

South Africa

Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004

Act 33 of 2004

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Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004

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South Africa

Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004

Act 33 of 2004

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[Amended by Protection of Constitutional Democracy against Terrorist and Related Activities Amendment Act, 2022 (Act 23 of 2022) on 4 January 2023]

(English text signed by the President)

ACT

To provide for measures to prevent and combat terrorist and related activities; to provide for an offence of terrorism and other offences associated or connected with terrorist activities; to provide for Convention offences; to give effect to international instruments dealing with terrorist and related activities; to provide for a mechanism to comply with United Nations Security Council Resolutions, which are binding on member States, in respect of terrorist and related activities; to provide for measures to prevent and combat the financing of terrorist and related activities; to provide for investigative measures in respect of terrorist and related activities; and to provide for matters connected therewith.

WHEREAS the Republic of South Africa is a constitutional democracy where fundamental human rights, such as the right to life and free political activity, are constitutionally enshrined;

AND WHEREAS terrorist and related activities, in whichever form, are intended to achieve political and other aims in a violent or otherwise unconstitutional manner, and thereby undermine democratic rights and values and the Constitution;

AND WHEREAS terrorist and related activities are an international problem, which can only be effectively addressed by means of international co-operation;

AND WHEREAS the Government of the Republic of South Africa has committed itself in international fora such as the United Nations, the African Union and the Non-Aligned Movement, to the prevention and combating of terrorist and related activities;

AND WHEREAS the United Nations Security Council Resolution 1373/2001, which is binding on all Member States of the United Nations, as well as the Convention for the Prevention and Combating of Terrorism, adopted by the Organisation of African Unity, requires Member States to become Party to instruments, dealing with terrorist and related activities, as soon as possible;

AND WHEREAS the Republic of South Africa has already become Party to the following instruments of the United Nations:

- (a) The Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963. The Republic became a Party thereto, by accession on 26 May 1972;
- (b) the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970. The Republic became a Party thereto by ratification on 30 May 1972;

- (c) the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, concluded at Montreal on 23 September 1971. The Republic became a Party thereto by ratification on 30 May 1972;
- (d) the 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 14 December 1973. The Republic became a Party thereto by accession on 23 September 2003;
- (e) the International Convention Against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979. The Republic became a Party thereto by accession on 23 September 2003;
- (f) the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, adopted at Montreal on 24 February 1988. The Republic became a Party thereto by accession on 21 September 1998;
- (g) the Convention on the Marking of Plastic Explosives for the Purpose of Detection, signed at Montreal on 1 March 1991. The Republic became a Party thereto by accession on 1 December 1999;
- (h) the International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997. The Republic became a Party thereto by ratification on 1 May 2003;

[paragraph (h) amended by section 22(a) of [Act 23 of 2022](#)]

- (i) the International Convention on the Suppression of the Financing of Terrorism, adopted by the United Nations General Assembly on 9 December 1999. The Republic became a Party thereto by ratification on 1 May 2003;
- (j) the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA Convention), adopted at Rome on 10 March 1988. The Republic became a Party thereto by accession on 8 July 2005;

[paragraph (j) added by section 22(b) of [Act 23 of 2022](#)]

- (k) the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf (SUA Protocol), adopted at Rome on 10 March 1988. The Republic became a Party thereto by accession on 8 July 2005;

[paragraph (k) added by section 22(b) of [Act 23 of 2022](#)]

- (l) the International Convention for the Suppression of Acts of Nuclear Terrorism, adopted by the United Nations General Assembly on 13 April 2005. The Republic became a Party thereto by ratification on 9 May 2007;

[paragraph (l) added by section 22(b) of [Act 23 of 2022](#)]

- (m) the Convention on the Physical Protection of Nuclear Material, adopted in Vienna on 26 October 1979. The Republic became a Party thereto by ratification on 17 September 2007; and

[paragraph (m) added by section 22(b) of [Act 23 of 2022](#)]

- (n) the Treaty on the Non-Proliferation of Nuclear Weapons, adopted at New York on 12 June 1968. The Republic acceded thereto on 10 July 1991;

[paragraph (n) added by section 22(b) of [Act 23 of 2022](#)]

AND WHEREAS the Republic of South Africa desires to become a Party to the following remaining instruments of the United Nations, not yet ratified or acceded to by the Republic:

- (a) The Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation, adopted at Beijing on 10 September 2010 and signed on behalf of the Republic on 26 September 2013; and

[paragraph (a) substituted by section 22(c) of [Act 23 of 2022](#)]

- (b) the Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft, adopted at Beijing on 10 September 2010, and signed on behalf of the Republic on 26 September 2013;

[paragraph (b) substituted by section 22(c) of [Act 23 of 2022](#)]

- (c) *[paragraph (c) deleted by section 22(d) of [Act 23 of 2022](#)]*

AND WHEREAS the following international instruments have been adopted, but the Republic has not signed and is not a Party thereto:

- (a) The Protocol to Amend the Convention on Offences and Certain Other Acts Committed on Board Aircraft, adopted at Montreal on 4 April 2014;
- (b) the Amendment to the Convention on the Physical Protection of Nuclear Material, adopted at Vienna on 8 July 2005;
- (c) the Protocol to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, adopted at London on 14 October 2005; and
- (d) the Protocol to the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf, adopted at London on 14 October 2005;

[paragraph inserted by section 22(e) of [Act 23 of 2022](#)]

AND WHEREAS the Republic of South Africa has become a Party—

- (a) by ratification, on 7 November 2002, to the Convention on the Prevention and Combating of Terrorism, adopted by the Organisation of African Unity at Algiers on 14 July 1999; and
- (b) by ratification, on 25 March 2007, to the Protocol to the Organisation of African Unity Convention on the Prevention and Combating of Terrorism, adopted by the Assembly of the African Union at Addis Ababa on 8 July 2004;

[eighth paragraph substituted by section 22(f) of [Act 23 of 2022](#)]

AND WHEREAS the United Nations Security Council from time to time passes resolutions under Chapter VII of the United Nations Charter, requiring Member States to combat terrorist and related activities, including taking effective measures to prevent and combat the financing of terrorist and related activities, and the freezing of funds, assets or economic resources of persons who commit terrorist and related activities;

AND WHEREAS our national laws do not meet all the international requirements relating to the prevention and combating of terrorist and related activities;

AND WHEREAS international law, and in particular international humanitarian law, including the purposes and principles of the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the said Charter recognizes acts committed in accordance with such international law during a struggle waged by peoples, including any action during an armed struggle, in the exercise or furtherance of their legitimate right to national liberation, self-determination and independence against colonialism, or occupation or aggression or domination by alien or foreign forces, as being excluded from terrorist activities;

AND REALISING the importance to enact appropriate domestic legislation necessary to implement the provisions of relevant international instruments dealing with terrorist and related activities, to ensure that the jurisdiction of the courts of the Republic of South Africa enables them to bring to trial the perpetrators of terrorist and related activities; and to co-operate with and provide support and assistance to other States and relevant international and regional organisations to that end;

AND MINDFUL that the Republic, has since 1994, become a legitimate member of the community of nations and is committed to bringing to justice persons who commit such terrorist and related activities; and to carrying out its obligations in terms of the international instruments dealing with terrorist and related activities,

BE IT THEREFORE ENACTED by the Parliament of the Republic of South Africa, as follows:—

Chapter 1

Definitions and interpretation

1. Definitions

- (1) In this Act, unless the context indicates otherwise—

"access" refers to a person who accesses a computer data storage medium or a computer system as contemplated in section 2(2)(b) of the Cybercrimes Act;

[definition of "access" inserted by section 1(a) of [Act 23 of 2022](#)]

"appropriate government body", with reference to section 15, means an appropriate government body as defined in section 1 of the International Co-operation in Criminal Matters Act, 1996 ([Act No. 75 of 1996](#));

"computer" means computer as defined in section 1 of the Cybercrimes Act;

[definition of "computer" inserted by section 1(b) of [Act 23 of 2022](#)]

"computer data storage medium" means computer data storage medium as defined in section 1 of the Cybercrimes Act;

[definition of "computer data storage medium" inserted by section 1(b) of [Act 23 of 2022](#)]

"computer system" means computer system as defined in section 1 of the Cybercrimes Act;

[definition of "computer system" inserted by section 1(b) of [Act 23 of 2022](#)]

"Convention offence" means—

- (a) an offence, created in fulfilment of the Republic's international obligations in terms of instruments dealing with terrorist and related activities, referred to in Part 2 of Chapter 2;

- (b) an offence referred to in section 56(1)(h) of the Nuclear Energy Act; or

[paragraph (b) substituted by section 1(c) of [Act 23 of 2022](#)]

- (c) an offence referred to in section 133 or 142(6) of the Civil Aviation Act, 2009 ([Act No. 13 of 2009](#));

[paragraph (c) substituted by section 1(c) of [Act 23 of 2022](#)]

"Criminal Procedure Act" means the Criminal Procedure Act, 1977 ([Act No. 51 of 1977](#));

[definition of "Criminal Procedure Act" inserted by section 1(d) of [Act 23 of 2022](#)]

"critical infrastructure" means critical infrastructure as defined in section 1 of the Critical Infrastructure Protection Act;

[definition of "critical infrastructure" inserted by section 1(d) of [Act 23 of 2022](#)]

"critical infrastructure complex" means critical infrastructure complex as defined in section 1 of the Critical Infrastructure Protection Act;

[definition of "critical infrastructure complex" inserted by section 1(d) of [Act 23 of 2022](#)]

"Critical Infrastructure Protection Act" means the Critical Infrastructure Protection Act, 2019 ([Act No. 8 of 2019](#));

[definition of "Critical Infrastructure Protection Act" inserted by section 1(d) of [Act 23 of 2022](#)]

"crypto asset" means a digital representation of perceived value that can be traded or transferred electronically within a community of users of the internet who consider it as a medium of exchange,

unit of account or store of value and use it for payment or investment purposes, but does not include a digital representation of a fiat currency or a security as defined in the Financial Markets Act, 2012 ([Act No. 19 of 2012](#));

[definition of "crypto asset" inserted by section 1(d) of [Act 23 of 2022](#)]

"**Cybercrimes Act**" means the Cybercrimes Act, 2020 ([Act No. 19 of 2020](#));

[definition of "Cybercrimes Act" inserted by section 1(d) of [Act 23 of 2022](#)]

"**data**" means data as defined in section 1 of the Cybercrimes Act;

[definition of "data" inserted by section 1(d) of [Act 23 of 2022](#)]

"**Directorate**" means the Directorate for Priority Crime Investigation established by section 17C of the South African Police Service Act;

[definition of "Directorate" inserted by section 1(d) of [Act 23 of 2022](#)]

"**Director of Public Prosecutions**" means a Director of Public Prosecutions appointed under section 13(1) of the National Prosecuting Authority Act, 1998 ([Act No. 32 of 1998](#));

"**electronic communications service provider**" means electronic communications service provider as defined in section 1 of the Cybercrimes Act;

[definition of "electronic communications service provider" inserted by section 1(e) of [Act 23 of 2022](#)]

"**engages in a terrorist activity**", with reference to sections 2 and 3, includes—

- (a) the commission, performance or carrying out of;
- (b) the facilitation of, participation or assistance in, or contribution to the commission, performance or carrying out of;
- (c) the performance of an act in preparation for or planning of; or
- (d) instructing, directly or indirectly, the—
 - (i) commission, performance, carrying out of;
 - (ii) facilitation of, participation or assistance in, or contribution to the commission, performance or carrying out of; or
 - (iii) performance of an act in preparation for or planning of,a terrorist activity, and the expressions "to engage in a terrorist activity", "engaging in a terrorist activity" and "engagement in a terrorist activity" shall be construed accordingly;

"**entity**", with reference to sections 3, 4, and 14 (in so far as it relates to the aforementioned sections), 22 and 23, means a natural person, or a group of two or more natural persons (whether acting in the furtherance of a common purpose or conspiracy or not), or a syndicate, gang, agency, trust, partnership, fund or other unincorporated association or organisation, or any incorporated association or organisation or other legal person, and includes, where appropriate, a cell, unit, section, subgroup or branch thereof or any combination thereof, and also any entity referred to in a Resolution of the United Nations Security Council and announced in a notice referred to in section 26A(3) of the Financial Intelligence Centre Act;

[definition of "entity" substituted by section 1(f) of [Act 23 of 2022](#)]

"**explosive**", with reference to the definition of "explosive or other lethal device" in this section, and sections 5, 6, 10 and 13, means—

- (a) a substance, or a mixture of substances, in a solid or liquid state, which is capable of producing an explosion;

- (b) a pyrotechnic substance in a solid or liquid state, or a mixture of such substances, designed to produce an effect by heat, light, sound, gas or smoke, or a combination of these, as the result of non-detonative self-sustaining exothermic chemical reaction, including pyrotechnic substances which do not evolve gases;
- (c) any article or device containing one or more substances contemplated in paragraph (a);
- (d) any plastic explosive; or
- (e) any other substance or article, which the Minister may from time to time, by notice in the *Gazette*, declare to be an explosive;

[definition of "explosive" substituted by section 1(g) of [Act 23 of 2022](#)]

"explosive or other lethal device", with reference to sections [3](#), [5](#), [6](#), [10](#) and [13](#), means—

- (a) an explosive or incendiary weapon or device which is designed or manufactured, or has the capability, to cause death, serious bodily injury or material damage;
- (b) a weapon or device which is designed or manufactured, or has the capability, to cause death, serious bodily injury or material damage through the release, dissemination or impact of toxic chemicals, biological agents or toxins or similar substances or radiation or radioactive material; or
- (c) any weapon of mass destruction, as defined in section 1 of the Non-Proliferation of Weapons of Mass Destruction Act;

[definition of "explosive or other lethal device" substituted by section 1(h) of [Act 23 of 2022](#)]

"Financial Intelligence Centre Act" means the Financial Intelligence Centre Act, 2001 ([Act No. 38 of 2001](#));

[definition of "Financial Intelligence Centre Act" inserted by section 1(i) of [Act 23 of 2022](#)]

"fixed platform", with reference to sections [6](#) and [15](#), means an artificial island, installation, or structure permanently attached to the sea-bed for the purpose of exploration or exploitation of resources or for economic purposes, but does not include a ship;

"Hazardous Substances Act" means the Hazardous Substances Act, 1973 ([Act No. 15 of 1973](#));

[definition of "Hazardous Substances Act" inserted by section 1(j) of [Act 23 of 2022](#)]

"information infrastructure" means any data, computer data storage medium, computer system or computer program, as defined in the Cybercrimes Act, or any part thereof that is of such a significant economic, public, social or strategic importance that if any service rendered by the information infrastructure is disrupted, destroyed or degraded, it will have a significant effect on—

- (a) the Republic's ability to function, deliver basic public services or maintain law and order; or
- (b) the environment, the health or safety of the public or any segment of the public, or any other infrastructure that may negatively affect the functions and functioning of the information infrastructure in question;

[definition of "information infrastructure" inserted by section 1(j) of [Act 23 of 2022](#)]

"infrastructure facility", with reference to the definition of "terrorist activity" in this section and section [5](#), means any publicly or privately owned facility providing or distributing services for the benefit of the public, such as water, sewage, energy, fuel or communications;

"instruments dealing with terrorist and related activities", means any of the following instruments;

- (a) The Convention on Offences und Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963;

- (b) the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970;
- (c) the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, concluded at Montreal on 23 September 1971;
- (d) the 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 14 December 1973;
- (e) the International Convention Against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979;
- (f) the Convention on the Physical Protection of Nuclear Material, adopted at Vienna on 26 October 1979;
- (g) the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, adopted at Montreal on 24 February 1988;
- (h) the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 1988, adopted at Rome on 10 March 1988;
- (i) the Protocol for the Suppression of Unlawful Acts against the Safety of fixed Platforms on the Continental Shelf, 1988, adopted at Rome on 10 March 1988;
- (j) the Convention on the Marking of Plastic Explosives for the Purpose of Detection, signed at Montreal on 1 March 1991;
- (k) the International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997;
- (l) the Convention on the Prevention and Combating of Terrorism, adopted by the Organisation of African Unity at Algiers on 14 July 1999;

[paragraph [\(l\)](#) amended by section 1(k) of [Act 23 of 2022](#)]

- (m) the International Convention on the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations on 9 December 1999;
- (n) the Protocol to the Organisation of African Unity Convention on the Prevention and Combating of Terrorism, adopted at Addis Ababa by the Assembly of the African Union on 8 July 2004;

[paragraph [\(n\)](#) added by section 1(k) of [Act 23 of 2022](#)]

- (o) the International Convention for the Suppression of Acts of Nuclear Terrorism, adopted by the United Nations General Assembly on 13 April 2005;

[paragraph [\(o\)](#) added by section 1(k) of [Act 23 of 2022](#)]

- (p) Amendment to the Convention on the Physical Protection of Nuclear Material, adopted by the Parties to the Convention on 8 July 2005;

[paragraph [\(p\)](#) added by section 1(k) of [Act 23 of 2022](#)]

- (q) the Protocol to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, adopted by the International Maritime Organisation on 14 October 2005;

[paragraph [\(q\)](#) added by section 1(k) of [Act 23 of 2022](#)]

- (r) the Protocol to the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms located on the Continental Shelf, adopted by the International Maritime Organisation on 14 October 2005;
[paragraph (r) added by section 1(k) of [Act 23 of 2022](#)]
- (s) the Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation, concluded at Beijing on 10 September 2010;
[paragraph (s) added by section 1(k) of [Act 23 of 2022](#)]
- (t) the Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft, concluded at Beijing on 10 September 2010; and
[paragraph (t) added by section 1(k) of [Act 23 of 2022](#)]
- (u) the Protocol to Amend the Convention on Offences and Certain Acts Committed on Board Aircraft, concluded at Montreal on 4 April 2014;
[paragraph (u) added by section 1(k) of [Act 23 of 2022](#)]

"international organisation", with reference to the definitions of "intergovernmental organisation", "internationally protected person" and "terrorist activity" in this section, means an international organisation of states, and includes an intergovernmental organisation;

"intergovernmental organisation", with reference to the definitions of "international organisation", "internationally protected person", "State or government facility" and "terrorist activity" in this section, and section 7, means an international organisation established by the governments of states;

"internationally protected person", with reference to section 8, means—

- (a) a Head of State, including any member of a collegial body performing the functions of a Head of State under the constitution of the State concerned, a Head of Government or a Minister for Foreign Affairs, whenever any such person is in the Republic, as well as members of his or her family accompanying him or her; or
- (b) any representative or official of a State or any official or other agent of an international organisation or intergovernmental organisation or of an intergovernmental character who, at the time when and in the place where a crime against him or her or his or her official premises, his or her private accommodation or his or her means of transport is committed, is entitled, pursuant to international law to special protection from any attack on his or her person, freedom or dignity, as well as members of his or her family forming part of his or her household;

"judge" means a Judge of the High Court;

"Minister" means the Minister for Safety and Security;

"National Commissioner" means the National Commissioner of the South African Police Service appointed in terms of section 207(1) of the [Constitution](#);

"National Director" means the National Director of Public Prosecutions appointed in terms of section 179(1) of the [Constitution](#);

"Non-Proliferation of Weapons of Mass Destruction Act" means the Non-Proliferation of Weapons of Mass Destruction Act, 1993 ([Act No. 87 of 1993](#));

[definition of "Non-Proliferation of Weapons of Mass Destruction Act" inserted by section 1(l) of [Act 23 of 2022](#)]

"Nuclear Energy Act" means the Nuclear Energy Act, 1999 ([Act No. 46 of 1999](#));

[definition of "Nuclear Energy Act" inserted by section 1(l) of [Act 23 of 2022](#)]

"place of public use", with reference to section 5, includes those parts of any building, land, street, waterway or other location that are at any time accessible or open to members of the public, whether continuously, periodically or occasionally;

"police official" means a "member" as defined in section 1 of the South African Police Service Act and with reference to section 24, includes a member of the South African National Defence Force employed in co-operation with the South African Police Service, in terms of section 201(2)(a) of the [Constitution](#) in the prevention and combating of crime, and maintenance and preservation of law and order within the Republic, as contemplated in section 19(1) of the Defence Act, 2002 ([Act No. 42 of 2002](#));

[definition of "police official" substituted by section 1(m) of [Act 23 of 2022](#)]

"property" means any—

- (a) money;
- (b) movable property;
- (c) immovable property;
- (d) corporeal thing;
- (e) incorporeal thing; or
- (f) crypto asset,

and includes any rights, privileges, claims and securities and any interest therein and all proceeds thereof;

[definition of "property" substituted by section 1(n) of [Act 23 of 2022](#)]

"public transportation system", with reference to section 5, means all facilities, conveyances and instrumentalities, whether publicly or privately owned, that are used in or for publicly available services for the transportation of persons or cargo;

"Regulation of Interception of Communications and Provision of Communication-related Information Act" means the Regulation of Interception of Communications and Provision of Communication-related Information Act, 2002 ([Act No. 70 of 2002](#));

[definition of "Regulation of Interception of Communications and Provision of Communication-related Information Act" inserted by section 1(o) of [Act 23 of 2022](#)]

"ship", with reference to the definition of "fixed platform" in this section and section 10, means a vessel of any type whatsoever not permanently attached to the sea-bed, including dynamically supported craft, submersibles or other floating craft, but does not include a ship which has been withdrawn from navigation or laid up;

[definition of "ship" substituted by section 1(p) of [Act 23 of 2022](#)]

"software or hardware tool" means a software or hardware tool as defined in section 4(2) of the Cybercrimes Act;

[definition of "software or hardware tool" inserted by section 1(q) of [Act 23 of 2022](#)]

"South African Police Service Act" means the South African Police Service Act, 1995 ([Act No. 68 of 1995](#));

[definition of "South African Police Service Act" inserted by section 1(q) of [Act 23 of 2022](#)]

"specified offence", with reference to section 4, 14 (in so far as it relates to section 4), and 23, means—

- (a) the offence of terrorism referred to in section 2, an offence associated or connected with terrorist activities referred to in section 3, a Convention offence, or an offence referred to in section 13 or 14 (in so far as it relates to the aforementioned sections); or
- (b) any activity outside the Republic which constitutes an offence under the law of another state and which would have constituted an offence referred to in paragraph (a), had that activity taken place in the Republic;

"State or government facility", with reference to section 5, includes any permanent or temporary facility or conveyance that is used or occupied by representatives of a State, members of Government, the legislature or the judiciary or by officials or employees of a State or any other public authority or entity of the Republic or by employees or officials of an intergovernmental organisation in connection with their official duties;

"terrorist activity", with reference to this section and sections 2, 3 and 17(2), means any act—

- (a) committed in or outside the Republic, which—
 - (i) involves the systematic, repeated or arbitrary use of violence by any means or method;
 - (ii) involves the systematic, repeated or arbitrary release into the environment or any part of it or distributing or exposing the public or any part of it to—
 - (aa) any dangerous, hazardous, radioactive or harmful substance or organism;
 - (bb) any toxic chemical;
 - (cc) any microbial or other biological agent or toxin; or
 - (dd) any weapon of mass destruction in terms section 1 of the Non-Proliferation of Weapons of Mass Destruction Act, including those with dual-purpose capabilities as defined in section 1 of the Non-Proliferation of Weapons of Mass Destruction Act, or any substance, mixture of substances, product or material contemplated in section 2(1) of the Hazardous Substances Act;
 - (iii) endangers the life, or violates the physical integrity or physical freedom of, or causes serious bodily injury to or the death of, any person, or any number of persons;
 - (iiiA) is calculated to overthrow the government of the Republic or any other government;
 - (iv) causes serious risk to the health or safety of the public or any segment of the public;
 - (v) causes the destruction of or substantial damage to any property, natural resource, or the environmental or cultural heritage, whether public or private;
 - (vA) causes the destruction of or substantial damage or interference to an information infrastructure or any part thereof;
 - (vi) is designed or calculated to cause serious interference with or serious disruption of an essential service, facility or system, or the delivery of any such service, facility or system, whether public or private, including, but not limited to—
 - (aa) a system used for, or by, an electronic system, including an information system;
 - (bb) a telecommunication service or system;
 - (cc) a banking or financial service or financial system;
 - (dd) a system used for the delivery of essential government services;
 - (ee) a system used for, or by, an essential public utility or transport provider;

- (ff) an essential or critical infrastructure, information infrastructure, or a critical infrastructure complex; or
- (gg) any essential service designated as such in terms of the Labour Relations Act, 1995 ([Act No. 66 of 1995](#)), or essential emergency services, such as police, medical or civil defence services;
- (vii) causes any major economic loss or extensive destabilisation of an economic system or substantial devastation of the national economy of a country;
- (viii) creates a serious public emergency situation or a general insurrection in the Republic;
- (ix) is the offence of—
 - (aa) unlawful access in terms of section [2](#) of the Cybercrimes Act;
 - (bb) unlawful interception of data in terms of section [3](#) of the Cybercrimes Act;
 - (cc) unlawful interference with data or a computer program in terms of section [5](#) of the Cybercrimes Act;
 - (dd) unlawful interference with a computer data storage medium or a computer system in terms of section [6](#) of the Cybercrimes Act;
 - (ee) unlawful acquisition, possession, provision, receipt or use of a password, access code or similar data or device in terms of section [7](#) of the Cybercrimes Act;
 - (ff) unlawful use or possession of a software or hardware tool for purposes of committing the offences listed in items [\(aa\)](#) to [\(ee\)](#); or
 - (gg) cyber extortion in terms of section [10](#) of the Cybercrimes Act,
 which is committed with the intention to facilitate or to commit an act referred to in subparagraphs [\(i\)](#) to [\(viii\)](#) of this paragraph,
- whether the harm contemplated in subparagraphs [\(i\)](#) to [\(vii\)](#) is or may be suffered in or outside the Republic, and whether the activity referred to in subparagraphs [\(ii\)](#) to [\(ix\)](#) was committed by way of any means or method; and
- (b) which is intended, or by its nature and context, can reasonably be regarded as being intended, in whole or in part, directly or indirectly, to—
 - (i) threaten the unity and territorial integrity of the Republic;
 - (ii) intimidate, or to induce or cause feelings of insecurity within, the public, or a segment of the public, with regard to its security, including its economic security, or to induce, cause or spread feelings of terror, fear or panic in a civilian population;
 - (iii) unduly compel, intimidate, force, coerce, induce or cause a person, a government, the general public or a segment of the public, or a domestic or an international organisation or body or intergovernmental organisation or body, to do or to abstain or refrain from doing any act, or to adopt or abandon a particular standpoint, or to act in accordance with certain principles; or
 - (iv) further the objectives of an entity engaged in terrorist activity,
 whether the public or the person, government, body, or organisation or institution referred to in subparagraphs [\(ii\)](#) or [\(iii\)](#), as the case may be, is inside or outside the Republic;

[definition of "terrorist activity" substituted by section 1(r) of [Act 23 of 2022](#)]

"terrorist and related activities" means any act or activity related to or associated or connected with the commission of the offence of terrorism, or an offence associated or connected with a terrorist activity, or a Convention offence, or an offence referred to in sections [11](#) to [14](#).

- (2) For purposes of this Act, "act" includes "omission".
- (3) For the purposes of paragraph (a)(vi) and (vii) of the definition of "terrorist activity", any act which is committed in pursuance of any advocacy, protest, dissent or industrial action and which does not intend the harm contemplated in paragraph (a)(i) to (v) of that definition, shall not be regarded as a terrorist activity within the meaning of that definition.
- (4) *[subsection (4) deleted by section 1(s) of Act 23 of 2022]*
- (5) Notwithstanding any provision in any other law, a political, philosophical, ideological, racial, ethnic, religious or any similar motive, shall not be considered for any reason, including for purposes of prosecution or extradition, to be a justifiable defence in respect of an offence of which the definition of "terrorist activity" forms an integral part.
[subsection (5) substituted by section 1(t) of Act 23 of 2022]
- (6) For the purposes of this Act a person has knowledge of a fact if—
 - (a) the person has actual knowledge of that fact; or
 - (b) the court is satisfied that—
 - (i) the person believes that there is a reasonable possibility of the existence of that fact; and
 - (ii) he or she fails to obtain information to confirm the existence of that fact.
- (7) For the purposes of this Act a person ought reasonably to have known or suspected a fact if the conclusions that he or she ought to have reached, are those which would have been reached by a reasonably diligent and vigilant person having both—
 - (a) the general knowledge, skill, training and experience that may reasonably be expected of a person in his or her position; and
 - (b) the general knowledge, skill, training and experience that he or she in fact has.

Chapter 2 Offences and penalties

Part I – Offence of terrorism and offences associated or connected with terrorist activities

2. Offence of terrorism

Any person who engages in a terrorist activity is guilty of the offence of terrorism.

3. Offences associated or connected with terrorist activities

- (1) Any person who—
 - (a) does anything which will, or is likely to, enhance the ability of any entity to engage in a terrorist activity, including to provide or offering to provide a skill or an expertise;
 - (b) enters, departs from, transits through or remains in any country; or
[paragraph (b) substituted by section 2(a) of Act 23 of 2022]
 - (c) makes himself or herself available,for the benefit of, at the direction of, or in association with any entity engaging in a terrorist activity, and who knows or ought reasonably to have known or suspected, that such act was done for

the purpose of joining, supporting or in any other manner enhancing the ability of such entity to engage in a terrorist activity, is guilty of the offence associated with a terrorist activity.

[subsection (1) amended by section 2(b) of [Act 23 of 2022](#)]

(2) Any person who—

(a) provides or offers to provide any—

- (i) weapon; or
- (ii) software or hardware tool,

to any other person for use by or for the benefit of an entity;

[paragraph (a) substituted by section 2(c) of [Act 23 of 2022](#)]

(b) solicits support for or gives support to an entity;

(c) provides, receives or participates in training or instruction, or recruits an entity to receive training or instruction;

(d) recruits any entity, or compels, intimidates, forces, coerces, induces or causes any person, including a vulnerable person, to join an entity;

[paragraph (d) substituted by section 2(d) of [Act 23 of 2022](#)]

(e) collects or makes a document; or

(f) possesses a thing.

connected with the engagement in a terrorist activity, and who knows or ought reasonably to have known or suspected that such weapons, software or hardware tools, soliciting, training, recruitment, joining, document or thing is so connected, is guilty of an offence connected with terrorist activities.

[subsection (2) amended by section 2(e) of [Act 23 of 2022](#)]

(3) For the purposes of this section, training, whether in person, online or in any other manner, includes training in any of the following skills:

(a) The making, handling or use of any explosive or other lethal device, or any poisonous or noxious substance, including any substance, mixture of substance, product or material contemplated in section [2\(1\)](#) of the Hazardous Substances Act;

(b) the use of any method or technique for doing anything else that is capable of being done—

- (i) for the purposes of terrorism; or
- (ii) in connection with the commission or preparation of a terrorist activity or a Convention offence; or

(c) the design or adaptation for the purposes of terrorism of any method or technique for doing anything in connection with the commission or preparation of a terrorist activity or Convention offence.

[subsection (3) added by section 2(f) of [Act 23 of 2022](#)]

(4) A person commits an offence if he or she provides or receives training and is aware that such training is, wholly or partly, provided for purposes connected with the commission or preparation of terrorist activities or Convention offences.

[subsection (4) added by section 2(f) of [Act 23 of 2022](#)]

- (5) It is an offence to—
- (a) establish any entity engaging in or planning to engage in a terrorist activity, or to support such an entity; or
 - (b) belong to or become a member of an entity contemplated in paragraph (a).

[subsection (5) added by section 2(f) of [Act 23 of 2022](#)]

Part 2 – Convention offences

4. Offences associated or connected with financing of specified offences

- (1) Any person who, directly or indirectly, in whole or in part, and by any means or method—
- (a) acquires property;
 - (b) collects property;
 - (c) uses property;
 - (d) possesses property;
 - (e) owns property;
 - (f) provides or makes available, or invites a person to provide or make available property;
 - (g) provides or makes available, or invites a person to provide or make available any financial or other service;
 - (h) provides or makes available, or invites a person to provide or make available economic support; or
 - (i) solicits or facilitates the acquisition, collection, use or provision of property, or the provision of any financial or other service, or the provision of economic support,

[paragraph (i) substituted by section 3(a) of [Act 23 of 2022](#)]

intending that the property, financial or other service or economic support, as the case may be, be used, or while such person knows or ought reasonably to have known or suspected that the property, service or support concerned will be used, directly or indirectly, in whole or in part—

- (i) to commit or facilitate the commission of a specified offence;
- (ii) for the benefit of, or on behalf of, or at the direction of, or under the control of an entity which commits or attempts to commit or facilitates the commission of a specified offence;

[subparagraph (ii) amended by section 3(b) of [Act 23 of 2022](#)]

- (iiA) for the benefit of, or on behalf of, or at the direction of, or under the control of, a specific entity identified in an order made under section 23; or

[subparagraph (iiA) inserted by section 3(c) of [Act 23 of 2022](#)]

- (iii) for the benefit of a specific entity identified pursuant to a Resolution of the United Nations Security Council relating to the identification of entities—
 - (aa) that commit, or attempt to commit, any terrorist and related activity or participate in or facilitate the commission of any terrorist and related activity; or

- (bb) against which Member States of the United Nations must take the actions specified in that Resolution in order to combat or prevent terrorist and related activities,

and which are announced in a notice referred to in section 26A(3) of the Financial Intelligence Centre Act,

[subparagraph (iii) substituted by section 3(d) of [Act 23 of 2022](#)]

is guilty of an offence.

- (2) Any person who, directly or indirectly, in whole or in part, and by any means or method—

- (a) deals with, enters into or facilitates any transaction or performs any other act in connection with property which such person knows or ought reasonably to have known or suspected to have been acquired, collected, used, possessed, owned or provided—

- (i) to commit or facilitate the commission of a specified offence;

- (ii) for the benefit of, or on behalf of, or at the direction of, or under the control of an entity which commits or attempts to commit or facilitates the commission of a specified offence;

[subparagraph (ii) amended by section 3(e) of [Act 23 of 2022](#)]

- (iiA) for the benefit of, or on behalf of, or at the direction of, or under the control of, a specific entity identified in an order made under section 23; or

[subparagraph (iiA) inserted by section 3(f) of [Act 23 of 2022](#)]

- (iii) for the benefit of a specific entity identified pursuant to a Resolution of the United Nations Security Council relating to the identification of entities—

- (aa) that commit, or attempt to commit, any terrorist and related activity or participate in or facilitates the commission of any terrorist and related activity; or

- (bb) against which Member States of the United Nations must take the actions specified in that Resolution in order to combat or prevent terrorist and related activities,

and which are announced in a notice referred to in section 26A(3) of the Financial Intelligence Centre Act; or

[subparagraph (iii) substituted by section 3(g) of [Act 23 of 2022](#)]

- (b) provides financial or other services in respect of property referred to in paragraph (a),

is guilty of an offence.

- (3) Any person who knows or ought reasonably to have known or suspected that property is property referred to in subsection (2)(a) and enters into, or becomes concerned in, an arrangement which in any way has or is likely to have the effect of—

- (a) facilitating the retention or control of such property by or on behalf of, or for the benefit of—

- (i) an entity which commits or attempts to commit or facilitates the commission of a specified offence;

- (iA) a specific entity identified in an order made under section 23; or

- (ii) a specific entity identified pursuant to a Resolution of the United Nations Security Council relating to the identification of entities—
 - (aa) that commit, or attempt to commit, any terrorist and related activity or participate in or facilitates the commission of any terrorist and related activity; or
 - (bb) against which Member States of the United Nations must take the actions specified in that Resolution in order to combat or prevent terrorist and related activities,
 and announced in a notice referred to in section 26A(3) of the Financial Intelligence Centre Act;

[paragraph (a) substituted by section 3(h) of [Act 23 of 2022](#)]

- (b) converting such property;
 - (c) concealing or disguising the nature, source, location, disposition or movement of such property, the ownership thereof or any interest anyone may have therein;
 - (d) removing such property from a jurisdiction; or
 - (e) transferring such property to a nominee,
- is guilty of an offence.

4A. Offence relating to attempt to leave Republic

Any person who directly or indirectly, by any means or method, attempts to leave the Republic for the purpose of committing an act or omission outside the Republic that, if committed in the Republic, would be an offence under this or any other Act for the benefit of, at the direction of, or in association with a terrorist group, is guilty of an offence.

[section 4A inserted by section 4 of [Act 23 of 2022](#)]

5. Offences relating to explosive or other lethal devices

Any person who intentionally delivers, places, discharges or detonates an explosive or other lethal device in, into or against a place of private or public use, a state or government facility, a public transport facility, a public transportation system, or an infrastructure facility, with the purpose, amongst others, of causing —

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

is guilty of an offence relating to explosive or other lethal devices.

[section 5 amended by section 5 of [Act 23 of 2022](#)]

6. Offences relating to hijacking, destroying or endangering safety of fixed platform

[heading substituted by section 6(a) of [Act 23 of 2022](#)]

- (1) Any person who intentionally—
 - (a) seizes or exercises control over a fixed platform by force or any other form of intimidation;
 - (b) performs an act of violence against a person on board a fixed platform, which act is likely to endanger the safety of that fixed platform;

- (c) (i) destroys such a fixed platform; or
- (ii) causes damage to it, which damage is likely to endanger the safety of that fixed platform;
- (d) places or causes to be placed on 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; or
- (e) injures or kills any person in connection with the commission of any of the acts referred to in paragraphs (a) to (d),

is guilty of an offence relating to the hijacking, destroying or endangering of a fixed platform.

[subsection (1), previously section 6 renumbered by section 6(b) of [Act 23 of 2022](#)]

- (2) Any person who, for the purpose of intimidating a population, or to compel a government or an international organisation to do or to abstain or refrain from doing any act intentionally—
 - (a) uses against or on a fixed platform or discharges from a fixed platform any explosive or other lethal device in a manner that causes or is likely to cause death or serious injury or damage;
 - (b) discharges from a fixed platform, oil, liquefied natural gas or another hazardous, poisonous or noxious substance, in such quantity or concentration that causes or is likely to cause death or serious injury or damage; or
 - (c) uses any other means to disable, damage or render useless a fixed platform,is guilty of an offence.

[subsection (2) added by section 6(b) of [Act 23 of 2022](#)]

7. Offences relating to taking hostage

[heading substituted by section 7 of [Act 23 of 2022](#)]

Any person who intentionally—

- (a) seizes or detains; and
- (b) threatens to kill, to injure or to continue to detain,

any other person (hereinafter referred to as a hostage), in order to compel a third party, namely a State, an intergovernmental organisation, a natural or juridical person, or a group of persons to do or abstain from doing any act as an explicit or implicit condition for the release of the hostage, is guilty of an offence of taking a hostage.

8. Offences relating to causing harm to internationally protected persons

Any person who, knowing that a person is an internationally protected person, intentionally—

- (a) murders or kidnaps or otherwise violently attacks the person or liberty of that person; or
- (b) executes a violent attack upon the official premises, the private accommodation or the means of transport of that person, which attack is likely to endanger his or her person or liberty,

is guilty of an offence relating to causing harm to an internationally protected person.

9. Offences relating to hijacking aircraft

[heading substituted by section 8(a) of [Act 23 of 2022](#)]

Any person who intentionally, by force or threat thereof, or by any other form of intimidation, or any other means, seizes or exercises control of an aircraft and with the purpose of—

- (a) causing any person on board the aircraft to be detained against his or her will;
- (b) causing any person on board the aircraft to be transported against his or her will to any place other than the next scheduled place of landing of the aircraft;
- (c) holding any person on board the aircraft for ransom or to service against his or her will; or
- (d) causing that aircraft to deviate from its flight plan.

is guilty of an offence of hijacking an aircraft.

[section 9 amended by section 8(b) of [Act 23 of 2022](#)]

10. Offences relating to hijacking ship or endangering safety of maritime navigation

[heading substituted by section 9(a) of [Act 23 of 2022](#)]

(1) Any person who intentionally—

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

is guilty of an offence relating to hijacking a ship or endangering the safety of maritime navigation.

[subsection (1), previously section 10, renumbered by section 9(b) of [Act 23 of 2022](#)]

(2) For purposes of this section—

- (a) "radioactive material" means radioactive material as defined in section 1 of the Nuclear Energy Act, and a Group IV hazardous substance as defined in section 1 of the Hazardous Substances Act;
- (b) "source material" means source material as defined in section 1 of the Nuclear Energy Act; and

- (c) "special nuclear material" means special nuclear material as defined in section 1 of the Nuclear Energy Act.

[subsection (2) added by section 9(b) of [Act 23 of 2022](#)]

- (3) Any person who unlawfully and intentionally performs any of the following acts commits an offence:
- (a) Intimidating a population, or compelling a government or an international organisation, to do or to abstain from doing any act by—
 - (i) using against or on a ship, or discharges from a ship any explosive, radioactive material or weapon of mass destruction as defined in the Non-Proliferation of Weapons of Mass Destruction Act, or a hazardous substance referred to in section 2 of the Hazardous Substances Act, in a manner that causes or is likely to cause death or serious injury or damage;
 - (ii) discharging from a ship, oil, liquefied natural gas, or poisonous or noxious substance, in such quantity or concentration that causes or is likely to cause death or serious injury or damage;
 - (iii) using a ship in a manner that causes death or serious injury or damage;
 - (iv) threatening to commit an offence as contemplated in subparagraph (i) or (ii); or
 - (v) using any other means to interfere with the safe navigation of a ship, including interference with the navigation or information system thereof; or
 - (b) transporting on board a ship—
 - (i) any explosive or radioactive material, knowing that it is intended to be used to cause, or in a threat to cause death or serious injury or damage for the purpose of intimidating a population, or compelling a government or an international organisation to do or to abstain or refrain from doing any act;
 - (ii) any weapon of mass destruction, as defined in section 1 of the Non-Proliferation of Weapons of Mass Destruction Act, knowing it to be such a weapon;
 - (iii) any source material, special nuclear material, equipment, or material especially designed or prepared for the processing, use or production of special nuclear material, knowing that it is intended to be used in a nuclear explosive activity or in any other nuclear activity not under safeguards pursuant to an International Atomic Energy Agency comprehensive safeguards agreement; or
 - (iv) any equipment, materials, software or related technology that significantly contributes to the design, manufacture or delivery of a weapon of mass destruction, as defined in section 1 of the Non-Proliferation of Weapons of Mass Destruction Act, with the intention that it will be used for such purpose.

[subsection (3) added by section 9(b) of [Act 23 of 2022](#)]

- (4) For the purposes of this section—
- (a) it is not an offence to transport an item, material, software or related technology referred to in subsection (3)(b)(ii) or (iv), if such item, material, software or related technology is transported subject to control in accordance with section 13 of the Non-Proliferation of Weapons of Mass Destruction Act; and
 - (b) it is not an offence to transport an item or material referred to in subsection (3)(b)(iii) or, insofar as it relates to a nuclear weapon or other nuclear explosive device, if such item or

material is transported to or from the territory of, or is otherwise transported under the control of, a State Party to the Treaty on the Non-Proliferation of Nuclear Weapons where—

- (i) the resulting transfer or receipt, including internal to a State, of the item or material is not contrary to the Republic's obligations under the Treaty on the Non-Proliferation of Nuclear Weapons; and
- (ii) if the item or material is intended for the delivery system of a nuclear weapon or other nuclear explosive device of a State Party to the Treaty on the Non-Proliferation of Nuclear Weapons and the holding of such weapon or device is not contrary to the Republic's obligations under that Treaty.

[subsection (4) added by section 9(b) of [Act 23 of 2022](#)]

- (5) Any person who unlawfully and intentionally transports another person on board a ship knowing that the person has committed an act that constitutes an offence in terms of this section and intending to assist that person to evade criminal prosecution, is guilty of an offence.

[subsection (5) added by section 9(b) of [Act 23 of 2022](#)]

Part 3 – Other offences

11. Offences relating to harbouring or concealment of persons committing specified offences

Any person who harbours or conceals any person, whom he or she knows, or ought reasonably to have known or suspected, to be a person who has committed the offence of terrorism referred to in section 2, an offence associated or connected with terrorist activities referred to in section 3, any Convention offence, or an offence referred to in section 13 or 14, or who is likely to commit such an offence, is guilty of an offence.

[section 11 substituted by section 10 of [Act 23 of 2022](#)]

12. Duty to report presence of person suspected of intending to commit or having committed offence and failure to so report

[heading substituted by section 11(a) of [Act 23 of 2022](#)]

- (1) Any person who—
 - (a) has reason to suspect that any other person intends to commit or has committed an offence referred to in this Chapter; or
 - (b) is aware of the presence at any place of any other person who is so suspected of intending to commit or having committed such an offence,
 must report as soon as reasonably possible such suspicion or presence, as the case may be, or cause such suspicion or presence to be reported to any police official.
- (2) Any person who fails to comply with the provisions of subsection (1)(a) or (b), is guilty of an offence.
- (3) Upon receipt of a report referred to in subsection (1), the police official involved, must take down the report in the manner directed by the National Commissioner, and forthwith provide the person who made the report with an acknowledgement of receipt of such report.
- (4)
 - (a) The National Commissioner must, at the commencement of this Act, publish the direction contemplated in subsection (3) in the *Gazette*,
 - (b) Any direction issued under subsection (3) must be tabled in Parliament.

- (5) A person required to make a report in terms of subsection (1) concerning a suspicion that any other person intends to commit or has committed an offence referred to in section 4, may continue with and carry out any transaction to which such a suspicion relates, unless directed in terms of subsection (6) not to proceed with such a transaction.
- (6) If a police official authorised thereto by the National Commissioner, after consulting with a person required to make a report contemplated in subsection (5), has reasonable grounds to suspect that a transaction referred to in that subsection may constitute an offence contemplated in section 4, that police official may direct that person, in writing, not to proceed with the carrying out of that transaction or any other transaction in respect of the property affected by that transaction for a period as may be determined by that police official, which may not be more than five days.
- (7) For the purposes of calculating the period of five days in subsection (6), Saturdays, Sundays and proclaimed public holidays must not be taken into account.
- (8) Subsection (6) does not apply to the carrying out of a transaction to which the rules of an exchange licensed in terms of the Stock Exchanges Control Act, 1985 ([Act No. 1 of 1985](#)), or the Financial Markets Control Act, 1989 ([Act No. 55 of 1989](#)), apply.
- (9) For the purposes of this Act, no duty of secrecy or confidentiality or any other restriction on the disclosure of information, whether imposed by legislation or arising from the common law or agreement, affects the duty of compliance with this section by an accountable institution, supervisory body or reporting institution as defined in section 1 of the Financial Intelligence Centre Act, or any other person.
[subsection (9) added by section 11(b) of [Act 23 of 2022](#)]
- (10) Subsection (9) does not apply to the common law right to legal professional privilege as between an attorney and the attorney's client in respect of communications made in confidence between—
 - (a) the attorney and the attorney's client for the purposes of legal advice or litigation which is pending or which has commenced; or
 - (b) a third party and an attorney for the purposes of litigation which is pending or has commenced.

[subsection (10) added by section 11(b) of [Act 23 of 2022](#)]

13. Offences relating to hoaxes

- (1) (a) Any person who, with the intention of inducing in a person anywhere in the world a false belief that an offence under sections 2, 3 and 5 to 10 will be committed, is guilty of an offence.
[paragraph (a) substituted by section 12(a) of [Act 23 of 2022](#)]
- (b) Any person who, directly or indirectly, communicates any information, which he or she knows, or ought reasonably to have known or suspected, or believes to be false, with the intention of inducing in a person anywhere in the world a belief that a noxious substance or thing or an explosive or other lethal device is likely to be present (whether at the time the information is communicated or later) in or at any place, is guilty of an offence.
- (c) Any person who directly or indirectly communicates any information which he or she knows, or ought reasonably to have known or suspected, or believes to be false and which involves threats of violence or of any other offence that will be committed at any place with a view to intimidate any person to avoid certain places or to divert police resources in order to commit a crime under this Act, is guilty of an offence.

[paragraph (c) added by section 12(b) of [Act 23 of 2022](#)]

- (d) If any police resources have been diverted as a result of a crime committed under paragraph (c), the offender is liable for any costs proven by the State in that regard.

[paragraph (d) added by section 12(b) of [Act 23 of 2022](#)]

- (e) Upon conviction of an offence under paragraph (c), the court may order the accused, in addition to any fine or imprisonment imposed by the court, to pay the costs related to such diversion of resources.

[paragraph (e) added by section 12(b) of [Act 23 of 2022](#)]

- (2) 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).

14. Threat, attempt, conspiracy and inducing another person to commit offence

Any person who—

- (a) threatens;
- (b) attempts;
- (c) conspires with any other person; or
- (d) aids, abets, induces, incites, instigates, instructs or commands, counsels or procures another person,

to commit an offence in terms of this Chapter, is guilty of an offence.

Chapter 3 Provisions relating to offences and penalties

Part I – Provisions relating to offences

15. Jurisdiction in respect of offences

- (1) A court of the Republic has jurisdiction and the Directorate may, upon information about the commission of any offence mentioned in this subsection, initiate an investigation, or the National Director may institute a prosecution in respect of the offence of terrorism referred to in section 2, an offence associated or connected with terrorist activities referred to in section 3, any Convention offence, or an offence referred to in section 13 or 14, if—
 - (a) the accused was arrested in the territory of the Republic, or in its territorial waters or on board a ship or aircraft registered or required to be registered in the Republic; or
 - (b) the offence was committed—
 - (i) in the territory of the Republic;
 - (ii) on board a vessel, a ship, an off-shore installation, or a fixed platform, or an aircraft registered or required to be registered in the Republic at the time the offence was committed;
 - (iii) by a citizen of the Republic or a person ordinarily resident in the Republic;
 - (iv) against the Republic, a citizen of the Republic or a person ordinarily resident in the Republic;
 - (v) on board an aircraft in respect of which the operator is licensed in terms of the Air Services Licensing Act, 1990 ([Act No. 115 of 1990](#)), or the International Air Services Act, 1993 ([Act No. 60 of 1993](#));

- (vi) against a government facility of the Republic abroad, including an embassy or other diplomatic or consular premises, or any other property of the Republic;
 - (vii) when during its commission, a national of the Republic is seized, threatened, injured or killed;
 - (viii) in an attempt to compel the Republic to do or to abstain or to refrain from doing any act; or
 - (c) the evidence reveals any other basis recognised by law.
- [subsection (1) amended by section 13(a) of [Act 23 of 2022](#)]*
- (2) Any act alleged to constitute an offence under this Act and which is committed outside the Republic by a person other than a person contemplated in subsection (1), shall, regardless of whether or not the act constitutes an offence or not at the place of its commission, be deemed to have been committed also in the Republic if that—
- (a) act affects or is intended to affect a public body, any person or business in the Republic;
 - (b) person is found to be in the Republic; and
 - (c) person is for one or other reason not extradited by the Republic or if there is no application to extradite that person.
- (2A) Any person referred to in subsection (2) may be arrested to appear in court pending a determination on the issue of extradition.
- [section 2A inserted by section 13(b) of [Act 23 of 2022](#)]*
- (3) Any offence committed in a country outside the Republic as contemplated in subsection (1) or (2), is, for the purpose of determining the jurisdiction of a court to try the offence, deemed to have been committed—
- (a) at the place where the accused is ordinarily resident;
- [paragraph (a) amended by section 13(c) of [Act 23 of 2022](#)]*
- (b) at the accused person's principal place of business.
 - (c) at the place where the accused was arrested or charged in the Republic;
- [paragraph (c) added by section 13(d) of [Act 23 of 2022](#)]*
- (d) at the place where the victim resided; or
- [paragraph (d) added by section 13(d) of [Act 23 of 2022](#)]*
- (e) at the place where the police registered the complaint,
- [paragraph (e) added by section 13(d) of [Act 23 of 2022](#)]*
- whichever is the most applicable to the facts of the particular case.
- [subsection (3) amended by section 13(d) of [Act 23 of 2022](#)]*
- (3A) Where it is not possible to obtain a warrant of arrest for an accused on the grounds provided for in section [43\(1\)\(b\)](#) of the Criminal Procedure Act, the magistrate of the district where the police registered the complaint may issue the warrant.
- [subsection (3A) inserted by section 13(e) of [Act 23 of 2022](#)]*
- (4) Where a person is charged with conspiracy or incitement to commit an offence or as an accessory after that offence, the offence is deemed to have been committed not only at the place where the act was committed, but also at every place where the conspirator, inciter or accessory acted or, in case of an omission, should have acted.

- (5) Whenever the National Commissioner receives information from an appropriate government body of a foreign State that a person who is alleged to have committed or is convicted of or is sentenced in respect of any Convention offence in respect of which—

- (a) a court in the Republic has jurisdiction as referred to in subsection (1); or
- (b) any court in a foreign State may have jurisdiction,

may be present in the Republic, the National Commissioner must cause such measures to be taken as he or she may deem necessary to investigate the matter.

- (6) Where it appears on reasonable grounds from the investigation referred to in subsection (5) that extradition or criminal proceedings may be instituted against such person, that person may be arrested as contemplated in section 40(1) of the Criminal Procedure Act, in order to ensure his or her presence at such proceedings.

[subsection (6) substituted by section 13(f) of [Act 23 of 2022](#)]

- (7) The National Director must, upon an arrest contemplated in subsection (6), promptly be notified thereof by the police official effecting such arrest.

- (8) Upon being notified in terms of subsection (7), the National Director must promptly notify any foreign State that might have jurisdiction over the offence in question, either directly or through the Secretary General of the United Nations—

- (a) of the fact that the person is in custody;
- (b) of the circumstances that justify the person's detention; and
- (c) whether he or she intends to prosecute the person,

with a view to the surrender of such person to a foreign State for prosecution by that State, should the National Director decline to prosecute.

- (9) The provisions of this section must be exercised subject to the provisions of the Extradition Act, 1962 ([Act No. 67 of 1962](#)).

- (10) When a person who is—

- (a) not a citizen of the Republic;
- (b) not habitually resident in the Republic; or
- (c) a stateless person,

is arrested by a member of the South African Police Service or the National Commissioner or the National Head of the Directorate for an alleged contravention of a Convention Offence, the Secretary-General of the United Nations or the government or governments with established jurisdiction must immediately be notified, through the diplomatic channel, of the arrest.

[subsection (10) added by section 13(g) of [Act 23 of 2022](#)]

- (11) The National Commissioner or the National Head of the Directorate may consider to inform any other interested government about a person in custody and the circumstances which warranted that person's arrest.

[subsection (11) added by section 13(g) of [Act 23 of 2022](#)]

- (12) A person referred to in subsection (10) must as soon as possible, upon arrest, be informed of his or her rights to—

- (a) request that the relevant government be informed of his or her arrest;
- (b) have access to communicate with a consular representative of the relevant government; and

- (c) expect that any communication addressed to the relevant consular post about the arrested person is forwarded by the relevant authorities without delay.

[subsection (12) added by section 13(g) of [Act 23 of 2022](#)]

16. Consent of National Director to institute proceedings and reporting obligations

- (1) No prosecution under Chapter 2 may be instituted without the written authority of the National Director, except in the case of a prosecution under section 13 which is not linked to any other offence under this Act, in which case the written authority of the relevant Director of Public Prosecutions must be obtained before the institution of a prosecution.

[subsection (1) substituted by section 14 of [Act 23 of 2022](#)]

- (2) The National Director must communicate the final outcome of the proceedings promptly to—
 - (a) the Secretary General of the United Nations, so that he or she may transmit the information to other members of the United Nations, if a person is prosecuted for an offence referred to in section 4, 5, 7 or 8;
 - (b) the Council of the International Civil Aviation Organization, if a person is prosecuted for an offence referred to in section 9; or
 - (c) the Secretary General of the International Maritime Organization, if a person is prosecuted for an offence referred to in section 6 or 10.

17. Evidential matters and exclusions

- (1) If in any proceedings in a court of law any question arises as to whether or not any person is an internationally protected person, or is pursuant to international law entitled to special protection from any attack on his or her person, freedom or dignity, a certificate under the hand or issued under the authority of the Director-General of the Department responsible for International Relations and Cooperation, stating any fact relating to that question, is *prima facie* evidence of that fact.

[subsection (1) substituted by section 15 of [Act 23 of 2022](#)]

- (2) A person commits an offence under section 2, 3, 4, 11, 12(2) or 14 (in so far as it relates to the aforementioned sections), notwithstanding whether the terrorist activity occurs or not.
- (3) A person commits an offence under section 3, 4, 11 or 14 (in so far as it relates to the aforementioned sections), whether or not—
 - (a) the actions of the accused actually enhance the ability of any person to commit a specified offence; or
 - (b) the accused knows or ought reasonably to have known or suspected the specific offence that may be committed.
- (4) Nothing in section 4 makes it an offence to provide or collect funds intending that they be used, or knowing or while a person ought reasonably to have known or suspected that they are to be used, for the purpose of advocating democratic government or the protection of human rights.
- (5) If a person reports the presence of a person referred to in section 11, as soon as possible in accordance with section 12, he or she shall not be liable for prosecution, under section 11.
- (6) A person charged with committing an offence under section 4 may raise as a defence—
 - (a) the fact that he or she had performed any act in connection with the property in question, or allowed or facilitated the performance of any act in connection with that property, solely for the purpose of preserving the value of that property; or

- (b) that he or she acted in good faith and reported his or her suspicion in accordance with section [12](#) of this Act, or section [29](#) of the Financial Intelligence Centre Act, 2001 ([Act No. 38 of 2001](#)), as the case may be.
- (7) No action, whether criminal or civil, lies against a person complying in good faith with section [12\(1\)](#).
- (8) A person who has made, initiated or contributed to a report in terms of section [12\(1\)](#) concerning a suspicion that any other person intends to commit or has committed an offence referred to in section [4](#) is competent, but not compellable, to give evidence in criminal proceedings arising from the report.
- (9) No evidence concerning the identity of a person who has made, initiated or contributed to a report in terms of section [12\(1\)](#) concerning a suspicion that any other person intends to commit or has committed an offence referred to in section [4](#), is admissible as evidence in criminal proceedings unless that person testifies at those proceedings.
- (10) A person who acts reasonably in taking or omitting to take measures to comply with section [4\(2\)](#) shall not be liable in any civil action arising from having taken or omitted to have taken those measures, if the person proves that he or she took all reasonable steps to satisfy himself or herself that the relevant property was not owned, controlled or possessed by, or on behalf of or for the benefit of or at the direction of, an entity referred to in the said section [4\(2\)](#).
- (11) A person is guilty of an offence under section [13\(1\)\(a\)](#) or [\(b\)](#), whether or not he or she has any particular person in mind as the person in whom he or she intends to induce the belief in question.

Part 2 – Penalties and matters relating to penalties

18. Penalties

- (1) Any person who is convicted of an offence referred to in—
 - (a) section [2](#), [5](#), [6](#), [7](#), [8](#), [9](#) or [10](#) is liable—
 - (i) in the case of a sentence to be imposed by a High Court, to a fine or to imprisonment for a period up to imprisonment for life;
 - (ii) in the case of a sentence to be imposed by a regional court, to a fine or to imprisonment for a period not exceeding 18 years;
 - (iii) in the case of a sentence to be imposed by any magistrate's court, to a fine or to imprisonment for a period not exceeding five years;
 - (b) section [3](#) or [11](#) is liable—
 - (i) in the case of a sentence to be imposed by a High Court or a regional court, to a fine or to imprisonment for a period not exceeding 15 years;
 - (ii) in the case of a sentence to be imposed by any magistrate's court, to any penalty which may lawfully be imposed by that court;
 - (c) section [4](#) or [4A](#), is liable —
 - (i) in the case of a sentence to be imposed by a High Court or a regional court, to a fine not exceeding R100 million or to imprisonment for a period not exceeding 30 years;
 - (ii) in the case of a sentence to be imposed by any magistrate's court, to a fine not exceeding R250 000,00, or to imprisonment for a period not exceeding five years;

[paragraph (c) substituted by section 16(a) of [Act 23 of 2022](#)]

- (d) section 13(1)(a), (b) or (c) is liable—
 - (i) in the case of a sentence to be imposed by a High Court or a regional court, to a fine or to imprisonment for a period not exceeding 15 years;
[subparagraph (i) substituted by section 16(c) of Act 23 of 2022]
 - (ii) in the case of a sentence to be imposed by any magistrate's court, to any penalty which may lawfully be imposed by that court;
[paragraph (d) amended by section 16(b) of Act 23 of 2022]
- (e) section 12(2), is liable—
 - (i) in the case of a sentence to be imposed by a High Court or a regional court, to a fine or to imprisonment for a period not exceeding 15 years;
[subparagraph (i) substituted by section 16(d) of Act 23 of 2022]
 - (ii) in the case of a sentence to be imposed by any magistrate's court, to any penalty which may lawfully be imposed by that court;
- (f) section 14, is liable to the punishment laid down in paragraph (a) (b) (c) (d) or (e) for the offence which that person threatened, attempted or conspired to commit or aided, abetted, induced, instigated, instructed, commanded, counseled or procured another person to commit; and
[paragraph (f) amended by section 16(e) of Act 23 of 2022]
- (g) section 24A(10) or (11), is liable to a fine or imprisonment not exceeding one year, or to both such fine and imprisonment.
[paragraph (g) added by section 16(f) of Act 23 of 2022]
- (2) (a) The court, in imposing a sentence on a person who has been convicted of an offence under section 13(1)(a) or (b), may order that person to reimburse any party incurring expenses incidental to any emergency or investigative response to that conduct, for those expenses.
- (b) A person ordered to make reimbursement under paragraph (a), shall be jointly and severally liable for such expenses with each other person, if any, who is ordered to make reimbursement under that paragraph for the same expenses.
- (c) An order of reimbursement under paragraph (a), shall, for the purposes of enforcement, be treated as a civil judgment.

19. Declarations of forfeiture on conviction

- (1) Whenever any person is convicted of an offence under this Act, the court in passing sentence must, in addition to any punishment which that court may impose in respect of the offence, declare any property which is reasonably believed to have been used—
 - (a) in the commission of the offence; or
 - (b) for the purpose of or in connection with the commission of the offence, and which was seized under any power exercised under section 22, or is in the possession or custody or under the control of the convicted person, to be forfeited to the State.
- (2) The court which makes a declaration of forfeiture of property referred to in subsection (1), must order the registrar of the High Court concerned or clerk of the Magistrate's Court for the district concerned to forthwith publish such declaration calling upon interested parties through the media and by notice in the *Gazette*.

- (3) Anything forfeited under subsection (1) must, if it was seized under any power exercised under section 22, be kept or, if it is in the possession or custody or under the control of the convicted person, be seized and kept—
 - (a) for a period of 45 days after the date of the notice published in the *Gazette*; or
 - (b) if any person referred to in section 20(1) has, within the period contemplated in paragraph (a) made an application to the court concerned regarding his or her interest in such thing, until a final decision has been rendered in respect of any such application.

20. Interests of third parties

- (1) A declaration of forfeiture in terms of section 19(1) does not affect any interest, which any person other than the convicted person may have in the property in question, if the former person proves—
 - (a) that he or she acquired the interest in that property in good faith and for consideration, whether in cash or otherwise; and
 - (b) that—
 - (i) the circumstances under which he or she acquired the interest in that property were not of such a nature that he or she knew or ought reasonably to have known or suspected that it was property used as contemplated in section 19(1); or
 - (ii) he or she could not prevent the use of that property as contemplated in that section.
- (2)
 - (a) Subject to the provisions of subsection (1), the court concerned or, if the judge or judicial officer concerned is not available, any judge or judicial officer of that court, may at any time within a period of three years from the date of the declaration of forfeiture, on the application of any person, other than the Convicted person, who claims that he or she has any interest in the property in question, inquire into and determine any such interest.
 - (b) If a court referred to in paragraph (a) finds—
 - (i) that the property is wholly owned by the applicant, the court must set aside the declaration of forfeiture in question and direct that the property be returned to the applicant or, if the State has disposed of it, direct that the applicant be compensated by the State in an amount equal to the value of the property disposed of; or
 - (ii) that the applicant has an interest in the property—
 - (aa) the court must direct that the property be sold by public auction and that the applicant be paid out of the proceeds of the sale an amount equal to the value of his or her interest therein, but not exceeding the proceeds of the sale; or
 - (bb) if the State has disposed of the property, the court must direct that the applicant be compensated by the State in an amount equal to the value of his or her interest therein.
- (3) Any person aggrieved by a determination made by the court under subsection (2), may appeal against the determination as if it were a conviction by the court making the determination, and such appeal may be heard either separately or jointly with an appeal against the conviction as a result of which the declaration of forfeiture was made, or against a sentence imposed as a result of such conviction.

21. Evidence in respect of declarations of forfeiture and certain interests

In order to make a declaration of forfeiture under section 19(1) or to determine any interest under section 20(2), the court may refer to the evidence and proceedings at the trial or hear such further evidence, either orally or by affidavit, as it may deem fit.

Chapter 4

Investigating powers and freezing orders

22. Investigating powers

- (1) Whenever the National Director has reason to believe that—
 - (a) any person may be in possession of information relevant to—
 - (i) the commission or intended commission of an alleged offence under Chapter 2; or
 - (ii) any property which—
 - (aa) may have been used in the commission, or for the purpose of or in connection with the commission, of an offence under this Act;
 - (bb) may have facilitated the commission of an offence under this Act, or enabled any entity to commit such an offence, or provided financial or economic support to an entity in the commission of such an offence; or
 - (cc) may afford evidence of the commission or intended commission of an offence referred to in subparagraph (i);
 - (b) there may be in any building, receptacle or place, or in the possession, custody or control of any entity any property referred to in paragraph (a)(ii); or
 - (c) any entity may be in possession, custody or control of any documentary material relevant—
 - (i) to an alleged offence referred to in paragraph (a)(i); or
 - (ii) in respect of any property referred to in paragraph (a)(ii) or (b),

he or she may, prior to the institution of any civil or criminal proceeding, under written authority direct that a Director of Public Prosecutions shall have, in respect of a specific investigation, the power to institute an investigation in terms of the provisions of Chapter 5 of the National Prosecuting Authority Act, 1998 ([Act No. 32 of 1998](#)), relating to the commission or intended commission of an alleged offence referred to in paragraph (a)(i) or any property contemplated in paragraph (a)(ii), or to any property referred to in paragraph (b), or to the possession, custody or control of any documentary material referred to in paragraph (c).

- (2) For purposes of subsection (1), a reference in the said Chapter 5 to—
 - (a) the "head of the Directorate of Special Operations" or an "Investigating Director" shall be construed as a reference to a Director of Public Prosecutions authorized under subsection (1): Provided that for purposes of section [28\(2\)\(a\)](#) of the said Act, a Director of Public Prosecutions, may only designate a Deputy Director of Public Prosecutions;
 - (b) a "special investigator" shall be construed as to include a "police official".
- (3) If any property, contemplated in subsection (1)(a)(ii), seized under any power exercised under subsection (1), consists of cash or funds standing to the credit of a bank account, the Director of Public Prosecutions who has instituted the investigation under that subsection, shall cause the cash or funds to be paid into a banking account which shall be opened with any bank as defined in section 1 of the Banks Act, 1990 ([Act No. 94 of 1990](#)), and the Director of Public Prosecutions shall forthwith report to the Financial Intelligence Centre established in terms of section [2\(1\)](#) of the Financial Intelligence Centre Act, 2001 ([Act No. 38 of 2001](#)), the fact of the seizure of the cash or funds and the opening of the account.

23. Freezing order

- (1) A High Court may, on *ex parte* application by the National Director to a judge in chambers, subject to such conditions and exceptions as may be specified in the order, make an order—
 - (a) prohibiting any person from engaging in any conduct, or dealing in any manner with any property owned or controlled by or on behalf of, or at the direction of, or otherwise associated with an entity referred to in subsection (2), and may include an order to freeze any such property;
 - (b) obliging any person to cease any conduct in respect of any property referred to in paragraph (a); or
 - (c) prohibiting any person from performing any act contemplated in section 4 for the benefit of, or on behalf of, or at the direction of, or under the control of, an entity referred to in subsection (2).
- (2) An order referred to in subsection (1) may be made in respect of—
 - (a) any entity, where there are reasonable grounds to believe that the entity has committed, or attempted to commit, participated in or facilitated the commission of a specified offence; or
 - (b) a specific entity identified in a notice pursuant to a Resolution of the United Nations Security Council relating to the identification of entities—
 - (i) that has committed, or attempted to commit, any terrorist and related activity, or participates in or facilitates the commission of any terrorist and related activity; or
 - (ii) against which Member States of the United Nations must take the actions specified in the Resolution in order to combat or prevent terrorist and related activities,and that are announced in a notice referred to in section 26A(3) of the Financial Intelligence Centre Act.
- (3) A High Court may make an interim order under subsection (1) pending its final determination of an application for such an order.
- (4) A High Court making an order under subsection (1) may make any other ancillary orders that the court considers appropriate for the proper, fair and effective execution of the order, including—
 - (a) appointing a *curator bonis*, subject to the directions of that High Court, to do any one or more of the following on behalf of a person affected by that order:
 - (i) To assume control over the property;
 - (ii) to take care of the said property;
 - (iii) to administer the said property and to perform any act necessary for that purpose;
 - (iv) where the said property is a business or undertaking, to carry on, with due regard to any law which may be applicable, the business or undertaking; and
 - (v) to dispose of property if it is not economically viable to administer it or for any other reason it is not economically possible to assume control and take care thereof;
 - (b) ordering any person holding property, subject to an order referred to in subsection (1), to immediately surrender any such property into the custody of the *curator bonis*; and
 - (c) relating to the payment of the fees and expenditure of the *curator bonis*.
- (5) The National Director must—
 - (a) by publication in a national newspaper and the *Gazette*, give notice that an order under subsection (1) has been made; and

- (b) maintain on the website of the National Prosecuting Authority, a record of all orders made under subsection (1).
- (6) No action, whether criminal or civil, lies against any person complying in good faith with an order made under subsection (1).

[section 23 substituted by section 17 of [Act 23 of 2022](#)]

24. Cordoning off, stop and search of vehicle, person and premises

[heading substituted by section 18(a) of [Act 23 of 2022](#)]

- (1) If, on written request under oath to a judge in chambers by a police official of or above the rank of Brigadier, it appears to the judge that it is necessary in order to prevent any terrorist or related activity, the judge may issue a warrant for the cordoning off, and stopping and searching of vehicles, persons and premises, with a view to preventing such terrorist or related activity, in a specified area, and such warrant applies for the period specified therein, which period may not exceed 10 days.

[subsection (1) substituted by section 18(b) of [Act 23 of 2022](#)]

- (2) Under a warrant obtained in terms of subsection (1), any police official who identifies himself or herself as such, may cordon off the specified area for the period specified in the warrant and stop and search any vehicle, person or premises in that area, for articles or things which could be used or have been used for or in connection with the preparation for or the commission or instigation of any terrorist or related activity.

[subsection (2) substituted by section 18(c) of [Act 23 of 2022](#)]

- (3) The police official may seize any article or thing contemplated in subsection (2), and Chapter 2 of the Criminal Procedure Act applies with the necessary changes required by the context in respect of any such article or thing.

[subsection (3) substituted by section 18(d) of [Act 23 of 2022](#)]

- (4) Section 29 of the Criminal Procedure Act applies in respect of the powers conferred upon police officials in terms of this section.

[subsection (4) substituted by section 18(d) of [Act 23 of 2022](#)]

- (5) The provisions of this section shall not be construed as affecting the rights of any police official or law enforcement officer to use any other power in any other law in respect of cordoning off, search or seizure.

24A. Order to take-down or disable access to terrorism publications

- (1) A member of the Directorate, of or above the rank of Brigadier, may apply to a High Court, by way of an *ex parte* application to a judge in chambers, for the issuing of an order in terms of which an electronic communications service provider, whose electronic communications service is used to host a terrorism publication, is directed to take-down or disable access to such a publication.
- (2) An application referred to in subsection (1)—
 - (a) must be in writing;
 - (b) must—
 - (i) identify the applicant;
 - (ii) identify the electronic communications service provider to whom the order is to be addressed;

- (iii) identify the electronic communications service of the electronic communications service provider that is used to host the terrorism publication;
 - (iv) be accompanied by an electronic copy of the terrorism publication;
 - (v) provide a description of the terrorism publication which must, where the publication in question is in the form of a speech, text, video or other visual representation, include a printed copy of the relevant content that will be relied upon to motivate that the publication is a terrorism publication;
 - (vi) indicate the reasons why the publication must be considered to be a terrorism publication; and
 - (vii) contain full particulars of all the facts and circumstances alleged in support of the application; and
- (c) may be accompanied by—
 - (i) affidavits of persons who have knowledge of the matter concerned; or
 - (ii) other information relevant to the application.
- (3) The High Court must, as soon as reasonably possible, consider an application submitted to it in terms of subsection (1) and may, for that purpose, consider any such additional evidence it deems fit, including oral evidence or evidence by affidavit, which must form part of the record of proceedings.
- (4) If the High Court is satisfied that the electronic communications service of the electronic communications service provider is used to host a terrorism publication, the court may, subject to such conditions as the court may deem fit to impose, issue the order applied for in terms of subsection (1).
- (5) An order issued under subsection (4) must—
 - (a) identify the electronic communications service provider to whom the order must be addressed;
 - (b) identify the applicant;
 - (c) identify and describe the terrorism publication;
 - (d) identify the electronic communications service of the electronic communications service provider that is used to host the terrorism publication;
 - (e) give reasons for the decision or finding of the court that the publication is a terrorism publication;
 - (f) order the electronic communications service provider to take-down or disable access to the terrorism publication within the period determined in the order from the date of service upon the electronic communications service provider; and
 - (g) specify any condition imposed by the court.
- (6)
 - (a) Except in a case where the High Court determines otherwise, an order under subsection (1) and a copy of the application contemplated in subsection (1) must be served upon an electronic communications service provider by a peace officer, as defined in section 1 of the Criminal Procedure Act, in accordance with the applicable rules of court.
 - (b) Where the High Court is satisfied that service cannot be effected in any manner referred to in paragraph (a), the court may make an order allowing service to be effected in a manner specified in such order.

- (7) An electronic communications service provider may, within 14 calendar days after the order has been served, apply to the relevant High Court for the setting aside or amendment of the order referred to in subsection (4).
- (8) The High Court must, as soon as is reasonably possible, consider an application submitted to it in terms of subsection (7) and may, for that purpose, consider such additional evidence as it deems fit, including oral evidence or evidence by affidavit, which shall form part of the record of the proceedings.
- (9) The High court may, for purposes of subsections (3) and (8), subpoena, or cause to be subpoenaed, any person as a witness at such proceedings, or to provide any book, document or object, if the evidence of that person, or book, document or object, appears to the court essential to the just decision of the case.
- (10) Any person who is subpoenaed in terms of subsection (9) to attend proceedings and who fails to—
- (a) attend or to remain in attendance;
 - (b) appear at the place and on the date and at the time to which the proceedings in question may be adjourned;
 - (c) remain in attendance at those proceedings as so adjourned; or
 - (d) produce any book, document or object specified in the subpoena, is guilty of an offence.
- (11) Any electronic communications service provider who fails to comply with an order referred to in subsection (1), is guilty of an offence.
- (12) The provisions in respect of appeal and review as provided for in the Superior Courts Act, 2013 ([Act No. 10 of 2013](#)), apply to proceedings in terms of this section.
- (13) For purposes of this section—
- (a) ‘host a terrorism publication’ means—
 - (i) to store a terrorism publication on the electronic communications network of an electronic communications service provider as part of providing an electronic communications service where it can be viewed, listened to, copied or downloaded; or
 - (ii) to provide a link to the terrorism publication that has been stored on an electronic communication network of an electronic communications service provider, where it can be viewed, copied or downloaded;
 - (b) ‘take-down’ means to delete or otherwise remove a terrorism publication stored on an electronic communications network; and
 - (c) ‘terrorism publication’ means an electronic communication in the form of a speech, text, video or other visual representation that—
 - (i) threatens the public or segments of the public with the conduct in paragraph (a) of the definition of ‘terrorist activity’, or threatens the commission of an offence referred to in section 5, 6, 7, 8, 9 or 10; or
 - (ii) incites others to commit the offences referred to in subparagraph (i).

[section 24A inserted by section 19 of [Act 23 of 2022](#)]

Chapter 5 Resolution of United Nations Security Council

25. ***

[section 25 repealed by section 20 of [Act 23 of 2022](#)]

26. ***

[section 26 repealed by section 20 of [Act 23 of 2022](#)]

Chapter 6 General provisions

27. Amendment and repeal of laws and transitional provisions

- (1) The laws set out in the Schedule are hereby amended or repealed to the extent indicated in the fourth column of that Schedule.
- (1A) Any Proclamation issued under section 25(1), before the commencement of the Protection of Constitutional Democracy against Terrorist and Related Activities Amendment Act, 2022, remains valid and has the same force and effect as a notice referred to in section 26A(3) of the Financial Intelligence Centre Act.
[subsection (1A) inserted by section 21 of [Act 23 of 2022](#)]
- (1B) Any action taken in pursuance of a Proclamation issued under section 25(1), before the commencement of the Protection of Constitutional Democracy against Terrorist and Related Activities Amendment Act, 2022, remains valid.
[subsection (1B) inserted by section 21 of [Act 23 of 2022](#)]
- (2) All criminal proceedings which immediately prior to the commencement of this Act were instituted in terms of the provisions of the Internal Security Act, 1982 ([Act No. 74 of 1982](#)), and which proceedings have not been concluded before the commencement of this Act, shall be continued and concluded, in all respects as if this Act had not been passed.
- (3) An investigation, or prosecution or other legal proceedings, in respect of conduct which would have constituted an offence under the Internal Security Act, 1982, and which occurred after the commencement of that Act but before the commencement of this Act, may be conducted, instituted and continued as if this Act had not been passed.
- (4) Notwithstanding the repeal or amendment of any provision of any law by this Act, such provision shall, for the purpose of the disposal of any criminal proceedings, investigation, prosecution or legal proceedings contemplated in subsection (2) or (3), remain in force as if such provision had not been repealed or amended.

28. Short title and commencement

This Act is called the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004, and shall come into operation on a date fixed by the President by proclamation in the *Gazette*.

Schedule

Schedule of laws amended or repealed: Section 27

Act No.	Year	Title	Extent of amendment or repeal
67	1962	Extradition Act	<p>1. The insertion of the following new section:—</p> <p>"22. Extradition in respect of terrorist and related activities</p> <p>(1) <u>Notwithstanding the provisions of section 15, a request for extradition based on the offences referred to in section 4 or 5 of the Protection of Constitutional Democracy against Terrorist and Related Activities Act,</u></p>

2004,
may
not
be
refused
on
the
sole
ground
that
it
concerns
a
political
offence,
or
an
offence
connected
with
a
political
offence
or
an
offence
inspired
by
political
motives,
or
that
it
is
a
fiscal
offence.

- (2) The
provisions
of
this
section
shall
in
no
way
affect
the
application
of
sections
11(6)(iv) or
12(2)(ii)
of
this
Act.

- (3) Promptly,
after
being
detained
as
contemplated
in
section
7
or
9
of
this
Act
a
person
who
is
not
a
=
- (a) South
African
citizen;
- (b) person
ordinarily
resident
in
the
Republic;
or
- (c) citizen
of
any
State,
- must
be
informed
that
he
or
she
is
entitled,
and
must
be
permitted
=
- (i) to
communicate
without
delay

with
the
nearest
appropriate
representative
of
=

(aa) the
State
of
which
the
person
is
a
citizen;

(bb) if
the
person
is
not
a
citizen
of
any
State,
the
State
in
whose
territory
the
person
ordinarily
resides;
or

(cc) the
State,
if
any,
that
is
otherwise
entitled
to
protect
the
person's
rights;
and

(ii) to
be
visited
by

				such representative."
51	1977	Criminal Procedure Act	<p>1. The insertion in Schedule 5 of the following offences:</p> <p><u>"The offences referred to in section 4(2) or (3), 13 or 14 (in so far as it relates to the aforementioned sections) of the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004".</u></p> <p>2. The insertion in Schedule 6 of the following offences:</p> <p><u>"The offences referred to in section 2, 3(2) (a), 4(1), 5, 6, 7, 8, 9, 10 or 14 (in so far as it relates to the aforementioned sections) of the</u></p>	

			<u>Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004, section 2(1) and (2) of the Civil Aviation Offences Act, 1972 (Act No. 10 of 1972), section 26(1) (j) of the Non-Proliferation of Weapons of Mass Destruction Act, 1993 (Act No. 87 of 1993) and section 56(1)(h) of the Nuclear Energy Act, 1999 (Act No. 46 of 1999).".</u>
74	1982	Internal Security Act	1. The repeal of the whole Act.
87	1993	Non-Proliferation of Weapons of Mass Destruction Act	1. The amendment of section 26(1) of the Act by— (a) the substitution for paragraph (h)

of the following
paragraph:

"(h) refuses
or
fails
to
comply
to
the
best
of
his
or
her
ability
with
any
lawful
requirement,
request
or
order
of
an
officer
or
employee
of
the
Department,
an
inspector
or
a
person
autho-
rized
by
the
Council;
[or]"

(b) the insertion of
new paragraphs
(i) and (k):

"(j) intentionally
uses,
or
threatens
to
use,
a
weapon

of
mass
destruction
against
=

(aa) a
citizen
of
the
Republic
or
a
person
ordinarily
resident
in
the
Republic,
whether
that
person
is
in
or
outside
the
Republic;

(bb) any
person
within
the
Republic;
or

(cc) citizen
or
resident
of
the
Republic
or
by
any
public
or
private
body
or
agency
of
the
Republic,
whether
the
property
is

within
or
outside
of
the
Republic,
or

(k) threatens,
attempts,
conspires
with
any
other
person,
or
aids,
abets,
induces,
incites,
instigates,
instructs
or
commands,
counsels
or
procures
another
person,
to
commit
an
offence
referred
to
in
subparagraph
(i)."

(c) the insertion of a
new subparagraph
(v):

"(v) in
the
case
of
an
offence
referred
to
in
paragraph
(i)
or
(k),

			<p>to a fine or to imprisonment for a period up to imprisonment for life".</p> <p>(d) The insertion of section 26A:</p> <p>"26A.</p> <p>No prosecution under section 26(1) (j) or (k) may be instituted without the written authority of the National Director of Public Prosecutions."</p>
105	1997	Criminal Law Amendment Act	<p>1. By the addition to Part 1 of Schedule 2 of the following item:</p> <p>"Any offence referred to in section 2, 5, 6, 7, 8, 9, 10</p>

or 14 (in so far as it relates to the aforementioned sections) of the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004, when it is proved that the offence has—

- (a) endangered the life or caused serious bodily injury to or the death of, any person, or any number or group of persons;
- (b) caused serious risk to the health or safety of the public

or
any
segment
of
the
public;
or
(c) created
a
serious
public
emergency
situation
or
a
general
insurrection"

2. By the addition to Part II of Schedule 2, of the following item:

"Any offence referred to in section—

(a) 2,
5,
6,
7,
8,
9,
10
or
14
(in
so
far
as
it
relates
to
the
aforementioned
sections)
of
the
Protection
of
Constitutional
Democracy
against
Terrorist

			<u>and</u> <u>Related</u> <u>Activities</u> <u>Act,</u> <u>2004,</u> <u>in</u> <u>circumstances</u> <u>other</u> <u>than</u> <u>those</u> <u>referred</u> <u>to</u> <u>in</u> <u>Part</u> <u>1</u> <u>or</u> (b) <u>4</u> <u>or</u> <u>10."</u>
121	1998	Prevention of Organised Crime Act	1. The substitution for the long title of the following long title: To introduce measures to combat organised crime, money laundering and criminal gang activities; to prohibit certain activities relating to racketeering activities; to provide for the prohibition of money laundering and for an obligation to report certain information; to criminalise certain activities associated with gangs; to provide for the recovery of the proceeds of unlawful activity; for the civil forfeiture of criminal [assets] <u>property</u> that [have] <u>has</u> been used to commit

an offence, **[or assets]** property that **[are]** is the proceeds of unlawful activity or property that is owned or controlled by, or on behalf of, an entity involved in terrorist and related activities; to provide for the establishment of a Criminal Assets Recovery Account; to amend the Drugs and Drug Trafficking Act, 1992; to amend the International Co-operation in Criminal Matters Act, 1996; to repeal the Proceeds of Crime Act 1996; to incorporate the provisions contained in the Proceeds of Crime Act, 1996; and to provide for matters connected therewith."

2. The amendment of the preamble by—

(a) the insertion after the tenth paragraph of the following paragraph:

"AND WHEREAS effective legislative measures are necessary

to
prevent
and
combat
the
financing
of
terrorist
and
related
activities
and
to
effect
the
preservation,
seizure
and
forfeiture
of
property
owned
or
controlled
by,
or
on
behalf
of,
an
entity
involved
in
terrorist
and
related
activities;";
and

- (b) the substitution for the eleventh paragraph of the following paragraph:

"AND
WHEREAS
there
is
a
need
to
devote

such
forfeited
as-
sets
and
proceeds
to
the
combating
of
organised
crime,
[and]
money
laundering
and
the
financing
of
terrorist
and
related
activities;"

3. The insertion in
section 1—

- (a) after the
definition
of
"enterprise"
of the
following
definition:

"
'entity'
has
a
corresponding
meaning
with
the
expression
in
section
1
of
the
Protection
of
Constitutional
Democracy
against
Terrorist
and
Related

Activities
Act,
2004;";

- (b) after the definition of "property" of the following definition:

"
'property associated with terrorist and related activities'
means
property
which
—

- (a) was
acquired,
collected,
used,
possessed,
owned
or
provided
for
the
benefit
of,
or
on
behalf
of,
or
at
the
direction
of,
or
under
the
control
of
an
entity
which
commits
or
attempts

to
commit
or
facilitates
the
commission
of
a
specified
offence
as
defined
in
the
Protection
of
Constitutional
Democracy
against
Terrorist
and
Related
Activities
Act,
2004;
or

- (b) has provided financial or economic support to an entity in the commission or facilitation of an offence referred to in paragraph (a);

4. The substitution in section 38 for subsection (2)

of the following
subsection:

- "(2) The High Court shall make an order referred to in subsection (1) if there are reasonable grounds to believe that the property concerned —
- (a) is an instrumentality of an offence referred to in Schedule 1; **[or]**
 - (b) is the proceeds of unlawful activities; or
 - (c) is property associated with terrorist and

				<u>related activities."</u>
	5.	The substitution in section 50 for subsection (1) of the following subsection:		
		"(1)	The High Court shall, subject to section 52, make an order applied for under section 48(1) if the Court finds on a balance of probabilities that the property concerned —	
		(a)	is an instrumentality of an offence referred to in Schedule 1;	
			[or]	
		(b)	is the proceeds of	

unlawful
activities;
or

- (c) is property associated with terrorist and related activities."

6. The substitution for section 51 of the following section:

"Notice of reasonable grounds that property is concerned in commission of offence or associated with terrorist and related activities

51.

- (1) The National Director may apply to a judge in chambers or a magistrate for an order notifying

a person having an interest in or control over property that there are reasonable grounds to believe that such property is an instrumentality of an offence referred to in Schedule 1 or is property associated with terrorist and related activities.

- (2) The judge or magistrate shall make an order referred to in subsection (1) if the

judge
or
magistrate
is
satisfied
that
there
are
reasonable
grounds
to
believe
that
the
property
concerned
is
an
instrumentality
of
an
offence
referred
to
in
Schedule
1
or
property
associated
with
terrorist
and
related
activities.

- (3) When
a
judge
or
magistrate
makes
an
order
under
subsec-
tion
(1),
the
registrar
of
the
High
Court
concerned
or
clerk

of
the
Magistrate's
Court
for
the
district
concerned
shall
issue
a
notice
in
the
prescribed
form
to
the
person
referred
to
in
the
order,
in-
forming
him
or
her
that
there
are
reasonable
grounds
to
believe
that
property
in
which
he
or
she
has
an
interest
or
over
which
he
or
she
has
control,
is
an
instrumentality

of
an
offence
re-
ferred
to
in
Schedule
1
or
property
associated
with
terrorist
and
related
activities.

- (4) A notice issued under subsection (3) shall be served on the person concerned in the manner in which a summons whereby civil proceedings in the High Court are commenced is served."

7. The substitution in section 52—
- (a) for subsection (2A) of the

following
subsection:

"(2A) The High Court may make an order under subsection (1), in relation to the forfeiture of an instrumentality of an offence referred to in Schedule 1 or property associated with terrorist and related activities, if it finds on a balance of probabilities that the applicant for the order had acquired the interest concerned

legally,
and
—

(a) neither
knew
nor
had
reasonable
grounds
to
suspect
that
the
property
in
which
the
interest
is
held
is
an
instru-
mentality
of
an
offence
referred
to
in
Schedule
1
or
property
associated
with
terrorist
and
related
activities;
or

(b) where
the
offence
concerned
had
occurred
before
the
commencement
of
this
Act,
the
applicant
has

since
the
commencement
of
this
Act
taken
all
reasonable
steps
to
prevent
the
use
of
the
property
concerned
as
an
instru-
mentality
of
an
offence
referred
to
in
Schedule
1
or
property
associated
with
terrorist
and
related
activities.".

(b) for
subsection
(3) of the
following
subsection:

"(3) (a)

If
an
applicant
for
an
order
under
subsection
(1)
adduces
evidence

to
show
that
he
or
she
did
not
know
or
did
not
have
reasonable
grounds
to
suspect
that
the
prop-
erty
in
which
the
interest
is
held,
is
an
instrumental
of
an
offence
referred
to
in
Schedule
1
or
property
associated
with
terrorist
and
related
activities,
the
State
may
submit
a
return
of
the
service
on
the

applicant
of
a
notice
issued
un-
der
section
51
(3)
in
rebuttal
of
that
evidence
in
respect
of
the
period
since
the
date
of
such
service.

(b) If
the
State
submits
a
return
of
the
service
on
the
ap-
plicant
of
a
notice
issued
under
section
51
(3)
as
contem-
plated
in
paragraph
(a),
the
applicant
for

an
order
under
subsection
(1)
must,
in
addition
to
the
facts
referred
to
in
subsection
(2)
(a)
and
(2)
(b)
(i),
also
prove
on
a
balance
of
probabilities
that,
since
such
service,
he
or
she
has
taken
all
reasonable
steps
to
prevent
the
further
use
of
the
prop-
erty
concerned
as
an
instrumental
of
an
offence
referred

to
in
Schedule
1
or
property
associated
with
terrorist
and
related
activities.".

(c) for
subsection
(4)
of
the
following
subsection:

"(4) A
H
Co
m
an
or
fo
th
ex
of
an
in
in
pr
un
su
(1
m
in
th
in
of
th
ac
of
ju
or
in
th
pu
in
m
th
or
up
th

--	--	--	--	--

8. The substitution in section 54 for subsection (8A) of the following subsection:

"(8A) The High Court may make an order under subsection (1), in relation to the forfeiture of an instrumentality of an offence referred to in Schedule 1 or property associated with terrorist and related activities, if it finds on a balance of probabilities that the applicant

for
the
order
had
acquired
the
interest
concerned
legally,
and
—

- (a) neither
knew
nor
had
reasonable
grounds
to
suspect
that
the
property
in
which
the
interest
is
held
is
an
instrumental-
ity
of
an
offence
referred
to
in
Schedule
1
or
property
associated
with
terrorist
and
related
activities;
or
- (b) where
the
offence
concerned
had
occurred
before

the
com-
mencement
of
this
Act,
the
applicant
has
since
the
com-
mencement
of
this
Act
taken
all
reasonable
steps
to
prevent
the
use
of
the
property
concerned
as
an
instrumentality
of
an
offence
referred
to
in
Schedule
1
or
property
associated
with
terrorist
and
related
activities.".

9. The substitution
in section 68 for
paragraph (b)
of the following
paragraph:

"(b) to
advise

Cabinet
in
connection
with
the
rendering
of
finan-
cial
assistance
to
law
enforcement
agencies
in
order
to
combat
organised
crime,
money
laundering,
criminal
gang
activities,
the
financing
of
terrorist
and
related
activities
and
crime
in
general;
and".

10. The insertion in
Schedule 1 after
item 32 of the
following item:

"32A

Any
specified
offence
as
defined
in
the
Protection
of
Constitutional
Democracy

			<u>against Terrorist and Related Activities Act, 2004;</u>
46	1999	Nuclear Energy Act	<p>1. The insertion of the following new section 34A.:</p> <p>Prohibitions relating to nuclear material</p> <p>"34A.</p> <p>(1) <u>For purposes of this section, "international organisation", has the meaning ascribed to it in section 1 of the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004.</u></p> <p>(2) <u>No person may</u></p> <p>—</p> <p>(a) <u>intentionally and without</u></p>

				<u>lawful</u> <u>authority,</u> <u>receive,</u> <u>possess,</u> <u>use,</u> <u>transfer,</u> <u>alter,</u> <u>dispose</u> <u>of</u> <u>or</u> <u>disperse,</u> <u>nuclear</u> <u>material</u> <u>which</u> <u>causes</u> <u>or</u> <u>is</u> <u>likely</u> <u>to</u> <u>cause</u> <u>death</u> <u>or</u> <u>serious</u> <u>bodily</u> <u>injury</u> <u>to</u> <u>any</u> <u>person</u> <u>or</u> <u>substantial</u> <u>damage</u> <u>to</u> <u>property;</u>
				(b) <u>intentionally</u> <u>obtain</u> <u>nuclear</u> <u>material</u> <u>by</u> <u>means</u> <u>of</u> <u>theft</u> <u>or</u> <u>robbery;</u>
				(c) <u>intentionally</u> <u>obtain</u> <u>nuclear</u> <u>material</u> <u>by</u> <u>means</u> <u>of</u> <u>embezzlement</u> <u>or</u> <u>fraud;</u>
				(d) <u>intentionally</u> <u>demand</u>

nuclear
material
by
threat
or
use
of
force,
or
by
any
other
form
of
intimidation.

(e) intentionally
threaten
to
=

(i) use
nuclea
materi
to
cause
death
or
seriou
injury
to
any
person
or
substa
damag
to
proper

(ii) comm
an
act
descri
in
paragr
(b)
in
order
to
compe
a
natura
or
legal
person
intern
organi
or

					<u>State</u> <u>to</u> <u>do</u> <u>or</u> <u>to</u> <u>refrain</u> <u>from</u> <u>doing</u> <u>any</u> <u>act;</u>
				(f)	<u>use</u> <u>any</u> <u>nuclear</u> <u>material</u> <u>or</u> <u>device</u> <u>or</u> <u>use</u> <u>or</u> <u>damage</u> <u>a</u> <u>nuclear</u> <u>installation</u> <u>or</u> <u>nuclear</u> <u>plant</u> <u>in</u> <u>a</u> <u>manner</u> <u>which</u> <u>release</u> <u>or</u> <u>risk</u> <u>the</u> <u>release</u> <u>of</u> <u>radio-</u> <u>active</u> <u>material,</u> <u>with</u> <u>the</u> <u>intent</u> <u>to</u> <u>=</u>
				(i)	<u>cause</u> <u>death</u> <u>or</u> <u>serious</u> <u>bodily</u> <u>injury</u>
				(ii)	<u>cause</u> <u>substa</u> <u>damag</u> <u>to</u> <u>proper</u>

					or the enviro or
				(iii)	to compe a natura or juristi person an intern organ or a State to do, to abstai or refrain from doing an act; or
				(g)	attempt, conspire with any other person, or aid, abet, induce, incite, instigate, instruct or command, counsel or procure another person, to commit an offence referred to in paragraphs

(a)
to
(f)."

2. The insertion in section 56(1) of the following new paragraph:

"(h) performing any act prohibited under section 34A.".

3. The insertion of the following new paragraph in section 56(2):

"(d) subsection (1) (h), to a fine or to imprisonment for a period up to imprisonment for life.".

4. The insertion of the following new section 56A:

"Consent of National Director to institute proceedings and

**reporting
obligations****56A.**

- (1) No prosecution under section 56(1)(h) may be instituted without the written authority of the National Director of Public Prosecutions
- (2) The National Director must communicate the final outcome of the proceedings promptly to the Director General of the International Atomic Energy Agency if a person is prosecuted for an offence referred

			<p>to in subsection (1), except where =</p> <p>(a) the offence was committed in the Republic;</p> <p>(b) the offence involved nuclear material used for peaceful purposes in domestic use, storage or transport; and</p> <p>(c) both the alleged offender and the nuclear material remained in the territory of the Republic."</p>
38	2001	Financial Intelligence Centre Act	<p>1. The substitution for the long title of the following long title:</p> <p>"To establish a</p>

				Financial Intelligence Centre and a Money Laundering Advisory Council in order to combat money laundering activities <u>and the financing of terrorist and related activities;</u> to impose certain duties on institutions and other persons who might be used for money laundering purposes <u>and the financing of terrorist and related activities;</u> to amend the Prevention of Organised Crime Act, 1998, and the Promotion of Access to Information Act,
--	--	--	--	---

2000;
and to
provide
for
matters
connected
therewith.".

2. The insertion in
section 1—

- (a) after the
definition
of
"Director"
of the
following
definition:

"'entity'
has
a
corresponding
meaning
with
the
definition
in
section
1
of
the
Protection
of
Constitutional
Democracy
against
Terrorist
and
Related
Activities
Act,
2004;
and

- (b) after the
definition
of
"supervisory
body"
of the
following
definition:

"
—
'offence

relating to the financing of terrorist and related activities' means an offence under section 4 of the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004;"

3. The substitution in section 3 for subsection (1) of the following subsection:

"(1) The principal objective of the Centre is to assist in the identification of the proceeds of unlawful activities and the

combat-
ing
of
money
laundering
activities
and
the
financing
of
terrorist
and
related
activities.".

4. The substitution
for the heading
to Chapter 3 of
the following
heading:

**"CONTROL
MEASURES
FOR
MONEY
LAUNDERING
[CONTROL
MEASURES]
AND
FINANCING
OF
TERRORIST
AND
RELATED
ACTIVITIES"**.

5. The insertion
after section 28
of the following
section:

**"28A. Property
associated
with
terrorist
and
related
activities**

- (1) An
accountable
institution
which
has
in

its
possession
or
under
its
control
property
owned
or
controlled
by
or
on
behalf
of,
or
at
the
direction
of
=

- (a) any
entity
which
has
committed,
or
attempted
to
commit,
or
facilitated
the
commission
of
a
specified
offence
as
defined
in
the
Protection
of
Constitutional
Democracy
against
Terrorist
and
Related
Activities
Act,
2004;
or
- (b) a
specific

entity
identified
in
a
notice
issued
by
the
President,
under
section
25
of
the
Protection
of
Constitutional
Democracy
against
Terrorist
and
Related
Activities
Act,
2004,

must
within
the
prescribed
period
report
that
fact
and
the
prescribed
particulars
to
the
Centre.

- (2) The
Director
may
direct
an
accountable
institution
which
has
made
a
report
under
subsection
(1)
to

report

=

(a) at
such
intervals
as
may
be
determined
in
the
direction,
that
it
is
still
in
possession
or
control
of
the
property
in
respect
of
which
the
report
under
subsection
(1)
had
been
made;
and

(b) any
change
in
the
circumstances
concerning
the
accountable
institution's
possession
or
control
of
that
property."

6. The substitution
in section 29 for
subsection (1)

of the following
subsection:

- "(1) A person who carries on a business or is in charge of or manages a business or who is employed by a business and who knows or ought reasonably to have known or suspected that —
- (a) the business has received or is about to receive the proceeds of unlawful activities or property

which
is
connected
to
an
offence
relating
to
the
financing
of
terrorist
and
related
activities;

(b) a transaction or series of transactions to which the business is a party —

(i) facilitated or is likely to facilitate the transfer of the proceeds of unlawful activities or property which is connected to an offence relating to the financing

				<u>of terrorist and related activities;</u>
			(ii)	has no apparent business or lawful purpose;
			(iii)	is conducted for the purpose of avoiding giving rise to a reporting duty under this Act; [or]
			(iv)	may be relevant to the investigation of an evasion or attempted evasion of a duty to pay any tax, duty or levy imposed by legislation administered

by
the
Com-
missioner
for
the
South
African
Revenue
Service;
or

(v) relates
to
an
offence
relating
to
the
financing
of
terrorist
and
related
activities;
or

(c) the
business
has
been
used
or
is
about
to
be
used
in
any
way
for
money
laundering
purposes
or
to
facilitate
the
commission
of
an
offence
relating
to
the
financing
of

terrorist
and
related
activities,

must, within the prescribed period after the knowledge was acquired or the suspicion arose, report to the Centre the grounds for the knowledge or suspicion and the prescribed particulars concerning the transaction or series of transactions."

The substitution in section 34 for subsection (1) of the following subsection:

- (1) If the Centre, after consulting an accountable institution,

a reporting institution or a person required to make a report in terms of section 28, 28A or 29, has reasonable grounds to suspect that a transaction or a proposed transaction may involve the proceeds of unlawful activities or property which is connected to an offence relating to the financing of terrorist and related activities or

				may constitute money laundering or [may constitute] a transaction contemplated in section 29(1)(b) it may direct the accountable institution, reporting institution or person in writing not to proceed with the carrying out of that transaction or proposed transaction or any other transaction in respect of the funds affected by that transaction or proposed transaction for a period
--	--	--	--	--

as
may
be
determined
by
the
Centre,
which
may
not
be
more
than
five
days,
in
order
to
allow
the
Centre
—

(a) to
make
the
necessary
inquiries
concerning
the
transaction;
and

(b) if
the
Centre
deems
it
appropriate,
to
inform
and
advise
an
investigating
authority
or
the
National
Director
of
Public
Prosecutions.".

8. The substitution
in section 35(1)
for paragraphs

(a) and (b) of
the following
paragraphs,
respectively:

"(a) that
person
has
transferred
or
may
transfer
the
proceeds
of
unlawful
activities
or
property
which
is
connected
to
an
offence
relating
to
the
financing
of
terrorist
and
related
activities
to
the
accountable
institution
or
is
using
or
may
use
the
accountable
institution
for
money
laundering
purposes
or
for
the
financing
of

				terrorist acts or for the purpose of any transaction contemplated in section 29(1) (b); or
			(b)	that account or other facility has received or may receive the proceeds of unlawful activities or <u>property</u> <u>which</u> <u>is</u> <u>connected</u> <u>to</u> <u>an</u> <u>offence</u> <u>relating</u> <u>to</u> <u>the</u> <u>financing</u> <u>of</u> <u>terrorist</u> <u>and</u> <u>related</u> <u>activities</u> or is being or may be used for money

laundering
purposes
or
for
the
financing
of
terrorist
or
related
activities
or
for
the
purpose
of
any
transaction
contemplated
in
section
29(1)(b).".

3. The substitution
in section 40(1)
for paragraph (b)
of the following
paragraph:

"(b) an
entity
outside
the
Republic
performing
similar
func-
tions
to
those
of
the
Centre,
or
an
investigating
authority
out-
side
the
Republic
which
may,
at
the
initiative

			of the Centre or on written request, obtain information which the Centre rea- sonably believes is relevant to the identification of the pro- ceeds of unlawful activities or the combating of money laun- dering or <u>financing</u> of <u>terrorist</u> <u>and</u> <u>related</u> activities or similar offences in the country in which that entity is established:".
--	--	--	---

70	2002	Regulation of Interception of Communications and Provision of Communication-related Information Act	<p>1. In the Schedule to—</p> <p>(a) substitute for item 2, the following item:</p> <p style="padding-left: 40px;">"2. any offence [relating to terrorism] referred to in paragraph (a) of the definition of "specified offence" of the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004."; and</p> <p>(b) delete item 3.</p>
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