

Pour éviter que les recrutements, collectes de fonds et demandes d'aide ne soient opérés par des individus ou entités à des fins terroristes, des mesures législatives et pratiques suivantes ont été prises.

L'article 155 du Code Pénal punit toute personne qui aura établi ou entretenu des relations coupables avec un gouvernement ou une institution étrangère ou avec leurs agents.

L'article 163 du Code Pénal punit celui qui par dons, rémunérations, promesses, menaces, abus d'autorité ou de pouvoir, aura recruté des hommes ou provoqué ou recueilli des engagements d'hommes au profit d'une force armée autre que les armées régulières des États. En son alinéa 2, cet article punit quiconque aura accepté d'être engagé ou recruté au profit d'une force armée autre que les armées régulières des États.

## C. SAINT KITTS AND NEVIS<sup>76</sup>

### ANTI - TERRORISM ACT, 2002

A BILL to give effect to the several United Nations Conventions and Protocols on the suppression and elimination of international terrorism; and to provide for related or incidental matters.

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the National Assembly of Saint Christopher and Nevis, and with the authority of the same as follows:

#### PART I - PRELIMINARY

1. This Act may be cited as the Anti-Terrorism Act, 2002.

2. (I) In this Act, unless the context otherwise requires,

*"act"* and *"action"* include omission;

*"article"* includes a substance;

*"authorized officer"* means a police officer; a customs officer; or an immigration officer;

*"border area"* has the meaning given by section....;

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<sup>76</sup> Transmitted to the Secretariat by that Government on 2 October 2002 (S/2002/1151, enclosure). Information was also provided in respect of the Firearms Act, 1967, the Proceeds of Crime Act, 2000; the Financial Intelligence Act, 2000 and the Immigration Act, 2002.

**"captain"** means a master of a ship or commander of an aircraft;

**"cash"** means

- (a) coins and notes in any currency;
- (b) postal orders;
- (c) cheques of any kind, including travelers' cheques;
- (d) banker's drafts;
- (e) bearer bonds and bearer shares;
- (f) any kind of monetary instrument specified as such by the Minister responsible for finance;

found at any place in Saint Christopher and Nevis;

**"conduct"** includes acts, omissions and statements;

**"court"** includes the High Court;

**"criminal conduct"** means conduct which constitutes one or more criminal offences under the law of Saint Christopher and Nevis, or conduct which is or corresponds to conduct which, if it all took place in Saint Christopher and Nevis, would constitute one or more criminal offences under the law of Saint Christopher and Nevis;

**"criminal investigation"** means an investigation of any criminal conduct, including an investigation of alleged or suspected criminal conduct, and an investigation of whether criminal conduct has taken place;

**"driver"**, in relation to a vehicle which has been left on any road, means the person who was driving it when it was left there;

**"dwelling"** means

- (a) a building or part of a building used as a dwelling; or
- (b) a vehicle that is habitually stationary and used as a dwelling;

**"examining officer"** means a police officer, an immigration officer, or a customs officer;

**"forfeiture order"** means an order made under section 34;

**"forfeited property"** means property to which a forfeiture order applies;

**"information"** includes documents, and, in relation to a disclosure authorized by this Act, anything that falls to be treated as information for the purpose of the disclosure;

**"interest",**

(a) in relation to land, means any legal estate and equitable interest or power;

(b) in relation to property, other than land, includes any right, including a right to possession of the property;

**"Minister"** means the Minister responsible for national security;

**"parking"** means leaving a vehicle or permitting it to remain at rest;

**"part"**, in relation to property, includes a portion;

**"port"** includes an airport and a hover port;

**"premises"** include any place and, in particular,

(a) a vehicle;

(b) an offshore installation; and

(c) a tent or movable structure;

**"property"**, regardless of where it is situated, includes

(a) money;

(b) any form of property, real or personal, heritable or movable;

(c) anything in action or other intangible or incorporeal property;

(d) any interest a person holds or has in the property;

**"property obtained through terrorism"** has the meaning given by section 50;

**"property earmarked as terrorist property"** has the meaning given by section 51;

**"public place"** means a place to which members of the public have or are permitted to have access, whether or not for payment;

**"Registrar"** means the Registrar of the High Court;

**"road"** has the meaning assigned to it by section 2 of the Roads Act;<sup>77</sup>

**"ship"** includes a hovercraft;

**"terrorist"**, for the purposes of Part VII, means a person who

(a) has committed an offence under sections 9, 10, 11, 12, 13, 14, 15, 16, 21, 22, 23, 24, 25, 26, 27, 28, 29, or 30;

(b) is or has been concerned in the commission, preparation or instigation of acts of terrorism; and the reference to a person who has been concerned in the commission, preparation or instigation of acts of terrorism includes a reference to a person who has been, whether before or after the passing of this Act, concerned in the commission, preparation or instigation of acts of terrorism within the meaning of this definition;

**"terrorist activity"** means an action that takes place either within or outside of Saint Christopher and Nevis that

(a) is an offence under any of the United Nations Anti-terrorism Conventions and Protocols specified in subsection (2) of this section; or

(b) is taken or threatened for political, religious, or ideological purposes and threatens the public or national security by

(i) killing;

(ii) seriously harming or endangering any person,

(iii) causing substantial property damage that is likely to seriously harm people; or

(iv) interfering with or disrupting an essential service, activity or system;

(v) and terrorism shall be construed accordingly;

**"terrorist cash"** means cash which

(a) is intended to be used for terrorist purposes;

(b) consists of resources of a group which is a designated terrorist group;

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<sup>77</sup> Cap. 268.

- (c) is, or represents, cash obtained through terrorism; or
- (d) is marked as terrorist property;

**"terrorist group"** means a group of persons designated as a terrorist group under section 3 of this Act whose activities meet the definition of terrorist activity;

**"terrorist investigation"** means the investigation of

- (a) the commission, preparation or instigation of acts of terrorism;
- (b) an act which appears to have been done for the purpose of terrorism;
- (c) the resources of a terrorist group;
- (d) the possibility of making an Order under section 3. (1); or
- (e) the commission, preparation or instigation, of an offence under this Act;

**"terrorist property"** means

- (a) money or other property which is likely to be used for the purposes of terrorism;
- (b) any resources of a designated terrorist group which is applied or made available, or is to be applied or made available, for use by the terrorist group;
- (c) proceeds of acts carried out of the purposes of terrorism;

and for the purposes of this definition a reference to 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;

**"traffic sign"** has the meaning assigned to it by section 2 of the Motor and Road Safety Act;<sup>78</sup>

**"vehicle"** has the meaning assigned to it by the section 2 of the Motor and Road Safety Act;

**"weapon"** means.....

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<sup>78</sup> Cap. 270.

**(2) The Conventions and Protocols referred to in the definition of terrorist activity in subsection (1) are the following:**

**(a) Convention for the Suppression of Unlawful Seizure of Aircraft, signed at the Hague on December 16, 1970;**

**(b) Convention for Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on September 23, 1971;**

**(c) Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on December 14, 1973;**

**(d) International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on December 17, 1979;**

**(e) Convention on the Physical Protection of Nuclear Material, done at Vienna and New York on March 3, 1980;**

**(f) Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on February 24, 1988;**

**(g) Convention for Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on March 10, 1988;**

**(h) Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on March 10, 1988;**

**(i) International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on December 15, 1997; and**

**(j) International Convention for the Suppression on the Financing of Terrorism, adopted by the General Assembly of the United Nations on December 9, 1999.**

**(3) For the purposes of this Act, proceedings for an offence are instituted**

**(a) when a summons or warrant is issued under the Magistrates Code of Procedure Act in respect of the offence;**

(b) when a person is charged with an offence after being taken into custody without a warrant;

(c) when an indictment is filed by virtue of section 20 of the Criminal Procedure Act;<sup>79</sup>

and where the application of this subsection would result in there being more than one time for the institution of proceedings, then proceedings shall be taken to be instituted at the earliest of any of those times.

(4) For the purposes of this Act, proceedings for an offence are concluded

(a) when a forfeiture order has been made in the proceedings and effect has been given to it in respect of all the forfeited property; or

(b) when no forfeiture order has been made in the proceedings and there is no further possibility of one being made as a result of an appeal, disregarding any power of the court to grant leave to appeal out of time.

## PART II - TERRORIST GROUPS ETC.

### DESIGNATION OF TERRORIST GROUPS

#### *Designation of terrorist groups*

3. (1) For the purposes of this Act, the Minister may, acting on the advice of the Attorney-General, by Order, designate any person or group of persons, whose activities fall within the definition of terrorist activity, as a terrorist or terrorist group.

(2) The Minister, acting on the advice of the Attorney-General, may, in accordance with the provisions of this Act, and from time to time, add or remove any person or group of persons from the list of designated terrorists or terrorist groups made under subsection (1).

#### *Removal of a terrorist group from the list*

4. (1) An application may be made to the Minister for the exercise of his powers under section 3. (2), and the application may be made by the designated person or designated groups of persons, or a person affected by the group's designation.

(2) The Minister shall, by regulations made under this Act, prescribe the procedure for applications required to be made under this section.

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<sup>79</sup> Cap. 20.

*Appeal against Minister's decision*

5. (1) Where an application made under section 4 is refused by the Minister, the applicant may appeal to the High Court.
- (2) The judge shall allow the appeal if he considers that the decision of the Minister was flawed when the decision is considered in the light of the principles applicable on an application for judicial review.
- (3) Where the judge allows an appeal under this section by or in respect of a terrorist or a terrorist group, he may make an order to that effect.
- (4) Where an order is made under subsection (3) the Minister shall, as soon as reasonably practicable, lay before the National Assembly a draft of an Order made under section 3 (2) removing the person or group from the list, and thereafter the Minister shall have the Order gazetted in the Official Gazette.

*Appeal to the Court of Appeal*

6. (1) A party to an appeal determined by the High Court in accordance with the provisions of section 5 may bring a further appeal on a question of law to the Court of Appeal.
- (2) An appeal under subsection (1) may be brought only with the permission of the High Court, or where the High Court refuses to give the permission, with the permission of the Court of Appeal.
- (3) An order made pursuant to the provisions of section 5. (4) shall not require the Minister to take any action until the final determination or disposal of an appeal under this section.

*Effect of appeal on conviction*

7. (1) This section applies where
- (a) an appeal made under section 5 is allowed in respect of a designated terrorist group;
- (b) an Order is made under section 3. (2) in respect of a designated terrorist group in accordance with an order of the High Court made under section 5. (3);
- (c) a person is convicted of an offence in respect of the terrorist group under section 9, 10, 11, 12, 13, 14, 15, 17, or 25; and
- (d) the activity to which the charge refers took place on or after the date of the refusal to remove a name of a group from the list of



designated terrorist groups against which the appeal made under section 5 is brought.

(2) Where a person referred to in subsection (1)(c) is convicted of an offence on indictment, he may, within a period of twenty eight days beginning with the date on which the Order referred to in subsection (1) (b) comes into force, appeal against the conviction to the Court of Appeal, and that Court shall hear the appeal on its own merits.

(3) Where a person referred to in subsection (1)(c) is convicted of an offence by a Magistrate Court, he may, within a period of twenty one days beginning with the date on which the Order referred to in subsection (1)(b) comes into force, appeal against the conviction to the High Court, and that Court shall hear the appeal on its own merits.

*Certain evidence not to be admissible*

8. (1) The following shall not be admissible as evidence in proceedings for an offence under sections 9, 10, 11, 13, 14, 15, 16, 17, or 18, that is to say,
- (a) evidence of anything done in relation to an application made to the Minister under section 4;
  - (b) evidence of anything done in relation to proceedings under sections 5 and 6; and
  - (c) any document submitted for purposes of proceedings mentioned in paragraphs (a) and (b).
- (2) Notwithstanding the provisions of subsection (1), that subsection shall not prevent evidence from being adduced on behalf of the accused person.

**OFFENCES UNDER THIS PART**

*Offence of belonging to a terrorist group*

9. (1) A person who belongs or professes to belong to a designated terrorist group commits an offence and is liable.
- (a) on conviction on indictment, to imprisonment for a term not exceeding ten years, or a fine or both;
  - (b) summary conviction, to imprisonment for a term not exceeding six months, or a fine or both;
- (2) It is a defence for a person charged with an offence under subsection (1) to prove that

(a) the designated terrorist group was not a designated group on the last occasion on which he became a member or began to profess to be a member; and

(b) he has not taken part in the activities of the terrorist group at any time while it was a designated terrorist group.

*Offence of supporting a terrorist group etc.*

10. (1) A person commits an offence if he or she

(b)<sup>80</sup> invites support for a terrorist group, and the support is, or is not restricted to, the provision of money or property or other property within the meaning of section 13;

(c) arranges, manages or assists in arranging or managing a meeting which he knows is to support a terrorist group,

(i) further the activities of a terrorist group, or

(ii) be addressed by a person who belongs or professes to belong to a terrorist group;

(c) addresses a meeting and the purpose of the address is to encourage support for a terrorist group or to further its activities.

(2) Where a person is charged of an offence under subsection (1)(c), it is a defence for him to prove that he had no reasonable cause to believe that the address would support or further the activities of a terrorist group.

(3) A person convicted of an offence under this section is liable,

(a) on conviction on indictment, to imprisonment for a term not exceeding ten years or to a fine, or both;

(b) on summary conviction, to imprisonment for a term not exceeding six months or to a fine, or both.

(4) In this section "meeting" means a meeting of three or more persons, whether or not the public are admitted.

*Wearing a Uniform Etc. of a Terrorist Group*

11. (1) A person who, in a public place, wears an item of clothing, or wears, carries, or displays an article, in a way or in circumstances that

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<sup>80</sup> Formatting matches that of Government submission.

arouse reasonable suspicion that he is a member or supporter of a designated terrorist group commits an offence and is liable, on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding seven thousand dollars or both.

(2) A police officer may arrest a person without a warrant if the officer has reasonable grounds to suspect that the person has committed an offence under this section.

### **PART III - TERRORIST FINANCING**

#### **OFFENCES**

##### *Offence of Fund-raising for Terrorist Activities, etc.*

12. (1) A person commits an offence if he or she
- (a) invites another person, directly or indirectly, to provide property; and
  - (b) intends that the property is to be used, or has reasonable cause to suspect that property is to be used, for the purposes of terrorism;
  - (c) solicits support for, or gives support to, a terrorist or terrorist group;
  - (d) solicits support for, or gives support to, a terrorist or terrorist group.
- (2) For the purposes of subsection (1)(c), an offer to provide, or the provision of, forged or falsified travel documents to a terrorist or member of a terrorist group constitutes giving of support to a terrorist or terrorist group.
- (3) A person who receives property, directly or indirectly, and intends that the property is to be used, or has reasonable cause to suspect that the property is to be used, for the purposes of terrorism commits an offence.
- (4) A person commits an offence if he or she
- (a) provides or collects funds, directly or indirectly, knowing or having reasonable cause to suspect that the funds are to be used, in whole or in part, for the purpose of carrying out a terrorist activity; or
  - (b) deals in any property, directly or indirectly, knowing or having reasonable cause to suspect that the property is owned or controlled by or on behalf of a person or group engaged in terrorist activities;

(c) knowingly enters into, or facilitates, directly or indirectly, any transaction in respect of property referred to in paragraph (b); or

(d) provides financial or other services in respect of property referred to in paragraph (b) at the direction of a terrorist or terrorist group.

(5) A person who acts reasonably in taking or omitting to take measures not to contravene the provisions of subsection (1) shall not be liable in any civil action from having taken or omitted to have taken those measures if the person proves that he took all reasonable measures to satisfy himself that the relevant property was owned or controlled by or on behalf of a person or group of persons engaged in terrorist activities.

(6) A person convicted of an offence under this section is liable,

(a) on conviction on indictment, to imprisonment for a term not exceeding fourteen years or to a fine, or both;

(b) on summary conviction, to imprisonment for a term not exceeding six months or a fine, or both.

*Use and possession of property for terrorist purposes*

13. (1) A person commits an offence if he or she

(a) uses property, directly or indirectly, in whole or in part, for the purposes of engaging in, or facilitating, terrorism; or

(b) possesses property and intends that it should be used, or has reasonable cause to suspect that it may be used, for the purposes of engaging in, or facilitating, terrorism.

(2) A person convicted of an offence under this section is liable

(a) on conviction on indictment, to imprisonment to a term not exceeding fourteen years or to a fine, or both; or

(c) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding seven thousand dollars, or both.<sup>81</sup>

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<sup>81</sup> Formatting conforms with that of Government submission.

*Entering into funding arrangements for terrorist purposes*

14. (1) A person commits an offence if that person 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, and the person knows or has reasonable cause to suspect that the money or other property is to be used for terrorist purposes.
- (2) A person who is charged of an offence under this section is liable,
- (a) on conviction on indictment, to imprisonment for a term not exceeding fourteen years or to a fine, or both; or
- (b) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding seven thousand dollars, or both.

*Engaging in money laundering for terrorist purposes*

15. (1) A person commits an offence if he or she enters into or becomes concerned in an arrangement which facilitates the retention or control by or on behalf of another person of terrorist property
- (a) by concealment;
- (b) by removal from the jurisdiction;
- (c) by transfer to nominees; or
- (d) in any other way.
- (2) A person who is charged of an offence under this section is liable,
- (a) on conviction on indictment, to imprisonment to a term not exceeding fourteen years or to a fine, or both; or
- (b) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding seven thousand dollars, or both.

*Jurisdiction to hear terrorist financing committed overseas*

16. (1) A person who does anything outside Saint Christopher and Nevis, and the action of that person would have constituted the commission of an offence under section 12, 13, 14, or 15 if the action had been done in Saint Christopher and Nevis commits an offence, and may, if the person is found in Saint Christopher and Nevis, be prosecuted.

(2) The power to prosecute a person under subsection (1) shall be exercised without prejudice to the provisions of the Extradition Act.<sup>82</sup>

(3) For the purposes of this section, section 15 (1)(b) shall be read as if for "jurisdiction" there were substituted "a jurisdiction".

*Duty to disclosure information relating to a person who has committed a terrorist financing offence*

17. (1) A person who believes or suspects that another person has committed an offence under section 12, 13, 14, or 15, and bases his belief or suspicion on information that comes to his attention in the course of a trade, profession, business, or employment shall, as soon as reasonably practicable, disclose his belief or suspicion, and the information on which it is based to a police officer, except that this subsection shall not apply to information which comes to a person in the course of a business in the regulated sector.

(2) A person who fails to comply with subsection (1) commits an offence and is liable,

(a) on conviction on indictment, to imprisonment for a term not exceeding fourteen years or to a fine, or both; or

(b) on summary conviction, to imprisonment to a term not exceeding six months or to a fine not exceeding seven thousand dollars, or both.

(3) It shall be a defence for a person charged with an offence under subsection (2)

(a) to prove that he had a reasonable excuse for not making the disclosure; or

(b) if he is in employment where there are established procedures for the making of the disclosures specified in subsection (1) to prove that he disclosed the matters specified in that subsection in accordance with the procedure.

(4) A professional legal adviser shall not be required by subsection (1) to disclose

(a) information; or

(b) a belief or suspicion based on information; which he obtains in privileged circumstances.

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<sup>82</sup> Act No. 32 of 1976.

**(5) For the purposes of subsection (4), information is obtained by a professional legal adviser in privileged circumstances if it comes to him, otherwise than with a view to furthering a criminal purpose,**

**(a) from a client or a client's representative, in connection with the provision of legal advice by the adviser to the client;**

**(b) from a person seeking legal advice from the adviser or from the person's representative; or**

**(c) from any person, for the purpose of actual or contemplated legal proceedings.**

**(6) A person commits an offence if that person**

**(a) knows or suspects, or has reasonable grounds to know or suspect, that another person has committed an offence under section 12, 13, 14, or 15, and the information or other matter**

**(i) on which his knowledge or suspicion is based; or**

**(ii) which gives reasonable grounds for the knowledge or suspicion,**

**came to him in course of business in the regulated sector; and**

**(b) does not disclose the information or other matter to a police officer or a nominated officer as soon as is practicable after it comes to him.**

**(7) It shall be a defence for a person charged with an offence under subsection (6) to prove that**

**(a) he had a reasonable excuse for not disclosing the information or other matter; or**

**(b) he is a professional legal adviser and that the information or other matter came to him in privileged circumstances.**

**(8) The court shall, in deciding whether a person committed an offence under subsection (6), consider whether the person followed any relevant guidance which was, at the time concerned,**

**(a) issued by a supervisory authority or any other appropriate body;**

**(b) approved by the Ministry responsible for finance; and**

(c) published in a manner approved as appropriate to bring the guidance at the attention of persons likely to be affected by it.

(9) A person who commits an offence under subsection (6) shall be liable.

(a) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine, or both; or

(b) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding five thousand dollars, or both.

(10) A disclosure to a nominated officer referred to in subsection (6) is a disclosure which is made

(a) to a person nominated by the alleged offender's employer to receive disclosures under this section; and

(b) in the course of the alleged offender's employment and in accordance with the procedure established by the employer for the purpose.

(11) Information or other matter comes to a professional legal adviser in privileged circumstances if it is communicated or given to him by

(a) a client or client's representative in connection with the giving by the adviser of legal advice to the client; or

(b) a person or person's representative seeking legal advice; or

(c) a person in connection with the legal proceedings or contemplated legal proceedings;

except that this subsection shall not apply to information or other matter which is communicated or given with a view to furthering a criminal purpose.

(12) For the purposes of subsection (8)(a) appropriate body is any body which regulates or is representative of any trade, profession, business, or employment carried on by the alleged offender.

(13) Notwithstanding any law to the contrary, a disclosure which is made in accordance with the provisions of this section shall not be taken to be a breach of any restriction on the disclosure of information imposed by any law or otherwise.

(14) For the purposes of subsection (6) a person shall be deemed to have committed the offence provided for in that subsection if the person



- (a) has taken an action or been in possession of a thing; and
- (b) would have committed the offence if he had been in Saint Christopher and Nevis at the time when he took the action or was in possession of the thing.

*Discretionary disclosure of information relating to a person who has committed a terrorist financing offence*

18. (1) A person may disclose to a police officer a suspicion or belief that money or other property is terrorist property or is derived from terrorist property, and any matter or information on which the suspicion is based.
- (2) A person may make a disclosure to a police officer in the circumstances specified in section 17. (1) and (2).
- (3) Subsections (1) and (2) shall have effect notwithstanding any restriction on the disclosure of information imposed by statute or otherwise.
- (4) Subsections (1) and (2) shall have effect in relation to a person who is in employment where there are established procedures for making the type of disclosures specified in subsection (1) and section 17. (1) as if any reference to disclosure to a police officer included a reference to disclosure in accordance with the procedure.

*Disclosure of information relating to property owned or controlled by a terrorist*

19. (1) Subsection (2) of this section applies to a person who is a citizen of Saint Christopher and Nevis but is outside Saint Christopher and Nevis.
- (2) A person referred to in subsection (1) who
- (a) has possession, custody or control of property that belongs to a terrorist or a designated terrorist group owned or controlled by a terrorist; or
  - (b) has information about a transaction or proposed transaction in respect of the property referred to in paragraph (a);
- shall immediately inform the Chief of Police, or such other person as the Minister may designate, of that fact or information and provide such further information relating to the property, or transaction or proposed transaction, as the Chief of Police or designated person may require.
- (3) A person shall forthwith disclose to the Financial Intelligence Unit
- (a) the existence of any property in his possession or control, which is to his knowledge, owned or controlled by or on behalf of a terrorist or terrorist group;

- (b) any information regarding a transaction or proposed transaction in respect of any property referred to in paragraph (a)
- (4) A financial institution shall report, every three months, to the Financial Intelligence Unit and the Financial Services Commission that
- (a) it is not in possession or control of any property owned or controlled by or on behalf of a terrorist or terrorist group;
- (b) it is in possession or control of any property referred to in paragraph (a), and in that case it shall give the particulars relating to the persons, accounts, transactions involved, and the total value of the property.
- (5) A person who contravenes subsection (2) commits an offence and is liable,
- (a) on summary conviction, to a fine not exceeding thirty thousand dollars or to imprisonment for a term not exceeding one year, or both;
- (b) on conviction on indictment, to a fine not exceeding sixty thousand dollars or to imprisonment for a term not exceeding three years, or both.
- (6) A person who contravenes subsection (3) or (4) commits an offence and is liable,
- (a) on summary conviction, to a fine not exceeding forty thousand dollars or to imprisonment for a term not exceeding three years, or both;
- (b) on conviction on indictment, to a fine not exceeding ninety thousand dollars or to imprisonment for a term not exceeding 15 years, or both.
- (7) No civil or criminal proceedings shall lie against any person for making a disclosure or report, in good faith, under this section.

## COOPERATION WITH POLICE, AND DEFENCES

### *Cooperation with police*

20. (1) A person who is acting with the express consent of the police shall not be charged of any offence specified in section 12, 13, 14 or 15.
- (2) A person who involves himself in a transaction or arrangement relating to money or other property which he suspects to be terrorist

property and discloses to a police officer his suspicion or belief and the information on which his suspicion or belief is based shall not be charged of any offence specified in section 12, 13, 14, or 15.

- (3) Subsection (2) shall only apply to a person who makes a disclosure
- (a) after he has become concerned in the transaction or arrangement concerned;
  - (b) on his own initiative; and
  - (c) as soon as is reasonably practicable.
- (4) Subsection (2) shall not apply to a person who continues his involvement in the transaction or arrangement to which the disclosure relates after a police officer has forbidden him to continue his involvement.
- (5) In this section, a reference to a transaction or arrangement relating to property includes a reference to use or possession.

*Defence to offences under sections 12.(1)&(3), 13, 14 and 15*

21. (1) It shall be a defence to a person charged with an offence under section 12, (2) & (3), 13, 14, or 15 to prove that he intended to make a disclosure provided for in section 17. (2) and (3), and that there is reasonable excuse for his failure to do so.
- (2) This section shall have effect in relation to a person who is in employment where there are established procedures for making the type of disclosures specified in subsection (1) and section 17.(1) as if any reference to disclosure to a police officer included a reference to disclosure in accordance with the procedure.

**PART IV - TERRORIST OFFENCES**

*Participating etc. in terrorist activities*

22. (1) A person commits an offence if he or she knowingly
- (a) participates in, contributes to, or facilitates the activities of a terrorist group; or
  - (b) aids or abets a terrorist group to facilitate the activities of the terrorist group.
- (2) A person who is convicted of an offence under

(a) subsection (1)(a) is liable to imprisonment for a term not exceeding ten years;

(b) subsection (1)(b) is liable to imprisonment for a term not exceeding fourteen years.

*Recruiting persons into a terrorist group*

23. A person who knowingly recruits another person into a terrorist group, for the purpose of enhancing the ability of the terrorist group to aid, abet, or commit any offence, commits an offence, and is liable, on conviction, to imprisonment for a term not exceeding ten years.

*Instructing a person to carry out a terrorist activity*

24. (1) A person commits an offence if he or she

(a) instructs another person to carry out a terrorist activity on behalf of a terrorist group;

(d) knowingly harbours or conceals a terrorist;<sup>83</sup>

(c) commits an indictable offence under any enactment for the benefit of, or at the direction of, or in association with, a terrorist group.

(2) A person who is convicted of an offence under

(a) subsection (1)(a) and (c) is liable to imprisonment for a term not exceeding life sentence;

(b) subsection (1)(b) is liable to imprisonment for a term not exceeding ten years.

*Training of terrorists*

25. (1) A person commits an offence if that person knowingly agrees to provide instructions or training, or provides instructions or training

(a) in the making or use of any weapon;

(b) carrying out terrorist activities; and

(c) in the practice of military exercises or movements, to a terrorist or a person engaging in, or preparing to engage in, terrorism.

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<sup>83</sup> Formatting conforms with that of Government submission.

(2) A person who receives instructions or training referred to in subsection (1) commits an offence.

(3) A person who invites another person to receive instructions or training and the receipt would constitute an offence under subsection (2) but for the fact that it is to take place outside Saint Christopher and Nevis commits an offence.

(4) It shall be a defence for a person charged with an offence under this section in relation to instruction or training to prove that his action or involvement was wholly for a purpose other than assisting, preparing for or participating in terrorism.

(5) A person who is convicted of an offence under this section shall be liable,

(a) on conviction on indictment, to imprisonment for a term not exceeding ten years or to a fine of .... or both; or

(b) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding seven thousand dollars, or both.

(6) A court by or before which a person is convicted of an offence under this section may order the forfeiture of anything which the court considers to have been in the person's possession for purposes connected with the offence.

(7) The court shall, before making an order under subsection (6), give an opportunity to be heard to any person, other than the convicted person, who claims to be the owner of or otherwise interested in anything which can be forfeited under that subsection.

(8) An order made under subsection (6) shall not come into force until there is no further possibility of the order being varied, or set aside, on appeal.

(9) For the purposes of subsections (1) and (3),

(a) a reference to the provision of instruction includes a reference to making it available either generally or to one or more specific persons; and

(c) an invitation to receive instruction or training may be either general or addressed to one or more specific persons.<sup>84</sup>

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<sup>84</sup> Formatting conforms with that of Government submission.

*Directing terrorist group*

26. A person who directs, at any level, the activities of a terrorist group commits an offence, and is liable, on conviction on indictment to imprisonment for life.

*Possession of articles for terrorist purposes*

27. (1) A person who possesses an article in circumstances that give rise to reasonable suspicion that the possession of the article is for a purpose connected with the commission, preparation, or instigation of an act of terrorism commits an offence, and is liable,

(a) on conviction on indictment, to imprisonment for a term not exceeding ten years or to a fine of .... or both; or

(b) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding seven thousand dollars, or both.

(2) It shall be a defence for a person charged with an offence under this section to prove that his possession of the article was not for a purpose connected with the commission, preparation, or instigation of an act of terrorism.

(3) In any proceedings for an offence under this section, if it is proved that an article was on premises

(a) at the same time as the accused; or

(b) of which the accused was the occupier or which he habitually used otherwise than as a member of the public;

the court may assume that the accused possessed the article, unless he proves that he did not know of its presence on the premises or that he had no control over it.

*Intelligence gathering for terrorist activity*

28. (1) A person who gathers intelligence in Saint Christopher and Nevis for the purpose of using the intelligence to contribute to, facilitate, aid or abet the activities of a terrorist group commits an indictable offence, and is liable, on conviction, to a penalty not exceeding life imprisonment.

(2) A person who collects, makes, or possesses, a document or record of information likely to be useful to a person committing or preparing an act of terrorism commits an offence, and is liable,

- (a) an conviction on indictment, to imprisonment for a term not exceeding ten years or a fine of .... or both; or
- (b) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding seven thousand dollars, or both.
- (3) It shall be a defence for a person charged with an offence under subsection (2) to prove that he had reasonable excuse for his action or possession.
- (4) A court by or before which a person is convicted of an offence under this section may order the forfeiture of any document or record containing the kind of information mentioned in subsection (2).
- (5) The court shall, before making an order under subsection (4), give an opportunity to be heard to any person, other than the convicted person, who claims to be the owner of or otherwise interested in anything which can be forfeited under that subsection.
- (6) An order made under subsection (4) shall not come into force until there is no further possibility of the order being varied, or set aside, on appeal.
- (7) In this section "record" includes a photographic or electronic record.

*Preparatory acts offence*

29. A person who knowingly prepares to commit any offence specified in sections 9, 10, 12, 13, 14, 15, 22, 23, 25, 26, 27, 28, 30, or 31, commits an offence, and is liable,

- (a) on conviction on indictment, to imprisonment for a term not exceeding ten years or a fine of ....., or both; or
- (b) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding seven thousand dollars, or both.

*Inciting terrorism abroad*

30. (1) A person who incites another person to commit an act of terrorism wholly or partly outside Saint Christopher and Nevis, and the act would, if committed in Saint Christopher and Nevis, constitute any one of the offences specified in subsection (2) commits an offence.

**(2) The offences referred to in subsection (1) are the following:**

- (a) murder;**
- (b) wounding with intent;**
- (c) poisoning with intent;**
- (d) causing explosions; and**
- (e) endangering life by damaging property.**

**(2)<sup>85</sup> A person who, in Saint Christopher and Nevis,**

**(a) knowingly promotes or facilitates the doing of any act in a foreign State for the purpose of achieving any of the following objectives, whether or not the objectives are achieved or not,**

**(i) the overthrow, by force or violence, of the government of that foreign State;**

**(ii) causing by force or violence, the public in that foreign State to be in fear of death or bodily injury;**

**(iii) causing death of, or bodily injury to, a person who is the head of that foreign State, or holds or performs any of the duties of, a public office of that foreign State;**

**(iv) unlawfully destroying or damaging any property belonging to the government of that foreign State;**

**(b) accumulates, stockpiles or otherwise keeps, any weapons for the purposes of doing any act referred to in paragraph (a);**

**(c) trains or drills, or participates in the training or drilling, of any other person in the use of weapons or in the practice of military exercises or movements to prepare that person to do any act referred to in paragraph (a);**

**(d) allows himself to be trained or drilled, in the use of weapons or in the practice of military exercises or movements for the purpose of doing any act referred to in paragraph (a);**

**(e) gives any money or goods to, or performs services for, any other person or body or association of persons for the purpose of promoting or supporting the doing of any act referred to in paragraph (a);**

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<sup>85</sup> Formatting conforms with that of Government submission.



(f) receives or solicits money or goods, or the performance of services for the purpose of promoting or supporting the doing of any act referred to in paragraph (a);

commits an offence, and shall be liable, on conviction, to imprisonment for a term not exceeding ten years.

(3) A person who is convicted of an offence under subsection (1) is liable to a penalty to which he would be liable on conviction of the offence specified in subsection (2) which corresponds to the act which he incited.

(4) For the purposes of subsection (1), it is immaterial whether or not the person incited is in Saint Christopher and Nevis at the time of the incitement.

(5) A person who

(a) being the owner, occupier, lessee or person in charge of a building, premises, room, or place, knowingly permits a meeting of persons to be held in that building, premises, room, or place;

(b) being the owner, charterer, lessee, operator, agent, or master of vessel or the owner, charterer, lessee, operator, agent, or pilot in charge of an aircraft knowingly permits that vessel or aircraft to be used;

for the purpose of committing an offence under subsection (3), or promoting or supporting the commission of an offence under that subsection commits an offence, and shall be liable, on conviction, to imprisonment for a term not exceeding fifteen years.

(7) Nothing in this section imposes criminal liability on any person acting on behalf of, or holding office under, the Crown.

*Terrorist bombing and provision of weapons to terrorists*

31. (1) A person who does anything outside Saint Christopher and Nevis as an act of terrorism or for the purposes of terrorism, and the act would, if done in Saint Christopher and Nevis, constitute one of the offences specified in subsection (2) commits an offence.

(2) The offences referred to in subsection (1) are the following:

(a) causing explosions; and

(b) using any other weapon illegally.

(3) A person who knowingly offers to provide or provides any weapon to a terrorist, terrorist group, or member of a terrorist group, or any other person for use by, or for the benefit of, a terrorist group or a member of a terrorist group commits an offence and shall be liable, on conviction, to imprisonment for life.

(4) A person who is convicted of an offence under subsection (1) is liable to a penalty to which he would be liable on conviction of the offence specified in subsection (2) which corresponds to the act which he did.

## **PART V - FREEZING OF TERRORIST PROPERTY**

### **RESTRAINT ORDERS**

*Application for, and contents of a restraint order, etc.*

32. (1) The High Court may, upon application by a police officer, grant a restraint order where

(a) proceedings are or have been instituted in Saint Christopher and Nevis for an offence under section 12, 13, 14, or 15;

(b) proceedings have not been concluded;

(c) a forfeiture order has been made in the proceedings.

(2) Notwithstanding subsection (1), the High Court may grant a restraint order where

(a) the court is satisfied that a person is to be charged in Saint Christopher and Nevis with an offence under section 12, 13, 14, or 15;

(b) an application for a restraint order is made to the court by a police officer; and

(c) it appears to the court that a forfeiture order may be made in the proceedings.

(3) A restraint order shall prohibit a person to whom notice is given, subject to any conditions and exceptions specified in the order, from dealing with any property in respect of which a forfeiture order has been or is likely to be made in the proceedings referred to in subsection (1) or (2).

(4) An application for a restraint order may be made to a judge in chambers without notice.

(5) The court shall, on granting a restraint order, make provision in the order for notice to be given to any person affected by the order.

(6) A restraint order may be discharged or varied by the court on the application of a person affected by the order, and in particular, the order shall be discharged.

(a) in the case of an order made under subsection (2), if the proceedings in respect of the offence are not instituted within such time as the court considers reasonable;

(b) in any case, if the proceedings for the offence have been concluded.

*Seizure of property subject to a restraint order*

33. (1) A police officer may seize any property which is subject to a restraint order for the purpose of preventing the property from being removed from Saint Christopher and Nevis.

(2) Property seized under this section shall be dealt with in accordance with the directions of the High Court.

**FORFEITURE ORDERS**

*Forfeiture orders in relation to offences under sections 12, 13, 14, and 15*

34. (1) A court by or before which a person is convicted of an offence under section 12, 13, 14, or 15 may grant a forfeiture order in accordance with the provisions of this section.

(2) Where a person is convicted of an offence under section 12. (1) or (2), or 13, the court may order the forfeiture of any property which,

(a) at the time of the offence, he had in his possession or under his control; and

(b) at that time, he intended should be used, or had reasonable cause to suspect that it might be used, for terrorist purposes.

(3) Where a person is convicted of an offence under section 12. (3), the court may order the forfeiture of any property which,

(a) at the time of the offence, he had in his possession or under his control; and

(b) at that time, he knew or had reasonable cause to suspect that it would or might be used, for terrorist purposes.

**(4) Where a person is convicted of an offence under section 14, the court may order the forfeiture of any property**

**(a) to which the arrangement in question related; and**

**(b) to which at the time of the offence, he knew or had reasonable cause to suspect that it would or might be used, for terrorist purposes.**

**(5) Where a person is convicted of an offence under section 15, the court may order the forfeiture of any property to which the arrangement in question related.**

**(6) Where a person is convicted of an offence under section 12, 13, 14, or 15, the court may order the forfeiture of any property to which wholly or partly, and directly or indirectly is received by any person as a payment or other reward in connection with the offence.**

**(7) Where a person, other than the convicted person, claims to be the owner of or otherwise interested in anything which can be forfeited under this section, the court shall give him an opportunity to be heard before making the order.**

***Implementation of a forfeiture order***

**35. (1) Where a court grants a forfeiture order under section 34 the court may make such other provisions as appear to the court to be necessary for giving effect to the order, and may, in particular,**

**(a) require that any of the forfeited property be paid or handed over to the Registrar;**

**(b) direct that any of the forfeited property, other than money and land, be sold or otherwise disposed of in such manner as the court may direct and the proceeds of sale, if any, to be paid to the Registrar;**

**(c) appoint a receiver to take possession, subject to such conditions and exceptions as may be specified by the Court, of any forfeited property, to realize it in such manner as the court may direct and to pay the proceeds to the Registrar;**

**(d) direct that a specified part of any forfeited money, or of the proceeds of the sale, disposal or realization of any forfeited property, be paid to the Registrar.**

**(2) A forfeiture order shall not come into force until there is no further possibility that the order may be varied or set aside on appeal.**

(3) A receiver appointed under subsection (1) shall be entitled to be paid remuneration and expenses by the Registrar out of the proceeds of the property realized by the receiver in accordance with this section.

(4) A receiver appointed under subsection (1) shall not be liable to any person in respect of any loss or damage resulting from action

(a) he takes in relation to property that is not forfeited property, but which he reasonably believes to be forfeited property;

(b) he would be entitled to take if the property were forfeited property; and

(c) he reasonably believes he is entitled to take because of his belief that the property is forfeited property.

(5) Subsection (4) shall not apply in so far as the loss or damage is caused by the receiver's negligence.

(6) For the purposes of subsection (1)(b) and (d), a reference to the proceeds of sale, disposal or realization of property is a reference to the proceeds after deduction of the costs of sale, disposal or realization of property.

## SEIZURE AND DETENTION OF TERRORIST CASH ETC.

### *Seizure of cash*

36. (1) An authorized officer may seize any cash if he has reasonable grounds for suspecting that the cash is terrorist cash.

(2) An authorized officer may also seize cash part of which he has reasonable grounds for suspecting to be terrorist cash if it is not reasonably practicable to seize only that part.

### *Detention of seized cash*

37. (1) An authorized officer may, as long as he continues to have reasonable grounds for his suspicion, detain cash seized by him under section 36, initially, for a period of forty eight hours.

(2) The period referred to in subsection (1) may be extended by an order made by a Magistrates' Court upon an application by an authorized officer, except that the order shall not authorize the detention of any of the cash.

(a) beyond a period of three months beginning with the date of the order; and

(b) in the case of a further order under this section beyond a period of two years beginning with the date of the first order.

(3) An order made under subsection (2) shall provide for notice to be given to the persons affected by it.

(4) The court shall not make an order under subsection (2) unless it is satisfied that one of the following conditions is met:

(a) that there are reasonable grounds for suspecting that the cash is intended to be used for the purposes of terrorism and that either

(i) its continued detention is justified while its intended use is further investigated or consideration is given to bringing, in Saint Christopher and Nevis or elsewhere, proceedings against any person for an offence with which the cash is connected,

(ii) proceedings against any person for an offence with which the cash is connected have been started and have not been concluded;

(b) that there are reasonable grounds for suspecting that the cash consists of resources of a designated terrorist group and that either

(i) its continued detention is justified while its intended use is further investigated or consideration is given to bringing, in Saint Christopher and Nevis or elsewhere, proceedings against any person for an offence with which the cash is connected,

(ii) proceedings against any person for an offence with which the cash is connected have been started and have not been concluded;

(c) that there are reasonable grounds for suspecting that the cash is property earmarked as terrorist property and that either

(i) its continued detention is justified while its derivation is further investigated or consideration is given to bringing, in Saint Christopher and Nevis or elsewhere, proceedings against any person for an offence with which the cash is connected,

(ii) proceedings against any person for an offence with which the cash is connected have been started and have not been concluded.

*Detained cash to be kept on account*

38. (1) Where cash is detained under this Part for more than forty eight hours, the cash shall be deposited and held on an interest-bearing account, and the interest accruing on it shall be added to it on its forfeiture or release.
- (2) Where cash is seized by virtue of the provisions of section 36. (2), the authorized officer shall, on paying it into the account, release so much of the cash then held in the account as is not attributable to terrorist cash.
- (3) Subsection (1) shall not apply where the cash is required as evidence of an offence or evidence in proceedings under this Part.

*Release of detained cash*

39. (1) This section applies while any cash is detained under this Part.
- (2) A Magistrates' Court may direct the release of the whole or part of the cash if the court is satisfied, on an application by a person from whom the cash was seized, that the conditions set out in section 37. (4) for the detention of the cash are no longer met in relation to the cash to be released.
- (3) An authorized officer may, after notifying the Magistrates' Court under whose order cash is being detained, release the whole or part of the cash if the officer is satisfied that the detention of the cash to be released is no longer justified.
- (4) Notwithstanding subsections (2) and (3), cash shall not be released if
- (a) an application for the forfeiture of the cash is made in accordance with the provisions of section 37 or an application for the release of the cash is made in accordance with the provisions of section 40, until proceedings in respect of the application, including proceedings on appeal, are concluded;
- (b) proceedings, in Saint Christopher and Nevis or elsewhere, are commenced against any person for an offence with which the cash is connected, until the proceedings are concluded.

*Forfeiture of detained cash*

40. (1) An authorized officer may, while cash is detained under this Part, make an application to a Magistrates' Court for the forfeiture of the whole or part of the cash that is reasonably believed to be terrorist cash.

(2) The court may make an order for the forfeiture of the cash or part of the cash if the court is satisfied that the cash or part of it is terrorist cash.

(3) Where property earmarked as terrorist property belongs to joint tenants, one of whom is an excepted joint owner, the order shall not apply to the property which, in the opinion of the court, is attributable to the excepted joint owner's share.

(4) An excepted joint owner is a joint tenant who obtained the property in circumstances in which it would not, as against him, be ear-marked, and references to his share of the earmarked property are to so much of the property as would have been his if the joint tenancy had been severed.

*Appeal against a forfeiture order*

41. (1) A party to proceedings in which an order is made under section 40 who is aggrieved by the order may appeal to the High Court, and the appeal shall be by way of rehearing.

(2) Where a forfeiture order is made on the basis that a group of persons is a designated terrorist group, then the affected group may appeal against the order if

(a) an appeal made pursuant to the provisions of section 5 to have the terrorist group removed from the list is allowed;

(b) an order is made under section 3.(2) in respect of the terrorist group in accordance with an order made under section 5;

(c) the forfeited cash was seized under this Part on or before the date of the refusal by the Minister to remove the terrorist group from the list against which decision an appeal is brought under section 5.

(3) An appeal made pursuant to the provisions of

(a) subsection (1) shall be made within a period of thirty days beginning on the day on which the order is made;

(b) subsection (2) shall be made before the end of a period of thirty days beginning with the date on which the order made under section 3.(2) comes into force.

(4) The High Court may, upon hearing the appeal referred to it under this section, make any order it thinks appropriate, and may if it upholds the appeal order the release of the cash.



*Application of forfeited cash*

42. Cash that is forfeited under the provisions of this Part, and any accrued interest on it, shall be paid into the Consolidated Fund after

- (a) a period of seven days, if an appeal is not made under section 41; or
- (b) the appeal is determined or otherwise disposed of, in case an appeal is made under section 41.

**FREEZING ORDERS**

*Making of freezing orders*

43. (1) If the Minister reasonably believes that

- (a) action to the detriment of Saint Christopher and Nevis's economy has been or is likely to be taken by any person;
- (b) action constituting a threat to the life or property of one or more nationals of Saint Christopher and Nevis or residents of Saint Christopher and Nevis has been or is likely to be taken by any person;
- (c) any person is believed to have taken or to be likely to take the action and that the person is
  - (i) the government of a country or territory outside Saint Christopher and Nevis; or
  - (ii) a resident of a country or territory outside Saint Christopher and Nevis;

he may, by Order, make a freezing order prohibiting any person named in the Order from making available funds to or for the benefit of any person specified in the Order.

(2) The Minister shall, when making the freezing order, provide in the order as to

- (a) persons who are prohibited in Saint Christopher and Nevis; and
- (b) persons who are prohibited and are living elsewhere who are nationals of Saint Christopher and Nevis.

(3) The Minister may also specify in the order the persons to whom or for whose benefit the funds are not to be made available on the basis of the belief formed by him by virtue of the provisions of subsection (1).

(4) A person may be specified under subsection (3) by being named in the order, or by falling within a description of persons set out in the order, except that in the case of a description, the description shall be such that a reasonable person would know whether he fell within it.

(5) In this section "funds" mean financial assets and economic benefits of any kind.

*Procedure for making a freezing*

44. The Minister shall, as soon as possible after making a freezing order under section 43 lay the Order before the National Assembly, and the Order shall have effect as provided by section 46.

*Contents of a freezing order*

45. The Minister shall, by regulations made under this Act, make provision for the contents of a freezing order.

*Duration of the order*

46. (1) Subject to this section, a freezing order shall cease to have effect at the end of a period of two years starting with the day on which it is made.

(2) A freezing order shall cease to have effect at the end of the relevant period unless before the end of that period the order is approved by resolution of the National Assembly.

(3) In this section relevant period means a period of twenty eight days starting with the day on which the order is made, and in calculating the period no account shall be taken of any time during which the National Assembly is dissolved.

*Review of freezing order*

47. The Minister may, from time to time, review a freezing order made under section 43, and may amend the order if he thinks it reasonable to do.

**COMPENSATION**

*Relief to persons deprived of their cash unlawfully*

48. (1) A person who claims that any cash detained by virtue of the provisions of this Part belongs to him may apply to a Magistrates' Court for the cash to be released to him.

(2) The application may be made in the course of proceedings under section 37, or section 40, or at any other time.

**(4)<sup>86</sup> Where it appears to the court that**

- (a) the applicant was deprived of the cash-claimed, or of property which it represents, by criminal conduct;**
- (b) the property he was deprived of was not, immediately before he was deprived of it, property obtained by or in return for criminal conduct and no did it then represent such property; and**
- (c) the cash belongs to him;**

**the court may order the cash to be released to the claimant.**

***Compensation***

**49. (1) A person who has or had an interest in any property which was subject to an order, and**

- (a) a restraint order is discharged under section 32.(6);**
- (b) a restraint order or forfeiture order was made in or in relation to proceedings for an offence under section 12, 13, 14, or 15 which**
  - (i) do not result in conviction for an offence under any of those sections;**
  - (ii) result in conviction for an offence under any of those sections in respect of which the person convicted is subsequently pardoned;**
  - (iii) result in conviction for an offence under any of those sections which is subsequently quashed;**

**may apply to the High Court for compensation to be paid to him in accordance with the provisions of this section.**

**(2) The High Court may make an order for compensation to be paid to the applicant referred to in subsection (1) if the court is satisfied that**

- (a) there was a serious default on the part of the person concerned in the investigation or prosecution of the offence;**
- (b) the person in default was or was acting as a member of the Police Force, or was a staff of the Director of Public Prosecution;**

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<sup>86</sup> Formatting conforms with that of Government submission.

- (c) the applicant has suffered loss in consequence of anything done in relation to the property by or in pursuance of the forfeiture order or restraint order;
- (d) it is appropriate, having regard to all the circumstances, to make an order for compensation to be paid.
- (3) The High Court shall not make an order under subsection (1) where it appears to the court that proceedings for the offence would have been instituted even if the serious default had not occurred.
- (5)<sup>87</sup> Where no forfeiture order is made in respect of any cash detained under this Part, the person to whom the cash belongs or from whom it was seized may apply to the Magistrate's Court for compensation.
- (6) Where cash, while being detained for any period after the initial detention of the cash for forty eight hours, was not held on an interest bearing account the court may, upon application, make an order for an amount of compensation to be paid to the applicant.
- (7) The amount of compensation to be paid under subsection (5) is the amount the court thinks would have been earned in interest in the period in question if the cash had been held on an interest bearing account.
- (8) Where the court, taking into account any interest to be paid under this Part or any amount to be paid under subsection (5), is satisfied that the applicant has suffered loss as a result of the detention of the cash and that the circumstances are exceptional the court may make an order for compensation to be paid to the applicant.
- (9) The amount of compensation to be made under subsection is the amount the court thinks to be reasonable, having regard to the loss suffered and any other relevant circumstances.
- (10) Subsections (4), (5), (6), (7), and (8) shall not apply where the court makes an order under section 41.

## PROPERTY EARMARKED AS TERRORIST PROPERTY

### *Property obtained through terrorism*

50. (1) For the purposes of this Part, a person obtains property through terrorism if the person obtains property by or in return for acts of terrorism, or acts carried out for purposes of terrorism.

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<sup>87</sup> Formatting conforms with that of Government submission.

- (2) In deciding whether property is obtained through terrorism
- (a) it is immaterial whether or not any money, goods, or services were provided in order to put the person in question in a position to carry out the acts;
  - (b) it is not necessary to show that the act was of a particular kind if it is shown that the property was obtained through acts of one of a number of kinds, each of which would have been an act of terrorism, or an act carried out for the purposes of terrorism.

*Property earmarked as terrorist property*

51. (1) For the purposes of this Part, property obtained through terrorism is earmarked as terrorist property.
- (2) Where property that is obtained through terrorism is disposed of it is earmarked as terrorist property only if it is held by a person into whose hands it may be followed.
- (3) Earmarked property may be followed into the hands of a person who obtained it on disposal
- (a) by the person who obtained the property through terrorism; or
  - (b) by a person into whose hands it may, by virtue of this subsection, be followed.

*Tracing of property*

52. (1) Where property that is obtained through terrorism, (in this subsection called the original property), is or has been earmarked as terrorist property, the property that represents the original property shall also be earmarked as terrorist property.
- (2) If a person enters into a transaction by which
- (a) he disposes of earmarked property, whether original property or property which, by virtue of subsection (1), represents the original property;
  - (b) he obtains other property in place of it;
- the other property that is obtained represents the original property.
- (3) If a person disposes of earmarked property which represents the original property, the property disposed of may be followed into the hands of the person who obtains the property, and the property shall continue to represent the original property.

*Mixing of property*

53. For the purposes of this Part, if a person's property which is earmarked as terrorist property is mixed with other property, whether the person's property or another person's property, the portion of the mixed property that is attributable to the property earmarked as terrorist property shall represent the property obtained through terrorism.

*Property consisting of profits*

54. Where a person who has property earmarked as terrorist property obtains other property consisting of profits accruing in respect of the earmarked property, that other property shall be treated as representing the property obtained through terrorism.

*General exceptions to earmarked property*

55. (1) Where a person disposes of property earmarked as terrorist property, and the person who obtains it on disposal does so in good faith, for value and without notice that the property was earmarked, the property may not be followed into that person's hands, and accordingly, the property shall cease to be earmarked.

(2) If

(a) in pursuance of a judgment in civil proceedings, whether in or outside Saint Christopher and Nevis, the defendant makes a payment to the claimant or the claimant otherwise obtains property from the defendant;

(b) the claimant's claim is based on the defendant's criminal conduct; and

(c) apart from this subsection, the sum received, or the property obtained, by the claimant would be earmarked as terrorist property;

the property shall cease to be earmarked.

**PART VI-TERRORIST INVESTIGATIONS**

**CORDONED AREAS**

*Cordoned areas*

56. (1) Any area may, in writing, be designated a cordoned area by a police officer, not below the rank of Superintendent of police, for the purposes of a terrorist investigation.

(2) A police officer who makes a designation under subsection (1) shall arrange for the demarcation of the cordoned area, as soon as is reasonably practicable,

(3) Notwithstanding subsection (1), a police officer below the rank of superintendent may, if he considers it necessary by reason of urgency, make a designation required to be made under subsection (1).

(4) Where a police officer makes a designation under subsection (3), the police officer shall, as soon as is reasonably practicable,

(a) make a written record of the time at which the designation was made; and

(b) ensure that a police officer of at least the rank of superintendent is informed.

(5) A police officer who is informed of a designation in accordance with the provisions of subsection (4)(b) may confirm the designation or cancel it with effect from such time as he may direct, and shall, if he cancels the designation, make a written record of the cancellation and the reason for the cancellation.

#### *Duration of designation*

57. (1) Subject to subsection (2) a designation made under section shall have effect during the period beginning at the time when it is made and ending at a time specified in the designation, except that the time specified in the designation shall not exceed fourteen days.

(2) The period during which a designation shall have effect may be extended, in writing, and it shall be specified in the extension the additional period during which the designation shall have effect, except that the designation shall not have effect after the end of a period of twenty eight days beginning with the day on which it was made.

#### *Police powers in relation to a cordoned area*

58. (1) A police officer may

(a) order a person in a cordoned area to leave it immediately;

(b) order a person immediately to leave premises which are wholly or partly in or adjacent to a cordoned area;

(c) order the driver or person in charge of a vehicle in a cordoned area to move it from the cordoned area immediately;

- (d) arrange for the movement of the vehicle from a cordoned areas;
  - (e) arrange for the movement of the vehicle within a cordoned area;
  - (f) prohibit or restrict access to a cordoned area by pedestrians or vehicles.
- (2) A person who refuses or fails to comply with an order, prohibition, or restriction imposed by virtue of subsection (1) commits an offence, except that it shall be a defence for the accused person to prove that he had reasonable excuse for his failure.
- (3) A person who is convicted of an offence under subsection (2) is liable, on summary conviction, to imprisonment for a term not exceeding six months or to a fine of four thousand dollars, or both.

## SEARCH WARRANTS

### *Searches*

59. (1) A police officer may, for the purposes of a terrorist investigation, apply to a court for the issue of a warrant authorizing the police officer
- (a) to enter the premises specified in the warrant;
  - (b) to search the premises and any person found on the premises; and
  - (c) to seize and retain any relevant material which is found as a result of the search carried out under paragraph (b).
- (2) For the purposes of subsection (1)(c) material is relevant if the police officer has reasonable grounds to believe that
- (a) it is likely to be substantial value, whether by itself or together with other material, to a terrorist investigation; and
  - (b) it must be seized in order to prevent it from being concealed, lost, damaged, altered, or destroyed.
- (3) A warrant granted under this section shall not authorize
- (a) the seizure and retention of items which are subject to legal privilege;
  - (b) a police officer to require a person to remove any clothing in public except for headgear, footwear, an outer coat, a jacket, or gloves.



**(3) Subject to section 60, the court may grant a warrant if it satisfied that**

**(a) the warrant is sought for the purposes of a terrorist investigation;**

**(b) there are reasonable grounds for believing that there is material on premises specified in the application which is likely to be of substantial value, whether by itself or together with other material, to a terrorist investigation;**

**(c) the issue of a warrant is likely to be necessary in the circumstances of the case.**

*Grant of warrant other grounds*

**60. (1) This section shall apply where an application is made under section 59 and the**

**(a) application for the warrant is made by a police officer of at least the rank of inspector;**

**(b) application for the warrant does not relate to residential premises;**

**(c) court to which the application for the warrant is made is not satisfied of the matter referred to in section 59. (4)(c).**

**(2) The court may grant the warrant if it is satisfied of the matters referred to in section 59. (4)(a) and (b).**

**(3) Where an application for the issue of a warrant made under section 59 is granted under this section, the powers conferred by section 59. (1)(a) and (b) shall be exercised within a period of twenty four hours beginning from the time when the warrant is issued or granted.**

**(4) For the purposes of subsection (1), "residential premises" means any premises which the police officer making the application has reasonable grounds to believe that they are used wholly or mainly as a dwelling.**

*Searching premises in a cordoned area*

**61. (1) Subject to subsection (2), a police officer of at least the rank of superintendent may, by a written authority signed by him, authorize a search of specified premises which are wholly or partly within a cordoned area.**

(2) A police officer below the rank referred to in subsection (1) may give an authorization under this section if he considers it necessary by reason of urgency.

(3) An authorization given under this section shall authorize any police officer

(a) to enter the premises specified in the warrant;

(b) to search the premises and any person found on the premises;  
and

(c) to seize and retain any relevant material, within the meaning of section, which is found as a result of the search carried out under paragraph (b).

(4) The powers conferred by subsection (3)(a) and (b) may be exercised on one or more occasions, and at any time during the period when the designation of the cordoned area under this Act is still in force.

(5) An authorization given under this section shall not authorize

(a) the seizure and retention of items which subject to legal privilege;

(b) a police officer to require a person to remove any clothing in public except for headgear, footwear, an outer coat, a jacket, or gloves.

(6) An authorization required to be given under this section shall not be given unless the officer giving it has reasonable grounds for believing that there is material to be found on the premises which is likely to be of substantial value, whether by itself or together with other material, to a terrorist investigation.

(7) A person who willfully obstructs a search required to be carried out under this section commits an offence, and is liable, on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding five thousand dollars, or both.

## **INTERCEPTION OF COMMUNICATION AND COLLECTION OF INFORMATION**

### *Prevention etc. of electronic crimes*

62. (1) The Chief of Police shall, after consultation with the Minister responsible for National Security and the Attorney-General, take appropriate action to develop a National Network of Electronic Crime

Task Force for the purpose of preventing, detecting, and investigating various forms of electronic crimes, including potential terrorist attacks against critical infrastructure and financial payment systems.

(2) For the purposes of subsection (1), the Electronic Crimes Task Force may, in accordance with regulations made in that behalf under this Act, intercept wire, oral, or electronic communications relating to terrorism.

(3) For the purpose of enabling the law enforcement officers to investigate terrorist offences efficiently, a wiretap authorization referred to in subsection (2) shall be valid for a period of one year.

(4) Notwithstanding subsection (2) and (3), the use of electronic surveillance against any criminal organization or group shall be subject to the approval of the High Court.

#### *Investigation of terrorist offences*

63. (1) Where a police officer is of the opinion that there is a person with information relevant to an on going investigation of a terrorist offence he may, with the approval of the Attorney-General, apply to the court, in chambers, to summon that person to appear before a judge and give the information.
- (2) A police officer may, for the purpose of investigating a terrorist offence and with the consent of the Attorney-General, apply ex parte to the High Court for an order to gather information.
- (3) A judge to whom an application is made under this section may grant the relevant orders if he is satisfied that the approval or consent of the Attorney-General has been obtained under subsection (1) or (2), as the case may be and
- (a) that there are reasonable grounds to believe that
    - (i) an offence under this Act has been committed, and
    - (ii) information concerning the offence, or information that may reveal the whereabouts of a person suspected of having committed the offence, is likely to be obtained as a result of the order; or
  - (b) that
    - (i) there are reasonable grounds to believe that an offence under this Act will be committed;

(ii) there are reasonable grounds to believe that a person has direct and material information that relates to an offence referred to in subparagraph (i), or that may reveal the whereabouts of a person who the police officer suspects will commit the offence referred to in this paragraph;

(iii) reasonable attempts have been made to obtain the information referred to subparagraph (ii) from the person referred to in that subparagraph.

- (4) An order made under subsection (3) may
- (a) order the examination, on oath or not, of a person named in the order;
  - (b) order the person to attend at a place named in the order;
  - (c) order the person to bring to the examination any document or thing in his possession or control, and produce it to the court;
  - (d) include any other terms and conditions as the judge sees fit, including terms and conditions for the protection of the interests of the person named in the order and of third parties or for the protection of any on going investigation.

#### PRODUCTION OF, AND ACCESS TO, CERTAIN MATERIALS

##### *An order for production and access to material*

64. (1) A police officer may, for the purpose of a terrorist investigation, apply to a court for an order requiring a specified person.
- (a) to produce to the police officer, within a specified period, for seizure and retention any material which he has in his possession, custody or power and to which the application relates;
  - (b) to give the police officer access to any material referred to in paragraph (a), within a specified period;
  - (c) to state, to the best of his knowledge and belief, the location of material to which the application relates if it is not in, and it will not come into, his possession, custody or power within the period specified under paragraph (a) or (b).
- (2) An application for an order under this section shall relate to a particular material or a material of a particular description, which consists of or includes excluded material or special procedure material.

- (3) For the purposes of this section,
- (a) an order may specify a person only if it appears to the court that the person may be having in his possession, custody or power any of the material to which the application relates; and
  - (b) a period specified in the order shall be the period of seven days beginning with the date of the order unless it appears to the court that a different period would be appropriate in the particular circumstances of the application.
- (4) Where the court makes an order under subsection (1)(b) in relation to a material on any premises, the court may, on the application of the police officer, order any person who appears to the court to be entitled to grant entry to the premises to allow the police officer to enter the premises to obtain access to the material.

*Factors to be taken into account by the court before making an order*

65. (1) The court may grant an order under section 64 if it is satisfied that
- (a) the material to which the application relates consists of or includes excluded material or special procedure material;
  - (b) it does not include items subject to legal privilege;
  - (c) the conditions specified in subsection (2) are satisfied in respect of that material.
- (2) The conditions referred to in subsection (1) are that
- (a) the order is sought for the purposes of a terrorist investigation, and there are reasonable grounds for believing that the material is likely to be of substantial value, whether by itself or together with other material, to the terrorist investigation;
  - (b) there are reasonable grounds for believing that it is in the public interest that the material should be produced or access to it should be given having regard
    - (i) to the benefit likely to accrue to the terrorist investigation if the material is obtained, and
    - (ii) to the circumstances under which the person concerned has any of the material in his possession, custody or power.

*Production order in relation to a material etc.*

66. (1) An order made under section 64 may be made in relation to
- (a) material consisting of or including excluded or special procedure material which is expected to come into existence within a period of twenty eight days beginning with the date of the order;
  - (b) a person whom the court thinks is likely to have any of the material, to which the application relates, in his possession, custody or power.
- (2) Where an order made under section 64 is made in compliance with the provisions of subsection (1), section 64.(2) shall apply with the following modifications:
- (a) the order shall require the specified person to notify a named police officer as soon as is reasonably practicable after any material to which the application relates comes into his possession, custody or power;
  - (b) the reference in section 64. (2)(a) to material which the specified person has in his possession, custody or power shall be taken as reference to the material referred to in paragraph (a) of this subsection which comes into his possession, custody or power; and
  - (c) the reference in section 64. (2)(c) to the specified period shall be taken as reference to the period of twenty eight days beginning with the date of the order.

*Effect of order*

67. (1) An order made under section 64 shall
- (a) not confer any right to production of, or access to, items subject to legal privilege; and
  - (b) have effect notwithstanding any restriction on the disclosure of information imposed by statute or otherwise.
- (2) Where material to which an application made under section 41 relates consist of information contained in a computer
- (a) an order made under section 64.(1)(a) shall have effect as an order to produce the material in a form in which it can be taken away and in which it is visible and legible; and
  - (b) an order made under section 64.(1)(b) shall have effect as an order to give access to the material in a form in which it is visible.

*Production order in relation to Government departments*

68. (1) An order made under section 64 may be made in relation to material in the possession, custody or power of a government department, and where such an order is made by virtue of this section the order
- (a) shall be served as if the proceedings were civil proceedings against the department; and
  - (b) may require any officer of the department, whether named in the order or not, who may for the time being have in his possession, custody or power the material concerned, to comply with the order.
- (2) In this section, "government department" means an authorized government department for the purposes of the Crown Proceedings Act.

*Search warrant for special procedure material*

69. (1) A police officer may, for the purposes of a terrorist investigation, apply to the court for the issue of a warrant authorizing the police officer to
- (a) to enter the premises specified in the warrant;
  - (b) to search the premises and any person found on the premises; and
  - (c) to seize and retain any relevant material which is found as a result of the search carried out under paragraph (b).
- (2) A warrant granted under this section shall not authorize
- (a) the seizure and retention of items which are subject to legal privilege;
  - (b) a police officer to require a person to remove any clothing in public except for headgear, footwear, an outer coat, a jacket, or gloves.
- (3) For the purposes of subsection (1)(c) material is relevant if the police officer has reasonable grounds to believe that the material is likely to be of substantial value, whether by itself or together with other material, to a terrorist investigation.

*Grant of search warrant under section 69*

70. (1) A court may grant a search warrant under section 69 if the court is satisfied that an order made under section 41 in relation to material on the premises specified in the application has not been complied with.

**(2) The court may also grant a search warrant under section 69 if the court is satisfied that there are reasonable grounds to believe that**

**(a) there is material on premises specified in the application which consists of or includes excluded material or special procedure material but does not include items subject to legal privilege; and**

**(b) the conditions specified in subsection (3) are satisfied.**

**(3) The conditions referred to in subsection (2)(b) are that**

**(a) the warrant is sought for the purposes of terrorist investigation, and the material is likely to be of substantial value, whether by itself or together with other material, to a terrorist investigation;**

**(b) it is not appropriate to make an order under section 69 in relation to the material because**

**(i) it is not practicable to communicate with any person entitled to produce the material,**

**(ii) it is not practicable to communicate with any person entitled to grant access to the material or entitled to grant entry to the premises on which the material is situated, or**

**(iii) a terrorist investigation may be seriously prejudiced unless a police officer can secure immediate access to the material.**

## **ACCESS TO FINANCIAL INFORMATION**

### ***An order for access to customer information***

**71. (1) A police officer may, for the purpose of a terrorist investigation, apply to the High Court for an order requiring a specified relevant business to provide to the police officer, named in the order, customer information relating to a customer specified in the order.**

**(2) The High Court may grant the order referred to in subsection (1) if it is satisfied that**

**(a) the order is sought for the purpose of a terrorist investigation;**

**(b) the tracing of terrorist property is desirable for the purposes of the investigation; and**

**(c) the order will enhance the effectiveness of the investigation.**



- (3) The information shall be provided
- (a) in such manner and within such time as the police officer may specify; and
  - (b) notwithstanding any restriction on the disclosure of information imposed by any legislation or otherwise.
- (4) Provision may be made by regulations made under this Act respecting the procedure to be followed in making an application under this section.

*Failure to comply with an order*

72. (1) A relevant business which fails to comply with an order made under section 71 commits an offence, and shall be liable, on summary conviction, to a fine not exceeding fifty thousand dollars.
- (2) It shall be a defence for a relevant business which is charged with an offence under subsection (1) to prove that
- (a) the information required was not in the business' possession; or
  - (b) it was not reasonably practicable for the relevant business to comply with the order.

*Self-incrimination*

73. Customer information provided by virtue of the provisions of section 71 shall not be admissible in evidence in criminal proceedings against the relevant business or any of its officers or employees, except that this section shall not apply to proceedings for an offence instituted under section 72.

*Meaning of customer*

74. (1) For the purposes of sections 71, 72 and 73, "customer information" means, subject to subsection (2),
- (a) information as to whether a business relationship exists or existed between a regulated business activity and a particular person, "a customer";
  - (b) a customer account number;
  - (c) a customer's full-name;
  - (d) a customer's date of birth;

- (e) a customer's address or former address;
  - (f) the date on which a business relationship between a regulated business activity and a customer begins and ends;
  - (g) any evidence of a customer's identity obtained by a relevant business in pursuance of or for the purposes of any legislation relating to money laundering; and
  - (h) the identity of a person sharing an account with a customer.
- (2) The Minister may, by Order, provide for a class of information to be or to cease to be customer information for the purposes of this section.
- (3) For the purposes of this section, there is a business relationship between a relevant business and a person only if
- (a) there is an arrangement between them designed to facilitate the carrying out of frequent or regular transactions between them;
  - (b) the total amount of payments to be made is neither known nor capable of being ascertained when the arrangement is made.

## ACCOUNT MONITORING ORDERS

### *Account monitoring Orders*

75. (1) The High Court may, upon an application made by the Director of Public Prosecutions or a police officer authorized by the Director of Public Prosecutions in that behalf, make an account monitoring order if the court is satisfied that
- (a) the order is sought for the purpose of a terrorist investigation;
  - (b) the tracing of terrorist property is desirable for the purposes of the investigation; and
  - (c) the order will enhance the effectiveness of the investigation.
- (2) An application for an account monitoring order may be made *ex parte* to a judge in chambers.
- (3) The application referred to in subsection (1) shall contain information to the effect that the order is sought against a relevant business specified in the application in relation to information which

(a) relates to an account or accounts held at the relevant business by the person specified in the application, whether solely or jointly with another; and

(b) is of the description so specified.

(4) Information relating to

(a) all accounts held by the person specified in the application for an account monitoring order at the relevant business so specified;

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

(c) a particular account, or particular accounts, so held; may be specified in the application for an account monitoring order.

(5) The description of information specified in an application for an account monitoring order may be varied by the person who made the application in accordance with the directions of the court.

(6) An account monitoring order may be varied or discharged upon an application made to the High Court by the person who applied for the order, or a person who is affected by the order.

(7) The High Court may, upon receipt of the application, vary or discharge the order.

(8) An account monitoring order is an order that the relevant business specified in the order must

(a) for the period specified in the order;

(b) in the manner so specified;

(c) at or by the times so specified; and

(d) at the place or places so specified;

provide information of the description specified in the order to a police officer.

(9) The period stated in an account monitoring order shall not exceed ninety days beginning with the day on which the order is made.

(10) The Minister may, by regulations made under this Act, make provision with respect to the practice and procedure to be followed in connection with proceedings relating to account monitoring orders.

*Effect of account and monitoring orders statements made by relevant business*

76. (1) An account monitoring order shall have effect in spite of any restrictions on the disclosure of information imposed by legislation or otherwise.
- (2) A statement made by a relevant business in response to an account monitoring order shall not be used in evidence against the relevant business in criminal proceedings.
- (3) Subsection (2) shall not apply
- (a) in the case of proceedings for contempt of court;
- (b) in the case of proceedings instituted by virtue of section 34 where a relevant business has been convicted of an offence under section 12, 13, 14, or 15;
- (c) on a prosecution for an offence where, in giving evidence, a relevant business makes a statement that is inconsistent with the statement referred to in subsection (2).
- (4) A statement may not be used by virtue of subsection (3) provisions of subsection (3)(c) unless evidence relating to the statement is adduced, or a question relating to that statement is asked, by or on behalf of the regulated business activity in the proceedings arising out of the prosecution.

**OFFENCES IN RESPECT OF UNAUTHORIZED DISCLOSURE OF INFORMATION**

*Offence of unauthorized communication of information*

77. (1) A person who is bound by secrecy commits an offence if he unlawfully communicates any special operational information relating to a terrorist investigation to an unauthorized person.
- (2) A person who is convicted of an offence under this section is liable to imprisonment for a term not exceeding ten years.

*Offence of unauthorized disclosure of information*

78. (1) A person who knows or has reasonable cause to suspect that a police officer is conducting or proposes to conduct a terrorist investigation commits an offence if the person
- (a) discloses to another person anything which is likely to prejudice the investigation; or

- (b) interferes with material which is likely to be relevant to the investigation.
- (2) A person who knows or has reasonable cause to suspect that a disclosure of information has been or will be made under section 17, 18 or 19 commits an offence if the person
- (a) discloses to another person anything which is likely to prejudice an investigation resulting from the disclosure under that section; or
- (b) interferes with material which is likely to be relevant to an investigation resulting from the disclosure under that section.
- (3) It shall be a defence for a person charged with an offence under subsection (1) or (2) to prove that
- (a) he did not know and had no reasonable cause to suspect that the disclosure or interference was likely to affect a terrorist investigation; or
- (b) he had reasonable excuse for the disclosure or interference.
- (4) Subsections (1) and (2) shall not apply to a disclosure made by a professional legal adviser
- (a) to his client or to his client's representative in connection with the provision of legal advice by the adviser to the client and not with a view to furthering a criminal purpose; or
- (b) to any person for the purpose of actual or contemplated legal proceedings and not with a view to furthering a criminal purpose.
- (2)<sup>88</sup> A person who is convicted of an offence under this section shall be liable,
- (a) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding seven thousand;
- (b) on conviction on indictment, to imprisonment for a term not exceeding five years or a fine not exceeding thirty thousand dollars, or both.
- (3) For the purposes of this section,
- (a) a reference to conducting a terrorist investigation includes a reference to taking part in the conduct of, or assisting, a terrorist investigation;

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<sup>88</sup> Formatting conforms with Government submission.

(b) a person interferes with a material if he falsifies it, conceals it, destroys or disposes of it, or he causes or permits another person to do any of those things.

## **PART VII - COUNTER-TERRORIST POWERS**

### **SUSPECTED TERRORISTS**

#### *Arrest without warrant*

79. (1) A police officer may, without a warrant, arrest a person whom he reasonably suspects to be a terrorist.
- (2) Where a person is arrested under this section the provisions of sections 92, 93, 94, 95, 96,97,98,99, 100, 101 and 102 shall apply.
- (3) Subject to subsection (4), a person detained by virtue of the provisions of this section shall, unless detained under some other power, be released not later than forty eight hours beginning
- (a) with the time of his arrest under this section;
  - (b) if he was being detained under section 86 when he was arrested under this section, with the time when his examination under that section began.
- (3) If on a review of a person's detention under sections 99,100, 101 and 102, the police officer does not authorize continued detention, the person shall, unless detained under some other power, be released.

#### *Search of premises*

80. (1) A Magistrate Court may, upon the application of a police officer, issue a search warrant in relation to specified premises of the court if satisfied that there are reasonable grounds for suspecting that a person whom the police officer reasonably suspects to be a terrorist is to be found there.
- (2) A warrant issued under this section shall authorize any police officer to enter and search the premises specified in the warrant for the purpose of arresting the person referred to in subsection (1).

#### *Search of persons*

81. (1) A police officer may stop and search a person whom he reasonably suspects to be a terrorist to discover whether he has in his possession anything which may constitute evidence that he is a terrorist.

(2) A police officer may search a person arrested under section 79 to discover whether he has in his possession anything which may constitute evidence that he is a terrorist.

(3) A search of a person under this section shall be carried out by someone of the same sex.

(4) A police officer may seize and retain anything which he discovers in the course of a search of a person under subsection (1) or (2) and which he reasonably suspects may constitute evidence that the person is a terrorist.

*Stopping and searching vehicles and pedestrians*

82. (1) A police officer of at least the rank of Inspector may, in writing, authorise a police officer of a lower rank to stop a vehicle in an area or at a place specified in the authorization and search

(a) the vehicle;

(b) the driver of the vehicle;

(c) a passenger in the vehicle;

(d) anything in or on the vehicle or carried by the driver or a passenger.

(2) A police officer of at least the rank of Inspector may, in writing, authorise a police officer of a lower rank to stop a pedestrian in an area or at a place specified in the authorisation and search the pedestrian and anything carried by him.

(3) An authorization under this section shall only be given if the police officer giving it considers it expedient for the prevention of acts of terrorism.

(4) A power conferred by an authorization given under this section may be exercised

(a) only for the purpose of searching for articles of a kind which could be used in connection with terrorism;

(b) whether or not the police officer has grounds for suspecting the presence of articles of that kind.

(5) A police officer may seize and retain an article which he discovers in the course of a search carried out by virtue of subsection (1) or (2) and which he reasonably suspects is intended to be used in connection with acts of terrorism.

(6) Where a police officer proposes to search a person or vehicle by virtue of the provisions of subsection (1) or (2) he may detain the person or vehicle for such time as is reasonably required to permit the search to be carried out at or near the place where the person or vehicle is stopped.

(7) Where a vehicle or pedestrian is stopped by virtue of this section, and the driver of the vehicle or pedestrian requests for a written statement to be given to him to the effect that the vehicle was stopped, or that he was stopped, as the case may be, the statement shall be provided.

(8) A request referred to in subsection (7) shall be made within a period of twelve months beginning with the date on which the vehicle or pedestrian was stopped.

(9) Subject to subsections (10), (11) and (12), an authorization given under this section shall have effect from the time the authorization is given up to the time or date specified in the authorization, except that the time or date specified in the authorization shall not go beyond a period of twenty eight days beginning with the day on which the authorization was given.

(10) The person who gives an authorization under this section shall inform the Attorney-General as soon as is reasonably practicable, and if the authorization is not confirmed by the Attorney-General within a period of forty eight hours beginning with the day when it was given it shall cease to have effect at the end of that period, except that its ceasing to have effect shall not affect the lawfulness of anything done in reliance on it before the end of that period.

(11) The Attorney-General may,

(a) where he confirms an authorization, substitute an earlier date or time for the date or time specified under subsection (9);

(b) where he cancels an authorization, cancel the authorization with effect from a specified time.

(12) An authorization may be renewed in writing by a person who gave it or by a person who could have given it, and subsections (9), (10), and (11) shall apply as if a new authorization were given on each occasion on which the authorization is renewed.

### *Parking of vehicles*

83. (1) A police officer of at least the rank of Inspector may, in writing, authorize a police officer of a lower rank to prohibit or restrict the parking of vehicles on a road specified in the authorization.



**(2) An authorization under this section shall only be given if the police officer giving it considers it expedient for the prevention of acts of terrorism.**

**(3) A power conferred by an authorization given under this section shall be exercised by placing a traffic sign on the road concerned.**

**(4) A police officer exercising the power conferred by an authorization given under this section may suspend a parking place, and where a parking place is suspended under this subsection the suspension shall be treated as a restriction imposed under subsection (1).**

**(5) Subject to subsection (6), an authorization given under this section shall have effect during the period specified in the authorization, except that the period specified in the authorization shall not exceed twenty eight days.**

**(6) An authorization may be renewed in writing by a person who gave it or by a person who could have given it, and subsection (5) shall apply as if a new authorization were given on each occasion on which the authorization is renewed.**

#### *Offences*

**84. (1) A person who**

**(a) fails or refuses to stop a vehicle when required to do so by a police officer, acting in accordance with the provisions of section 82;**

**(b) fails or refuses to stop when required to do so by a police officer, acting in accordance with the provisions of section 82;**

**(c) willfully obstructs a police officer in the exercise of the power conferred by an authorization given pursuant to the provisions of section 82;**

**commits an offence and shall be liable, on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding seven thousand dollars, or both.**

**(2) A person who parks a vehicle in contravention of a prohibition or restriction imposed by virtue of the provisions of section 83 commits an offence, and shall be liable, on summary conviction, to a fine not exceeding five thousand dollars.**

**(3) A driver or other person in charge of a vehicle that is parked in contravention of a prohibition or restriction imposed by virtue of the provisions of section 83 who refuses or fails to move the vehicle when**

ordered to do so by a police officer commits an offence, except that it shall be a defence for the driver or the other person charged with an offence under this subsection to prove that he had a reasonable excuse for refusing or failing to move the vehicle.

(4) A person convicted of an offence under subsection (3) shall be liable, on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding seven thousand dollars, or both.

## **PORT AND BORDER CONTROLS**

### *Questioning persons who are at a port or in a border area*

85. (1) An examining officer may, for the purpose of determining whether a person appears to be a terrorist, question the person
- (a) if the person is at a port or in a border area, and the examining officer believes that the person's presence at the port or in the border area is connected with his entering or leaving Saint Christopher and Nevis;
  - (b) if the person is on a ship or aircraft that arrives in Saint Christopher and Nevis;
- (2) The examining officer may exercise the powers conferred on him by subsection (1) whether or not he has reasonable grounds for suspecting that a person is a terrorist.
- (3) A person who is questioned under the provisions of subsection (1) shall
- (a) give the examining officer any information in his possession which the officer requests;
  - (b) give the examining officer, on request, either a valid passport which includes a photograph or other document that establishes his identity;
  - (c) declare whether he has with him documents of a kind specified by the examining officer;
  - (d) give the examining officer, on request, any document which he has with him and which is of a kind specified by the officer.

*Stopping of persons and vehicles for questioning etc.*

86. (1) An examining officer may, for the purposes of exercising the powers conferred on him by section 85,
- (a) stop a person or a vehicle;
  - (b) detain a person.
- (2) An examining officer may, for the purpose of detaining a person under this section, authorize the person's removal from the ship, aircraft or vehicle.
- (3) Where a person is detained under this section the provisions of sections 92, 93, 94, 95, 96 and 97 shall apply, unless detained under some other power, be released not later than the end of the period of nine hours beginning with the time when his examination began.

*Searches*

87. (1) An examining officer may, for the purpose of satisfying himself whether there are any persons whom he may wish to question by virtue of section 85,
- (a) search a ship or aircraft;
  - (b) search for anything on a ship or aircraft;
  - (c) search anything which he reasonably believes has been, or is about to be, on a ship or aircraft.
- (2) An examining officer who questions a person by virtue of the provisions of section 85 may, for the purpose of determining whether he is a terrorist,
- (a) search the person;
  - (b) search anything which he has with him, or which belongs to him, and which is on a ship or aircraft;
  - (c) search anything which he has with him, or which belongs to him, and which the examining officer reasonably believes has been, or is about to be, on a ship or aircraft;
  - (d) search a ship or aircraft for anything falling within paragraph (b).

**(3) Where an examining officer questions a person in a border area in accordance with the provisions of section 85 he may, in addition to the matters specified in subsection (2),**

**(a) search a vehicle;**

**(b) search anything on or in the vehicle;**

**(c) search anything which he reasonably believes has been, or is about to be, in or on the vehicle.**

**(4) A search of a person under this section shall be carried out by someone of the same sex.**

***Examination of goods***

**88. (1) An examining officer may examine any goods which have arrived in or are about to leave Saint Christopher and Nevis on a ship, aircraft or vehicle for the purpose of determining whether such goods have been used in the preparation, instigation or commission of acts of terrorism.**

**(2) An examining officer may, for the purpose of exercising the powers conferred on him by subsection (1), board a ship, or aircraft, or enter a vehicle.**

**(3) In this section, "goods" include property of any description, and a container.**

***Detention of property***

**89. (1) An examining officer may detain anything specified in subsection (2)**

**(a) for the purpose of examination, for a period not exceeding seven days beginning with the day on which the detention commences;**

**(b) while he believes that the thing may be needed for use as evidence in criminal proceedings; or**

**(c) while he believes that the thing may be needed in connection with a decision by the Minister whether to make a deportation order under the Immigration Act.**

**(2) The things that may be detained by virtue of subsection (1) are the following:**

**(a) anything which is given to the examining officer in accordance with section 85.(3)(d);**

(b) anything which is searched or found on a search under the provisions of section 87;

(c) anything which is examined under the provisions of section 88.

*Provision of passenger information*

90. (1) An examining officer may request the owner or agent of a ship or aircraft to which this section applies to provide specified information, and the owner or agent shall comply with the request as soon as is reasonably practicable.

(2) A request referred to in subsection (1) may relate to

(a) a particular ship or aircraft;

(b) all ships or aircraft of the owner or agent to which this section applies; or

(c) specified ships or aircraft.

(3) Information referred to in this section may be specified in a request only if it is of a kind prescribed by the Minister, by Order, and which relate to passengers, crew, or vehicles belonging to passengers or crew

(4) A passenger or member of the crew on a ship or aircraft shall- give the captain any information required for the purposes of enabling the owners or agents to comply with the provisions of this section.

(5) Subsections (1) and (4) shall not require the provision of information which is required to be provided by virtue of the provisions of the Immigration Act.

(6) This section applies to a ship or aircraft which arrives or is expected to arrive in Saint Christopher and Nevis.

*Failure to comply with sections 85, 86, 87, 88 and 89*

91. (1) A person who

(a) willfully fails or refuses to comply with a duty imposed under or by virtue of the provisions of section 85, 86, 87, 88, or 89;

(b) willfully contravenes a prohibition imposed by virtue of the provisions of section 85, 86, 87, 88 or 89;

(c) willfully obstructs, or seeks to frustrate, a search or examination required by virtue of the provisions of section 85, 86, 87, 88 or 89;

commits an offence and shall be liable, on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding seven thousand dollars or both.

## DETENTION AND TREATMENT OF DETAINEES <sup>89</sup>

# CI. SANTA LUCIA <sup>90</sup>

## 1. PENAL CODE

### *Section 147 (a)*

Such criminal act as is mentioned in section 148, 151 (a), 151 (b) first paragraph, cf. third paragraph, 152 second paragraph, 152 (a) second paragraph, 152 (b), 153 first to third paragraphs, 153 (a), 154, 223 second paragraph, 224, 225 first or second paragraph, 231, cf. 232, or 233 is considered to be a terrorist act and is punishable by imprisonment for a term not exceeding 21 years when such act has been committed with the intention of:

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<sup>89</sup> Articles 92 to 108, which make up this subsection, have been omitted from the present publication for technical reasons.

<sup>90</sup> Transmitted to the Secretariat by that Government on 2 October 2002 (S/2002/1135, enclosure). Information was also provided in respect of the following legislation: Proceeds of Crime Act No 10 of 1993; the Money Laundering (Prevention) Act No. 36 of 1999; the Exchange Control Ordinance Chap 180 of the Revised Laws of Saint Lucia; the Registered Agents and Trustee Licensing Act No. 37 of 1999; the International Insurance Act No. 38 of 1999; the International Business Companies Act No. 40 of 1999; the International Banks Act No. 43 of 1999; the International Mutual Funds Act No. 44 of 1999; the Money Laundering (Prevention) (Amendment) Act No .3 of 2001; the Customs (Control and Management) Act No. 23 of 1990; the Mutual Legal Assistance in Criminal Matters Act No. 10 of 1996; the Firearms Act No. 11 of 2001; the Explosives Ordinance Chap. 53 of the Revised Laws of Saint Lucia; the Explosives Order Statutory Instrument No. 35 of 1973; the Regional Security System Act No. 30 of 2000; the Immigration Act No. 20 of 2001; the Undesirable Aliens Expulsion Ordinance Cap 80 of the Revised Laws of Saint Lucia 1957; the Extradition Act No. 12 of 1986; the Civil Aviation (Montreal Convention) Act No. 15 of 1986; the Civil Aviation (Tokyo Convention) Act No. 13 of 1986; the Hijacking act No. 14 of 1986; the Mutual Legal Assistance (Extension and Application to the USA) Regulations No. 112 of 1999; the Immigration Ordinance Chap 76 of the Revised Laws of Saint Lucia 1957; the Passports Act No. 13 of 1991; the Saint Lucia Air and Sea Ports Authority (SLASPA) Act No. 101 of 1983; the Civil Aviation Act No. 1 of 1992; the Civil Aviation (Air Navigation) Regulations No. 93 of 1997; the Shipping Act No. 11 of 1994.