

XXXVII. GABON¹¹³

ELEMENTS DU DISPOSITIF LEGISLATIF ET REGLEMENTAIRE DU GABON

À défaut des dispositions expresses visant la prévention et la répression du terrorisme, le juge pénal gabonais peut se référer en cas d'actes terroristes, aux dispositions des articles 61 à 74 du Code pénal qui traitent des crimes et délits contre la sûreté intérieure et extérieure de l'État.

À titre indicatif, et pour avoir une idée de l'intransigeance du législateur gabonais sur cette question, qu'il suffise de relever que l'article 61, alinéa 10 du Code pénal punit de mort toutes personnes convaincues de tels crimes.

On peut se référer aux articles 193 et 194 du Code pénal qui traitent de l'association de malfaiteurs. À titre indicatif, l'article 194 dispose: «sera puni de la peine de mort quiconque se sera affilié à une association formée ou aura participé à une entente dans le but de préparer ou de commettre des crimes ou délits contre les personnes ou les propriétés».

XXXVIII. GAMBIA¹¹⁴

ANTI-TERRORISM ACT, 2002

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¹¹³ Transmitted to the Secretariat by that Government on 31 March 2003 (S/2003/491, enclosure).

¹¹⁴ Transmitted to the Secretariat by that Government on 28 March 2003 (S/2003/434, enclosure).

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AN ACT to provide for measures to combat terrorism and for related matters

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ENACTED by the President and National Assembly.

PART I - PRELIMINARY

- 1. This Act may be cited as the Anti-Terrorism Act, 2002.
- 2. In this Act, unless the context otherwise requires —

“act of international terrorism” has the same meaning as in section 10 (4);

“act of terrorism” includes an act which —

(a) may seriously damage a country or an international organization;

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

(i) intimidate a population,

(ii) seriously destabilize or destroy the fundamental political, constitutional, economic or social structures of a country or any international organization, or otherwise influence a Government or any international organization;

(iii) otherwise influence a Government or an international organization;

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

(i) attacks on a person's life which may cause death,

- (ii) attacks on the physical integrity of a person, including rape,
- (iii) forcible deprivation or taking of a person's property, with or without the use of arms, including armed robbery against an individual or group of persons;
- (iii) kidnapping of a person,¹¹⁵
- (iv) extensive destruction to a Government or public facility, a transport system, an infrastructure facility, including an information system, a fixed platform located on the continental shelf, a public place or private property, likely to endanger human life or result in major economic loss,
- (v) the seizure of an aircraft, a ship or other means of public or goods transport,
- (vi) the manufacture, possession, acquisition, transport, supply or use of weapons, explosives or of nuclear, biological or chemical weapons, as well as research into, and development of, biological and chemical weapons,
- (vii) the release of dangerous substance, or causing of fires, explosions or floods, the effect of which is to endanger human life, or
- (viii) interference with or disruption of the supply of water, power or any other fundamental natural resource, the effect of which is to endanger human life;
- (d) is designed to disrupt any computer system or the provision of services directly related to communication infrastructure, banking and financial services, utilities, transportation or key infrastructure;
- (e) is designed to disrupt the provision of essential emergency services such as the police, civil defence and medical services; or
- (f) involves prejudice to public security or national defence;

¹¹⁵ Numbering conforms with the text of the Government submission to the Counter-Terrorism Committee.

“bank”

- (a) has the same meaning as in the Financial Institutions Act;
and
- (b) includes –
 - (i) a person engaged in deposit-taking business and authorised to do so under the Financial Institutions Act,
and
 - (ii) any person who carries on any business or activity regulated by the Central Bank of The Gambia;

“cash dealer” means a person authorized under the Central Bank Act to carry on the business of foreign exchange dealer or money changer;

“financial institution” has the same meaning as the Financial Institutions Act;

“Inspector General” means the Inspector General of Police;

“Proscribed organization” means an organization which has been declared to be a proscribed organization under section 4;

“Secretary of State” means the Secretary of State responsible for Defence

“State” includes the Republic of The Gambia and any other State;

“Terrorist or terrorists” means a person or persons who, individually or collectively carry out an act of terrorism;

“Terrorist investigation” means an investigation of

- (a) the commission, preparation or instigation of an act of terrorism or any other offence under this Act;
- (b) any act or omission reasonably suspected to have been done preparatory to or in furtherance of an act of terrorism or any other offence under this Act;
- (c) the resources of a proscribed organization;

"terrorist property" includes property which –

- (a) has been, is being, or is likely to be used for any act of terrorism;
- (b) has been, is being, or is likely to be used by a proscribed organization;
- (c) is the proceeds of an act of terrorism; or
- (d) is gathered for the pursuit of, or in connection with, an act of terrorism;

"trustee" includes a person *de jure* or *de facto* acting in trust.

PART II - ACTS OF TERRORISM AND RELATED OFFENCES

3. (1) A person who –

- (a) does an act of terrorism commits an offence and is liable on conviction to be sentenced to death; or
- (b) threatens to do, or does an act preparatory to or in furtherance of, or omits to do anything that is reasonably necessary to prevent an act of terrorism, commits an offence and is liable on conviction to imprisonment for a term of not less than ten years.

(2) When a member of the Armed Forces of The Gambia is charged with an offence under subsection (1) he or she shall be tried by a Court Martial and shall be liable on conviction to be sentenced to death.

4. (1) Where any two or more persons associate for the purpose of, or where an organization engages in –

- (a) participating, or collaborating, in an act of terrorism;
- (b) promoting, encouraging or exhorting others to commit an act of terrorism; or
- (c) setting up or pursuing acts of terrorism,

a Judge in Chambers may, on an application made by the Inspector General, declare the organization to be a proscribed organization.

(2) An order made under subsection (1) shall be published in the *Gazette*, in two newspapers and at such other places, as the Judge shall determine.

(3) A publication made under subsection (2) shall contain such relevant particulars as the Judge may specify.

(4) A person who belongs, or professes to belong, to a proscribed organization commits an offence and is liable on conviction to imprisonment for a term of not less than ten and not more than twenty years.

(5) It is a defence for a person charged under subsection (4) to prove that the organization had not been declared a proscribed organization at the time the person charged became, or began to profess to be, a member of the organization and that he or she has not taken part in the activities of the organization at any time after it has been declared to be a proscribed organization.

(6) The Judge in Chambers may –

(a) on application by the proscribed organization or by any person affected by a declaration made under subsection (1); and

(b) on being satisfied that a proscribed terrorist organization has ceased to engage in any of the acts specified in subsection (1) and that there is no likelihood of the organization engaging in any of the acts specified in subsection (1) in the future,

cancel the declaration made under that subsection.

5. (1) A person who –

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

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

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

commits an offence.

(2) A person who arranges, manages or assists in arranging or managing a meeting which he or she knows is to be addressed by a person who belongs or promises to belong to a proscribed organization commits an offence.

(3) A person who addresses a meeting and the purpose of his or her address is to encourage support for a proscribed organization or to further its activities commits an offence.

(4) Where a person is charged with an offence under subsection (2), in respect of a private meeting, it is a defence for him or her to prove that he or she had no reasonable cause to believe that the address mentioned in subsection (2) would support a proscribed organization or further its activities.

(5) A person who commits an offence under this section is liable on conviction to imprisonment for a term of not less than ten years and not more than twenty years.

(6) In this section –

(a) “meeting” includes a meeting of two or more persons, whether or not the public is admitted; and

(b) a meeting is private if the public is not admitted.

6. (1) A person who, in any manner or form –

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

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

commits an offence.

(2) A person who, by any means, directly or indirectly, provides or collects funds, intending, knowing or having reasonable grounds to believe that the funds will be used in full or in part to carry out an act of terrorism commits an offence.

(3) A person who commits an offence under this section is liable on conviction to imprisonment for a term of not less than ten years and not more than twenty years.

(4) For the purposes of subsection (1), “support” includes –

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

(b) offer or provision of moral assistance, include invitation to adhere to a proscribed organization.

7. (1) A person who harbours, conceals, or causes to be harboured or concealed, a person whom he or she knows has committed or been convicted of an act of terrorism, or against whom he or she knows a warrant of arrest or imprisonment has been issued for an act of terrorism, commits an offence.

(2) A person who commits an offence under subsection (1) is liable on conviction to imprisonment for a term of no less than ten years and not more than twenty years.

8. (1) Subject to subsection (2), a person who has information which she or she knows or believes might be of material assistance –

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

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

(c) fails to disclose the information to a police officer at any police station, or to any other State security officer, as soon as reasonably practicable,

commits an offence and is liable on conviction to imprisonment for a term of not less than ten years and not more than fifteen years.

(2) It is a defence for a person charged under subsection (1) to prove that he or she had reasonable excuse for not making the disclosure.

9. (1) A person who –

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

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

commits an offence and is liable on conviction to imprisonment for a term of not less than ten years and not more than fifteen years.

(2) It is a defence for a person charged with an offence under subsection (1) to prove that he or she –

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

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

10. (1) Where the Secretary of State reasonably –
- (a) suspects that a person –
 - (i) is or has been concerned in the commission, preparation or instigation of acts of international terrorism;
 - (ii) is a member of, or belongs to, an international terrorist organization; or
 - (iii) has links with an international terrorist organization; and
 - (b) believes that the person is a risk to national security,
- he or she may declare that person to be a suspected international terrorist.
- (2) The Secretary of State shall, as soon as is reasonably practicable, cause a declaration made under subsection (1) to be notified to the person declared to be a suspected international terrorist in such manner as he or she considers appropriate.
- (3) When a person declared a suspected international terrorist under subsection (1) is a citizen of The Gambia and at the same time a citizen of any other country or State, the Secretary of State may apply to the High Court for an order depriving that person of his or her citizenship on the ground of the declaration.
- (4) For the purposes of this section –
- (a) a group is an international terrorist organization if it is subject to the control or influence of any person or organization outside The Gambia, and the Secretary of State reasonably suspects that it is concerned in the commission, preparation or instigation of acts of international terrorism; and
 - (b) "an act of international terrorism" means an act of terrorism involving a person or organization that –
 - (i) is ordinarily resident The Gambia, or
 - (ii) is ordinarily resident in The Gambia but has connection with a person or an organization resident outside The Gambia.
11. (1) A person who, wilfully and unlawfully, directly or indirectly, provides or collects funds with the intention, or knowledge, that they will be used, in full or in part, in order to –

- (a) commit an offence under section 10;
- (b) do any other act intended to cause death or serious bodily injury to a civilian or to any other person not taking an active part in the hostilities in a situation of armed conflict, civil strife or any other related terrorist activity, when the purpose of the act, by its nature or context, is to –
 - (i) intimidate a population, or
 - (ii) compel a Government or an international organization to do or abstain from doing any act;

commits an offence.

(2) A person who commits an offence under subsection (1) is liable on conviction, in the case of –

- (a) an individual, to imprisonment for a term of not less than ten years; and
- (b) an organization, to a fine of not less than ten million dalasis.

(3) For an act to constitute an offence under subsection (1), it shall not be necessary that the funds were actually used to commit the offence.

12. (1) A person who, directly or indirectly, willfully and without lawful justification or excuse, provides or collects property pretending that it be used or knowing that it will be used, in whole or in part, in order to carry out –

- (a) an act or omission that constitutes an offence under section 3;
- (b) any other act or omission intended to cause death or serious bodily harm to a civilian or to any other person not taking an active part in the hostilities in a situation of armed conflict, if the purpose of that act or omission, by its nature or context, is to –
 - (i) intimidate the public, or
 - (ii) compel a government or an international organization to do or refrain from doing any act,

commits an offence.

(2) A person who commits an offence under subsection (1) is liable on conviction, in the case of –

(a) an individual, to imprisonment for a term of not less than ten years; and

(b) an organization, to a fine of not less than ten million dalasis.

(3) For an act to constitute an offence under subsection (1), it shall not be necessary that the property was actually used to commit the offence.

13. (1) A person who, directly or indirectly, collects property, provides or invites a person to provide, or make available property or financial or other related service –

(a) intending that it be used, or knowing that it will be used, in whole or in part, for the purpose of facilitating or carrying out an act of terrorism, or for the purpose of benefiting any person who is facilitating of carrying out an act of terrorism; or

(b) knowing that, in whole or part, it will be used by or will benefit a proscribed organization,

commits an offence and is liable to imprisonment for a term of not less than ten years.

(2) A person who commits an offence under subsection (1) is liable on conviction, in the case of-

(a) an individual, to imprisonment for a term of not less than ten years; and

(b) an organization, to a fine of not less than ten million dalasis.

(3) For an act to constitute an offence under subsection (1), it shall not be necessary that the property or service was actually used to commit the offence.

14. A person who –

(a) uses property, directly or indirectly, in whole or in part, for the purpose of facilitating or carrying out an act of terrorism; or

(b) possesses property intending that it be used or knowing that it will be used, directly or indirectly, in whole or in part, for the purpose of facilitating or carrying out an act of terrorism, commits an offence and is liable on conviction to imprisonment for a term of not less than ten years.

15. (1) A person who –

(a) seizes or detains; or

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

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

(2) A person who commits an offence under subsection (1) is liable on conviction to imprisonment for a term of not less than ten years and not more than thirty years.

(3) In this section, "third party" means a State, an international Governmental organization, a natural or juridical person or a group of persons.

PART III – TERRORIST FUNDS AND TERRORIST PROPERTY

16. (1) In this part –

“terrorist property includes –

(a) money or other property which is likely to be used for the purposes of terrorism (including any resource of a proscribed organization);

(b) proceeds of the commission of an act of terrorism; and

(c) proceeds of an act carried out for the purposes of terrorism.

(2) In subsection (1), a reference to –

(a) proceeds of an act, includes a reference to any property which wholly or partly, and directly or indirectly, represents the proceeds of the act, including payments or other rewards in connection with its commission; and

(b) the resource of a proscribed terrorist organization, includes a reference to any money or other property which is applied or made available, or is to be applied or made available, for use by the organization.

17. (1) Where the Inspector General has reasonable grounds to suspect that any funds –
- (a) are intended to be used for the purposes of terrorism;
 - (b) belong to, or are held on trust for a proscribed organization; or
 - (c) are or represent property obtained through an act of terrorism,
- he or she may seize the funds.
- (2) The Inspector General may seize trust funds, even if he or she reasonably suspects that part only of the funds is terrorist funds, where it is no reasonably practicable to seize that part only of the funds.
- (3) The Inspector General may exercise his or her powers under subsection (1), whether or not any proceedings have been brought for an offence in connection with the terrorist funds.
- (4) The Inspector General shall, as soon as is reasonably practicable, apply to a Judge in Chambers for a detention order with respect to the funds seized under subsection (1).
- (5) The Judge in Chambers shall not make an order for detention of the funds unless he or she is satisfied that there are reasonable grounds for suspecting that the funds –
- (a) are intended to be used for the purposes of terrorism;
 - (b) are part of the resources of a proscribed organization; or
 - (c) are or represent property obtained through acts of terrorism.
- (6) Subject to subsection (8), an order made under subsection (5) shall remain valid for a period of ninety days, and may be renewed for further periods of ninety days by the Judge in Chambers, until production of the funds before the court in proceedings against any person for an offence with which the funds are connected.
- (7) The Inspector General shall deposit any funds detained under this section in an interest-yielding account.
- (8) The funds, with the interest accruing thereto, may be released to the person or organization concerned by an order of the Judge in Chambers where –
- (a) the person or organization satisfies the Judge that the conditions under subsection (5) do not apply; or

(b) no proceedings are brought by the Inspector General in connection with the funds detained within the hundred and eighty days of the order of the Judge.

(9) Any funds not released under this section shall be paid into a special account to be administered by the Secretary of State and used by combating terrorism.

(10) For the purposes of this section, "funds" includes –

- (a) coins and notes in any currency;
- (b) postal orders;
- (c) traveller's cheques;
- (d) banker's drafts; and
- (e) bearer bonds and bearer shares.

18. (1) A person who, for the purposes of terrorism, or for a proscribed organization –

- (a) solicits, receives, provides or possesses money or other property; or
- (b) enters into, or becomes concerned in, an arrangement as a result of which
- (c) money or other property is made available or is to be made available,

commits an offence.

(2) A person who commits an offence under subsection (1) is liable on conviction, in the case of –

- (a) an individual, to imprisonment for a term of not less than ten years; and
- (b) an organization, to a fine of not less than ten million dalasis.

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

- (a) concealment;
- (b) removal from the jurisdiction; and
- (c) transfer to any other person,

commits an offence and is liable on conviction to imprisonment for a term of not less than ten years and not more than twenty years.

(2) It is a defence for a person charged under subsection (1) to prove that he or she did not know and had not reasonable cause to suspect that the arrangement related to terrorist property.

20. (1) A person who –

- (a) invites another to provide money or other property; and
- (b) intends that it should be used, or has reasonable cause to suspect that it may be used, for the purposes of terrorism,

commits an offence.

(2) A person who –

- (a) receives money or other property; and
- (b) intends that it should be used, or has reasonable cause to suspect that it may be used, for the purposes of terrorism,

commits an offence.

(3) A person who provides money or other property, knowing or having reasonable cause to suspect that it will or may be used for the purposes of terrorism, commits an offence.

(4) A person who commits an offence under this section is liable on conviction to imprisonment for a term of not less than ten years and not more than twenty years.

(5) In this section, a reference to the provision of money or other property is a reference to its being given, lent or otherwise made available, whether or not for consideration.

21. (1) A person who enters into or becomes concerned in an arrangement as a result of which money or other property is made available or is to be made available to another knowing or having reasonable cause to suspect that it will or may be used for the purposes of terrorism, commits an offence.

(2) A person who commits an offence under subsection (1) is liable on conviction to imprisonment for a term of not less than ten years and not more than twenty years.

22. A person who –

(a) uses money for the purposes of terrorism, or

(b) possesses money intending that it should be used, or having reasonable cause to suspect that it may be used, for the purposes for terrorism,

commits an offence and is liable on conviction to imprisonment for a term of not less than ten years and not more than twenty years.

23. (1) This section applies to a person who –

(a) believes or suspects that another person has committed an offence under section 19, 20, 21 or 22; and

(b) bases his or her belief or suspicion on information which comes to his or her attention in the course of a trade, profession, business or employment.

(2) A person who does not disclose to a police officer or another security officer, as soon as is reasonably practicable –

(a) his or her belief or suspicion under subsection (1); and

(b) the information on which it is based,

commits an offence.

(3) A person who commits an offence under subsection (2) is liable on conviction to imprisonment for a term of not less than ten years and not more than fifteen years.

(4) It is a defence for a person charged with an offence, under subsection (2) to prove that he or she had a reasonable excuse for not making the disclosure.

(5) Where –

(a) a person is in employment;

(b) his or her employer has established a procedure for the making of disclosures of the matters specified in subsection (2); and

(c) he or she is charged with an offence under that subsection,

it is a defence for him or her to prove that he or she disclosed the matters specified in that subsection in accordance with the procedure.

24. (1) Where a person is charged or about to be charged with an offence under this Act, the Inspector General may apply to a Judge in Chambers for a provisional order attaching in the hands of the suspect or in the hands of any other specified person, all moneys and other property due, or owing, or belonging to, or held on behalf of, the suspect.
- (2) An order made under subsection (1) may –
- (a) prohibit a person from making money or other property available to or for the benefit of the suspect;
 - (b) provide for the granting of authority to make money or other property available to such persons and on such conditions as may be specified in the order;
 - (c) require the suspect to provide such information or produce such document as may be required or reasonably needed for an investigation under this Act;
 - (d) include such other condition as the Judge may impose.
- (3) The Judge in Chambers may appoint an Official Receiver or any other suitable person to manage the assets of the suspect during the period of operation of an order made under this section.
- (4) The Inspector General shall –
- (a) cause notice of the order to be published in the next issue of the *Gazette* and in at least two newspapers; and
 - (b) give notice of the order to –
 - (i) banks, financial institutions and cash dealers, and
 - (ii) any other person who may hold or be vested with property belonging to or held on behalf of the suspect.
- (5) An order made under this section shall remain in force until the determination of any charge or intended charge under subsection (1) and, in the event of a conviction, until the Court makes an order for forfeiture, or the proceedings relating to the forfeiture are concluded.

(6) Where an order made under this section ceases to have effect, the Inspector General shall cause notice of the cessation to be published in the *Gazette* and at least two newspapers.

(7) Any payment, transfer, pledge or other disposition of property made in contravention of an order under this section shall be void.

25. (1) Where the Inspector General has reasonable grounds to suspect that a person has committed, is committing or is about to commit an act of terrorism or is in possession of terrorist property, he or she may, for the purposes of an investigation under this Act, apply to a Judge in Chambers for an order –

(a) compelling the suspect to deliver to him or her any document relevant to identifying, locating or quantifying any property belonging to, or in the possession or control of that person;

(b) requiring a bank or other financial institution, trustee, cash dealer or custodian, to produce to him or her all information and deliver to him or her all documents regarding any business transaction conducted by or on behalf of the suspect.

(2) Where a person fails to comply with, is delaying or is otherwise obstructing an order made under subsection (1)(a), the Judge in Chambers may, on information sworn to that effect by the Inspector General of Police or any other police officer not below the rank of Assistant Superintendent, authorize the Inspector General or any officer not below the rank of Assistant Superintendent to enter any premises, including a bank or financial institution, and search the premises and remove any document for the purposes of executing the order.

PART IV – PROHIBITION ON CHARITABLE STATUS

26. In this Part –

“applicant” means a body corporate, and organization or a trust, that applies to the Registrar General to become a registered charity;

“Attorney General” means the Attorney General of The Gambia;

“Judge” means a Judge of the High Court;

“registered charity” means a company registered under the Companies Act as a charitable organization.

27. The Attorney General may sign a certificate stating that, in his or her opinion, based on security or criminal intelligence reports, there are reasonable grounds to believe that an applicant or a registered charity –

(a) made resources available, directly or indirectly, to a proscribed organization whether or not the proscribed organization was at that time engaged or continues to be engaged in acts of terrorism or in activities in support of those acts; or

(b) makes or will make resources available, directly or indirectly, to a proscribed organization and the proscribed organization engages or will engage in acts of terrorism or activities in support of those acts.

31.¹¹⁶ The Attorney General shall, in a manner that mentions the original publication of the certificate, cause to be published in the *Gazette*, notice of the cancellation of a certificate.

32. Unless it is cancelled earlier, a certificate is valid for a period of seven years beginning on the day it is first determined to be reasonable under section 28.

33. The Attorney General may make any regulations that he or she considers necessary for carrying out the purposes and provisions of this Part.

PART V - FOREIGN INCURSIONS AND RECRUITMENT

36.¹¹⁷ (1) A person shall not, in The Gambia, recruit another person to become a member or to serve in any capacity with a body or association of persons the objectives of which are or include any of the objectives referred to in section 34(3).

(2) A person who contravenes a provision of subsection (1) commits an offence and is liable on conviction to imprisonment for a term of not less than ten years.

37. (1) A person shall not, in The Gambia –

(a) recruit another person to serve;

(b) publish an advertisement for the purpose of recruiting persons to serve;

(c) publish an advertisement containing any information relating to –

(i) the place at which, or the manner in which, persons may make applications to serve, or obtain information relating to service, or

¹¹⁶ Sections 28 to 30 of the Anti-Terror Act, 2002 have been omitted from the present publication for technical reasons.

¹¹⁷ Sections 34 and 35 of the Anti-Terror Act, 2002 have been omitted from the present publication for technical reasons.

(ii) the manner in which persons may travel to a foreign State for the purpose of serving; or

(d) except authorised by the Government of The Gambia at the request of a foreign State, do any other act or thing for the purpose of facilitating or promotion the recruitment of persons to serve,

in any capacity in or with an armed force in a foreign State, whether the armed force forms part of the armed forces of the Government of that State or otherwise.

(2) A person who contravenes the provisions of subsection (1) commits an offence and is liable on conviction, in the case of –

(a) an individual, to a fine of not less than two million dalasis or imprisonment for a term of not less than ten years or to both the fine and imprisonment; and

(b) a body corporate, to a fine of ten million dalasis.

(3) If the Secretary of State, by an instrument signed by him or her and published in the *Gazette*, declares that it is in the interest of the defence or international relations of The Gambia to permit the recruitment in The Gambia, either generally or in particular circumstances or subject to specified conditions, of persons to serve in or with a specified armed force, or to serve in or with a specified armed force in a particular capacity, subsection (1) does not apply, or does not apply in those circumstances or where those conditions are complied with, in relation to –

(a) the recruitment to serve;

(b) the publication of an advertisement containing information with respect to service

in or with that armed force, or in or with that armed force in that capacity, as the case may be.

(4) A person who recruits another person to enter into a commitment or engagement to serve in any capacity, in or with a armed force, shall be taken, for the purposes of this section, to recruit that other person to serve in or with that armed force, whether or not the commitment or engagement is legally enforceable and whether or not it constitutes a legal or formal enlistment in that force.

(5) For the purposes of this section, the publication of an item of news shall be deemed to constitute the publication of an advertisement if the publication was procured by the payment of, or by a promise to pay, or by the provision of, or by a promise to provide any other consideration.

PART VI - MUTUAL ASSISTANCE AND EXTRADITION

38. This Part applies in relation to mutual assistance in criminal matters between The Gambia and any foreign State, subject to any condition, variation or modification in any existing or future agreement with that State, whether in relation to a particular case, or class of cases or cases generally.

42.¹¹⁸ (1) The Secretary of State may, after consultation with the Attorney General, make a request to any foreign State –

(a) to provide evidence or information relation relevant to an offence under this Act;

(b) for the restraint and forfeiture of property located in that State and which is liable to be forfeited by reason of its being terrorist property.

(2) Where the foreign State to which a request for assistance is made under subsection (1) required the request to be signed by an appropriate authority, the Secretary of State responsible for foreign affairs shall, for the purposes only of making such a request, be considered as the appropriate competent authority.

(3) The Secretary of State may, in respect of any proceedings for an offence under this Act, apply to a Judge in Chambers for an order directed to any person resident in a foreign State to deliver –

(a) any document or material in his or her possession or under his or her control to the jurisdiction of the Court; or

(b) subject to the approval of the foreign State himself or herself for the purpose of giving evidence in relation to those proceedings.

43. (1) Evidence taken, pursuant to a request under section 42, in any proceedings in a Court of a foreign State may, if it is authenticated, be *prima facie* admissible in any proceedings to which the evidence relates.

(2) For the purpose of subsection (1), a document is authenticated if–

(a) it purports to be signed or certified by a Judge, Magistrate or officer in or of a foreign State; and

(b) it purports to be authenticated by the oath or affirmation of a witness or to be sealed with an official or public seal –

¹¹⁸ Sections 39 to 41 of the Anti-Terror Act, 2002 have been omitted from the present publication for technical reasons.

(i) of a Secretary of State, Department of State or officer in or of the Government of the foreign State, or

(ii) in the case of a territory, protectorate or colony, of the person administering the Government of the foreign territory, protectorate or colony, or of a person, a Secretary of State or a Department of that territory, protectorate or colony.

46.¹¹⁹ Where the Attorney General has made an application to the Court for an extradition order and the person who is the subject of the application- affirmation of a witness or to be sealed with an official or public seal –

(a) consents in writing to the making of the extradition order, the Court may, without any proceeding to determine his or her liability to be extradited under this Act, grant the order forthwith if it is satisfied that the person understands the applications of consent and that it was given voluntarily;

(b) does not consent or is silent, the court shall proceed to determine the person's liability to be extradited.

47. (1) Where the person who is the subject of an application for an extradition order is undergoing sentence in The Gambia for an offence against a law of The Gambia, the court may order the temporary extradition of the person to the foreign State if it is satisfied that –

(a) the person is liable to be extradited;

(b) it is in the interest of the administration of justice that the person be temporarily extradited; and

(c) the foreign State has given adequate undertakings to the Attorney General in relation to –

(i) the trial of the person in the foreign State for the offence of which the person is accused,

(ii) the return of the person to The Gambia to complete the sentence being served, and

(iii) the custody of the person while travelling to and from, and while in, the foreign State.

¹¹⁹ Sections 44 and 45 of the Anti-Terror Act, 2002 have been omitted from the present publication for technical reasons.

- (2) Where an order is made under subsection (1) in relation to a person –
- (a) the person may be released into the custody of the authorities of the foreign State for the purposes of the temporary extradition, but shall be taken into custody upon return to serve the remainder of the sentence in The Gambia as may remain to be served; and
 - (b) any time spent in the custody outside The Gambia for the purposes of the temporary extradition shall be deemed to be time served under sentence in The Gambia.

PART VII - IMPLEMENTATION OF UNITED NATIONS ANTI-TERRORISM MEASURES

48. (1) In this Part –

“funds” includes cheques, bank deposits and other financial resources;
“property” includes real and personal property, moveable or immoveable, including a lease of immovable property as well as a right or interest in the property;

“terrorist” means a person who –

- (a) commits or attempts to commit, a terrorist act; or
- (b) participates in or facilitates the commission of a terrorist act;

“terrorist act” includes the use or threat of action –

- (a) where the action –
 - (i) involves serious violence against a person,
 - (ii) involves serious damage to property,
 - (iii) endangers a person’s life,
 - (iv) creates a serious risk to the health or the safety of the public or a section of the public,
 - (v) involves the use of firearms or explosives,
 - (vi) involves releasing into the environment or any part of the environment, or distributing or otherwise exposing the public or any part of the public to any dangerous, hazardous, radioactive or harmful substance, any toxic chemical or any microbial or other biological agent or toxin,

(vii) is designed to disrupt any public computer system or the provision of services directly related to communications infrastructure, banking and financial services, public utilities, public transportation or key public infrastructure,

(viii) is designed to disrupt the provision of essential emergency services such as the police, civil defence and medical services, or

(ix) involves prejudice to public security or national defence; and

(b) Where the use or threat is intended or reasonably regarded as intending to –

(i) influence the Government or any other Government; or

(ii) intimidate the public or a section of the public.

(2) For the purposes of section (1) –

(a) “Action” includes action outside The Gambia; and

(b) a reference to the public includes a reference to the public of a country or territory, other than The Gambia.

49. No person in The Gambia and no citizen of The Gambia outside The Gambia shall –

(a) provide funds to any person by any means, directly or indirectly; or

(b) collect funds for any person by any means, directly or indirectly,

if he or she knows or has reasonable grounds to believe that the funds will be used to commit any terrorist act or facilitate the commission of any terrorist act.

50. No person in The Gambia and no citizen of The Gambia outside The Gambia shall –

(a) deal, directly or indirectly, in any property that is owned or controlled by or on behalf of any terrorist or any entity owned or controlled by any terrorist, including funds derived or generated from property owned or controlled, directly or indirectly, by any terrorist or any entity owned or controlled by any terrorist;

(b) enter into or facilitate, directly or indirectly, any financial transaction related to a dealing in property referred to in paragraph (a); or

(c) provide any financial services or any other related services in respect of any property referred to in paragraph (a), to or for the benefit of, or on the direction or order of, any terrorist or any entity owned or controlled by any terrorist.

51. (1) No person in The Gambia and no citizen of The Gambia outside The Gambia shall –

(a) make available any funds or other financial assets or economic resources; or

(b) make available any financial or other related services

for the benefit of any prohibited person.

(2) In subsection (1), “prohibited person” means –

(a) a terrorist;

(b) an entity owned or controlled by any terrorist; or

(c) a person or an entity acting on behalf of or at the direction of any person referred to in paragraph (a) or (b).

52. (1) No person in The Gambia and no citizen of The Gambia outside The Gambia shall communicate or make available by any means any information which he knows or believes to be false to another person with the intention of inducing in him or her or any other person a false belief that a terrorist act has been, is being or will be carried out.

(2) No person in The Gambia and no citizen of The Gambia outside The Gambia shall place any article or substance in any place whatsoever with the intention of inducing in some other person a false belief that –

(a) the article or substance is likely to explode or ignite and thereby cause personal injury or damage to property; or

(b) the article contains or the substance consists of –

(i) any dangerous, hazardous, radioactive or harmful substance,

(ii) any toxic chemical, or

(iii) any microbial or other biological agent, or toxin, that is likely to cause death, disease or personal injury or damage to property.

(3) No person in The Gambia and no citizen of The Gambia outside The Gambia shall dispatch any article or substance by post, rail or any other means whatever of sending things from one place to another with the intention of inducing in some other person a false belief that –

(a) the article or substance is likely to explode or ignite and thereby cause personal injury or damage to property; or

(b) the article contains or the substance consists of –

(i) any dangerous, hazardous, radioactive or harmful substance,

(ii) any toxic chemical, or any microbial or other biological agent, or toxin, that is likely to cause death, disease or personal injury or damage to property.

(4) For the purposes of subsections (1), (2) and (3), a reference to a person inducing in any other person a false belief does not require the first-mentioned person to have any particular person in mind as the person in whom he or she intends to induce the false belief.

53. No person in The Gambia and no citizen of The Gambia outside The Gambia shall knowingly do anything that causes, assists or promotes, or is intended to cause, assist or promote, an act or a thing prohibited by sections 49, 50, 51 or 52.

54. Every person in The Gambia and any citizen of The Gambia outside The Gambia who –

(a) has possession, custody or control of any property belonging to a terrorist or any entity owned or controlled by a terrorist; or

(b) has information about a transaction or proposed transaction in respect of any property belonging to a terrorist or an entity owned or controlled by a terrorist,

shall immediately inform the Inspector General of Police of such other person as the Secretary of State may designate of that fact or information and provide such further information relating to the property, or transaction or proposed transaction, as the Inspector General or designated person may require.

55. A person in The Gambia or a citizen of The Gambia outside The Gambia who contravenes the provisions of section 49, 50, 51, 52, 53 or 54 commits an offence.

PART VIII – INVESTIGATION

56. (1) A police officer not below the rank of Assistant Superintendent or a member of the National Guard may apply to a Magistrate for the issue of a warrant for the purpose of a terrorist investigation.
- (2) The Magistrate may issue a warrant authorising any police officer or a member of the National Guard to –
- (a) enter the premises specified in the warrant;
 - (b) search the premises and any person found in the premises;
 - (c) seize and retain any relevant material found in the premises.
- (3) The Magistrate shall not issue a warrant under subsection (2) unless he or she is satisfied that –
- (a) the warrant is sought for the purpose of a terrorist investigation; and
 - (b) there are reasonable grounds for believing that there is material on the premises which may be relevant to the terrorist investigation.
57. (1) Where, in a case of urgency, communication with a Magistrate to obtain a warrant would cause delay that may be prejudicial to the maintenance of public safety or public order, a police officer not below the rank of Superintendent or a member of the National Guard may, notwithstanding any other enactment, with the assistance of such other police officers as may be necessary –
- (a) enter and search any premises or place, if he or she has reason to suspect that, within those premises or at that place –
 - (i) there is evidence of the commission of an offence under this Act, or
 - (ii) an offence under this Act is being committed or likely to be committed;
 - (b) search any person or vehicle found on any premises or place which he or she is empowered to enter and search under paragraph (a);
 - (c) stop, board and search any vessel, aircraft or vehicle if he or she has reason to suspect that there is in it evidence of the commission or likelihood of commission of an offence under this Act;

(d) seize, remove and detain anything which is, or contains or appears to him or her to be evidence of the commission of an offence under this Act;

(e) arrest and detain any person whom he reasonably suspects of having committed or of being about to commit an offence under this Act.

(2) A police officer or a member of the National Guard may use such force as is reasonably justifiable for the exercise of the powers conferred by subsection (1).

(3) A person found on any premises or place or in any vessel, aircraft or vehicle may be detained by a police officer or a member of the National Guard until the completion of the search under subsection (1).

(4) Where a seizure is effected under this section, a list of all the articles, documents and other matters seized shall forthwith be delivered to –

(a) the person on whom the search is made; or

(b) the owner of the premises, place, vessel, aircraft or vehicle searched, as the case may be.

(5) Notwithstanding subsection (1), no woman shall be searched under this section except by a woman.

(6) For the purposes of this section, the degree of force which may be used shall not be greater than is reasonably necessary.

(7) Nothing in this section shall be construed as derogation from the lawful right of any person in the defence of person or property.

(8) A police officer, member of the National Guard or any other authorized officer who uses such force as may be necessary for any purpose, in accordance with this Act, shall not be liable, in any criminal or civil proceedings, for having, by the use of force, caused injury or death to any person or damage to or loss of any property.

58. (1) Notwithstanding any other enactment, the Secretary of State may for the purposes of the prevention or direction of offences, or the prosecution of offenders, under this Act, give such direction as may appear to him or her to be necessary to –

(a) communication service providers generally;

(b) communication service providers of a specified description;
and

(c) any particular communication service provider.

(2) The Secretary of State may, before giving a direction under this section, consult any communication service provider he or she deems fit to consult.

(3) A direction under this section shall specify the maximum period for which a communication service provider may be required to retain communications data.

(4) In this section –

"communication service provider" means a person who provides postal, information or communication, including telecommunication, service;

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

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

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

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

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

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

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

(c) may use reasonable force, or authorize the use of reasonable force by another person for the purpose of paragraphs (a) and (b).

(3) The authorized person shall give written notice to the generator of the aircraft or vessel mentioned in any detention order issued under this section.

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

(5) A person who –

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

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

commits an offence and is liable on conviction to a fine of two million dalasis or imprisonment for a term of not less than ten years.

(6) For the purpose of this section, the Secretary of State may, in writing, designate as an authorized person such person as he or she deems appropriate.

60. (1) Where any person is arrested under reasonable suspicion of having committed any of the offences under section 3, 4, 5, 6, 7, 11, 15, 18 or 19, a police officer not below the rank of Superintendent of Police, or a member of the National Guard may, subject to this section, direct that the person arrested be detained in police custody for a period not exceeding thirty-six hours from his or her arrest, without having access to any person other than a police officer not below the rank of Inspector, or a Government Medical Officer and the person shall be detained accordingly.

(2) No direction under subsection (1) shall be made unless the police officer or member of the National Guard has reasonable grounds to believe that the exercise of the right to consult a legal practitioner will–

(a) lead to interference with or harm to evidence connected with an offence under section 3, 4, 5, 8, 7, 11, 15, 18 or 19 to interference with, or physical injury to, another person;

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

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

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

61. (1) A custody record containing the information specified in the First Schedule shall be kept in respect of any person detained pursuant to the powers conferred by section 60.
- (2) A video recording shall be made and kept in the manner specified in the Second Schedule in respect of any person detained pursuant to the powers conferred by section 60.
- (3) A video recording under this section shall, notwithstanding the common law rule against hearsay, be admissible in evidence in the course of any judicial proceedings to the same extent and in the same manner any documentary evidence would be admissible.
- (4) In this section, "video recording" includes the recording of visual images or sound by electronic or other technological means.

PART VIII – PROSECUTION

62. (1) No prosecution for an offence under this Act shall be instituted except with the consent of the Attorney General.
- (2) A Court may, on a motion by or on behalf of the Attorney General, order that no person shall publish –
- (a) the name, address or photograph of any witness in any case tried or about to be tried before it for any offence under this Act; or
 - (b) any evidence or any matter likely to lead to the identification of the witness.
- (3) A Court may, on motion by or on behalf of the Attorney General, in the interest of public safety or public order, exclude from proceedings instituted for any offence under this Act, any person other than the parties and their legal representatives.
- (4) A person who contravenes an order made under subsection (3) commits an offence and is liable on conviction to a fine of five hundred thousand dalasis or imprisonment for a term of not less than ten years.
63. (1) The court trying an offence under this Act shall deliver its judgment not later than ninety working days from the date an accused person is charged with the offence.
- (2) The decision of a court shall not be set aside or treated as a nullity solely on the ground of non-compliance with the provisions of subsection (1) unless a court exercising jurisdiction by way of appeal from that decision is satisfied that the party complaining of non-compliance has suffered a miscarriage of justice by reason of the non-compliance.

64. (1) A Gambian Court shall have jurisdiction to try an offence and inflict the penalties specified in this Act where the act constituting the offence under section 3, 4, 5, 6, 7, 11, 15, 18 or 19 had been done or completed outside The Gambia and –
- (a) the victim is a citizen of The Gambia or has an effective link with The Gambia or is dealing with or on behalf of the Government of The Gambia;
 - (b) the alleged offender is The Gambia; or
 - (c) the alleged offender is in The Gambia, and The Gambia does not extradite him or her.
- (2) Notwithstanding anything in this Act or any other enactment, a person who, outside The Gambia, commits an act or omission that if committed in The Gambia would be an offence under this Act, shall be deemed to commit that act or omission the Gambia if
- (a) the act or omission is committed on a ship that is registered or licensed, of for which an identification number has been issued, pursuant to an Act of the National Assembly;
 - (b) the act or omission is committed on an aircraft –
 - (i) registered in The Gambia under the Civil Aviation Act or regulations made under it, or
 - (ii) leased without crew and operated by a person who is qualified under the Civil Aviation Act or regulations made under it to be registered as owner of an aircraft in The Gambia under that Act or those regulations;
 - (c) the person who commits the act or omission –
 - (i) is a citizen of The Gambia, or
 - (ii) is not a citizen of any state but ordinarily resides in The Gambia;
 - (d) act or omission is committed with intent to induce The President to commit or cause to be committed any act or omission;
 - (e) a person taken hostage by the act or omission is a citizen of The Gambia; or
 - (f) the person who commits the act or omission is, after the commission thereof present in The Gambia.

65. (1) Subject to subsection (3), any person who commits an offence under this Act shall, except otherwise provided in this Act, be liable on conviction –
- (a) in the case of an individual, to imprisonment for a term of not less than ten years and not more than twenty years; and
 - (b) in the case of body corporate, to a fine of two million dalasis.
- (2) The court before which a person is convicted of an offence under this Act may, in addition to any penalty imposed by the Court, orders the forfeiture of –
- (a) any terrorist funds, with any interest accruing thereto, or terrorist property;
 - (b) any article, substance, device or material by means of which the offence was committed;
 - (c) any vehicle or vessel used in the commission of the offence.
- (3) A person who has been convicted of a conspiracy to commit any of the offences under sections 3, 4, 5, 6, 7, 11, 15, 18 or 19 shall be exempted from the penalty specified for the offence or in subsection (1) and absolutely discharged if, having revealed the conspiracy to the police or the Court, he or she has made it possible to prevent the commission of the offence and to identify the other person involved in the conspiracy.
- (4) Notwithstanding the penalties specified for offences under this Act, the penalty incurred by a person convicted an offence shall be reduced in such inanner as the Court thinks just where that person has–
- (a) before any proceedings, made possible of facilitated the identification; or
 - (b) after the commencement of proceedings, made possible or facilitated the arrest,
- of any other person involved in the commission of the offence.
- (5) The Secretary of State may, by regulations, vary any fine specified for an offence under this Act.

66. (1) A person who –

- (a) conspires to commit or attempts to engage in;
- (b) aids, abets, counsels or procures, or is by an act or omission in any way directly or indirectly, knowingly concerned in, or party to; or
- (c) incites any person to commit, or urges or encourages,

any conduct that constitutes an offence under this Act commits an offence and is liable on conviction to the same penalty as would be applicable if the person were convicted of the offence as a principal offender.

(2) For the purposes of subsection (1) –

- (a) a person is guilty of conspiracy is –
 - (i) the person entered into an agreement with any other person or persons that one or more of them would commit the agreed offence, or
 - (ii) the person and at least one other party to the agreement intended that the offence would be committed, and
 - (iii) the person or at least one other party to the agreement committed an overt act pursuant to the agreement;
- (b) a person is not guilty of conspiracy if the person –
 - (i) withdrew from the agreement,
 - (ii) made a reasonable effort to prevent the commission of the agreed offence, and
 - (iii) as soon as possible after withdrawing, reported the matter to the Police;
- (c) a person may be guilty of conspiracy even though commission of the principal offence was impossible.

(3) A person who, while in The Gambia, conspires with any other person to do anything referred to in subsection (1) in a place outside The Gambia that is an offence under the laws of that place shall be deemed to have conspired to do that thing in The Gambia.

(4) A person who, while in a place outside The Gambia, conspires with another person to do anything referred to in subsection (1) in The Gambia shall be deemed to have conspired in The Gambia to do that thing.

(5) Where a person is alleged to have conspired to do anything that is an offence by virtue of subsection (3) or, (4) proceedings in respect of that offence may, whether or not that person is in The Gambia, be commenced in The Gambia, and the accused may be tried and punished, in respect of that offence in the same manner as if the offence had been committed in The Gambia.

(6) Where a person is alleged to have conspired to do anything that is an offence by virtue of subsection (3) or (4) and that person has been tried and dealt with outside The Gambia in respect of the offence in such a manner that, if the person has been tried and dealt with in The Gambia, he or she would be able to plead *autrefois* acquit, *autrefois* convict or pardon, the person shall be deemed to have been so tried and dealt with in The Gambia.

67. Notwithstanding the provisions of any other law, bail shall not be granted to a person arrested for or charged with an offence under this Act.

68. Where any offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or be attributed to any neglect on the part of any director, manager, secretary or other officer of the body corporate, or any person purporting to act in any such capacity, he or she as well as the body corporate is guilty of that offence and shall be proceeded against accordingly.

PART X – MISCELLANEOUS

69. A person may be excluded or removed from The Gambia if there are reasonable grounds to believe that the person has been, is or is likely to be involved in an act of terrorism.

70. (1) Subject to section 33, The Secretary of State may, for the purpose of this Act, make such regulations as he or she thinks fit.

(2) Regulations made under subsection (1) may provide for the amendment of the Schedules.

SCHEDULES

FIRST SCHEDULE (section 61 (1))

CUSTODY RECORDS

1. Entries shall be made in the Custody Record in respect of all matters relevant to the detention of the arrested person, and in particular, the entries shall be made in respect of the following –

- (a) an accurate record of the time and place of –
 - (i) the arrest,
 - (ii) the issue of the direction under section 60, and
 - (iii) each interview, including any interview immediately following his or her arrest, of the person detained;
- (b) the place or places where the interview takes place;
- (c) the time at which the interview begins and the time at which it ends;
- (d) any break during the interview;
- (e) the names of persons present at the interviews;
- (f) the time and reason for any transfer of the detained person from one place of custody to another as well as the time at which the detention ends;
- (g) any property secured from the person on his or her arrest or during his or her detentions;
- (i) the name and rank of the police officer or member of the National Guard upon whose authority any action in relation to the detained person is taken; and
- (j) the ground or grounds, set out in section 60(2), on which the detention is based.

2. The Custody Record shall be opened as soon as practicable after the start of a person's detention under section 60.

3. The person making an entry in the Custody Record shall insert the time at which the entry is made and his or her signature against the entry made.

4. The Custody Record or copy of the Record shall accompany a detained person to any other place where he or she is transferred.

5. A copy of the Custody Record shall be supplied to the person detained or his or her legal representative as soon as is practicable after he or she of the representative makes a request upon his or her release from detention or his or her being taken to court.
6. The person detained shall be allowed to check and shall be make to insert his or her signature in respect to any entry in the Custody Record.
7. An entry shall be made in respect of any refusal of the person detained to insert his or her signature where the signature is required.
8. Entries in the Custody Record shall be made as soon as practicable after the occurrence of the events to which they related.
9. A police officer not below the rank of Inspector shall be responsible for ensuring the accuracy and completeness of the Custody Record and that the Custody Record or a copy of the Record accompanies the detained person on his or her transfer.
10. Entries in a computerized Custody Record shall be timed and shall contain evidence of the computer operator's identity.

SECOND SCHEDULE (section (61 (2))

VIDEO RECORDINGS

1. The video recording of the detained person during his or her period of detention under section 60 shall be carried out in such manner as to constitute an accurate, continuous and uninterrupted record of the whole period of his or her detention, including his movements, interviews and statements.
2. When issuing the direction for detention under section 60, the police officer or member of the National Guard shall make arrangements for the video recording of the person detained during the whole of the period of his detention.
3. The police officer or member of the National Guard shall, for the purposes of the video recording, designate a recording officer under whose responsibility and control the video recording shall be conducted.
4. The recording officer shall be responsible for starting, without delay and immediately after a direction is issued under section 60, and for continuing the video recording without any interruption during the whole of the period of detention.
5. The recording officer shall, in respect of the video recording, keep a written record of the following –
 - (a) the name of the person detained;

- (b) the name and rank of the recording officer;
 - (c) the name of the police officer or member of the National Guard who issued the direction under section 60;
 - (d) the names of all the persons involved in the video recording;
 - (e) the identification numbers of the video records used for video recording;
 - (f) the date, time of commencement, duration and place of –
 - (i) the detention, and
 - (ii) the recording;
 - (g) the place at which the video records are kept; and
 - (h) particulars of the movement of the video records.
6. Where the person detained raises any objection during his or her period of detention or makes any statement, the whole of his or her objection or statement shall be recorded.
7. (1) The video record (referred to in this Schedule as “the master video record”) shall be sealed, with a label specifying that the record is the master video record, in the presence of the detained person at the end of his or her period of detention.
- (2) The recording officer shall sign the label and ask the detained person and any third party present to sign the label.
- (3) Where the detained person or the third party refuses to sign the label, another person may be asked to sign it.
8. Where more than one video record is used, the recording officer shall ensure that all the video records are properly identified and labeled by marking the video records with an identification number immediately after they are removed from the recorder.
9. The recording officer shall make arrangements for the video records to be kept securely under lock and key under the responsibility of an officer designated for that purpose.