



Government Gazette

REPUBLIC OF SOUTH AFRICA

Vol. 690

Cape Town
Kaapstad

29 December 2022

No. 47803

THE PRESIDENCY

No. 1533 29 December 2022

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

Act No. 23 of 2022: Protection of Constitutional Democracy against Terrorist and Related Activities Amendment, Act, 2022

DIE PRESIDENSIE

No. 1533 29 Desember 2022

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

Wet No. 23 van 2022: Wysigingswet op Beskerming van Grondwetlike Demokrasie teen Terroriste- en Verwante Aktiwiteite, 2022

ISSN 1682-5845



4 7 8 0 3



AIDS HELPLINE: 0800-0123-22 Prevention is the cure

GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments.
- Words underlined with a solid line indicate insertions in existing enactments.
-
-

(*English text signed by the President*)
(Assented to 23 December 2022)

ACT

To amend the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004, so as to delete, amend and insert certain definitions for purposes of alignment with international instruments adopted upon the implementation of the Act; to provide for offences related to terrorist training and the joining and establishment of terrorist organisations; to provide for offences related to foreign travel and attempts to leave the Republic under certain circumstances; to provide for offences in respect of the possession and distribution of publications with unlawful terrorism related content; to provide for authorisation to be obtained from the Director of Public Prosecutions in respect of the investigation and prosecution of certain offences; to provide for the issuing of warrants for the search and cordoning off of vehicles, persons and premises; to provide for a direction requiring the disclosure of a decryption key and the effect of a direction to disclose a decryption key; to provide for the removal of, or making inaccessible, publications with unlawful terrorism related content; and to provide for matters connected therewith.

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

Amendment of section 1 of Act 33 of 2004

1. Section 1 of the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004 (hereinafter referred to as the “principal Act”), is hereby amended—
- (a) by the insertion in subsection (1) before the definition of “appropriate government body” of the following definition:
“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;”;
- (b) by the insertion in subsection (1) after the definition of “appropriate government body” of the following definitions:
“computer” means computer as defined in section 1 of the Cybercrimes Act;
“computer data storage medium” means computer data storage medium as defined in section 1 of the Cybercrimes Act;
“computer system” means computer system as defined in section 1 of the Cybercrimes Act;”;

ALGEMENE VERDUIDELIKENDE NOTA:

- [] Woorde in vetdruk tussen vierkantige hake dui skrappings uit bestaande verordnings aan.
-
- _____ Woorde met 'n volstreep daaronder dui invoegings in bestaande verordnings aan.
-
-

(Engelse teks deur die President geteken)
(Goedgekeur op 23 Desember 2022)

WET

Tot wysiging van die Wet op Beskerming van Konstitusionele Demokrasie teen Terroriste- en Verwante Aktiwiteite, 2004, ten einde sekere omskrywings te skrap, te wysig en in te voeg ter wille van ooreenstemming met internasionale instrumente wat by die inwerkingstelling van die Wet aanvaar is; voorsiening te maak vir misdrywe betreffende terroristeopleiding en aansluiting by en stigting van terroristeorganisasies; voorsiening te maak vir misdrywe betreffende buitelandse reise en pogings om die Republiek onder sekere omstandighede te verlaat; voorsiening te maak vir misdrywe ten opsigte van die besit en verspreiding van publikasies met onwettige inhoud wat met terrorisme verband hou; voorsiening te maak dat magtiging van die Direkteur van Openbare Vervolgings gekry word ten opsigte van die ondersoek en vervolging van sekere misdrywe; voorsiening te maak vir die uitreiking van lasbriewe om voertuie, persone en persele te deursoek en af te kordonneer; voorsiening te maak vir 'n lasgewing wat vereis dat 'n dekripsiesleutel openbaar gemaak word en die uitwerking van 'n lasgewing om 'n dekripsiesleutel openbaar te maak; voorsiening te maak vir die verwydering van, of wegneem van toegang tot, publikasies met onwettige terrorismeverwante inhoud; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

DAAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:—

Wysiging van artikel 1 van Wet 33 van 2004

1. Artikel 1 van die Wet op Beskerming van Konstitusionele Demokrasie teen Terroriste- en Verwante Aktiwiteit, 2004 (hierna die "Hoofwet" genoem), word hierby gewysig—

(a) deur die volgende omskrywings in subartikel (1) voor die omskrywing van "Direkteur van Openbare Vervolgings" in te voeg:

“**Critical Infrastructure Protection Act**” die “Critical Infrastructure Protection Act, 2019” (Wet No. 8 van 2019);

‘**data**’ data soos in artikel 1 van die Wet op Kubermisdade omskryf;”;

(b) deur die volgende omskrywings in subartikel (1) na die omskrywing van "Direkteur van Openbare Vervolgings" in te voeg:

“**Direktoraat**” die Direktoraat vir Prioriteitsmisdaadondersoeke soos by artikel 17C van die Wet op die Suid-Afrikaanse Polisiediens ingestel;”;

5

10

15

Act No. 23 of 2022

Protection of Constitutional Democracy against Terrorist and Related Activities Amendment Act, 2022

- (c) by the substitution in subsection (1) in the definition of “Convention offence” for paragraphs (b) and (c) of the following paragraphs:
- “(b) an offence referred to in section 56(1)(h) of the Nuclear Energy Act[, 1999 (Act No. 46 of 1999)]; or
 - (c) an offence referred to in section [2(1) or (2) of the Civil Aviation Offences Act, 1972 (Act No. 10 of 1972)] 133 or 142(6) of the Civil Aviation Act, 2009 (Act No.13 of 2009);”;
- (d) by the insertion in subsection (1) after the definition of “Convention offence” of the following definitions:
- “‘**Criminal Procedure Act**’ means the Criminal Procedure Act, 1977 (Act No. 51 of 1977);
- ‘**critical infrastructure**’ means critical infrastructure as defined in section 1 of the Critical Infrastructure Protection Act;
- ‘**critical infrastructure complex**’ means critical infrastructure complex as defined in section 1 of the Critical Infrastructure Protection Act;
- ‘**Critical Infrastructure Protection Act**’ means the Critical Infrastructure Protection Act, 2019 (Act No. 8 of 2019);
- ‘**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);
- ‘**Cybercrimes Act**’ means the Cybercrimes Act, 2020 (Act No. 19 of 2020);
- ‘**data**’ means data as defined in section 1 of the Cybercrimes Act;
- ‘**Directorate**’ means the Directorate for Priority Crime Investigation established by section 17C of the South African Police Service Act;”;
- (e) by the insertion in subsection (1) after the definition of “Director of Public Prosecutions” of the following definition:
- “‘**electronic communications service provider**’ means electronic communications service provider as defined in section 1 of the Cybercrimes Act;”;
- (f) by the substitution in subsection (1) for the definition of “entity” of the following definition:
- “‘**entity**’, with reference to sections 3, 4, and 14 (in so far as it relates to the aforementioned sections), 22[,] and 23 [and 25], 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;”;
- (g) by the substitution in subsection (1) for the definition of “explosive” of the following definition:
- “‘**explosive**’, with reference to the definition of ‘explosive or other lethal device’ in this section, and sections 5, 6, 10 and 13, means— [an explosive referred to in section 1 of the Explosives Act, 2003 (Act No. 15 of 2003);]
- (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).

- (c) deur in subartikel (1) die omskrywing van “eiendom” deur die volgende omskrywing te vervang:
“eiendom” enige—
(a) geld **[of ander]**;
(b) roerende **[of]** eiendom;
(c) onroerende eiendom;
(d) liggaamlike saak; **[of]**
(e) onliggaamlike saak; **of**
(f) kriptobate,
en ook enige regte, voorregte en eise en waarborges[,] **en enige** belang daarin en alle opbrengste daarvan;”;
- (d) deur die volgende omskrywing in subartikel (1) na die omskrywing van “eiendom” in te voeg:
“elektroniese kommunikasiediensverskaffer” elektroniese kommunikasiediensverskaffer soos in artikel 1 van die Wet op Kubermisdade omskryf;”;
- (e) deur die omskrywing van “entiteit” deur die volgende omskrywing te vervang
“entiteit”, met verwysing na artikels 3, 4 en 14 (in soverre dit op die voorgemelde artikels betrekking het), 22[,] **en 23 [**en 25**], ’n natuurlike persoon, of ’n groep van twee of meer natuurlike persone (ongeag hulle in die bevordering van ’n gemeenskaplike opset of sameswering optree al dan nie), of ’n sindikaat, bende, agentskap, trust, vennootskap, fonds of ander oningelyfde assosiasie of organisasie, of enige ingelyfde assosiasie of organisasie of enige ander regspersoon, en sluit, waar toepaslik, ’n sel, eenheid, seksie, of subgroep **of tak** of kombinasie daarvan in, **en ook enige entiteit** bedoel in ’n Resolusie van die Veiligheidsraad van die Verenigde Nasies en aangekondig in ’n kennisgewing in artikel 26A(3) van die Wet op die Finansiële Intelligensiesentrum bedoel;”;**
- (f) deur in subartikel (1) die volgende omskrywing na die omskrywing van “infrastruktuurfasiliteit” in te voeg:
“inligtinginfrastruktur” enige data, rekenaardatabergingsmedium, rekenaarstelsel of rekenaarprogram, soos omskryf in die Wet op Kubermisdade, of enige deel daarvan wat van sodanige beduidende ekonomiese, openbare, sosiale of strategiese belang is, dat indien enige diens gelewer deur die inligtinginfrastruktur ontwrig word, dit ’n beduidende uitwerking sal hê op—
(a) die Republiek se vermoë om te funksioneer, basiese openbare dienste te lever of wet en orde te handhaaf; of
(b) die omgewing, die gesondheid of veiligheid van die publiek of enige segment van die publiek of enige ander infrastruktur wat die funksies en funksionering van die inligtinginfrastruktur negatief kan raak;”;
- (g) deur in subartikel (1) in die omskrywing van “instrumente met betrekking tot terroristiese- en verwante aktiwiteite” die woord “of” aan die einde van paragraaf (l) te skrap en die volgende paragrawe na paragraaf (m) by te voeg:
(n) die Protokol by die Organisasie vir Afrika Eenheid se Konvensie insake die Voorkoming en Bekamping van Terrorisme, deur die Vergadering van die Afrika-unie aanvaar te Addis Ababa op 8 Julie 2004;
(o) die Internasionale Konvensie insake die Onderdrukking van Dade van Kernterrorisme, deur die Algemene Vergadering van die Verenigde Nasies aanvaar op 13 April 2005;
(p) Wysiging van die Konvensie insake die Fisiese Beskerming van Kernmateriaal, deur die Partye tot die Konvensie aanvaar op 8 Julie 2005;
(q) die Protokol by die Konvensie insake die Onderdrukking van Onregmatige Dade teen die Veiligheid van Skeepsvaart, deur die Internasionale Skeepsvaartorganisasie aanvaar op 14 Oktober 2005;
(r) die Protokol by die Protokol insake die Onderdrukking van Onregmatige Dade Teen die Veiligheid van Vaste Platforms op die Vastelandspunt, aanvaar deur die Internasionale Skeepsvaart-

Act No. 23 of 2022

Protection of Constitutional Democracy against Terrorist and Related Activities Amendment Act, 2022

- (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;”;
- (h) by the substitution in subsection (1) for the definition of “explosive or other lethal device” of the following definition: 5
 “**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; 10
 (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 15
 (c) any weapon of mass destruction, as defined in section 1 of the Non-Proliferation of Weapons of Mass Destruction Act[, 1993 (Act No. 87 of 1993)];”; 20
- (i) by the insertion in subsection (1) after the definition of “explosive or other lethal device” of the following definition:
 “**Financial Intelligence Centre Act**” means the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001);”;
- (j) by the insertion in subsection (1) after the definition of “fixed platform” of the following definitions: 25
 “**Hazardous Substances Act**” means the Hazardous Substances Act, 1973 (Act No. 15 of 1973);
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 30
 (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;”; 35
 (k) by the deletion in subsection (1) in the definition of “instruments dealing with terrorist and related activities” of the word “or” at the end of paragraph (l) and the addition of the following paragraphs after paragraph (m): 40
 “(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; 45
 (o) the *International Convention for the Suppression of Acts of Nuclear Terrorism*, adopted by the United Nations General Assembly on 13 April 2005; 50
 (p) *Amendment to the Convention on the Physical Protection of Nuclear Material*, adopted by the Parties to the Convention on 8 July 2005; 55
 (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;
 (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; 60
 (s) the *Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation*, concluded at Beijing on 10 September 2010; and
 (t) the *Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft*, concluded at Beijing on 10 September 2010; and

(s) die <i>Konvensie insake die Onderdrukking van Onregmatige Dade Betreffende Internasionale Burgerlike Lugvaart</i> , afgehandel te Beijing op 10 September 2010;	
(t) die <i>Protokol Aanvullend tot die Konvensie vir die Onderdrukking van Onregmatige Oornname van Vliegtuie</i> , afgehandel te Beijing op 10 September 2010; en	5
(u) die <i>Protokol ter Wysiging van die Konvensie insake Misdrywe en Sekere Dade aan Boord van Vliegtuie gepleeg</i> , afgehandel te Montreal op 4 April 2014;”;	
(h) deur in subartikel (1) in die omskrywing van “Konvensiemisdryf” paragrawe 10 (b) en (c) onderskeidelik deur die volgende paragrawe te vervang: “(b) ’n misdryf bedoel in artikel 56(1)(h) van die Wet op Kernenergie[, 1999 (Wet No. 46 van 1999)]; of (c) ’n misdryf bedoel in artikel [2(1) of (2) van die Wet op Misdrywe teen Burgerlike Lugvaart, 1972 (Wet No. 10 van 1972)] 133 of 142(6) van die Wet op Burgerlike Lugvaart, 2009 (Wet No. 13 van 2009);”;	
(i) deur die volgende omskrywings in subartikel (1) na die omskrywing van “konvensiemisdryf” in te voeg: “ kriptobate ” ’n digitale verteenwoordiging van waargenome waarde 20 wat verhandel of elektronies oorgedra kan word binne ’n gemeenskap van internetgebruikers wat dit as ’n ruilmiddel, rekeneenheid of waardedraer beskou en dit vir betalings- of beleggingsdoeleindes gebruik, maar sluit nie ’n digitale verteenwoordiging in van ’n ongedekte geldeenheid of ’n sekuriteit soos omskryf in die ‘Financial Markets Act, 2012’ (Wet No. 19 van 2012), nie; ‘kritieke infrastruktuur’ ‘critical infrastructure’ soos omskryf in artikel 1 van die ‘Critical Infrastructure Protection Act’; ‘kritieke infrastruktuurkompleks’ ‘critical infrastructure complex’ soos omskryf in artikel 1 van die ‘Critical Infrastructure Protection Act’;”;	25
(j) deur in subartikel (1) die omskrywing van “polisiebeampte” deur die volgende omskrywing te vervang: “ ‘polisiebeampte’ ’n ‘lid’ soos bedoel in artikel 1 van die Wet op die Suid-Afrikaanse Polisiediens[, 1995 (Wet No. 68 van 1995)],] en sluit in, 35 met verwysing na artikel 24, ’n lid van die Suid-Afrikaanse Nasionale Weermag, wat ingevolge artikel 201(2)(a) van die Grondwet, in samewerking met die Suid-Afrikaanse Polisiediens ter voorkoming en bekamping van misdaad en handhawing en behoud van wet en orde in die Republiek aangewend word, soos bedoel in artikel 19 (1) van die [Verdedigingswet] <u>‘Defence Act, 2002’</u> (Wet 42 van 2002);”;	40
(k) deur die volgende omskrywings in subartikel (1) na die omskrywing van “regter” in te voeg: “ ‘rekenaar’ ’n rekenaar soos in artikel 1 van die Wet op Kubermisdade omskryf; ‘rekenaardatabergingsmedium’ ’n rekenaardatabergingsmedium soos in artikel 1 in die Wet op Kubermisdade omskryf; ‘rekenaarstelsel’ ’n rekenaarstelsel soos in artikel 1 van die Wet op Kubermisdade omskryf;	45

- (u) the *Protocol to Amend the Convention on Offences and Certain Acts Committed on Board Aircraft*, concluded at Montreal on 4 April 2014;”;
- (l) by the insertion in subsection (1) after the definition of “National Director” of the following definitions:
- “**Non-Proliferation of Weapons of Mass Destruction Act**” means the Non-Proliferation of Weapons of Mass Destruction Act, 1993 (Act No. 87 of 1993);
 - “**Nuclear Energy Act**” means the Nuclear Energy Act, 1999 (Act No. 46 of 1999);”;
- (m) by the substitution in subsection (1) for the definition of “police official” of the following definition:
- “**police official**” means a ‘member’ as defined in section 1 of the South African Police Service Act[**, 1995 (Act No. 68 of 1995)**], 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);”;
- (n) by the substitution in subsection (1) for the definition of “property” of the following definition:
- “**property**” means any—
 - (a) money [**or any other**];
 - (b) movable property[,];
 - (c) immovable property[,];
 - (d) corporeal thing [**or**];
 - (e) incorporeal thing[,]; or
 - (f) crypto asset,
- and includes any rights, privileges, claims and securities and any interest therein and all proceeds thereof;”;
- (o) by the insertion in subsection (1) after the definition of “public transportation system” of the following definition:
- “**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);”;
- (p) by the substitution in subsection (1) for the definition of “ship” of the following definition:
- “**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) **a warship**;
 - (b) **a ship owned or operated by a State**; or
 - (c)] a ship which has been withdrawn from navigation or laid up;”;
- (q) by the insertion in subsection (1) after the definition of “ship” of the following definitions:
- “**software or hardware tool**” means a software or hardware tool as defined in section 4(2) of the Cybercrimes Act;
 - “**South African Police Service Act**” means the South African Police Service Act, 1995 (Act No. 68 of 1995);”;
- (r) by the substitution in subsection (1) for the definition of “terrorist activity” of the following definition:
- “**terrorist activity**”, with reference to this section and sections 2, 3 and 17(2), means any act—
 - (a) [any act] 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—

	“sageware- of hardewarenutsmiddel” ’n sageware- of harde-warenutsmiddel soos in artikel 4(2) van die Wet op Kubermisdade omskryf;”;	
(l)	deur in subartikel (1) die omskrywing van “skip” deur die volgende omskrywing te vervang:	5
	“‘skip’, met verwysing na die omskrywing van ‘vaste platform’ in hierdie artikel en artikel 10, enige vaartuig, van welke aard ook al, wat nie permanent aan die seebedding vasgeheg is nie, insluitend skeertuie, onderwatervaartuie, of ander drywende vaartuie, maar sluit nie in nie:—	10
	(a) ’n oorlogskip;	
	(b) ’n skip waarvan ’n staat die eienaar of operateur is; of	
	(c)] ’n skip wat van seevaart onttrek of opgeskort is;”;	
(m)	deur in subartikel (1) die omskrywing van “springstof” deur die volgende omskrywing te vervang:	15
	“‘springstof’, met betrekking tot die definisie van ‘springstof of ander dodelike toestel’ in hierdie artikel, en artikels 5, 6, 10 en 13[, ’n springstof soos bedoel in artikel 1 van die Wet op Springstowe, 2003 (Wet No. 15 van 2003) ‘explosive’]—	
	(a) ’n stof, of mengsel stowwe, in ’n vaste of vloeibare vorm of vloeitoestand, wat in staat is om ’n ontploffing te veroorsaak;	20
	(b) ’n pirotegniese stof in ’n vaste of vloeibare vorm, of ’n mengsel van sodanige stowwe, wat ontwerp is om ’n effek tot gevolg te hê deur hitte, lig, klank, gas of rook, of ’n kombinasie daarvan, wat die gevolg is van ’n nie-detonerende selfonderhoude eksotermiese chemiese reaksie, met inbegrip van pirotegniese stowwe wat nie gasontwikkeling tot gevolg het nie;	25
	(c) enige artikel of toestel wat een of meer stof bevat wat in paragraaf (a) beoog word;	
	(d) enige plastiese springstof; of	
	(e) enige ander stof of artikel wat van tyd tot tyd deur die Minister by kennisgewing in die Staatskoerant tot ’n springstof verklaar word;”;	30
(n)	deur in subartikel (1) die omskrywing van “springstof of ander dodelike toestel” deur die volgende omskrywing te vervang:	35
	“‘springstof of ander dodelike toestel’, met verwysing na artikels 3, 5, 6, 10 en 13—	
	(a) ’n ontplofbare of brandstigtingswapen, of toestel wat ontwerp of vervaardig is, of oor die vermoë beskik om dood, ernstige liggaamlike besering of materiële skade te veroorsaak;	40
	(b) ’n wapen of toestel wat ontwerp of vervaardig is, of oor die vermoë beskik om dood, ernstige liggaamlike besering of materiële skade te veroorsaak deur die vrystelling, verspreiding of impak van giftige chemikalieë, biologiese agense of toksines, of soortgelyke stowwe, of bestralings- of radio-aktiewe materiaal; of	
	(c) enige wapen van massavernietiging, soos omskryf in artikel 1 van die Wet op die Nie-Proliferasie van Wapens van Massavernietiging[, 1993 (Wet No. 87 van 1993)];	45
(o)	deur die volgende omskrywing in subartikel (1) na die omskrywing van “Staat- of regeringsfasiliteit” in te voeg:	
	“‘Strafproseswet’ die Strafproseswet, 1977 (Wet No. 51 van 1977);”;	50
(p)	deur in subartikel (1) die omskrywing van “terroriste-aktiwiteit” deur die volgende omskrywing te vervang:	
	“‘terroriste-aktiwiteit’, met verwysing na hierdie artikel en artikels 2, 3 en 17 (2), enige handeling behels—	55
	(a) [enige handeling] binne of buite die Republiek gepleeg, wat—	
	(i) die sistematiese, herhaalde of arbitrêre gebruik van geweld deur middel van enige wyse of metode [behels];	
	(ii) [behels] die sistematiese, herhaalde of arbitrêre vrystelling in die omgewing of enige gedeelte daarvan of die verspreiding of blootstelling van die publiek of ’n gedeelte van die publiek aan—	60

Act No. 23 of 2022

Protection of Constitutional Democracy against Terrorist and Related Activities Amendment Act, 2022

10

- (aa) any dangerous, hazardous, radioactive or harmful substance or organism;
- (bb) any toxic chemical; [or]
- (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; 5
- (iii) endangers the life of, 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; 15
- (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; 20
- (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— 25
- (aa) a system used for, or by, an electronic system, including an information system; 30
- (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; 35
- (ff) an essential or critical infrastructure [facility], 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; 40
- (vii) causes any major economic loss or extensive destabilisation of an economic system or substantial devastation of the national economy of a country; [or] 45
- (viii) creates a serious public emergency situation or a general insurrection in the Republic[.]; or
- (ix) is the offence of— 50
- (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; 55

(aa) enige gevaarlike, gevaarhoudende, radio-aktiewe of skadelike stof of organisme;	
(bb) enige giftige chemikalie; [of]	
(cc) enige mikrobiiese of ander biologiese agens of toksiene; <u>of</u>	5
(dd) enige wapen van grootskaalse vernietiging ingevolge artikel 1 van die Wet op Nie-proliferasie van Wapens van Grootskaalse Vernietiging, met inbegrip van dié met dubbeldoelige vermoëns soos omskryf in artikel 1 van die Wet op Nie-proliferasie van Wapens van Grootskaalse Vernietiging, of enige stof, mengsel van stowwe, produk of materiaal beoog in artikel 2(1) van die Wet op Gevaarhoudende Stowwe;	10
(iii) die lewe in gevaar stel van, of die fisiese integriteit of fisiese vryheid aantas of ernstige liggaamlike besering of die dood veroorsaak van, enige persoon of enige aantal persone;	15
(iiiA) daarop gemik is om die regering van die Republiek of enige ander regering omver te werp;	
(iv) 'n ernstige risiko vir die gesondheid of veiligheid van die publiek of enige gedeelte daarvan veroorsaak;	20
(v) die vernietiging van of omvangryke skade aan enige eiendom, natuurlike hulpbron, of die omgewing of omgewings- of kulturele erfenis, hetsy openbaar of privaat, veroorsaak;	
(vA) die vernietiging van of omvangryke skade aan of inmenging met 'n inligtinginfrastruktuur of enige deel daarvan veroorsaak;	25
(vi) daarop gemik is, of bereken is, om 'n ernstige bemoeiing of ontwrigting van 'n noodsaklike diens, fasilitet of stelsel, of die lewering van enige sodanige diens, fasilitet of stelsel hetsy openbaar of privaat, te veroorsaak, wat die volgende insluit, maar nie daartoe beperk is nie—	30
(aa) 'n stelsel gebruik vir of deur, 'n elektroniese stelsel, insluitende 'n inligtingstelsel;	
(bb) 'n telekommunikasiediens- of stelsel;	35
(cc) 'n bank- of finansiële diens of finansiële stelsel;	
(dd) 'n stelsel gebruik vir die lewering van noodsaklike regeringsdienste;	
(ee) 'n stelsel gebruik vir of deur 'n openbare nutsinstelling of vervoerverskaffer;	40
(ff) 'n noodsaklike [infrastruktuurfasiliteit] of kritieke infrastruktuur, inligtinginfrastruktuur, of 'n kritieke infrastruktuurkompleks;	
(gg) enige essensiële diens as sodanig aangewys ingevolge die Wet op Arbeidsverhoudinge, 1995 (Wet No. 66 van 1995), of essensiële nooddienste, soos polisie- of mediese of burgerlike beskermingsdienste;	45
(vii) enige grootskaalse ekonomiese verlies of uitgebreide destabilisering van 'n ekonomiese stelsel of 'n omvangryke verwoesting van die nasionale ekonomie van 'n land veroorsaak; [of]	50
(viii) 'n ernstige openbare noodtoestand of algemene oproer in die Republiek veroorsaak [,]; <u>of</u>	
(ix) die misdryf is van—	
(aa) wederregtelike toegang ingevolge artikel 2 van die Wet op Kubermisdade;	55
(bb) wederregtelike onderskepping van data ingevolge artikel 3 van die Wet op Kubermisdade;	
(cc) wederregtelike inmenging met data of 'n rekenaarprogram ingevolge artikel 50 van die Wet op Kubermisdade;	60

- (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 [paragraphs] subparagraphs [(a)](i) to (vii) is or may be suffered in or outside the Republic, and whether the activity referred to in subparagraphs (ii) to [(viii)] (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; [or]
 - (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; [and]
- (c) **which is committed, directly or indirectly, in whole or in part, for the purpose of the advancement of an individual or collective political, religious, ideological or philosophical motive, objective, cause or undertaking;”;**

5

10

15

20

25

30

35

40

(dd) wederregtelike inmenging met 'n rekenaarbergingsmedium of rekenaarstelsel ingevolge die Wet op Kubermisdade;

(ee) wederregtelike verkryging, besit, voorsiening, ontvangs of gebruik van 'n wagwoord, toegangskode of soortgelyke data of toestel ingevolge artikel 7 van die Wet op Kubermisdade;

(ff) wederregtelike gebruik of besit van 'n sagteware- of hardewarenutsmiddel vir doeleindes van die pleging van die misdrywe in items (aa) tot (ee) gelys; of

(gg) kuberafpersing ingevolge artikel 10 van die Wet op Kubermisdade,
wat gepleeg word met die voorname om 'n handeling bedoel in subparagraphe (i) tot (viii) van hierdie paragraaf te faciliteer of te pleeg,

5

10

15

het sy die die nadeel bedoel in [paragraawe] subparagraphe [(a)](i) tot (vii) binne of buite die Republiek veroorsaak of gely word, en het sy die aktiwiteit bedoel in subparagraphe (ii) tot [(viii)] (ix), op enige wyse of metode gepleeg is; en

(b) waarvan die opset is, of vanweë die aard of konteks daarvan, die opset redelikerwys beskou kan word, in die geheel of gedeeltelik, direk of indirek—

(i) die eenheid of die territoriale integriteit van die Republiek te bedreig;

(ii) die publiek of 'n gedeelte van die publiek te intimideer, of om gevoelens van onsekerheid met betrekking tot die veiligheid, insluitende ekonomiese veiligheid, daarvan te veroorsaak, of om gevoelens van terreur, vrees of paniek in 'n burgerlike bevolking te saai, te veroorsaak of hul daartoe te oorreed; [of]

30

(iii) 'n persoon, 'n regering, die algemene publiek of 'n gedeelte van die publiek, 'n plaaslike of internasionale organisasie of liggaaam of inter-regeringsorganisasie of liggaaam onbehoorlik te verplig, te intimideer, te dwing of te oorreed, of veroorsaak om enige handeling te verrig of nie te verrig nie of weerhou daarvan om dit te verrig of nie te verrig nie, of om 'n bepaalde standpunt in te neem of te laat vaar, of om in ooreenstemming met sekere beginsels op te tree[.]; of

35

(iv) die oogmerke te bevorder van 'n entiteit wat by terroriste-aktiwiteit betrokke is,

40

het sy die publiek of die persoon, regering, liggaaam of organisasie bedoel in subparagraphe (ii) of (iii), na gelang van die geval, binne of buite die Republiek is; [en

(c) wat direk of indirek, in die geheel of gedeeltelik, gepleeg word vir doeleindes van die bevordering van 'n individuele of gemeenskaplike politieke, religieuse, ideologiese of filosofiese motief, doelwit, saak of onderneming;];

45

(q) deur in subartikel (1) na die omskrywing van "terroriste- en verwante aktiwiteit" die volgende omskrywing in te voeg:

50

"'toegang' toegang verkry deur 'n persoon tot 'n rekenaarbergingsmedium of 'n rekenaarstelsel soos in artikel 2(2)(b) van die Wet op Kubermisdade beoog";

(r) deur die volgende omskrywings na die omskrywing van "vaste platform" in te voeg:

55

"'Wet op die Finansiële Intelligeniciesentrum' die Wet op die Finansiële Intelligeniciesentrum, 2001 (Wet No. 38 van 2001);

'Wet op die Nie-proliferasie van Wapens van Grootkaalse Vernietiging' die Wet op die Nie-proliferasie van Wapens van Grootkaalse Vernietiging, 1993 (Wet No. 87 van 1993);

60

'Wet op die Reëling van Onderskepping van Kommunikasies en Verstrekking van Kommunikasieverwante Inligting' die Wet op die Reëling van Onderskepping van Kommunikasies en Verstrekking van Kommunikasieverwante Inligting, 2002 (Wet No. 70 van 2002);

Act No. 23 of 2022

Protection of Constitutional Democracy against Terrorist and Related Activities Amendment Act, 2022

14

- (s) by the deletion of subsection (4); and
- (t) by the substitution for subsection (5) of the following subsection:

“(5) Notwithstanding any provision in any other law, [and subject to subsection (4),] 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.”.

5

Amendment of section 3 of Act 33 of 2004

- 2.** Section 3 of the principal Act is hereby amended— 10
- (a) by the substitution in subsection (1) for paragraph (b) of the following paragraph:

“(b) enters, departs from, transits through or remains in any country; or”;
 - (b) by the substitution in subsection (1) for the words following paragraph (c) of the following words: 15

“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.”;
 - (c) by the substitution in subsection (2) for paragraph (a) of the following paragraph: 20

“(a) provides or offers to provide any—25
 (i) weapon; or
 (ii) software or hardware tool,
 to any other person for use by or for the benefit of an entity;”;
 - (d) by the substitution in subsection (2) for paragraph (d) of the following paragraph: 30

“(d) recruits any entity, or compels, intimidates, forces, coerces, induces or causes any person, including a vulnerable person, to join an entity;”;
 - (e) by the substitution in subsection (2) for the words following paragraph (f) of the following words: 35

“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.”; and
 - (f) by the addition of the following subsections: 40

“(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—45
 - (i) for the purposes of terrorism; or
 - (ii) in connection with the commission or preparation of a terrorist activity or a Convention offence; or

45

50

<p>'Wet op die Suid-Afrikaanse Polisiediens' die Wet op die Suid-Afrikaanse Polisiediens, 1995 (Wet No. 68 van 1995); 'Wet op Gevaarhoudende Stowwe' die Wet op Gevaarhoudende Stowwe, 1973 (Wet No. 15 van 1973); 'Wet op Kernenergie' die Wet op Kernenergie, 1999 (Wet No. 46 van 1999); 'Wet op Kubermisdade' die Wet op Kubermisdade, 2020 (Wet No. 19 van 2020);”;</p> <p>(s) deur subartikel (4) te skrap; en (t) deur subartikel (5) deur die volgende subartikel te vervang:</p> <p>“(5) Niteenstaande enige bepaling in enige ander Wet, [en behoudens subartikel (4),] sal 'n politieke, filosofiese, ideologiese, rasse-, etniese, religieuse, of ander soortgelyke motief, nie vir enige rede, insluitende vervolging of uitlewering, beskou word as 'n geregverdigde verweer ten opsigte van 'n misdryf waarvan die omskrywing van 'terroriste-aktiwiteit' 'n integrale deel uitmaak nie.”.</p>	5
---	---

Wysiging van artikel 3 van Wet 33 van 2004

2. Artikel 3 van die Hoofwet word hierby gewysig—

<p>(a) deur in subartikel (1) paragraaf (b) deur die volgende paragraaf te vervang: “(b) enige land binnegaan, <u>daaruit vertrek, daardeur onderweg is of daar bly; of”;</u></p> <p>(b) deur in subartikel (1) die woorde wat op paragraaf (c) volg deur die volgende woorde te vervang: “tot voordeel van, in opdrag van of in samewerking met enige entiteit wat 'n terroristie-aktiwiteit onderneem, en wat kennis dra of redelickerwys moes kennis dra, of vermoed, dat sodanige handeling verrig is met die doel om <u>by die vermoë van sodanige entiteit om 'n terroristie-aktiwiteit te onderneem, aan te sluit, dit te ondersteun of op enige ander wyse te vergroot, is skuldig aan 'n misdryf geassosieer met 'n terroristie-aktiwiteit.”;</u></p> <p>(c) deur in subartikel (2) paragraaf (a) deur die volgende paragraaf te vervang: “(a) enige— (i) wapen; of (ii) sagteware- of hardewarenutsmiddel, aan enige ander persoon verskaf of aanbied vir gebruik deur of tot voordeel van enige entiteit;”;</p> <p>(d) deur in subartikel (2) paragraaf (d) deur die volgende paragraaf te vervang: “(d) enige entiteit werf, <u>of enige persoon, met inbegrip van 'n kwesbare persoon, te dwing, te intimideer, te verplig, te forseer, aan te stig om by 'n entiteit aan te sluit of te laat aansluit;</u>”;</p> <p>(e) deur in subartikel (2) die woorde wat op paragraaf (f) volg deur die volgende woorde te vervang: “in verband met die onderneming van 'n terroristie-aktiwiteit, en wat kennis dra of redelickerwys moes kennis dra, of vermoed dat bedoelde wapens, <u>sagteware- of hardewarenutsmiddels</u>, steunwerwing, opleiding, werwing, <u>aansluiting</u>, dokument of saak sodanig verband hou, is skuldig aan 'n misdryf wat met terroristie-aktiwiteit verband hou.”; en</p> <p>(f) deur die volgende subartikels by te voeg: “(3) Vir die doeleindes van hierdie artikel, sluit opleiding, hetpsy in persoon, aanlyn of op enige ander wyse, opleiding in enige van die volgende vaardighede in:</p> <p>(a) Die maak, hantering of gebruik van enige springstof of ander dodelike toestel, of enige giftige of skadelike stof, met inbegrip van enige stof, mengsel stowwe, produk of materiaal in artikel 2(1) van die Wet op Gevaarhoudende Stowwe beoog;</p> <p>(b) die gebruik van enige metode of tegniek om enigets anders te doen wat gedoen kan word— (i) vir die doeleindes van terrorisme; of (ii) in verband met die pleging of voorbereiding van 'n terroristie-aktiwiteit of 'n Konvensiemisdrif; of</p>	20 25 30 35 40 45 50 55 60
--	--

- (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.
- (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.
- (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).".

5

10

Amendment of section 4 of Act 33 of 2004**3. Section 4 of the principal Act is hereby amended—**

- (a) by the substitution in subsection (1) for paragraph (i) of the following paragraph:
- “(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,”;
- (b) by the deletion in subsection (1)(i) of the word “or” at the end of subparagraph (ii);
- (c) by the insertion in subsection (1)(i) after subparagraph (ii) of the following subparagraph:
- “(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”;
- (d) by the substitution in subsection (1)(i) for subparagraph (iii) of the following subparagraph:
- “(iii) for the benefit of a specific entity identified [in a notice issued by the President under section 25] 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,”;
- (e) by the deletion in subsection (2)(a) of the word “or” at the end of subparagraph (ii);
- (f) by the insertion in subsection (2)(a) after subparagraph (ii) of the following subparagraph:
- “(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”;
- (g) by the substitution in subsection (2)(a) for subparagraph (iii) of the following subparagraph:
- “(iii) for the benefit of a specific entity identified [in a notice issued by the President under section 25] 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

15

20

25

30

35

40

45

50

55

(c) die ontwerp of aanpassing vir die doeleindes van terrorisme van enige metode of tegniek om enigiets te doen in verband met die pleging of voorbereiding van 'n terroriste-aktiwiteit of Konvensiemisdryf.	
(4) 'n Persoon pleeg 'n misdryf as hy of sy opleiding ontvang en bewus is dat sodanige opleiding, as 'n geheel of gedeeltelik, voorsien word vir doeleindes in verband met die pleging of voorbereiding van terroriste-aktiwiteite of Konvensiemisdrywe.	5
(5) Dit is 'n misdryf om—	
(a) enige entiteit in te stel wat betrokke is in of beplan om betrokke te wees in 'n terroriste-aktiwiteit, of om sodanige entiteit te ondersteun; of	10
(b) te behoort aan of 'n lid te word van 'n entiteit in paragraaf (a) beoog.”.	

Wysiging van artikel 4 van Wet 33 van 2004

15

3. Artikel 4 van die Hoofwet word hierby gewysig—

(a) deur in subartikel (1) paragraaf (i) deur die volgende paragraaf te vervang:	
“(i) die verkryging, insameling, gebruik of verskaffing van enige finansiële of ander diens, of die verskaffing van ekonomiese steun, <u>aanvra</u> of fasiliteer,”;	20
(b) deur in subartikel (1)(i) die woord “of” aan die einde van subparagraaf (ii) te skrap;	
(c) deur in subartikel (1)(i) die volgende subparagraaf na subparagraaf (ii) in te voeg:	
“(iiA) tot die voordeel van, of namens, of in opdrag van, of onder beheer van, 'n spesifieke entiteit wat geïdentifiseer is in 'n bevel wat kragtens artikel 23 gegee is; of”;	25
(d) deur in subartikel (1)(i) subparagraaf (iii) deur die volgende subparagraaf te vervang:	
“(iii) tot die voordeel van 'n spesifieke entiteit geïdentifiseer [in 'n kennisgewing deur die President kragtens artikel 25 uitgereik] ingevolge 'n Resolusie van die Veiligheidsraad van die Verenigde Nasies betreffende die identifikasie van entiteite—	30
(aa) wat enige terroriste- en verwante aktiwiteit pleeg, of probeer pleeg of aan die pleging van enige terroriste- of verwante aktiwiteit deelneem of dit fasiliteer; of	
(bb) waarteen lidstate van die Verenigde Nasies die stappe moet doen wat in daardie Resolusie gespesifiseer is, ten einde terroriste- en verwante aktiwiteite te bekamp of te voorkom, en wat aangekondig word in 'n kennisgewing bedoel in artikel 26A(3) van die Wet op die Finansiële Intelligensiesentrum,”;	40
(e) deur in subartikel (2)(a) die woord “of” aan die einde van subparagraaf (ii) te skrap;	
(f) deur in subartikel (2)(a) die volgende subparagraaf na subparagraaf (ii) in te voeg:	45
“(iiA) tot die voordeel van, of namens, of in opdrag van, of onder beheer van, 'n spesifieke entiteit wat geïdentifiseer is in 'n bevel wat kragtens artikel 23 gegee is; of”;	
(g) deur in subartikel (2)(a) subparagraaf (iii) deur die volgende subparagraaf te vervang:	50
“(iii) tot die voordeel van 'n spesifieke entiteit geïdentifiseer [in 'n kennisgewing deur die President kragtens artikel 25 uitgereik] in navolging van 'n Resolusie van die Veiligheidsraad van die Verenigde Nasies met betrekking tot die identifikasie van entiteite—	
(aa) wat enige terroriste- en verwante aktiwiteit pleeg of probeer pleeg of aan die pleging van enige terroriste- en verwante aktiwiteit deelneem of dit fasiliteer; of	55

Act No. 23 of 2022

Protection of Constitutional Democracy against Terrorist and Related Activities Amendment Act, 2022

18

- (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”; and 5
- (h) by the substitution in subsection (3) for paragraph (a) of the following paragraph:
- “(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; [or]
 (iA) a specific entity identified in an order made under section 23; or
 (ii) a specific entity identified [in a notice issued by the President under section 25] 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;”. 20 25

Insertion of section 4A in Act 33 of 2004

4. The following section is hereby inserted in the principal Act after section 4:

“Offence relating to attempt to leave Republic

4A. Any person who directly or indirectly, by any means or method, 30 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.”.

Amendment of section 5 of Act 33 of 2004

35

5. Section 5 of the principal Act is hereby amended by the substitution for the words preceding paragraph (a) of the following words:

“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—”. 40

Amendment of section 6 of Act 33 of 2004

6. Section 6 of the principal Act is hereby amended—

(a) by the substitution for the heading of the following heading: 45

“Offences relating to hijacking, destroying or endangering safety of [a] fixed platform”; and

(b) by the addition of the following subsection, the existing section becoming subsection (1):

“(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.” 50 55

- (bb) waarteen lidstate van die Verenigde Nasies die stappe moet doen wat in daardie Resolusie gespesifiseer is ten einde terroriste- en verwante aktiwiteite te bekamp of te voorkom, en wat in 'n kennisgewing bedoel in artikel 26A(3) van die Wet op die Finansiële Intelligensiesentrum aangekondig is; of"; en 5
- (h) deur in subartikel (3) paragraaf (a) deur die volgende paragraaf te vervang:
- "(a) die fasilitering van die behoud oor of beheer van bedoelde eiendom deur of ten behoeve van, of tot voordeel van—
- (i) 'n entiteit wat 'n gespesifiseerde misdryf pleeg, of poog om dit te pleeg, of die pleging daarvan fasiliteer; [of] 10
- (iA) 'n spesifieke entiteit geïdentifiseer in 'n bevel kragtens artikel 23; of
- (ii) 'n spesifieke entiteit geïdentifiseer [in 'n kennisgewing kragtens artikel 25 deur die President uitgereik] ingevolge 'n Resolusie van die Veiligheidsraad van die Verenigde Nasies met betrekking tot die identifikasie van entiteite—
- (aa) wat enige terroriste- en verwante aktiwiteit pleeg of probeer pleeg of aan die pleging van enige terroriste- en verwante aktiwiteit deelneem of dit fasiliteer; of 15
- (bb) waarteen Lidstate van die Verenigde Nasies die stappe in daardie Resolusie gespesifiseer, moet doen ten einde terroriste- en verwante aktiwiteite te bekamp of te voorkom, en aangekondig in 'n kennisgewing in artikel 26A(3) van die Wet op die Finansiële Intelligensiesentrum bedoel;". 20 25

Invoeging van artikel 4A in Wet 33 van 2004

4. Die volgende artikel word hierby na artikel 4 in die Hoofwet ingevoeg:

"Misdryf met betrekking tot poging om Republiek te verlaat

4A. Enige persoon wat direk of indirek, deur enige middelle of metode, 30 poog om die Republiek te verlaat met die doel om 'n handeling of late buite die Republiek te pleeg wat, indien in die Republiek gepleeg, 'n misdryf kragtens hierdie of enige ander Wet sou wees tot voordeel van, of in opdrag van, of in samewerking met 'n terroristegroep, is skuldig aan 'n misdryf.".

Wysiging van artikel 5 van Wet 33 van 2004

35

5. Artikel 5 van die Hoofwet word hierby gewysig deur die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:

"Enigiemand wat opsetlik 'n springstof- of ander dodelike toestel aflewer, plaas, detoneer of laat ontploff binne, of by, of teen 'n plek van private of openbare gebruik, 'n staats- of regeringsfasilitet, 'n openbare vervoerfasilitet, 'n openbare 40 vervoerstelsel of 'n infrastrukturele fasilitet met die oogmerk om, onder andere, die volgende te veroorsaak—".

Wysiging van artikel 6 van Wet 33 van 2004

6. Artikel 6 van die Hoofwet word hierby gewysig—

(a) deur die opskrif deur die volgende opskrif te vervang:

"Misdrywe met betrekking tot kaping, vernietiging[,] of ingevaarstelling van veiligheid van vaste platform"; en

(b) deur die volgende subartikel by te voeg, sodat die bestaande artikel subartikel (1) word:

"(2) Enige persoon wat, met die doel om 'n bevolking te intimideer, of om 'n regering of 'n internasionale organisasie te dwing om enige handeling te verrig of nie te verrig nie of daarvan weerhou om dit te verrig of nie te verrig nie, opsetlik—

(a) enige springstof of ander dodelike toestel gebruik teen of op 'n vaste platform of vanaf 'n vaste platform afvuur, op 'n wyse wat dood of

45

50 55

Act No. 23 of 2022

Protection of Constitutional Democracy against Terrorist and Related Activities Amendment Act, 2022

20

- (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.”.

5

Amendment of section 7 of Act 33 of 2004

7. Section 7 of the principal Act is hereby amended by the substitution for the heading of the following heading:

10

“Offences relating to taking [a] hostage”.

Amendment of section 9 of Act 33 of 2004

8. Section 9 of the principal Act is hereby amended—

(a) by the substitution for the heading of the following heading:

“Offences relating to hijacking [an] aircraft”; and

15

(b) by the substitution for the words preceding paragraph (a) of the following words:

“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—”.

20

Amendment of section 10 of Act 33 of 2004

9. Section 10 of the principal Act is hereby amended—

(a) by the substitution for the heading of the following heading:

“Offences relating to hijacking [a] ship or endangering safety of maritime navigation”; and

25

(b) by the addition of the following subsections, the existing section becoming subsection (1):

“(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.

30

35

(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—

40

- (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

45

50

55

- (b) vanaf 'n vaste platform olie, vloeibare aardgas of 'n ander gevaarhoudende, giftige of skadelike stof vrystel, in sodanige hoeveelheid of konsentrasie wat die dood of ernstige beserings of skade veroorsaak of waarskynlik kan veroorsaak; of
- (c) enige ander middele gebruik om 'n vaste platform te deaktivéer, te beschadig of nutteloos te laat,
is skuldig aan 'n misdryf."

5

Wysiging van artikel 7 van Wet 33 van 2004

- 7.** Artikel 7 van die Hoofwet word hierby gewysig deur die opskrif deur die volgende opskrif te vervang:
"Misdrywe met betrekking tot neem van ['n] gyselaar".

10

Wysiging van artikel 9 van Wet 33 van 2004

- 8.** Artikel 9 van die Hoofwet word hierby gewysig—
- (a) deur die opskrif deur die volgende opskrif te vervang:
"Misdrywe met betrekking tot kapting van ['n] vliegtuig"; en
- (b) deur die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:
"Enigiemand wat opsetlik, met geweld of 'n dreigement daartoe, of deur middel van enige ander vorm van intimidasie, of enige ander middele, beheer oor 'n vliegtuig oorneem of uitoefen, met die oogmerk om—".

15

20

Wysiging van artikel 10 van Wet 33 van 2004

- 9.** Artikel 10 van die Hoofwet word hierby gewysig—
- (a) deur die opskrif deur die volgende opskrif te vervang:
"Misdrywe met betrekking tot kapting van ['n] skip of ingevaarstelling van [die] veiligheid van seevaart"; en
- (b) deur die volgende subartikels by te voeg, sodat die bestaande artikel subartikel (1) word:

25

- "(2) By die toepassing van hierdie artikel beteken—**
- (a) 'radioaktiewe materiaal' radioaktiewe materiaal soos omskryf in artikel 1 van die Wet op Kernenergie, en 'n Groep IV-gevaarhoudende stof soos omskryf in die Wet op Gevaarhoudende Stowwe;
- (b) 'spesiale kernmateriaal' spesiale kernmateriaal soos omskryf in artikel 1 van die Wet op Kernenergie.

30

35

- (3) Enige persoon wat wederregtelik en opsetlik enige van die volgende handelinge verrig, pleeg 'n misdryf:
- (a) 'n Bevolking intimideer, of 'n regering of 'n internasionale organisasie dwing om enige handeling te verrig of nie te verrig nie of weerhou daarvan om dit te verrig of nie te verrig nie, deur—
- (i) enige springstof, radioaktiewe materiaal of wapen van grootskaalse vernietiging soos omskryf in die Wet op Nie-proliferasie van Wapens van Groot-skaalse Vernietiging, of 'n gevaarhoudende stof soos omskryf in die Wet op Gevaarhoudende Stowwe, teen of op 'n skip te gebruik of van 'n skip af te vuur of vry te stel, op 'n wyse wat tot die dood lei of waarskynlik kan lei of ernstige besering of skade veroorsaak of waarskynlik kan veroorsaak;
- (ii) olie, vloeibare aardgas of giftige of gevaarlike stof van 'n skip af vry te stel, in sodanige hoeveelheid of konsentrasie wat die dood of ernstige besering of skade veroorsaak of waarskynlik kan veroorsaak;
- (iii) 'n skip op 'n wyse te gebruik wat dood of ernstige besering of skade veroorsaak;
- (iv) te dreig om 'n misdryf soos beoog in subparagraph (i) of (ii) te pleeg; of

40

45

50

55

<ul style="list-style-type: none"> (v) using any other means to interfere with the safe navigation of a ship, including interference with the navigation or information system thereof; or <p>(b) transporting on board a ship—</p> <ul style="list-style-type: none"> (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. <p>(4) For the purposes of this section—</p> <p>(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</p> <p>(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—</p> <ul style="list-style-type: none"> (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. <p>(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.”.</p>	
5	
10	
15	
20	
25	
30	
35	
40	
45	
50	

(v) enige ander middele te gebruik om in te meng met die veilige navigasie van 'n skip, met inbegrip van inmenging met die navigerings- of inligtingstelsel daarvan; of	
(b) vervoer aan boord van 'n skip van—	
(i) enige springstof of radioaktiewe materiaal, wetend dat die opset is om dit gebruik om die dood of ernstige besering of skade te veroorsaak of in 'n dreigement om dood of ernstige besering of skade te veroorsaak met die doel om 'n bevolking te intimideer of 'n regering of 'n internasjonale organisasie te dwing om enige handeling te verrig of nie te verrig nie of weerhou daarvan om dit te verrig of nie te verrig nie;	5
(ii) enige wapen van grootskaalse vernietiging, soos omskryf in artikel 1 van die Wet op die Nie-Proliferasie van Wapens van Grootskaalse Vernietiging, wetend dat dit so 'n wapen is;	10
(iii) enige bronmateriaal, spesiale kernmateriaal, toerusting of materiaal wat spesiaal ontwerp of voorberei is vir die verwerking, gebruik of produksie van spesiale kernmateriaal, wetend dat dit bedoel is om gebruik te word in 'n kernontploffing of in enige ander kernaktiwiteit wat nie onder veiligheidsmaatreëls ingevolge 'n omvattende veiligheidsmaatreëlsooreenkoms van die Internasjonale Kernenergie-agentskap is nie; of	15
(iv) enige toerusting, materiale, sagteware of verwante tegnologie wat beduidend bydra tot die ontwerp, vervaardiging of lewering van 'n wapen van grootskaalse vernietiging, soos omskryf in artikel 1 van die Wet op die Nie-proliferasie van Wapens van Grootskaalse Vernietiging, met die opset dat dit vir sodanige oogmerk gebruik sal word.	20
(4) Vir die doeleindes van hierdie artikel—	30
(a) is dit nie 'n misdryf om 'n item, materiaal, sagteware of verwante tegnologie in subartikel (3)(b)(ii) of (iv) bedoel, te vervoer nie as sodanige item, materiaal, sagteware of verwante tegnologie vervoer word onderhewig aan beheer ooreenkomsdig artikel 13 van die Wet op die Nie-proliferasie van Wapens van Grootskaalse Vernietiging; en	35
(b) is dit nie 'n misdryf om 'n item of materiaal in subartikel (3)(b)(iii) bedoel of, vir soverre dit met 'n kernwapen of ander kernploffestoel verband hou, indien sodanige item of materiaal vervoer word na of van die grondgebied van, of andersins vervoer word onder die beheer van, 'n Staatsparty tot die Verdrag oor die Nie-proliferasie van Kernwapens waar—	40
(i) die gevolglike oordrag of ontvangs, insluitend intern tot 'n Staat, van die item of materiaal nie strydig is met die Republiek se verpligte kragtens die Verdrag oor die Nie-proliferasie van Kernwapens nie; en	45
(ii) indien die item of materiaal bestem is vir die leweringstelsel van 'n kernwapen of ander kernploffestoel van 'n <i>Staatsparty tot die Verdrag oor die Nie-proliferasie van Kernwapens</i> en die hou van sodanige wapen of toestel nie strydig met die Republiek se verpligte kragtens daardie Verdrag is nie.	50
(5) Enige persoon wat wederregtelik en met opset 'n ander persoon aan boord van 'n skip vervoer, wetend dat die persoon 'n handeling gepleeg het wat 'n misdryf ingevolge hierdie artikel daarstel en met die opset om daardie persoon by te staan om strafregtelike vervolging te vermy, is skuldig aan 'n misdryf.”	55

Substitution of section 11 of Act 33 of 2004

10. The following section is hereby substituted for section 11 of the principal Act:

“Offences relating to harbouring or concealment of persons committing specified offences

11. 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 [a specified offence, as referred to in paragraph (a) of the definition of ‘specified offence’] 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.”.

5

10

15

20

25

30

Amendment of section 12 of Act 33 of 2004

11. Section 12 of the principal Act is hereby amended—

(a) by the substitution for the heading of the following heading:

“Duty to report presence of person suspected of intending to commit or having committed [an] offence and failure to so report”; and

(b) by the addition of the following subsections:

“(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.

(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.”.

15

20

25

30

Amendment of section 13 of Act 33 of 2004

12. Section 13 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for paragraph (a) of the following paragraph:

“(a) Any person who, with the intention of inducing in a person anywhere in the world a false belief that [a substance, thing or device is, or contains, or is likely to be, or contains a noxious substance or thing or an explosive or other lethal device—

(i) places that substance, thing or device in any place; or

(ii) sends that substance, thing or device from one place to another, by post, rail or any other means whatsoever] an offence under sections 2, 3 and 5 to 10 will be committed, is guilty of an offence.”; and

(b) by the addition to subsection (1) of the following paragraphs:

“(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.

35

40

45

50

Vervanging van artikel 11 van Wet 33 van 2004

10. Artikel 11 van die Hoofwet word hierby deur die volgende artikel vervang:

“Misdrywe met betrekking tot herberg of versteek van persone wat gespesifieerde misdrywe pleeg”

11. Enigiemand wat 'n persoon herberg of versteek van wie hy of sy kennis dra, of behoort kennis te dra of te vermoed, dat dit 'n persoon is wat [**'n gespesifieerde misdryf, soos bedoel in paragraaf (a) van die omskrywing van 'gespesifieerde misdryf'**] die misdryf van terrorisme bedoel in artikel 2, 'n misdryf geassosieer of in verband met terroristiese-aktiwiteite bedoel in artikel 3, enige Konvensiemisdryf, of 'n misdryf bedoel in artikel 13 of 14, gepleeg het, of waarskynlik gaan pleeg, is aan 'n misdryf skuldig.”.

5

10

Wysiging van artikel 12 van Wet 33 van 2004

11. Artikel 12 van die Hoofwet word hierby gewysig—

(a) deur die opskrif deur die volgende opskrif te vervang:

“Plig om teenwoordigheid van persoon wat verdink word van [die] pleging of beplande pleging van [n] misdryf te rapporteer en versuim om aldus te [rapporteur] rapporteer”; en

(b) deur die volgende subartikel by te voeg:

“(9) Vir die doeleindes van hierdie Wet, raak geen plig van geheimhouding of vertroulikheid of enige ander beperking op die openbaarmaking van inligting, hetsy opgelê deur wetgewing of voortspruitend uit die gemenereg of ooreenkoms, die plig van nakoming van hierdie artikel deur 'n verantwoordingspligtige instelling, toesighoudende liggaaam of verslagdoeningsinstelling soos omskryf in artikel 1 van die Wet op die Finansiële Intelligensiesentrum, of enige ander persoon nie.

15

(10) Subartikel (9) is nie van toepassing nie op die gemenereg reg op professionele regslui se privilegie, soos tussen 'n prokureur en die prokureur se kliënt ten opsigte van kommunikasies wat vertroulik tussen—

20

(a) die prokureur en die prokureur se kliënt geskied vir die doel van regsadvies of litigering wat hangende is of begin het; of

(b) 'n derde party en 'n prokureur vir die doeleindes van litigering wat hangende is of begin het.”.

25

30

35

Wysiging van artikel 13 van Wet 33 van 2004

12. Artikel 13 van die Hoofwet word hierby gewysig—

(a) deur in subartikel (1) paragraaf (a) deur die volgende paragraaf te vervang:

“(a) Enigiemand wat met die opset om by 'n persoon te enige plek in die wêreld die vals geloof te wek dat [**'n stof, voorwerp of toestel, 'n gevaaarlike stof, voorwerp of 'n springstof- of ander dodelike toestel is, of waarskynlik is, of 'n gevaaarlike stof of ander gevaaarlike voorwerp, of apparaat, of 'n wapen van massavernietiging is (of bevat)**—

40

(i) **daardie stof, voorwerp of toestel op enige plek plaas; of**

(ii) **daardie stof, voorwerp of toestel van een plek na 'n ander plek per pos, spoor of enige ander wyse hoegenaamd stuur]** [**'n misdryf kragtens artikels 2, 3 en 5 tot 10 gepleeg gaan word,** is aan 'n misdryf skuldig.”; en

45

(b) deur die volgende paragrawe by subartikel (1) te voeg:

50

“(c) Enige persoon wat direk of indirek enige inligting wat hy of sy weet, of redelikerwys moes geweet het of vermoed het, of glo vals is en wat dreigemente van geweld of van enige ander misdryf wat gepleeg sal word by enige plek met die oogmerk om enige persoon te intimideer om sekere plekke te vermy of om polisiehulpbronne af te lei ten einde 'n misdaad kragtens hierdie Wet te pleeg, is skuldig aan 'n misdrif.”.

55

Act No. 23 of 2022

Protection of Constitutional Democracy against Terrorist and Related Activities Amendment Act, 2022

26

(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.

(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.”.

5

Amendment of section 15 of Act 33 of 2004

13. Section 15 of the principal Act is hereby amended—

- (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

10

“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 [any specified offence as defined in paragraph (a) of the definition of ‘specified offence’] 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—”;

15

- (b) by the insertion after subsection (2) of the following subsection:

20

“(2A) Any person referred to in subsection (2) may be arrested to appear in court pending a determination on the issue of extradition.”;

- (c) by the deletion in subsection (3) of the word “or” at the end of paragraph (a);

- (d) by the addition to subsection (3) of the following paragraphs:

25

“(c) at the place where the accused was arrested or charged in the Republic;

(d) at the place where the victim resided; or

(e) at the place where the police registered the complaint, whichever is the most applicable to the facts of the particular case.”;

- (e) by the insertion after subsection (3) of the following subsection:

30

“(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.”;

- (f) by the substitution for subsection (6) of the following subsection:

35

“(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[**, 1977 (Act No. 51 of 1977)**], in order to ensure his or her presence at such proceedings.”; and

40

- (g) by the addition of the following subsections:

45

“(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.

50

(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.

55

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

(d) Indien enige polisiehulpbronne afgelei is as gevolg van 'n misdaad kragtens paragraaf (c) gepleeg, is die oortreder aanspreeklik vir enige koste in daardie opsig deur die Staat bewys.

(e) By skuldigbevinding aan 'n misdryf kragtens paragraaf (c), kan die hof die beskuldigde, benewens enige boete of gevangenisstraf deur die hof opgelê, beveel om die koste betreffende sodanige afleiding van hulpbronne te betaal.".

5

Wysiging van artikel 15 van Wet 33 van 2004

13. Artikel 15 van die Hoofwet word hierby gewysig—

- (a) deur in subartikel (1) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:

“’n Hof van die Republiek beskik oor jurisdiksies en die Direktoraat kan, met inligting oor die pleging van enige misdryf in hierdie subartikel vermeld, ’n ondersoek van stapel stuur, of die Nasionale Direkteur kan ’n vervolging instel ten opsigte van [enige gespesifieerde misdryf soos omskryf in paragraaf (a) van die omskrywing van ‘gespesifieerde misdryf’,] die misdryf van terrorisme in artikel 2 bedoel, ’n misdryf geassosieer of in verband met ’n terroriste-aktiwiteit in artikel 3 bedoel, enige Konvensiemisdryf, of ’n misdryf in artikel 13 of 14 bedoel, indien—”;

15

- (b) deur die volgende subartikel na subartikel (2) in te voeg:

“(2A) Enige persoon bedoel in subartikel (2), mag gearresteer word om voor die hof te verskyn hangende ’n bepaling oor die kwessie van uitlewering.”;

- (c) deur in subartikel (3) die woorde “of” aan die einde van paragraaf (a) te skrap;

- (d) deur die volgende paragrawe by subartikel (3) te voeg:

“(c) by die plek waar die beskuldigde in die Republiek gearresteer is of aangekla is; of

(d) by die plek waar die slagoffer gebly het; of

(e) by die plek waar die polisie die klage geregistreer het, wat ook al mees toepaslik op die feite van die bepaalde saak is.”;

30

- (e) deur die volgende subartikel na subartikel (3) in te voeg:

“(3A) Waar dit nie moontlik is om ’n lasbrief vir inhegtenisname van ’n beskuldigde op die gronde waarvoor in artikel 43(1)(b) van die Strafproseswet voorsiening gemaak word, te kry nie, kan die landdros van die distrik waar die polisie die klage geregistreer het, die lasbrief uitreik.”;

35

- (f) deur subartikel (6) deur die volgende subartikel te vervang:

“(6) Indien dit op redelike gronde uit die ondersoek bedoel in subartikel (5) blyk dat uitlewering of strafregtelike vervolging ingestel kan word teen bedoelde persoon, mag daardie persoon gearresteer word, soos beoog in artikel 40(1) van die Strafproseswet, [1977 (Wet No. 51 van 1977),] ten einde sy of haar teenwoordigheid by bedoelde verrigtinge te verseker.”; en

40

- (g) deur die volgende subartikels by te voeg:

45

“(10) Wanneer ’n persoon wat—

(a) nie ’n burger van die Republiek is nie;

(b) nie gebruiklik in die Republiek woon nie; of

(c) ’n staatlose persoon is,

deur ’n lid van die Suid-Afrikaanse Polisiediens of die Nasionale Kommissaris of die Nasionale Hoof van die Direktoraat gearresteer word vir ’n beweerde oortreding van ’n Konvensiemisdryf, moet die Sekretaris-generaal van die Verenigde Nasies of die regering of regerings met vasgestelde jurisdiksie, onmiddellik deur die diplomatieke kanaal van die inhegtenisname in kennis gestel word.

50

(11) Die Nasionale Kommissaris of die Nasionale Hoof van die Direktoraat kan dit oorweeg om enige ander belanghebbende regering te verwittig van ’n persoon in aanhouding en die omstandighede wat daardie persoon se arres geregverdig het.

55

(12) ’n Persoon in subartikel (10) bedoel, moet so gou moontlik, by inhegtenisneming, ingelig word van sy of haar reg om—

60

Act No. 23 of 2022

Protection of Constitutional Democracy against Terrorist and Related Activities Amendment Act, 2022

28

- (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.”.

5

Amendment of section 16 of Act 33 of 2004

14. Section 16 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(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.”.

10

15

Amendment of section 17 of Act 33 of 2004

15. Section 17 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(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 [of Foreign Affairs] responsible for International Relations and Cooperation, stating any fact relating to that question, is *prima facie* evidence of that fact.”.

20

25

Amendment of section 18 of Act 33 of 2004

16. Section 18 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for paragraph (c) of the following paragraph:

“(c) section 4 or 4A, is liable—

30

- (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 [15] 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;”;

35

(b) by the substitution in subsection (1)(d) for the words preceding subparagraph (i) of the following words:

“section 13(1)(a), [or] (b) or (c) is liable—”;

(c) by the substitution in subsection (1)(d) for subparagraph (i) of the following subparagraph:

40

“(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 [10] 15 years;”;

(d) by the substitution in subsection (1)(e) for subparagraph (i) of the following subparagraph:

45

“(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 [five] 15 years;”;

(e) by the deletion in subsection (1) of the full stop at the end of paragraph (f) and the insertion of “; and”; and

50

(f) by the addition to subsection (1) of the following paragraph:

“(g) section 24A(10) or (11), is liable to a fine or imprisonment not exceeding one year, or to both such fine and imprisonment.”.

- (a) te versoek dat die tersaaklike regering van sy of haar inhegtenisname ingelig word;
- (b) toegang te hê om met 'n konsulêre verteenwoordiger van die tersaaklike regering te kommunikeer; en
- (c) te verwag dat enige kommunikasie wat aan die tersaaklike konsulêre pos oor die gearresteerde persoon gerig word, onverwyld deur die tersaaklike owerhede aangestuur word.”.

5

Wysiging van artikel 16 van Wet 33 van 2004

- 14.** Artikel 16 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

“(1) Geen vervolging mag ingevolge Hoofstuk 2 ingestel word sonder 'n geskrewe magtiging van die Nasionale Direkteur nie, behalwe in die geval van 'n vervolging kragtens artikel 13 wat nie met enige ander misdryf kragtens hierdie Wet verband hou nie, in welke geval die skriftelike magtiging van die Direkteur van Openbare Vervolgings verkry moet word voordat die vervolging ingestel word.”.

10

Wysiging van artikel 17 van Wet 33 van 2004

- 15.** Artikel 17 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

“(1) Indien die vraag by enige verrigtinge in 'n gereghof opduik, of 'n persoon ooreenkomsdig die volkereg geregtig is op spesiale beskerming teen enige aanval op sy of haar persoon, vryheid of waardigheid sal 'n sertifikaat, gelewer onder die hand van, of op gesag van die Direkteur-generaal van die Departement [van Buitelandse Sake] verantwoordelik vir Internasionale Betrekkinge en Samewerking, wat enige feit met betrekking tot daardie vraag stel, *prima facie* getuenis van daardie feit daarstel.”.

20

Wysiging van artikel 18 van Wet 33 van 2004

- 16.** Artikel 18 van die Hoofwet word hierby gewysig—

- (a) deur in subartikel (1) paragraaf (c) deur die volgende paragraaf te vervang:

“(c) artikel 4 of 4A, is strafbaar—

30

(i) in die geval van 'n vonnis wat deur 'n Hoë Hof of streekhof opgelê moet word, tot 'n boete wat nie R100 miljoen mag oorskry nie, of gevangenisstraf vir 'n tydperk wat nie [15] 30 jaar mag oorskry nie;

(ii) in die geval van 'n vonnis wat deur enige landdroshof opgelê moet word, tot 'n boete wat nie R250 000,00 mag oorskry nie, of gevangenisstraf wat nie 'n tydperk van vyf jaar mag oorskry nie;”;

- (b) deur in subartikel (1)(d) die woorde wat subparagraaf (i) voorafgaan deur die volgende woorde te vervang:

40

“artikel 13(1)(a), [of] (b) of (c), is strafbaar—”;

- (c) deur in subartikel (1)(d) subparagraaf (i) deur die volgende subparagraaf te vervang:

35

(i) in die geval van 'n vonnis wat deur 'n Hoë Hof of streekhof opgelê moet word, tot 'n boete of gevangenisstraf vir 'n tydperk wat nie [10] 15 jaar mag oorskry nie;”;

- (d) deur in subartikel (1)(e) subparagraaf (i) deur die volgende subparagraaf te vervang:

45

(i) in die geval van 'n vonnis wat deur 'n Hoë Hof of streekhof opgelê moet word, tot 'n boete of gevangenisstraf vir 'n tydperk wat nie [vyf] 15 jaar mag oorskry nie;”;

- (e) deur in subartikel (1) die punt aan die einde van paragraaf (f) te skrap en “; en” in te voeg; en

50

- (f) deur die volgende paragraaf by subartikel (1) te voeg:

55

“(g) artikel 24A(10) of (11), is strafbaar met 'n boete of gevangenisstraf van hoogstens een jaar, of met beide sodanige boete en gevangenisstraf.”.

Substitution of section 23 of Act 33 of 2004

17. The following section is hereby substituted for section 23 of the principal Act:

“Freezing order

<p>23. (1) A High Court may, on <i>ex parte</i> 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—</p> <p>(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;</p> <p>(b) obliging any person to cease any conduct in respect of any property referred to in paragraph (a); or</p> <p>(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).</p> <p>(2) An order referred to in subsection (1) may be made in respect of—</p> <p>(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</p> <p>(b) a specific entity identified in a notice pursuant to a Resolution of the United Nations Security Council relating to the identification of entities—</p> <p>(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</p> <p>(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,</p>	5 10 15 20 25 30 35 40 45 50
<p>and that are announced in a notice referred to in section 26A(3) of the Financial Intelligence Centre Act.</p>	
<p>(3) A High Court may make an interim order under subsection (1) pending its final determination of an application for such an order.</p>	
<p>(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—</p>	
<p>(a) appointing a <i>curator bonis</i>, 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:</p> <ul style="list-style-type: none"> (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; 	40 45
<p>(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 <i>curator bonis</i>; and</p>	50
<p>(c) relating to the payment of the fees and expenditure of the <i>curator bonis</i>.</p>	

Vervanging van artikel 23 van Wet 33 van 2004

17. Artikel 23 van die Hoofwet word hierby deur die volgende artikel vervang:

“Bevriesingsbevel

<p>23. (1) Enige Hoë Hof mag, by wyse van 'n <i>ex parte</i>-aansoek deur die Nasionale Direkteur voor 'n regter in kamers, behoudens sodanige voorwaardes en uitsonderings wat in die bevel gespesifiseer kan word, 'n bevel uitrek—</p> <p>(a) wat enige persoon verbied om enige handeling te verrig, of op enige wyse te handel met enige eiendom besit of beheer deur of ten behoeve van, of in opdrag van, of andersins geassosieer met 'n entiteit in subartikel (2) bedoel, en kan 'n bevel insluit om enige sodanige eiendom te bevries;</p> <p>(b) om enige persoon te verplig om enige handeling te staak, met betrekking tot enige eiendom in paragraaf (a) bedoel; of</p> <p>(c) om enige persoon te verbied om enige handeling in artikel 4 bedoel te verrig tot voordeel van, of ten behoeve van, of in opdrag van, of onder die beheer van, 'n entiteit in subartikel (2) bedoel.</p> <p>(2) 'n Bevel in subartikel (1) bedoel, kan gegee word ten opsigte van—</p> <p>(a) enige entiteit, waar daar redelike gronde is om te glo dat die entiteit 'n gespesifiseerde misdryf gepleeg het, of probeer het om dit te pleeg, aan die pleging van 'n gespesifiseerde misdryf deelgeneem het of dit gefasiliteer het; of</p> <p>(b) 'n spesifieke entiteit in 'n kennisgewing geïdentifiseer ingevolge 'n Resolusie van die Veiligheidsraad van die Verenigde Nasies met betrekking tot die identifikasie van entiteite—</p> <p>(i) wat enige terroristiese- en verwante aktiwiteite gepleeg het of probeer pleeg het, of aan die pleging van enige terroristiese- en verwante aktiwiteite deelneem of dit fasiliteer; of</p> <p>(ii) waarteen die Lidstate van die Verenigde Nasies die stapte in die Resolusie gespesifiseer, moet doen ten einde terroristiese- en verwante aktiwiteite te bekamp of te voorkom,</p>	5 10 15 20 25 30 35 40 45 50 55
<p>en wat in 'n kennisgewing bedoel in artikel 26A(3) van die Wet op die Finansiële Intelligensiesentrum aangekondig word.</p> <p>(3) 'n Hoë Hof kan 'n tussentydse bevel gee kragtens subartikel (1), hangende die hof se finale beslissing oor 'n aansoek om so 'n bevel.</p> <p>(4) 'n Hoë Hof wat 'n bevel kragtens subartikel (1) gee, kan enige ander aanvullende bevele gee wat die hof gepas ag vir die behoorlike, regverdigte en doeltreffende uitvoering van die bevel, met inbegrip van—</p> <p>(a) om 'n <i>curator bonis</i> aan te stel, onderhewig aan die voorskrifte van daardie Hoë Hof, om enige een of meer van die volgende te doen ten behoeve van 'n persoon wat deur daardie bevel geraak word:</p>	
<p>(i) Om beheer oor die eiendom te neem;</p> <p>(ii) om die vermelde eiendom te versorg;</p> <p>(iii) om die vermelde eiendom te administreer en enige handeling te verrig wat vir daardie doel nodig is;</p> <p>(iv) waar die vermelde eiendom 'n besigheid of onderneming is, om voort te gaan, met behoorlike inagneming van enige wetsbepaling wat van toepassing mag wees, met die besigheid of onderneming; en</p> <p>(v) om oor eiendom te beskik as dit nie ekonomies vatbaar is om dit te administreer nie of dit om enige ander rede nie ekonomies moontlik is om beheer daaroor te neem en dit te versorg nie;</p>	
<p>(b) om enige persoon wat eiendom het, onderhewig aan 'n bevel in subartikel (1) bedoel, te beveel om onmiddellik enige sodanige eiendom in die sorg van die <i>curator bonis</i> oor te gee; en</p> <p>(c) met betrekking tot die betaling van die gelde en uitgawes van die <i>curator bonis</i>.</p>	

- (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).".

5

Amendment of section 24 of Act 33 of 2004**18. Section 24 of the principal Act is hereby amended—**

- (a) by the substitution for the heading of the following heading: 10

"Cordoning off, stop and search of vehicle [and], person and premises";

- (b) by the substitution for subsection (1) of the following subsection:

"(1) If, on written request under oath to a judge in chambers by a police official of or above the rank of [director] **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, **[and]** 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 20 may not exceed 10 days.";

- (c) by the substitution for subsection (2) of the following subsection:

"(2) Under **[such]** 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, **[or]** 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."; and

- (d) by the substitution for subsections (3) and (4) of the following subsections, 30 respectively:

"(3) The police official may seize any article or thing contemplated in subsection (2), and Chapter 2 of the Criminal Procedure Act[**, 1977 (Act No. 51 of 1977)**], applies with the necessary changes required by the context in respect of any such article or thing.

(4) Section 29 of the Criminal Procedure Act[**, 1977 (Act No. 51 of 1977)**], applies in respect of the powers conferred upon police officials in terms of this section.".

35

Insertion of section 24A in Act 33 of 2004**19. The following section is hereby inserted in the principal Act after section 24: 40****"Order to take-down or disable access to terrorism publications**

24A. (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.

45

(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;

50

- (5) Die Nasionale Direkteur moet—
- (a) by publikasie in 'n nasionale koerant en die *Staatskoerant*, kennis gee dat 'n bevel kragtens subartikel (1) gegee is; en
 - (b) op die webwerf van die Nasionale Vervolgingsgesag, 'n rekord hou van alle bevele kragtens subartikel (1) gegee.
- (6) Geen aksie, hetsy strafregtelik of siviël, word gehou teen enige persoon wat te goeder trou voldoen aan 'n bevel kragtens subartikel (1) gegee nie.".

5

Wysiging van artikel 24 van Wet 33 van 2004

- 18.** Artikel 24 van die Hoofwet word hierby gewysig— 10
- (a) deur die opskrif deur die volgende opskrif te vervang:
"Afkordonnering, voorkeer en deursoeking van voertuig [en], persoon en perseel";
 - (b) deur subartikel (1) deur die volgende subartikel te vervang:
 "(1) Indien dit uit 'n skriftelike aansoek onder eed, voor 'n regter, deur 'n polisiebeampte met of bo die rang van **[direkteur]** brigadier, vir die regter blyk dat dit noodsaaklik is ten einde terroriste- of verwante aktiwiteite te verhoed, mag die regter 'n lasbrief uitrek vir die afkordonnering, voorkeer en deursoeking van voertuig, **[en]** persone en persele, met die oog op die voorkoming van sodanige terroriste- of verwante aktiwiteite in 'n bepaalde gebied, en sodanige lasbrief geld vir die tydperk daarin vermeld, welke tydperk nie 10 dae mag oorskry nie.";
 - (c) deur subartikel (2) deur die volgende subartikel te vervang:
 "(2) Enige polisiebeampte wat hom of haar as sulks identifiseer, mag ingevolge **[bedoelde]** 'n lasbrief ingevolge subartikel (1) verkry, die bepaalde gebied vir die in die lasbrief bepaalde tydperk afkordonneer en enige voertuig, **[of]** persoon of perseel in daardie area voorkeer en deursoek vir goedere of voorwerpe wat gebruik kan word, of gebruik is vir of in verband met die voorbereiding vir of pleging van, of aanstigting van enige terroriste- of verwante aktiwiteite.";
 - (d) deur subartikels (3) en (4) onderskeidelik deur die volgende subartikels te vervang:
 "(3) Die polisiebeampte mag beslag lê op enige goedere of voorwerp bedoel in subartikel (2) en Hoofstuk 2 van die Strafproseswet[, 1977 (Wet No. 51 van 1977)], is van toepassing met die veranderinge wat deur die konteks genoodsaak is, ten opsigte van enige sodanige goedere of voorwerp.
 (4) Artikel 29 van die Strafproseswet[, 1977 (Wet No. 51 van 1977)], is van toepassing ten opsigte van die bevoegdhede aan polisiebeamptes verleen ingevolge hierdie artikel.".

15

20

30

35

40

Invoeging van artikel 24A in Wet 33 van 2004

- 19.** Die volgende artikel word hierby na artikel 24 in die Hoofwet ingevoeg:

"Bevel om terrorismepublikasies af te haal of toegang te deaktiveer

- 24A.** (1) 'n Lid van die Direktoraat, met die rang van brigadier of hoër, kan by wyse van 'n *ex parte*-aansoek by 'n Hoë Hof aansoek doen by 'n regter in kamers, om die uitreiking van 'n bevel ingevolge waarvan 'n elektroniese kommunikasiediensverskaffer, wie se elektroniese kommunikasiediens gebruik word om 'n terrorismepublikasie te huisves, gelas word om sodanige publikasie af te haal of toegang daartoe te verwyder.
- (2) 'n Aansoek in subartikel (1) beoog—
- (a) moet skriftelik wees;
 - (b) moet—
 - (i) die applikant identifiseer;
 - (ii) die elektroniese kommunikasiediensverskaffer aan wie die bevel gerig moet word, identifiseer;

45

50

55

(iii) identify the electronic communications service of the electronic communications service provider that is used to host the terrorism publication;	5
(iv) be accompanied by an electronic copy of the terrorism publication;	10
(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;	15
(vi) indicate the reasons why the publication must be considered to be a terrorism publication; and	20
(vii) contain full particulars of all the facts and circumstances alleged in support of the application; and	25
(c) may be accompanied by—	30
(i) affidavits of persons who have knowledge of the matter concerned; or	35
(ii) other information relevant to the application.	40
(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.	45
(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).	50
(5) An order issued under subsection (4) must—	55
(a) identify the electronic communications service provider to whom the order must be addressed;	60
(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.	

(iii) die elektroniese kommunikasiediens van die elektroniese kommunikasiediensverskaffer wat gebruik word om die terrorismepublikasie te huisves, identifiseer;	
(iv) vergesel gaan van 'n elektroniese kopie van die terrorismepublikasie;	5
(v) 'n beskrywing verskaf van die terrorismepublikasie wat, waar die betrokke publikasie in die vorm van 'n toespraak, teks, video of ander visuele verteenwoordiging is, 'n gedrukte kopie insluit van die tersaaklike inhoud waarop staatgemaak sal word om te motiveer dat die publikasie 'n terrorismepublikasie is;	10
(vi) die redes aandui waarom die publikasie geag moet word 'n terrorismepublikasie te wees; en	
(vii) volle besonderhede bevat van al die feite en omstandighede wat ter ondersteuning van die aansoek, beweer word; en	15
(c) kan vergesel gaan van—	
(i) beëdigde verklarings van persone wat kennis van die betrokke aangeleentheid dra; of	
(ii) ander inligting wat op die aansoek betrekking het.	20
(3) Die Hoë Hof moet, so gou redelikerwys moontlik, 'n aansoek ingevolge subartikel (1) daarby ingedien, oorweeg en kan, vir daardie doel, enige sodanige bykomende getuienis wat die hof gepas ag, oorweeg, met inbegrip van mondeline getuienis of getuienis deur beëdigde verklaring, wat deel van die oorkonde van verrigtinge moet uitmaak.	25
(4) Indien die Hoë Hof oortuig is dat die elektroniese kommunikasiediensverskaffer gebruik word om 'n terrorismepublikasie te huisves, kan die hof, behoudens sodanige voorwaarde soos die hof gepas ag om op te lê, die bevel waarvoor ingevolge subartikel (1) aansoek gedoen is, uitreik.	30
(5) 'n Bevel kragtens subartikel (4) uitgereik, moet—	
(a) die elektroniese kommunikasiediensverskaffer identifiseer aan wie die bevel gerig moet word;	35
(b) die applikant identifiseer;	
(c) die terrorismepublikasie identifiseer en beskryf;	
(d) die elektroniese kommunikasiediens van die elektroniese kommunikasiediensverskaffer wat gebruik word om die terrorismepublikasie te huisves, identifiseer;	
(e) redes verstrek vir die besluit of uitspraak van die hof dat die publikasie 'n terrorismepublikasie is;	40
(f) die elektroniese kommunikasiediensverskaffer beveel om die terrorismepublikasie af te haal of toegang daartoe te deaktiveer binne die tydperk in die bevel bepaal vanaf die datum van betekening aan die elektroniese kommunikasiediensverskaffer; en	
(g) enige voorwaarde spesifieer wat deur die hof opgelê is.	45
(6) (a) Behalwe in 'n geval waar die Hoë Hof anders bepaal, moet 'n bevel kragtens subartikel (1) en 'n afskrif van die aansoek in subartikel (1) beoog, deur 'n vredesbeampte, soos omskryf in artikel 1 van die Strafproseswet, beteken word aan 'n elektroniese kommunikasiediensverskaffer op 'n wyse in sodanige bevel gespesifieer.	50
(b) Waar die Hoë Hof oortuig is dat betekening nie op enige wyse in paragraaf (a) bedoel, uitgevoer kan word nie, kan die hof 'n bevel gee wat toelaat dat betekening uitgevoer word op 'n wyse in sodanige bevel gespesifieer.	
(7) 'n Elektroniese kommunikasiediensverskaffer kan, binne 14 kalenderdae nadat die bevel beteken is, by die tersaaklike Hoë Hof aansoek doen om die tersydestelling of wysiging van die bevel in subartikel (4) bedoel.	55
(8) Die Hoë Hof moet, so gou redelikerwys moontlik, 'n aansoek oorweeg wat ingevolge subartikel (7) daarby ingedien is en kan, vir daardie doel, sodanige bykomende getuienis oorweeg wat die hof gepas ag, met inbegrip van mondeline getuienis of getuienis per beëdigde verklaring, wat deel van die oorkonde van verrigtinge moet uitmaak.	60

Act No. 23 of 2022

Protection of Constitutional Democracy against Terrorist and Related Activities Amendment Act, 2022

36

(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.

5

(10) Any person who is subpoenaed in terms of subsection (9) to attend proceedings and who fails to—

10

- (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.

10

(11) Any electronic communications service provider who fails to comply with an order referred to in subsection (1), is guilty of an offence.

15

(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.

15

(13) For purposes of this section—

20

(a) ‘**host a terrorism publication**’ means—

20

- (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

25

- (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;

30

(b) ‘**take-down**’ means to delete or otherwise remove a terrorism publication stored on an electronic communications network; and

30

(c) ‘**terrorism publication**’ means an electronic communication in the form of a speech, text, video or other visual representation that—

35

- (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).”.

35

Repeal of sections 25 and 26 of Act 33 of 2004

40

20. Sections 25 and 26 of the principal Act are hereby repealed.

Amendment of section 27 of Act 33 of 2004

21. Section 27 of the principal Act is hereby amended by the insertion after subsection (1) of the following subsections:

“(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.”

45

“(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.”.

50

(9) Die Hoë Hof kan, vir die doeleindes van subartikels (3) en (8), enige persoon as 'n getuie by sodanige verrigtinge dagvaar of laat dagvaar, of om enige boek, dokument of voorwerp voor te lê, indien die getuenis van daardie persoon, of boek, dokument of voorwerp, vir die hof blyk noodsaklik te wees vir die regverdige beslissing van die saak.

(10) 'n Persoon wat ingevolge subartikel (9) gedagvaar word om verrigtinge by te woon en wat versuim om—

- (a) dit by te woon of teenwoordig te bly;
- (b) te verskyn by die plek en op die datum en die tyd waarheen die verrigtinge verdaag mag word;
- (c) teenwoordig te bly by daardie verrigtinge aldus verdaag; of
- (d) enige boek, dokument of voorwerp in die dagvaarding gespesifiseer, voor te lê,

is skuldig aan 'n misdryf.

(11) Enige elektroniese kommunikasiediensverskaffer wat versuim om aan 'n bevel in subartikel (1) bedoel te voldoen, is skuldig aan 'n misdryf.

(12) Die bepalings ten opsigte van appèl en hersiening soos in die Wet op Hoë Howe, 2013 (Wet No. 10 van 2013), bepaal, is van toepassing op verrigtinge ingevolge hierdie artikel.

(13) Vir die doeleindes van hierdie artikel beteken—

(a) '**terrorismepubliekisasie huisves'**—

- (i) om 'n terrorismepubliekisasie op die elektroniese kommunikasienetwerk van 'n elektroniese kommunikasiediensverskaffer te huisves as deel van die voorsiening van 'n elektroniese kommunikasiediens waar dit besigtig, na geluister, gekopieér of afgelaai kan word; of
- (ii) om 'n skakel na die terrorismepubliekisasie te voorsien wat op 'n elektroniese kommunikasienetwerk van 'n elektroniese kommunikasiediensverskaffer gestoor is, waar dit besigtig, gekopieer of afgelaai kan word;

(b) '**aftaal**' om 'n terrorismepubliekisasie wat op 'n elektroniese kommunikasienetwerk gestoor is, uit te vee of andersins te verwijder; en

(c) '**terrorismepubliekisasie**' 'n elektroniese kommunikasie in die vorm van 'n toespraak, teks, video of ander visuele verteenwoordiging wat—

- (i) die publiek of segmente van die publiek dreig met die gedrag in paragraaf (a) van die omskrywing van 'terroriste-aktiwiteit', of dreig dat 'n misdryf bedoel in artikel 5, 6, 7, 8, 9 of 10 gepleeg gaan word; of
- (ii) ander aanstig om die misdrywe in subparagraaf (i) bedoel, te pleeg.”.

Herroeping van artikels 25 en 26 van Wet 33 van 2004

20. Artikels 25 en 26 van die Hoofwet word hierby herroep.

Wysiging van artikel 27 van Wet 33 van 2004

21. Artikel 27 van die Hoofwet word hierby gewysig deur die volgende subartikels na subartikel (1) in te voeg:

“(1A) Enige Proklamasie kragtens artikel 25(1) uitgereik, voor die inwerkingtreding van die Wysigingswet op Beskerming van Konstitusionele Demokrasie teen Terroriste- en Verwante Aktiwiteite, 2022, bly geldig en het dieselfde regskrag as 'n kennisgewing in artikel 26A(3) van die Wet op die Finansiële Intelligensiesentrum bedoel.

(1B) Enige stappe gedoen in navolging van 'n Proklamasie uitgereik kragtens artikel 25(1), voor die inwerkingtreding van die Wysigingswet op Beskerming van die Konstitusionele Demokrasie teen Terroriste- en Verwante Aktiwiteite, 2022, bly geldig.”.

Amendment to Preamble of Act 33 of 2004

22. The Preamble of the principal Act is hereby amended—

- (a) by the deletion in the sixth paragraph of the word “and” at the end of paragraph (h);
- (b) by the addition to the sixth paragraph of the following paragraphs:

“(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;

(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;

(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;

(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

(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;”;

- (c) by the substitution in the seventh paragraph for paragraphs (a) and (b) of the following paragraphs:

“(a) The *Convention [for] on the Suppression of Unlawful Acts [against the Safety of Maritime Navigation, adopted at Rome on 10 March 1988] Relating to International Civil Aviation*, adopted at Beijing on 10 September 2010 and signed on behalf of the Republic on 26 September 2013; and

(b) the *Protocol [for the Suppression of Unlawful Acts against the Safety of Fixed Platforms on the Continental Shelf, adopted at Rome on 10 March 1988; and] 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.”;

- (d) by the deletion in the seventh paragraph of paragraph (c);
- (e) by the insertion after the seventh paragraph of the following paragraph:

“**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;”;

- (f) by the substitution for the eighth paragraph of the following paragraph:

“**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 2001.”

Wysiging van Aanhef van Wet 33 van 2004

- 22.** Die Aanhef van die Hoofwet word hierby gewysig—
- (a) deur in die sesde paragraaf die woord “en” aan die einde van paragraaf (h) te skrap; 5
 - (b) deur die volgende paragrawe by die sesde paragraaf te voeg:
- | | |
|---|----------------------------------|
| <ul style="list-style-type: none"> “(j) die <i>Konvensie insake die Onderdrukking van Onregmatige Dade teen die Veiligheid van Skeepsvaart (SUA-konvensie)</i>, aanvaar te Rome op 10 Maart 1988. Die Republiek het op 8 Julie 2005 deur toetredre ‘n party daartoe geword; (k) die <i>Protokol insake die Onderdrukking van Onregmatige Dade teen die Veiligheid van Vaste Platforms op die Vastelandplat geleë (SUA-protokol)</i>, aanvaar te Rome op 10 Maart 1988. Die Republiek het op 8 Julie 2005 deur toetredre ‘n party daartoe geword; (l) die <i>Internasionale Konvensie insake die Onderdrukking van Kernterrorisme</i>, aanvaar deur die Algemene Vergadering van die Verenigde Nasies op 13 April 2005. Die Republiek het op 9 Mei 2007 by bekragtiging ‘n party daartoe geword; (m) die <i>Konvensie insake die Fisiese Beskerming van Kernmateriaal</i>, aanvaar in Wene op 26 Oktober 1979. Die Republiek het op 17 September 2007 deur bekragtiging ‘n Party daartoe geword; en (n) die <i>Verdrag Insake die Nie-proliferasie van Kernwapens</i>, aanvaar te New York op 12 Junie 1968. Die Republiek het op Julie 1991 daartoe toegetree;”; | 10
15
20
25
30
35 |
|---|----------------------------------|
- (c) deur in die sewende paragraaf paragrawe (a) en (b) deur die volgende paragrawe te vervang:
 - “(a) Die *Konvensie [vir] insake die Onderdrukking van Onregmatige Dade [teen die Veiligheid van Skeepsvaart, aanvaar te Rome op 10 Maart 1988] met betrekking tot Internasionale Burgerlike Lugvaart, aanvaar te Beijing op 10 September 2010 en op 26 September 2013 namens die Republiek onderteken; en*
 - “(b) Die *Protokol [vir die Onderdrukking van Onregmatige Dade teen die Veiligheid van Vaste Platforms op die Vastelandplat, aanvaar te Rome op 10 Maart 1988; en] ter Aanvulling van die Konvensie insake die Onderdrukking van Onregmatige Beslaglegging op Lugvaartuie, aanvaar te Beijing op 10 September 2010, en op 26 September 2013 namens die Republiek onderteken;”;*
 - (d) deur paragraaf (c) in die sewende paragraaf te skrap;
 - (e) deur die volgende paragraaf na die sewende paragraaf in te voeg:
 - “**EN AANGESIEN** die volgende internasionale instrumente aanvaar is, maar die Republiek nie geteken het nie en nie party daartoe is nie:
- | | |
|--|----------------|
| <ul style="list-style-type: none"> (a) Die <i>Protokol ter Wysiging van die Konvensie insake Misdrywe en Sekere ander Handelinge aan boord van Lugvaartuie gepleeg, aanvaar te Montreal op 4 April 2014;</i> (b) die <i>Wysiging van die Konvensie oor die Fisiese Beskerming van Kernmateriaal</i>, aanvaar te Wene op 8 Julie 2005; (c) die <i>Protokol by die Konvensie vir die Onderdrukking van Onregmatige Dade teen die Veiligheid van Skeepsvaart</i>, aanvaar te Londen op 14 Oktober 2005; en (d) die <i>Protokol by die Protokol insake die Onderdrukking van Onregmatige Dade Teen die Veiligheid van Vaste Platforms op die Vastelandplat, aanvaar te Londen op 14 Oktober 2005;”; en</i> | 40
45
50 |
|--|----------------|
- (f) deur die agtste paragraaf deur die volgende paragraaf te vervang:
 - “**EN AANGESIEN** die Republiek van Suid-Afrika—
 - (a) op 7 November 2002, deur middel van bekragtiging, ‘n Party tot die *Konvensie insake die Voorkoming en Bekamping van Terrorisme*, deur die Organisasie vir Afrika Eenheid aanvaar te Algiers, op 14 Julie 1999, geword het; en
 - (b) op 25 Maart 2007, deur middel van bekragtiging, ‘n Party tot die *Protokol by die Organisasie vir Afrika Eenheid se Konvensie insake die Voorkoming en Bekamping van Terrorisme*, deur die Vergadering van die Afrika-unie aanvaar te Addis Ababa op 8 Julie 2004, geword het;”.

Act No. 23 of 2022

Protection of Constitutional Democracy against Terrorist and Related Activities Amendment Act, 2022

40

Amendment of arrangement of sections of Act 33 of 2004

- 23.** The arrangement of sections of the principal Act is hereby amended—
- (a) by the insertion after item 4 of the following item:
“4A. Offence relating to attempt to leave Republic”;
 - (b) by the substitution for item 6 of the following item:
“6. Offences relating to hijacking, destroying or endangering safety of
[a] fixed platform”;
 - (c) by the substitution for item 7 of the following item:
“7. Offences relating to taking [a] hostage”;
 - (d) by the substitution for item 9 of the following item:
“9. Offences relating to hijacking [an] aircraft”;
 - (e) by the substitution for item 10 of the following item:
“10. Offences relating to hijacking [a] ship or endangering safety of
maritime navigation”;
 - (f) by the substitution for item 12 of the following item:
“12. Duty to report presence of person suspected of intending to commit
or having committed [an] offence and failure to so report”;
 - (g) by the substitution for item 24 of the following item:
“24. Cordon off, stop and search of vehicle [and], person and
premises”;
 - (h) by the insertion after item 24 of the following item:
“24A. Order to take-down or disable access to terrorism publications”;
and
 - (i) by the deletion of items 25 and 26.

5

10

15

20

25

Amendment and repeal of laws

- 24.** The laws set out in the Schedule are hereby amended or repealed to the extent indicated in the fourth column of the Schedule.

Short title and commencement of Act

- 25.** This Act is called the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2022, and shall come into operation on a date fixed by the President by proclamation in the *Gazette*. 30

Wysiging van indeling van artikels van Wet 33 van 2004

- 23.** Die indeling van artikels van die Hoofwet word hierby gewysig—
- (a) deur die volgende item na item 4 in te voeg:
“4A. Misdryf met betrekking tot poging om Republiek te verlaat”;
 - (b) deur item 6 deur die volgende item te vervang:
“6. Misdrywe met betrekking tot kaping, vernietiging[,] of ingevaarstelling van veiligheid van vaste platform”;
 - (c) deur item 7 deur die volgende item te vervang:
“7. Misdrywe met betrekking tot neem van [’n] gyselaar”;
 - (d) deur item 9 deur die volgende item te vervang:
“9. Misdrywe met betrekking tot kaping van [’n] vliegtuig”;
 - (e) deur item 10 deur die volgende item te vervang:
“10. Misdrywe met betrekking tot kaping van [’n] skip of ingevaarstelling van die veiligheid van seevaart”;
 - (f) deur item 12 deur die volgende item te vervang:
“12. Plig om teenwoordigheid van persoon wat verdink word van die pleging of beplande pleging van [’n] misdryf te rapporteer en versuim om aldus te **[rapporteur]** rapporteer”;
 - (g) deur item 24 deur die volgende item te vervang:
“Afkordonnering, voorkeer en deursoeking van voertuig **[en]**, persoon **en perseel**”;
 - (h) deur die volgende item na item 24 in te voeg:
“24A. Bevel om terrorismepublikasies af te haal of toegang te deaktiviseer”; en
 - (i) deur items 25 en 26 te skrap.

Wysiging en herroeping van wette

- 24.** Die wette in die Bylae uiteengesit word hierby gewysig of herroep tot die mate in die vierde kolom van die Bylae aangedui.

Kort titel en inwerkingtreding van Wet

- 25.** Hierdie Wet heet die Wysigingswet op Beskerming van Grondwetlike Demokrasie teen Terroriste- en Verwante Aktiwiteite, 2022, en tree in werking op ’n datum deur die President by proklamasie in die *Staatskoerant* vasgestel.

SCHEDULE**SCHEDULE OF LAWS AMENDED OR REPEALED: SECTION 25**

Act no.	Year	Title	Extent of amendment or repeal
67	1962	Extradition Act	1. The amendment of section 22 by the substitution for subsection (1) of the following subsection: “(1) Notwithstanding the provisions of section 15, a request for extradition based on the <u>offences referred to in section 4 or 5</u> 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 11, 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, 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.”.
51	1977	Criminal Procedure Act	1. The amendment of section 18 by the insertion in subsection (1) after paragraph (f) of the following paragraph: “(fA) a Convention offence as defined in section 1 of the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004 (Act No. 33 of 2004), the offence of terrorism referred to in section 2 of the said Act and an offence associated or connected with terrorist activities referred to in sections 3, 13 or 14 of the said Act.”.

BYLAE**BYLAE VAN WETTE GEWYSIG OF HERROEP: ARTIKEL 25**

Wet no.	Jaar	Titel	Omvang van wysiging of herroeping
67	1962	Wet op Uitlewering	<p>1. Artikel 22 word gewysig deur subartikel (1) deur die volgende subartikel te vervang:</p> <p>“(1) Niteenstaande die bepalings van artikel 15, mag ’n versoek om uitlewering, gegrond op die <u>[misdrywe bedoel in artikel 4 of 5]</u> <u>misdryf van terrorisme bedoel in artikel 2, ’n misdryf geassosieer met of wat verband hou met terroriste-aktiwiteite in artikel 3 bedoel, ’n Konvensiemisdryf, of ’n misdryf in artikel 11, 13 of 14 bedoel, vir sover dit op die bovemelde artikels van die Wet op Beskerming van Konstitusionele Demokrasie teen Terroriste- en Verwante Aktiwiteite, 2004, betrekking het, nie geweier word slegs op grond daarvan dat dit verband hou met ’n politieke misdryf, of misdryf wat met ’n politieke misdryf verbind word, of as misdryf wat deur politieke motiewe aangespoor is, of dat dit ’n fiskale misdryf is nie.”.</u></p>
51	1977	Straf-proseswet	<p>1. Artikel 18 word gewysig deur in subartikel (1) die volgende paragraaf na paragraaf (f) in te voeg:</p> <p><u>“(fA) ’n Konvensiemisdryf soos omskryf in artikel 1 van die Wet op Beskerming van Konstitusionele Demokrasie teen Terroriste- en Verwante Aktiwiteite, 2004 (Wet No. 33 van 2004), die misdryf van terrorisme bedoel in artikel 2 van die vermelde Wet en ’n misdryf geassosieer met of wat verband hou met terroriste-aktiwiteite in artikels 3, 13 of 14 van die vermelde Wet bedoel.”.</u></p>

Act No. 23 of 2022

Protection of Constitutional Democracy against Terrorist and Related Activities Amendment Act, 2022

Act no.	Year	Title	Extent of amendment or repeal
			<p>2. The amendment of section 21 by the insertion after subsection (1) of the following subsection:</p> <p style="padding-left: 2em;">“(1A) Notwithstanding any other law, an application for a warrant under this section may be made to any magistrate or justice, irrespective of whether or not the place of execution of the warrant or the place where the alleged crime has been committed falls within the jurisdiction of such magistrate or justice, in respect of the following offences under the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004 (Act No. 33 of 2004)—</p> <ul style="list-style-type: none"> (a) the offence of terrorism referred to in section 2 of the said Act; (b) an offence associated or connected with terrorist activities referred to in section 3 of the said Act; (c) a Convention offence as defined in section 1 of the said Act; or (d) an offence referred to in section 13 or 14 of the said Act (in so far as it relates to the aforementioned sections).”. <p>3. The amendment of section 25 by the insertion after subsection (1) of the following subsection:</p> <p style="padding-left: 2em;">“(1A) Notwithstanding any other law, an application for a warrant under this section in respect of the offences listed in section 21(1A)(a) to (d) may be made to any magistrate or justice, irrespective of whether or not the place of execution of the warrant, or the place where the alleged crime has been committed falls within the jurisdiction of such magistrate or justice.”.</p>

Wet no.	Jaar	Titel	Omvang van wysiging of herroeping
			<p>2. Artikel 21 word gewysig deur die volgende subartikel na subartikel (1) in te voeg:</p> <p style="padding-left: 2em;">“(1A) Ondanks enige ander wetsbepaling, kan ’n aansoek om ’n lasbrief ingevolge hierdie artikel, by enige landdros of regter gedoen word, ongeag of die plek van uitvoering van die lasbrief of die plek waar die beweerde misdaad gepleeg is, binne die regssgebied van sodanige landdros of regter val, ten opsigte van die volgende misdrywe kragtens die Wet op Beskerming van Konstitusionele Demokrasie teen Terroriste- en Verwante Aktiwiteite, 2004 (Wet No. 33 van 2004)—</p> <p class="list-item-l1">(a) die misdryf van terrorisme in artikel 2 van die vermelde Wet bedoel;</p> <p class="list-item-l1">(b) ’n misdryf geassosieer met of wat verband hou met terroriste-aktiwiteite in artikel 3 van die vermelde Wet bedoel;</p> <p class="list-item-l1">(c) ’n Konvensiemisdryf soos omskryf in artikel 1 van die vermelde Wet; of</p> <p class="list-item-l1">(d) ’n misdryf bedoel in artikel 13 of 14 van die vermelde Wet (vir sover dit op die bogenoemde artikels betrekking het).”.</p> <p>3. Artikel 25 word gewysig deur die volgende subartikel na subartikel (1) in te voeg:</p> <p style="padding-left: 2em;">“(1A) Ondanks enige ander wetsbepaling, kan ’n aansoek om ’n lasbrief kragtens hierdie artikel ten opsigte van die misdrywe gelys in artikel 21(1A)(a) tot (d), by enige landdros of regter gedoen word, ongeag of die plek van uitvoering van die lasbrief of die plek waar die beweerde misdaad gepleeg is, binne die regssgebied van sodanige landdros of regter val.”.</p>

Act No. 23 of 2022

Protection of Constitutional Democracy against Terrorist and Related Activities Amendment Act, 2022

Act no.	Year	Title	Extent of amendment or repeal
			<p>4. The amendment of section 43 by the insertion after subsection (1) of the following subsection:</p> <p style="padding-left: 2em;">“(1A) Notwithstanding any other law, an application for a warrant under this section in respect of the offences listed in section 21(1A)(a) to (d) may be made to any magistrate or justice, irrespective of whether or not the place of execution of the warrant, or the place where the alleged crime has been committed falls within the jurisdiction of such magistrate or justice.”.</p> <p>5. The amendment of Schedule 1 by the addition of the following item:</p> <p style="padding-left: 2em;">“Offences referred to in Chapter 2 of the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004 (Act No. 33 of 2004).”.</p> <p>6. The amendment of Schedule 2 by the addition to Part II and III of the following item:</p> <p style="padding-left: 2em;">“Any of the following offences under the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004 (Act No. 33 of 2004):</p> <ul style="list-style-type: none"> (a) The offence of terrorism referred to in section 2 of the said Act; (b) an offence associated or connected with terrorist activities referred to in section 3 of the said Act; (c) a Convention offence as defined in section 1 of the said Act; or (d) an offence referred to in section 13 or 14 of the said Act (in so far as it relates to the aforementioned sections).”. <p>7. The amendment of Schedule 5 by the substitution for the twelfth item of the following item:</p> <p style="padding-left: 2em;">“The offences referred to in section 3, 4 [(2) or (3)], 11, 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.”.</p>

Wet no.	Jaar	Titel	Omvang van wysiging of herroeping
			<p>4. Artikel 43 word gewysig deur die volgende subartikel na subartikel (1) in te voeg:</p> <p style="padding-left: 2em;">“(1A) Ondanks enige ander wetsbepaling, kan ’n aansoek om ’n lasbrief kragtens hierdie artikel ten opsigte van die misdrywe gelys in artikel 21(1A)(a) tot (d), by enige landdros of regter gedoen word, ongeag hetsy die plek van uitvoering van die lasbrief of die plek waar die beweerde misdaad gepleeg is, binne die regssgebied van sodanige landdros of regter val.”.</p> <p>5. Bylae 1 word gewysig deur die volgende item by te voeg:</p> <p style="padding-left: 2em;">“Misdrywe bedoel in Hoofstuk 2 van die Wet op Beskerming van Konstitusionele Demokrasie teen Terroriste- en Verwante Aktiwiteite, 2004 (Wet No. 33 van 2004).”.</p> <p>6. Bylae 2 word gewysig deur die volgende item by Dele II en III te voeg:</p> <p style="padding-left: 2em;">“Enige van die volgende misdrywe kragtens die Wet op Beskerming van Konstitusionele Demokrasie teen Terroriste- en Verwante Aktiwiteite, 2004 (Wet No. 33 van 2004):</p> <ul style="list-style-type: none"> (a) Die misdryf van terrorisme in artikel 2 van die vermelde Wet bedoel; (b) ’n misdryf geassosieer met of wat verband hou met terroriste-aktiwiteite in artikel 3 van die vermelde Wet bedoel; (c) ’n Konvensiemisdryf soos omskryf in artikel 1 van die vermelde Wet; of (d) ’n misdryf in artikel 13 of 14 van die vermelde Wet bedoel (vir sover dit met die bogenoemde artikels verband hou).”. <p>7. Bylae 5 word gewysig deur die twaalfde item deur die volgende item te vervang:</p> <p style="padding-left: 2em;">“Die misdrywe bedoel in artikel 3, 4 [(2) of (3)], 11, 13 of 14 (in soverre dit betrekking het op die voorwerp van die artikels) van die Wet op Beskerming van Konstitusionele Demokrasie teen Terroriste- en Verwante Aktiwiteite, 2004.”.</p>

Act No. 23 of 2022

Protection of Constitutional Democracy against Terrorist and Related Activities Amendment Act, 2022

Act no.	Year	Title	Extent of amendment or repeal
			<p>8. The amendment of Schedule 6 by the substitution for the sixth item of the following item:</p> <p>“The offences referred to in section 2, 3(2)(a), 4(1), <u>4A</u>, 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 and Related Activities Act, 2004, [section 2(1) and (2) of the Civil Aviation Offences Act, 1972 (Act No. 10 of 1972)] sections <u>133</u> or <u>142(2A)</u>, read with <u>section 142(6)</u>, of the Civil Aviation Act, 2009 (Act No. 13 of 2009), 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).”.</p>
72	1982	Intimidation Act	<p>1. The amendment of section 1 by the deletion of subsections (1)(b) and (2).</p> <p>2. The repeal of section 1A.</p>
130	1998	Refugees Act	<p>1. The amendment of section 4 by the insertion in subsection (1) after paragraph (a) of the following paragraph:</p> <p>“(aA) has committed any of the following offences under the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004 (Act No. 33 of 2004):</p> <ul style="list-style-type: none"> (i) The offence of terrorism referred to in section 2 of the said Act; (ii) an offence associated or connected with terrorist activities referred to in section 3 of the said Act; (iii) any Convention offence as defined in section 1 of the said Act; or (iv) an offence referred to in section 13 or 14 of the said Act (in so far as it relates to the aforementioned sections).”.

Wet no.	Jaar	Titel	Omvang van wysiging of herroeping
			8. Bylae 6 word gewysig deur die sesde item deur die volgende item te vervang: “Die misdrywe bedoel in artikels 2, 3(2)(a), 4(1), <u>4A</u> , 5, 6, 7, 8, 9, 10 of 14 (in soverre dit betrekking het op die voormalde artikels) van die Wet op Beskerming van Konstitusionele Demokrasie teen Terroriste- en Verwante Aktiwiteite, 2004, [artikel 2(1) en (2) van die Wet op Misdrywe teen Burgerlike Lugvaart, 1972 (Wet No. 10 van 1972)] artikels 133 of 142(2A), gelees met artikel 142(6) van die Wet op Burgerlike Lugvaart, 2009 (Wet No. 13 van 2009), artikel 26(1)(j) van die Wet op die Nie-Proliferasie van Wapens van Grootskaalse Vernietiging, 1993 (Wet No. 87 van 1993), en artikel 56(1)(h) van die Wet op Kernenergie, 1999 (Wet No. 46 van 1999).”.
72	982	Wet op Intimidiasie	1. Artikel 1 word gewysig deur subartikels (1)(b) en (2) te skrap. 2. Artikel 1A word herroep.
130	1998	Wet op Vlugtelinge	1. Artikel 4 word gewysig deur die volgende paragraaf na paragraaf (a) in subartikel (1) in te voeg: “(aA) enige van die volgende misdrywe kragtens die Wet op Beskerming van Konstitusionele Demokrasie teen Terroriste- en Verwante Aktiwiteite, 2004 (Wet No. 33 van 2004), gepleeg het: (i) Die misdryf van terrorisme bedoel in artikel 2 van die vermelde Wet; (ii) ’n misdryf geassosieer met of wat verband hou met terroristiese aktiwiteite in artikel 3 van die vermelde Wet bedoel; (iii) enige Konvensiemisdryf soos omskryf in artikel 1 van die vermelde Wet; of (iv) ’n misdryf in artikel 13 of 14 van die vermelde Wet bedoel (vir sover dit met die bogenoemde artikels verband hou).”.

Act No. 23 of 2022

Protection of Constitutional Democracy against Terrorist and Related Activities Amendment Act, 2022

50

Act no.	Year	Title	Extent of amendment or repeal
46	1999	Nuclear Energy Act	<p>1. The amendment of section 34A(2) by the substitution for paragraph (a) of the following paragraph;</p> <p style="padding-left: 2em;">“(a) intentionally and without lawful authority, receive, possess, use, transfer, alter, dispose of or disperse, nuclear material, <u>or</u> nuclear-related equipment and material, which causes or is likely to cause death or serious bodily injury to any person or substantial damage to property or to the environment;”.</p>
38	2001	Financial Intelligence Centre Act	<p>1. The amendment of section 26A by the deletion of subsection (2).</p> <p>2. The amendment of section 28A—</p> <p style="padding-left: 2em;">(a) by the deletion in subsection (1) of paragraph (b); and</p> <p style="padding-left: 2em;">(b) by the deletion in subsection (3) of paragraph (a).</p>

Wet no.	Jaar	Titel	Omvang van wysiging of herroeping
46	1999	Wet op Kernenergie	<p>1. Artikel 34A(2) word gewysig deur paragraaf (a) deur die volgende paragraaf te vervang:</p> <p>“(a) opsetlik en sonder wettige magtiging enige kermateriaal, <u>of kernverwante toerusting en materiaal, ontvang, besit,</u> gebruik, oordra, verander, daaroor beskik, of dit versprei en daardeur die dood of ernstige liggaamlike besering van enige persoon of omvangryke skade aan eiendom <u>of aan die omgewing veroorsaak of waarskynlik kan veroorsaak nie;”.</u></p>
38	2001	Wet op die Finansiële Intelligensiesentrum	<p>1. Artikel 26A word gewysig deur subartikel (2) te skrap.</p> <p>2. Artikel 28A word gewysig— (a) deur in subartikel (1) paragraaf (b) te skrap; en (b) deur in subartikel (3) paragraaf (a) te skrap.</p>

Printed by and obtainable from the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001
Contact Centre Tel: 012-748 6200. eMail: info.egazette@gpw.gov.za
Publications: Tel: (012) 748 6053, 748 6061, 748 6065