, received training from or participated in training with, a proscribed organisation;

(c) the person has engaged in an act of terrorism in another State;

(d) the person has been convicted in Mauritius of an offence relating to terrorism;

(e) the person has been convicted in another State of an offence that, if engaged in Mauritius, would constitute an offence relating to terrorism; or

(f) every obligation, prohibition or restriction to be imposed on the person by the order is, having regard to the person's financial and other circumstances, reasonably necessary for any purpose specified in subsection (1).

(4) No control order shall take effect unless the person subject to it is notified personally of the order.

(5) Any person to whom a control order has been issued may apply to a Judge in Chambers for the revocation or variation of the order on giving notice in writing to the Commissioner of the application and the grounds on which the

revocation or variation is sought, and the Judge in Chambers may, on such application, make such order as he may determine.

(6) Any person who contravenes a control order shall commit an offence.

(7) In any proceeding under this section, the Judge in Chambers may require the attendance of the *Ministère Public*.

[S. 28A inserted by s. 11 of Act 27 of 2016 w.e.f. 9 January 2017.]

PART VB – ACCOUNT MONITORING ORDER

28B. Account Monitoring Order

(1) The Commissioner may apply to a Judge for an Account Monitoring Order where –

(a) the account specified in the application is the subject of a terrorist investigation and the person specified in the application appears to hold the property;

(b) the account information may be of substantial value to the investigation; and

(c) it is in the public interest that the account information be provided.

(2) An application under subsection (1) shall state that the Account Monitoring Order is sought against the financial institution and in relation to account information of the description specified in the application.

(3) An application for an Account Monitoring Order may specify information relating to –

(a) all accounts held by the person, at such financial institution, specified in the application;

(b) a particular description, or particular descriptions, of accounts held; or

(c) a particular account, or particular accounts, held.

(4) (a) A Judge may, on an application under subsection (1), make an Account Monitoring Order where he is satisfied that the requirements of this section are fulfilled and the making of the Order is justified.

(b) An Account Monitoring Order shall order the financial institution specified in the application to provide to the Commissioner, for the period stated in the Order, account information of the description specified in the Order, in the manner, and at or by the time, stated in the Order.

(c) The period stated in an Account Monitoring Order shall not exceed 90 days from the date the Order is made.

(d) A Judge may, on an application from the Commissioner and where he is satisfied that it is in the interests of justice to do so, extend the period specified in an Account Monitoring Order by an additional period not exceeding 180 days.

[S. 28B inserted by s. 68 of Act 15 of 2021 w.e.f. 5 August 2021.]

PART VI – PROSECUTION

29. Prosecution for offence

(1) No prosecution for an offence under this Act shall be instituted except by or with the consent of the Director of Public Prosecutions.

(2) A Court may, on motion by or on behalf of the Director of Public Prosecutions, order that no person shall publish –

(a) the name, address or photograph of any witness in any case tried or about to be tried before it for any offence under this Act; or

(b) any evidence or any other matter likely to lead to the identification of the witness.

(3) A Court may, on motion by or on behalf of the Director of Public Prosecutions, in the interest of public safety or public order, exclude from proceedings instituted for any offence under this Act, any person other than the parties and their legal representatives.

(4) Any person who contravenes an order made under subsection (3) shall commit an offence.

30. Extraterritorial jurisdiction

A Mauritian Court shall have jurisdiction to try an offence and inflict the penalties specified in this Act where the act constituting the offence under sections 3, 4, 5, 6, 7, 12 and 15, has been done or completed outside Mauritius and –

(a) the victim is a citizen of the Republic of Mauritius or has an effective link with Mauritius or is dealing with or on behalf of the Government of Mauritius;

(b) the alleged offender is in Mauritius; or

(c) the alleged offender is in Mauritius, and Mauritius does not extradite him.

[S. 30 amended by s. 10 (2) (b) of Act 37 of 2003 w.e.f. 22 November 2003.]

31. Competent Court

(1) Subject to subsection (2), prosecution for an offence under this Act shall take place, at the sole discretion of the Director of Public Prosecutions, before a Judge without a jury, the Intermediate Court or the District Court.

(2) A prosecution for an offence under section 3 shall take place before a Judge without a jury.

(3) Notwithstanding any other enactment, the Intermediate Court shall have –

(a) jurisdiction to impose any penalty provided for an offence under this Act provided that the penalty for an offence does not exceed 20 years; and

(b) power to order sentences imposed under this Act to be served consecutively provided that the terms of such sentences shall not in the aggregate exceed 30 years.

(4) Sections 150, 151, 152 and 153 of the Criminal Procedure Act and the Probation of Offenders Act shall not apply to a conviction for an offence under this Act.

32. Penalties

(1) Subject to subsection (3), any person who commits an offence against this Act shall, on conviction, be liable –

(a) in the case of an offence under sections 3 and 8A, to penal servitude for a term of not less than 5 years nor more than 35 years;

[Amended 27/16 (cio 9/1/17).]

(b) in the case of an offence under sections 5A, 6, 7, 12, 12A, 12B and 15, to penal servitude for a term of not less than 3 years nor more than 20 years;

[Amended 27/16 (cio 9/1/17).]

(c) in the case of an offence under sections 8 and 9, to penal servitude for a term of not less than 2 years nor more than 15 years;

(d) in the case of an offence under sections 22D, 25, 26, 28A and 29, to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding 5 years.

[Amended 27/16 (cio 9/1/17).]

(2) The Court before which a person is convicted of an offence under this Act may, in addition to any penalty imposed by the Court, order the forfeiture of –

(a) any terrorist cash, with any accrued interest, or terrorist property;

(b) any article, substance, device or material by means of which the offence was committed;

(c) any vehicle or vessel used in the commission of the offence.

(3) (a) Any person who has been convicted of a conspiracy to commit any of the offences under section 3, 4, 5, 6, 7, 12, or 15 shall be exempted from penalty as specified in subsection (1) and absolutely discharged if, having revealed the conspiracy to the police or to the Court, he has made it possible to prevent the commission of the offence and to identify the other persons involved in the conspiracy.

(b) Notwithstanding subsection (1), the penalty incurred by any person convicted of any offence referred to in that subsection shall be reduced in such manner as the Court thinks just where that person has, before any proceedings, made possible or facilitated the identification of the other guilty persons, or who, after the commencement of proceedings, has made possible or facilitated the arrest of such persons.

[S. 32 amended by s. 10 (2) (b) of Act 37 of 2003 w.e.f. 22 November 2003; s. 15 of Act 27 of 2016 w.e.f. 9 January 2017.]

PART VII – MISCELLANEOUS

33. Regulations

(1) The Minister may, for the purposes of this Act, make such regulations as he thinks fit.

(2) Regulations made under subsection (1) may provide for –

(a) the types of financial or other related services which may not be provided to proscribed organisations;

(b) the amendment of the Schedules.

34. – 35. –

FIRST SCHEDULE

[Sections 2 and 17]

Financial Services Act

Immigration Act in so far it applies to section 5A

Insurance Act

Securities (Central Depository, Clearing and Settlement) Act

Securities Act

Trusts Act

[First Sch. amended by s. 156 (10) of Act 22 of 2005 w.e.f. 28 September 2007; s. 97 (7) of Act 14 of 2007 w.e.f. 28 September 2007.]

SECOND SCHEDULE

[Section 11]

–

THIRD SCHEDULE

[Section 28 (1)]

CUSTODY RECORD

1. Entries shall be made in the Custody Record in respect of all matters relevant to the detention of the arrested person. 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 under section 27; and

(iii) each interview, including any interview immediately following his arrest, of the person detained;

(b) the place or places where the interview takes place;

(c) the time at which the interview begins and the time at which it ends;

(d) any break during the interview;

(e) the names of persons present at the interviews;

(f) the time and reason for any transfer of the detained person from one place of custody to another as well as the time at which the detention ends;

(g) any property secured from the person on his arrest or during his detention;

(h) the name and rank of the police officer upon whose authority any action in relation to the detained person is taken; and

(i) the ground or grounds, set out in section 27 (2), 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 under section 27.

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 Custody 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 not below the rank of Inspector shall be responsible for ensuring the accuracy and completeness of the Custody Record and that the Custody Record or a copy of the Record accompanies the detained person on his transfer.

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

FOURTH SCHEDULE

[Section 28 (2)]

VIDEO RECORDING

1. The video recording of the detained person during his period of detention under section 27 shall be carried out in such manner as to constitute an accurate, continuous and uninterrupted record of the whole period of his detention, including his movements, interviews and statements.

2. When issuing the direction for detention under section 27, the Police Officer shall make arrangements for the video recording of the person detained during the whole of the period of his detention.

3. The Police Officer shall, for the purposes of the video recording, designate a recording officer under whose responsibility and control the video recording shall be conducted.

4. The recording officer shall be responsible for starting, without delay and immediately after a direction is issued under section 27, and for continuing the video recording without any interruption during the whole of the period of detention.

5. The recording officer shall, in respect of the video recording, keep a written record of the following –

(a) the name of the person detained;

(b) the name and rank of the recording officer;

(c) the name of the Police Officer who issued the direction under section 27;

(d) the names of all the persons involved in the video recording;

(e) the identification numbers of the video records used for video recording;

(f) the date, time of commencement, duration and place of –

(i) the detention; and

(ii) the recording;

(g) the place at which the video records are kept;

(h) particulars of the movement of the video records.

6. Where the person detained raises any objection during his period of detention or makes any statement, the whole of his objection or statement shall be recorded.

7. (a) The video record, referred to herein as the master video record, shall be sealed, with a label specifying that the record is a master video record, in the presence of the detained person at the end of his period of detention.

(b) The recording officer shall sign the label and ask the detained person and any third party present to sign the label.

(c) Where the detained person or the third party refuses to sign the label, another person may be asked to sign it.

8. (a) Where more than one video record is used, the recording officer shall ensure that all the video records are properly identified and labelled.

(b) This shall be done by marking the video records with an identification number immediately after they are removed from the recorder.

9. The recording officer shall make arrangements for the video records to be kept securely under lock and key under the responsibility of an officer designated for that purpose.