



ANGUILLA

A BILL FOR
COUNTER TERRORISM ACT, 2023

Published by Authority

COUNTER TERRORISM ACT, 2023

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I Assent

Dileeni Daniel-Selvaratnam
Governor

Date

ANGUILLA

No. /2023

A BILL FOR

COUNTER TERRORISM ACT, 2023

[Gazette Dated: , 2023] [Commencement: Under section 57 of the Constitution]

An Act to make provisions for offences related to terrorism, including fundraising for and the financing and support of terrorist activities, running terrorist training activities and encouraging terrorism and to make connected provision.

ENACTED by the Legislature of Anguilla

PART 1

PRELIMINARY

Interpretation

1. (1) In this Act—

“biological weapon” means—

- (a) any biological agent or toxin of a type and in a quantity that has no justification for prophylactic, protective or other peaceful purposes; or
- (b) any weapon, equipment or means of delivery designed to use biological agents or toxins for hostile purposes or in armed conflict;

“business relationship” has the meaning specified in the Anti-money Laundering and Terrorist Financing Regulations;

“chemical weapon” means,—

- (a) toxic chemicals and their precursors;
- (b) munitions and other devices designed to cause death or harm through the toxic properties of toxic chemicals released by them; and
- (c) equipment designed for use in connection with munitions and devices falling within paragraph (b);

“Commission” means the Anguilla Financial Services Commission;

“Convention” means any of the following Conventions:

- (a) Convention on Offences and certain Other Acts committed on Board Aircraft, signed at Tokyo on 14th September 1963;
- (b) Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on 16th December 1970;
- (c) Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23rd September 1971;
- (d) 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 14th December 1973;
- (e) International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17th December 1979;
- (f) International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations on 9th December 1999;

“economic resources” means assets of every kind, whether from a legitimate or illegitimate source and whether tangible or intangible, movable or immovable, which are not funds but can be used to obtain funds, goods or services;

“explosive or other lethal device” means—

- (a) a weapon; or
- (b) an explosive or incendiary weapon;

that is designed or has the capability to cause death, serious bodily injury or substantial material damage;

“Financial Action Task Force” means the task force established by the Group of Seven to develop and provide national and international policies to combat money laundering and terrorist financing;

“financial services” means services provided by the regulated sector;

“firearm” means any lethal barrelled weapon from which any shot, bullet or other missile can be discharged, or any restricted weapon or, unless the context otherwise requires, any prohibited weapon, and includes any component part of any such weapon and any accessory to any such weapon designed or adapted to diminish the noise or flash caused by firing the weapon but does not include any air rifle, air gun, or air pistol of a type prescribed by the Governor and of a calibre so prescribed;

“funds” means financial assets and economic benefits of any kind whether from a legitimate or illegitimate source, including (but not limited to) digital assets, gold coin, gold bullion, cash, cheques, claims on money, drafts, money orders and other payment instruments; deposits with financial institutions or other entities, balances on accounts, debts and debt obligations; securities and debt instruments (including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures, debenture stock and derivatives contracts); interest, dividends or other income on or value accruing from or generated by assets; credit, rights of set-off, guarantees, performance bonds or other financial commitments; letters of credit, bills of lading, bills of sale; documents evidencing an interest in funds or financial resources, and any other instrument of export financing;

“Group of Seven” means the meeting of Finance Ministers of France, Italy, Germany, Japan, United Kingdom, United States and Canada formed in 1976;

“information” includes electronic records, data, text, images, sounds, codes, computer programmes, software and databases;

“international organisation” means an organisation constituted by States to which its Member States have transferred competence over matters governed by a Convention of the United Nations;

“judge” means a judge of the High Court of Anguilla;

“legal entity” means a body corporate, foundation, partnership, association or other similar body that can establish a permanent customer relationship with a financial institution or otherwise own property;

“listed entity” means an entity declared to be a listed entity in accordance with section 75;

“master” in relation to a vessel, means the owner or person (except a harbour master or pilot) having for the time being command or charge of the vessel;

“money” means—

- (a) bankers’ drafts;
- (b) coins and notes in any currency;
- (c) postal order;
- (d) travellers cheques; and
- (e) any other kind of monetary instrument specified by Order by the Minister with responsibility for finance;

“money laundering” has the meaning specified in the Proceeds of Crime Act;

“non-profit organisation” means a legal entity or organisation that primarily engages in raising or disbursing funds for purposes such as charitable, religious, cultural, educational, social or fraternal purposes or for the carrying out of other types of philanthropic work;

“nuclear weapon” includes a nuclear explosive device that is not intended for use as a weapon;

“operator” in relation to an aircraft, means the owner or person for the time being in charge or command or control of the aircraft;

“privileged material” has the meaning specified in section 4;

“property” means assets of any kind, whether tangible or intangible, moveable or immovable, however acquired and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including but not limited to bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts, letters of credit whether situated in Anguilla or elsewhere, and includes a legal or equitable interest, whether full or partial, in any such property;

“service provider” has the meaning specified in the Anti-Money Laundering and Terrorist Financing Regulations;

“supervisory authority” means—

- (a) the Financial Services Commission; and
- (b) the Financial Intelligence Unit;

“terrorism or terrorist act” has the meaning specified in section 2;

“terrorist” includes a person who—

- (a) commits a terrorist act by any means directly or indirectly, unlawfully and wilfully;
- (b) participates as an accomplice in terrorist acts or the financing of terrorism;
- (c) organises or directs others to commit terrorist acts or the financing of terrorism; or
- (d) contributes to the commission of terrorist acts or the financing of terrorism by a group of persons acting with a common purpose where the contribution—
 - (i) is made intentionally and with the aim of furthering the terrorist act or the financing of terrorism, or
 - (ii) with the knowledge of the intention of the group of persons to commit the terrorist act or the financing of terrorism;

“terrorist financing” has the meaning specified in the Anti-Money Laundering and Terrorist Financing Regulations and include the offences referred to in section 18 to 23;

“terrorist organisation” means a legal entity or group of terrorists that—

- (a) commits a terrorist act by any means, directly or indirectly, unlawfully and wilfully;
- (b) participates as an accomplice in terrorist acts or the financing of terrorism;
- (c) organises or directs others to commit terrorist acts or the financing of terrorism; or
- (d) contributes to the commission of terrorists acts or the financing of terrorism by a group of persons acting with a common purpose where the contribution—
 - (i) is made intentionally and with the aim of furthering the terrorist act or the financing of terrorism, or
 - (ii) with the knowledge of the intention of the group to commit the terrorist act or the financing of terrorism;

“Unit” means the Financial Intelligence Unit established under section 3 of the Financial Intelligence Unit Act, 2020;

“vessel” means anything made or adapted for the conveyance by water, of people or property;

“weapon” includes a firearm, explosive, chemical, biological or nuclear weapon;

“without delay” means acting within a matter of hours not exceeding 24 hours.

(2) An act which—

- (a) causes death or serious bodily harm to a person taking active part in armed conflict in accordance with the applicable rules of international law; or
- (b) disrupts any service and is committed in pursuance of a demonstration, protest or stoppage of work and is not intended to result in any harm referred to in section 2(a) of the definition of “terrorist act”;

shall not be considered a terrorist act.

(3) For the purposes of this Act, a person who is not an individual (“C”) is “owned or controlled directly or indirectly” by another person (“P”) if—

- (a) P—
 - (i) holds directly or indirectly more than 50% of the shares in C,
 - (ii) holds directly or indirectly more than 50% of the voting rights in C, or
 - (iii) holds the right, directly or indirectly, to appoint or remove a majority of the board of directors of C; and
- (b) it is reasonable, having regard to all the circumstances, to expect that P would (if P chose to) be able, in most cases or in significant respects, by whatever means and

whether directly or indirectly, to achieve the result that affairs of C are conducted in accordance with P's wishes.

(4) An item is not a chemical weapon if its intended use is only for one or more of the following purposes—

- (a) peaceful purposes;
- (b) purposes related to protection against toxic chemicals;
- (c) legitimate military purposes;
- (d) purposes of enforcing the law.

Meaning of terrorism or terrorist act

2. For the purposes of this Act, “terrorism” or “terrorist act” means—

- (a) an act whether committed in or outside of Anguilla which causes or is likely to cause—
 - (i) loss of human life or serious bodily harm,
 - (ii) damage to property, or
 - (iii) prejudice to national security or disruption of public safety including disruption in the provision of emergency services or to any computer or electronic system or to the provision of services directly related to banking, communications, infrastructure, financial services, public utilities, transportation or other essential infrastructure;

and is intended to either compel a government or an international organisation to do or refrain from doing any act or to intimidate the public or a section of the public, for the purpose of advancing a political, ideological or a religious cause;

- (b) an offence under Part 2 of this Act; or
- (c) an offence under any of the Conventions specified in Part 3.

Meaning of terrorist property

3. (1) For the purposes of this Act, “terrorist property” means—

- (a) proceeds from the commission of a terrorist act;
- (b) money or other property which has been, is being, or is likely to be used to commit a terrorist act;
- (c) money or other property which has been collected for the purpose of funding a terrorist act or terrorist organisation; or
- (d) property belonging to a terrorist or terrorist organisation.

(2) In subsection (1) proceeds from the commission of a terrorist act includes a reference to—

- (a) any property which wholly or partly, and directly or indirectly, represents the proceeds of the terrorist act; and
- (b) any payments or other rewards in connection with the commission of a terrorist act.

Meaning of privileged material

4. (1) For the purposes of this Act, “privileged material” means—

- (a) communications between a professional legal adviser and his client or any person representing his client made in connection with the giving of legal advice to the client;
- (b) communications between—
 - (i) a professional legal adviser and his client or any person representing his client, or
 - (ii) such an adviser or his client or any such representative and any other person;made in connection with or in contemplation of legal proceedings and for the purposes of such proceedings; and
- (c) material enclosed with or referred to in such communications and made—
 - (i) in connection with the giving of legal advice, or
 - (ii) in connection with or in contemplation of legal proceedings and for the purposes of such proceedings;

when they are in the possession of a person who is entitled to be in possession of them.

(2) Material held with the intention of furthering a criminal purpose is not privileged material.

(3) For the purposes of this section, “material” includes information and documents.

Penalties for commission of a terrorist act

5. (1) Any person who participates in the commission of a terrorist act commits an offence and is liable—

- (a) on conviction on indictment to imprisonment for 25 years where the terrorist act committed falls within section 2(a);
- (b) to the relevant penalties specified in Parts 2 and, 3 where the terrorist act committed falls within section 2(b) or (c).

(2) When a terrorist act involves the commission of a crime under some other Act, the person committing it shall be liable to be punished for that crime as well as for the offence created

by subsection (1), and any term of imprisonment imposed in respect of such crime shall run consecutively to that imposed under subsection (1).

PART 2 PROHIBITIONS

Arms embargo

6. (1) No person shall supply, sell, or transfer, directly or indirectly, arms and related material of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment and spare parts for the aforementioned, for the purpose of committing or facilitating a terrorist act whether this conduct is carried out from Anguilla or by Anguillian nationals living abroad or by anyone using flag vessels or aircrafts from Anguilla.

(2) A person who contravenes the prohibition under subsection (1) commits an offence and is liable on conviction on indictment to a term of imprisonment not exceeding 14 years and to a fine not exceeding \$500,000.

Collection or provision of property to commit terrorist acts

7. (1) No person shall collect, provide, or make available property having reasonable grounds to believe that the property will be used to commit a terrorist act.

(2) A person who contravenes the prohibition under subsection (1) commits an offence and shall, on conviction on indictment, be liable to imprisonment for 20 years.

Arrangements for retention or control of terrorist property

8. (1) No person shall knowingly become concerned in or enter into an arrangement which facilitates the acquisition, control or retention of terrorist property by or on behalf of another person.

(2) A person who contravenes the prohibition under subsection (1) commits an offence and shall, on conviction on indictment, be liable to imprisonment for 20 years.

Soliciting or giving support for the commission of terrorist acts

9. (1) No person shall knowingly—

(a) support; or

(b) solicit support for;

the commission of a terrorist act.

(2) A person who contravenes the prohibition under subsection (1) commits an offence and shall, on conviction on indictment, be liable to imprisonment for 20 years.

(3) For the purposes of subsection (1) “support” includes but is not limited to—

(a) an offer to provide or the provision of expertise or a skill;

(b) an offer to provide or the provision of falsified or forged documents; and

- (c) entering or remaining in any country;

for the purpose of committing or facilitating a terrorist act.

Harbouring of persons committing terrorist acts

10. (1) No person shall conceal or harbour another person or hinder, interfere with or prevent the apprehension of, any other person having reason to believe or knowing that that other person has committed, is planning or is likely to commit a terrorist act.

(2) A person who contravenes the prohibition under subsection (1) commits an offence and shall, on conviction on indictment, be liable to imprisonment for 20 years.

Recruitment of persons for terrorist purposes

11. (1) No person shall agree to recruit or recruit any other person to participate in the commission of a terrorist act.

(2) A person who contravenes the prohibition under subsection (1) commits an offence and shall, on conviction on indictment, be liable to imprisonment for 20 years.

Provision of instruction or training to persons committing terrorist acts

12. (1) No person shall knowingly agree to provide instruction or training or provide instruction or training in—

- (a) carrying out a terrorist act;
- (b) the making or use of any explosive or other lethal weapon device; or
- (c) the practice of military exercises or movements;

to a person engaging in or preparing to engage in the commission of a terrorist act.

(2) A person who contravenes the prohibition under subsection (1) commits an offence and shall, on conviction on indictment, be liable to imprisonment for 25 years.

Incitement, promotion or solicitation of property for the commission of terrorist acts

13. (1) No person shall, knowingly incite or promote the commission of a terrorist act, or solicit property for the commission of a terrorist act.

(2) A person who contravenes the prohibition under subsection (1) commits an offence and shall, on conviction on indictment, be liable to imprisonment for 20 years.

Providing facilities in support of terrorist acts

14. (1) No person who being the—

- (a) agent, charterer, lessee, master, operator or owner in charge of a vessel shall permit that vessel to be used;
- (b) agent, charterer, lessee, operator, owner or pilot in charge of an aircraft shall permit that aircraft to be used;

(c) lessee, occupier, owner or person in charge of any place or premises shall permit a meeting to be held in that place or building; or

(d) lessee, owner or person in charge of any equipment or facility that may be used for conferencing, recording of meetings through the use of technological means shall permit the equipment or facility to be used;

to facilitate the commission of an offence under this Act.

(2) A person who contravenes the prohibition under subsection (1) commits an offence and shall, on conviction on indictment, be liable to imprisonment for 20 years.

Travelling for the purpose of committing a terrorist act

15. (1) No person shall, knowingly and without lawful justification or reasonable excuse, travel for the purpose of—

- (a) planning a terrorist act;
- (b) committing a terrorist act;
- (c) supporting a terrorist act; or
- (d) facilitating the commission of a terrorist act.

(2) A person who contravenes the prohibition under subsection (1) commits an offence and is liable—

- (a) on summary conviction, to a term of imprisonment not exceeding 10 years or to a fine not exceeding \$250,000, or both; or
- (b) on conviction on indictment, to a term of imprisonment not exceeding 14 years or to a fine not exceeding \$750,000, or both.

(3) A person who commits an offence under subsection (1) shall be deemed to be a foreign terrorist fighter.

(4) For the purposes of this section, “support” includes but is not limited to—

- (a) an offer to provide or the provision of expertise or a skill;
- (b) an offer to provide or the provision of documents; and
- (c) entering or remaining in any country;

for the purpose of planning, committing or facilitating a terrorist act.

Money laundering

16. (1) No person shall knowingly enter into or become concerned in an arrangement which facilitates the retention or control of terrorist property, by or on behalf of another person—

- (a) by concealment;

- (b) by removal from the jurisdiction;
- (c) by transfer to nominees; or
- (d) in any other way.

(2) A person who contravenes the prohibition under subsection (1) commits an offence and shall be liable—

- (a) on summary conviction, to a fine of \$200,000 or to imprisonment to a term not exceeding 5 years or to both; or
- (b) on conviction on indictment, to a fine without limit or to imprisonment to a term not exceeding 14 years, or to both.

Dealing with terrorist property

17. No person shall knowingly—

- (a) acquire or be in possession of terrorist property;
- (b) conceal, convert or disguise terrorist property;
- (c) deal directly or indirectly with any terrorist property; or
- (d) enter into or facilitates directly or indirectly any transaction in relation to terrorist property.

(2) A person who contravenes the prohibition under subsection (1) commits an offence and shall—

- (a) on summary conviction, to a fine of \$100,000 or to imprisonment for 2 years or to both; or
- (b) on conviction on indictment, to a fine of \$200,000 or to imprisonment for 10 years, or to both.

Use of property for commission of terrorist acts (terrorist financing offence)

18. (1) No person shall—

- (a) use money or property, directly or indirectly, in whole or in part, for the purpose of committing or facilitating the commission of a terrorist act; or
- (b) possess money or property intending that it be used or knowing that it will be used, directly or indirectly, in whole or in part, for the purpose of committing or facilitating the commission of a terrorist act.

(2) A person who contravenes the prohibition under subsection (1) commits an offence and shall, on conviction on indictment, be liable to imprisonment for 20 years.

Making funds or financial services available to designated terrorist entity (terrorist financing offence)

19. (1) No person shall make funds or financial services or other related services available, directly or indirectly, wholly or jointly to—

- (a) a designated terrorist entity;
- (b) an entity owned or controlled, directly or indirectly by a designated terrorist entity;
or
- (c) a person acting on behalf of, or at the direction of, the designated terrorist entity;

if the person knows, or has reasonable cause to suspect, that he is making the funds or financial services available to the designated terrorist entity.

(2) Subsection (1) is subject to sections 26, 27 and 28.

(3) A person who contravenes the prohibition under subsection (1) commits an offence and is liable—

- (a) on summary conviction, to a term of imprisonment not exceeding 5 years or to a fine not exceeding \$100,000, or both; or
- (b) on conviction on indictment, to a term of imprisonment not exceeding 7 years or to a fine not exceeding \$250,000, or both.

Making funds or financial services available for the benefit of designated terrorist entity (terrorist financing offence)

20. (1) No person shall make funds, financial services or other related services available, directly or indirectly, wholly or jointly for the benefit of—

- (a) a designated terrorist entity;
- (b) an entity owned or controlled, directly or indirectly by a designated terrorist entity;
or
- (c) a person acting on behalf of, or at the direction of, the designated terrorist entity;

if the person knows or has reasonable cause to suspect that he is making or will be making the funds, financial services or other related services so available for the benefit of the designated terrorist entity.

(2) For the purposes of this section—

- (a) funds are made available for the benefit of a designated terrorist entity only if the designated terrorist entity thereby obtains, or is able to obtain, a financial benefit;
and
- (b) “financial benefit” includes the discharge of a financial obligation for which the designated terrorist entity is wholly or partly responsible.

(3) Subsection (1) is subject to sections 26, 27 and 28.

(4) A person who contravenes the prohibition in subsection (1) commits an offence and is liable—

- (a) on summary conviction, to a term of imprisonment not exceeding 5 years or to a fine not exceeding \$100,000, or both; or
- (b) on conviction on indictment, to a term of imprisonment not exceeding 7 years or to a fine not exceeding \$250,000, or both.

Making economic resources available to designated terrorist entity (terrorist financing offence)

21. (1) A person shall not make economic resources available, directly or indirectly, wholly or jointly to—

- (a) a designated terrorist entity;
- (b) an entity owned or controlled, directly or indirectly by a designated terrorist entity; or
- (c) a person acting on behalf of, or at the direction of, a designated terrorist entity;

if the person knows, or has reasonable cause to suspect that—

- (i) he is making the economic resources so available to the designated terrorist entity; and
- (ii) the designated terrorist entity is likely to exchange the economic resources, or use them in exchange, for funds, goods or services.

(2) Subsection (1) is subject to sections 26, 27 and 28.

(3) A person who contravenes the prohibition under subsection (1) commits an offence and is liable—

- (a) on summary conviction, to a term of imprisonment not exceeding 5 years or to a fine not exceeding \$100,000, or both; or
- (b) on conviction on indictment, to a term of imprisonment not exceeding 7 years or to a fine not exceeding \$250,000, or both.

Making economic resources available for the benefit of designated terrorist entity (terrorist financing offence)

22. (1) A person shall not make economic resources available to any other person for the benefit of—

- (a) a designated terrorist entity;
- (b) an entity owned or controlled, directly or indirectly by a designated terrorist entity; and

(c) a person acting on behalf of, or at the direction of, a designated terrorist entity; if the person knows, or has reasonable cause to suspect, that he is making or will be making the economic resources so available for the benefit of the designated terrorist entity.

(2) For the purposes of this section—

(a) economic resources are made available for the benefit of a designated terrorist entity only if the designated terrorist entity thereby obtains, or is able to obtain, a financial benefit; and

(b) “financial benefit” includes the discharge of a financial obligation for which the designated terrorist entity is wholly or partly responsible.

(3) Subsection (1) is subject to sections 26, 27 and 28.

(4) A person who contravenes the prohibition in subsection (1) commits an offence and is liable—

(a) on summary conviction, to a term of imprisonment not exceeding 5 years or to a fine not exceeding \$100,000, or both; or

(b) on conviction on indictment, to a term of imprisonment not exceeding 7 years or to a fine not exceeding \$250,000, or both.

Facilitating the financing of terrorism (terrorist financing offence)

23. (1) Any person who by any means, directly or indirectly, wilfully—

(a) invites another to provide money or other property; or

(b) collects money or other property;

or attempts to do so, with the suspicion or intention or in the knowledge that such money or property could, should or would be used in whole or in part—

(i) in order to carry out a terrorist act,

(ii) by a terrorist, or

(iii) by a terrorist organisation;

commits the offence.

(2) An offence under subsection (1) is committed irrespective of whether—

(a) the funds are actually used to commit or attempt to commit a terrorist act;

(b) the funds are linked to a terrorist act; and

(c) the person alleged to have committed the offence is in the same country or a different country from the one in which the terrorist or terrorist organisation is located or the terrorist act occurred or will occur.

(3) A person who contravenes this section commits an offence and is liable on conviction on indictment—

(a) in the case of an individual, to imprisonment for 25 years and to a fine of 500,000; or

(b) in the case of a legal entity, to a fine of \$500,000.

(4) A director or person in charge of a legal entity who commits an offence under this section is liable on conviction on indictment to imprisonment for 25 years and to a fine of \$500,000.

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

Offence of failing to freeze funds and economic resources

24. (1) A person who fails to freeze funds or economic resources of designated entities in accordance with section 66 commits an offence.

(2) Subsection (1) is subject to sections 26, 27 and 28.

(3) A person who contravenes the prohibition in subparagraph (1) commits an offence and is liable—

(a) on summary conviction, to a term of imprisonment of 5 years or to a fine not exceeding \$100,000, or both; or

(b) on conviction on indictment, to a term of imprisonment of 7 years or to a fine not exceeding \$250,000, or both.

(4) A person who, in good faith, freezes the funds or economic resources of a designated terrorist entity or refuses to make those funds or economic resources available to a designated terrorist entity on the basis that such action is in accordance with this Act shall not be held liable for any action to freeze the funds or economic resources unless it is proved that the funds and economic resources were frozen or withheld as a result of the negligence of the person.

(5) A person who, in good faith, does not freeze the funds or economic resources of a designated terrorist entity shall not be held liable if it is proven that the person did not know or had no reasonable cause to suspect that his actions would be in contravention of the freezing obligation.

Cooperation with police

25. (1) A person does not commit an offence under this Part if he is acting with the express consent of a police officer.

(2) Subject to subsections (3) and (4), a person does not commit an offence under this Part by his involvement in—

(a) a transaction or arrangement relating to money or other property;

(b) in other activity that constitutes an offence under this Part;

if he discloses to a police officer—

- (i) his suspicion or belief that the money or other property is terrorist property, or
- (ii) his suspicion or belief that the activity constitutes an offence under this Part, and
- (iii) the information on which his suspicion or belief is based.

(3) Subsection (2) applies only where a person makes a disclosure—

- (a) after he becomes involved in the activity, transaction or arrangement concerned;
- (b) on his own initiative; and
- (c) as soon as is reasonably practicable.

(4) Subsection (2) does not apply to a person if—

- (a) the police officer forbids him to continue his involvement in the activity, transaction or arrangement to which the disclosure relates; and
- (b) he continues his involvement.

(5) It is a defence for a person charged with an offence under this Part to prove that—

- (a) he intended to make a disclosure of the kind mentioned in subsections (2) and (3); and
- (b) there is reasonable excuse for his failure to do so.

(6) Where—

- (a) a person is in employment; and
- (b) his employer has established a procedure for the making of disclosures of the same kind as may be made to a police officer under subsection (2);

this section shall have effect in relation to that person as if any reference to disclosure to a police officer included a reference to disclosure in accordance with the procedure.

(7) A reference in this section to a transaction or arrangement relating to money or other property includes a reference to use or possession.

Licences granted outside Anguilla

26. The prohibitions identified in sections 19 to 22 and section 24 do not apply to anything done—

- (a) outside Anguilla; and

- (b) under the authority of a licence granted in accordance with any provisions of the law in force in the place where the prohibited conduct occurred, and which corresponds with the provisions of this Part.

Exceptions re prohibitions

27. (1) The prohibitions in sections 19, 20 and 24 are not contravened by a financial institution or service provider crediting a frozen account with—

- (a) interest or other earnings due on the account; or
- (b) payments due under contracts, agreements or obligations that were concluded or arose before the account became a frozen account.

(2) The prohibitions in sections 19 and 20 on making funds available do not prevent a financial institution or service provider from crediting a frozen account where it receives funds transferred to the account.

(3) A financial institution or service provider shall inform the Governor without delay if it credits a frozen account in accordance with subsections (1)(b) or (2).

(4) For the purposes of this paragraph “frozen account” means an account with a financial institution or service provider, which is held or controlled, directly or indirectly, by a designated entity.

Licences granted by the Governor in relation to prohibitions

28. (1) The prohibitions in sections 19 to 22 and section 24 do not apply to anything done under the authority of a licence granted by the Governor.

(2) A licence shall specify the acts authorised by it and may be—

- (a) general or granted to a category of persons or to a particular person;
- (b) subject to conditions; and
- (c) of indefinite duration or subject to an expiry date.

(3) The Governor may, after consultation with the Secretary of State, grant, vary or revoke, at any time, a licence issued in relation to a person who falls within subsection 2.

(4) On the grant, variation or revocation of a licence, the Governor shall—

- (a) in the case of a licence granted to a particular person, give written notice of the grant, variation or revocation to that person; and
- (b) in the case of a general licence or a licence granted to a category of persons, take such steps as he considers appropriate to publicise the grant, variation or revocation of the licence.

(5) A person commits an offence who, for the purpose of obtaining a licence, knowingly or recklessly—

- (a) provides information that is false in a material respect; or
 - (b) provides or produces a document that is not what it purports to be.
- (6) A person who purports to act under the authority of a licence but who fails to comply with any conditions included in the licence commits an offence.
- (7) A person who commits an offence under subsection (5) is liable—
- (a) on summary conviction, to a term of imprisonment not exceeding 5 years or to a fine not exceeding \$100,000, or both; or
 - (b) on conviction on indictment, to a term of imprisonment not exceeding 7 years or to a fine not exceeding \$250,000, or both.
- (8) A person who commits an offence under subsection (6) is liable—
- (a) on summary conviction, to a term of imprisonment not exceeding 3 years or to a fine not exceeding \$100,000, or both; or
 - (b) on conviction on indictment, to a term of imprisonment not exceeding 5 years or to a fine not exceeding \$250,000, or both.

Circumventing prohibitions etc.

- 29.** (1) A person commits an offence who intentionally participates in activities knowing that the object or effect of them is (whether directly or indirectly)—
- (a) to circumvent any of the prohibitions in sections 19 to 22 and section 24 ; or
 - (b) to enable or facilitate the contravention of any such prohibition.
- (2) A person who commits an offence under subsection (1) is liable—
- (a) on summary conviction, to a term of imprisonment not exceeding 5 years or to a fine not exceeding \$100,000, or both; or
 - (b) on conviction on indictment, to a term of imprisonment not exceeding 7 years or to a fine not exceeding \$250,000, or both.

PART 3

CONVENTION OFFENCES

Endangering the safety of maritime navigation

- 30.** (1) A person who, in respect of a ship registered in Anguilla or within the archipelagic or territorial waters of Anguilla unlawfully and intentionally—
- (a) seizes or exercises control over the ship by force or threat thereof or any other form of intimidation;

- (b) performs an act of violence against a person on board the ship and that act is likely to endanger the safe navigation of the ship;
- (c) destroys the ship or causes damage to such ship or to its cargo which is likely to endanger the safe navigation of the ship;
- (d) places or causes to be placed on the ship, by any means whatsoever, a device or substance which is likely to destroy the ship, or cause damage to the ship or its cargo which endangers or is likely to endanger the safe navigation of the ship;
- (e) destroys or seriously damages maritime navigational facilities or seriously interferes with their operation, if such act is likely to endanger the safe navigation of the ship; or
- (f) communicates information, knowing the information to be false and under circumstances in which the information may reasonably be believed, thereby endangering the safe navigation of the ship;

commits an offence and is liable, on conviction on indictment to imprisonment for 20 years.

(2) Where a person commits an offence under subsection (1) and the prohibited act causes the death of a person, the aforementioned person shall on conviction on indictment be liable to imprisonment for life.

Bombing offences

31. (1) A person who unlawfully and intentionally delivers, places, discharges or detonates an explosive or other lethal device in, into or against a place of public use, a State or government facility, a public transport facility, a public transportation system or an infrastructure facility—

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

commits an offence and is liable, on conviction on indictment, to imprisonment for life.

(2) This section does not apply to the military forces of a State—

- (a) during an armed conflict; or
- (b) in respect of activities undertaken in the exercise of their official duties.

Protection of internationally protected persons

32. (1) A person who kidnaps an internationally protected person commits an offence and shall, on conviction on indictment, be liable to imprisonment for life.

(2) A person who commits any other attack upon the person or liberty of an internationally protected person commits an offence and shall, on conviction on indictment, be liable—

- (a) where the attack causes death, to be sentenced in accordance with the penalty prescribed for the offence;

- (b) where the attack causes grievous bodily harm, to imprisonment for 20 years; or
- (c) in any other case, to imprisonment for 10 years.

(3) A person who intentionally destroys or damages otherwise than by means of fire or explosive—

- (a) official premises, private accommodation or means of transport, of an internationally protected person; or
- (b) other premises or property in or upon which an internationally protected person is present, or is likely to be present;

commits an offence and shall, on conviction on indictment, be liable to imprisonment for 10 years.

(4) A person who intentionally destroys or damages otherwise than by means of fire or explosive—

- (a) official premises, private accommodation or means of transport, of an internationally protected person; or
- (b) other premises or property in or upon which an internationally protected person is present, or is likely to be present;

with intent to endanger the life of that internationally protected person by that destruction or damage, commits an offence and shall, on conviction on indictment, be liable to imprisonment for 20 years.

(5) A person who intentionally destroys or damages by means of fire or explosive—

- (a) official premises, private accommodation or means of transport, of an internationally protected person; or
- (b) other premises or property in or upon which an internationally protected person is present, or is likely to be present;

commits an offence and is liable on conviction on indictment to imprisonment for 15 years.

(6) A person who intentionally destroys or damages by means of fire or explosive—

- (a) official premises, private accommodation or means of transport, of an internationally protected person; or
- (b) other premises or property in or upon which an internationally protected person is present, or is likely to be present;

with intent to endanger the life of that internationally protected person by that destruction or damage commits an offence and is liable on conviction on indictment to imprisonment for 25 years.

(7) A person who threatens to do anything that would constitute an offence against subsections (1) to (6) commits an offence and shall, on conviction on indictment, be liable to imprisonment for 10 years.

(8) A person who—

- (a) wilfully and unlawfully, with intent to intimidate, coerce, threaten or harass, enters or attempts to enter any building or premises which is used or occupied for official business or for diplomatic, consular, or residential purposes by an internationally protected person within Anguilla; or
- (b) refuses to depart from such building or premises after a request is made to do so, by an employee of a foreign government or an international organisation, if such employee is authorised to make such request;

commits an offence, and is liable on conviction on indictment to a fine of \$100,000 and to imprisonment for 5 years.

(9) For the purposes of this section “internationally protected person” has the meaning assigned to it in the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents.

Offences related to fixed platforms

33. (1) A person who unlawfully and intentionally—

- (a) seizes or exercises control over a fixed platform on the continental shelf, or in the exclusive economic zone or any fixed platform on the high seas while it is located on the continental shelf of Anguilla, by force or threat thereof or by any other form of intimidation;
- (b) performs an act of violence against a person on board such a fixed platform if that act is likely to endanger the platform’s safety;
- (c) destroys such a fixed platform or causes damage to it which is likely to endanger its safety;
- (d) places or causes to be placed on such a fixed platform, by any means whatsoever, a device or substance which is likely to destroy that fixed platform or likely to endanger its safety;
- (e) injures or kills any person in connection with the commission or the attempted commission of any of the offences referred to in paragraphs (a) to (d); or
- (f) damages or destroys any off-shore installation;

commits an offence.

(2) A person convicted of an offence referred to in subsection (1) is—

- (a) liable, on conviction on indictment, to imprisonment for 20 years; and
- (b) in the case where death results from the commission of the offence, liable on conviction on indictment to life imprisonment.

(3) In this section “fixed platform” means an artificial island, installation or structure attached to the seabed for the purpose of exploration or exploitation of resources or for other economic purposes.

Offences with regard to nuclear matter or facilities

34. (1) A person who unlawfully and intentionally—

- (a) intends to acquire or possesses nuclear material or designs or manufactures or possesses a device, or attempts to manufacture or acquire a device, with the intent—
 - (i) to cause death or serious bodily injury, or
 - (ii) to cause damage to property or the environment;
- (b) uses in any way nuclear material or a device, or uses or damages a nuclear facility in a manner which releases or risks the release of nuclear material with the intent—
 - (i) to cause death or serious bodily injury,
 - (ii) to cause damage to property or the environment, or
 - (iii) to compel a natural or legal person, an inter-governmental organisation or a State to do or refrain from doing an act;

commits an offence.

(2) A person who—

- (a) threatens, under circumstances which indicate the credibility of the threat, to commit an offence referred to in subsection (1)(b); or
- (b) unlawfully and intentionally demands radioactive material, a device or control of a nuclear facility by threat, under circumstances which indicate the credibility of the threat, or by use of force;

commits an offence.

(3) A person convicted of an offence under this section is liable on conviction on indictment to imprisonment for life.

(4) In this section “device” means a weapon of mass destruction.

Hoaxes involving noxious substances or things or explosives or other lethal material

35. (1) A person commits an offence if he—

- (a) places any substance or other thing in any place; or
- (b) sends any substance or other thing from one place to another by any means whatsoever;

with the intention of inducing in a person anywhere in the world a belief that it is likely to be or contain a noxious substance or other noxious thing or a lethal device or chemical weapon, biological weapon or nuclear weapon.

(2) A person commits an offence if he communicates any information which he knows or believes to be false with the intention of inducing in a person anywhere in the world a belief that a noxious substance or other noxious thing or a lethal device or a weapon of mass destruction is likely to be present, whether at the time the information is communicated or later, in any place.

(3) A person who commits an offence under this section is liable on conviction on indictment to imprisonment for 15 years.

(4) For a person to commit an offence under this section it is not necessary for him to have any particular person in mind as the person in whom he intends to induce the belief in question.

(5) For the purposes of this section “substance” includes any biological agent and any other natural or artificial substance, whatever its form, origin or method of production.

Use of chemical, biological or nuclear weapons

36. (1) A person who, unlawfully and intentionally uses, threatens or attempts or conspires to use chemical weapons, biological weapons or nuclear weapons—

- (a) against an Anguillian or a person ordinarily resident in Anguilla while either such person is outside Anguilla;
- (b) against any person within Anguilla; or
- (c) against any property that is owned, leased or used by the Government of Anguilla, whether the property is within or outside of Anguilla;

commits an offence and is liable on conviction on indictment to imprisonment for life.

(2) An Anguillian or person ordinarily resident within Anguilla who, unlawfully and intentionally, uses chemical weapons, biological weapons or nuclear weapons outside of Anguilla commits an offence and is liable on conviction on indictment to imprisonment for life.

PART 4

DESIGNATIONS BY THE GOVERNOR AND UNITED NATIONS SECURITY COUNCIL

Designation of entities as terrorist entities by the UN

37. Where the Security Council of the United Nations or Office of Financial Sanctions Implementation has published—

- (a) a list of designated persons or entities to whom, or
- (b) a list of funds or economic resources or a class of funds and economic resources to which;

measures against terrorism and terrorist financing shall apply, the Unit shall, without delay, disseminate the list to all persons, reporting entities, competent authorities or the public in such media or format as it considers appropriate.

Interim designation as terrorist or associated entity

38. (1) The Governor may, after consultation with the Secretary of State, make an interim designation of an entity as a terrorist entity if the United Nations Security Council has advised that measures should be taken in relation to an entity because of the risks of terrorist acts being carried on by that entity.

(2) The Governor may, after consultation with the Secretary of State, also make an interim designation of an entity if—

- (a) he reasonably suspects or believes that the entity—
 - (i) is or has been involved in one or more terrorist acts,
 - (ii) is owned or controlled directly or indirectly by an entity within subparagraph (i), or
 - (iii) is acting on behalf of or at the direction of an entity within subparagraph (i); and
- (b) he considers that it is necessary for purposes connected with protecting members of the public from terrorism that financial restrictions should be applied in relation to the entity.

(3) It is immaterial whether the acts of terrorism in question are specific acts of terrorism, terrorist financing or acts of terrorism generally.

(4) The Governor may collect or solicit information to identify entities who meet the criteria under subsection (2) for an interim designation.

(5) On or after designating an entity as a terrorist entity under this Act, the Governor may, after consultation with the Secretary of State, designate one or more other entities as an associated entity under this section.

(6) The Governor may exercise the power given by subsection (5) only if the Governor reasonably suspects or believes that the other entity—

- (a) is knowingly facilitating the carrying out of one or more terrorist acts by, or with the participation of, the terrorist entity (for example, by financing those acts, in full or in part); or
- (b) is acting on behalf of, or at the direction of—
 - (i) the terrorist entity, knowing that the terrorist entity has done what is referred to in subsection (2); or

- (ii) an entity designated as an associated entity under subsection (5) and paragraph (a), knowing that the associated entity is doing what is referred to in paragraph (a); or
- (c) is an entity (other than an individual) that is wholly owned or effectively controlled, directly or indirectly, by the terrorist entity, or by an entity designated under subsection (5) and paragraph (a) or paragraph (b) of this subsection; and
- (d) he considers that it is necessary for purposes connected with protecting members of the public from terrorism that financial restrictions should be applied in relation to the other entity.

Further provisions relating to interim designation

39. An interim designation under section 38—

- (a) may be made in respect of an entity only once, and therefore may not be made in respect of an entity who—
 - (i) is the subject of an earlier designation made under section 38 that has not yet expired or been revoked, or
 - (ii) was the subject of a designation under section 38 that has expired or been revoked;
- (b) takes effect on being made, and shall be made in writing signed by the Governor;
- (c) shall be publicly notified—
 - (i) by a notice (in the prescribed form (if any)) indicating that it has been made being published in the *Gazette* as soon as practicable, and
 - (ii) in any other way the Governor directs under section 4651);
- (d) shall also be notified—
 - (i) by a notice (in the prescribed form (if any)) indicating that it has been made being given (in the prescribed manner (if any)) with all reasonable speed to the designated terrorist entity, if practicable, where that entity or a representative of it is in Anguilla; and
 - (ii) by a notice indicating that it has been made being given to any other persons or bodies, as the Governor directs under section 45(2);
- (e) expires on the close of the 30th day after the day on which it is made, unless it has earlier been revoked by the Governor under section 51, or by the making of a final designation in respect of the entity concerned, under section 40;
- (f) operates until it expires or is revoked but, if it is made the subject of any judicial review or other proceedings before a court and is not sooner revoked under section 51, continues to operate until those proceedings are withdrawn or finally determined; and

- (g) can be varied or revoked by the Governor, after consultation with the Secretary of State, at any time, and the designated terrorist entity shall be given written notice of the variation or revocation and the Governor shall take reasonable steps to bring the variation or revocation to the attention of the entities informed of the designation.

Final designation as terrorist or associated entity

40. (1) The Governor may, after consultation with the Secretary of State, make a final designation of an entity if—

- (a) he reasonably suspects or believes that—
 - (i) the entity is or has been involved in one or more terrorist acts;
 - (ii) the entity is owned or controlled directly or indirectly by an entity under subparagraph (i); or
 - (iii) the entity is acting on behalf of or at the direction of an entity under subparagraph (i); and
- (b) he considers that it is necessary for purposes connected with protecting members of the public from terrorism that financial restrictions should be applied in relation to the entity.

(2) The Governor may collect or solicit information to identify entities who meet the criteria under subsection (1) for a final designation.

(3) On or after designating an entity as a terrorist entity under this Act, the Governor may, after consultation with the Secretary of State, designate one or more other entities as an associated entity under this section.

(4) The Governor may exercise the power given by subsection (3) only if the Governor believes on reasonable grounds that the other entity—

- (a) is knowingly facilitating the carrying out of one or more terrorist acts by, or with the participation of, the terrorist entity (for example, by financing those acts, in full or in part); or
- (b) is acting on behalf of, or at the direction of—
 - (i) the terrorist entity, knowing that the terrorist entity has done what is referred to in subsection (1), or
 - (ii) an entity designated as an associated entity under subsection (3) and paragraph (a), knowing that the associated entity is doing what is referred to in paragraph (a); or
- (c) is an entity (other than an individual) that is wholly owned or effectively controlled, directly or indirectly, by the terrorist entity, or by an entity designated under subsection (3) and paragraph (a) or paragraph (b); and

- (d) he considers that it is necessary for purposes connected with protecting members of the public from terrorism that financial restrictions should be applied in relation to the other entity.
- (5) The Governor may make a final designation if the Governor—
- (a) has received a request to make a final designation from an authority outside of Anguilla which appears to the Governor to have the function of making requests to freeze funds and other resources; and
- (b) considers it appropriate and reasonable in the circumstances to make the final designation.
- (6) The Governor may request another country or territory to give effect to any action initiated by Anguilla under this Part.
- (7) The Governor in making the request to another country or territory under subsection (6) shall provide, as much as possible, identifying information and specific information supporting the designation.

Further provisions relating to final designation

41. A final designation under section 40—

- (a) may be made in respect of an entity who—
- (i) has never been the subject of an interim designation made under section 38,
- (ii) is the subject of an interim designation under section 38 that has not yet expired or been revoked, or
- (iii) was the subject of an interim designation under section 38 that has expired or been revoked.
- (b) may be made in respect of an entity who was earlier the subject of a designation made under section 40 and that has expired or been revoked (the earlier designation) only if it is based on information that became available after the expiry or revocation of the earlier designation and is significantly different from the information on which the earlier designation was based;
- (c) takes effect on being made, and shall be made in writing signed by the Governor;
- (d) shall be publicly notified—
- (i) by a notice (in the prescribed form (if any)) indicating that it has been made being published in the *Gazette* as soon as practicable; and
- (ii) in any other way the Governor directs under section 45(1);

- (e) shall also be notified—
 - (i) by a notice (in the prescribed form (if any)) indicating that it has been made being given (in the prescribed manner (if any)) with all reasonable speed to the designated terrorist entity, if practicable, where that entity or a representative of it is in Anguilla; and
 - (ii) by a notice indicating that it has been made being given to any other persons or bodies, as the Governor directs under section 45(2);
- (f) operates until it expires or is revoked but, if it is made the subject of any judicial review or other proceedings before a court and is not sooner revoked under section 51, continues to operate until those proceedings are withdrawn or finally determined; and
- (g) can be varied or revoked by the Governor, after consultation with the Secretary of State, at any time, and the designated terrorist entity shall be given written notice of the variation or revocation and the Governor shall take reasonable steps to bring the variation or revocation to the attention of the entities informed of the designation.

Entity or property need not be in Anguilla

42. An entity may be designated under section 38 or section 40 whether or not any of the following is in the Anguilla—

- (a) the entity;
- (b) property owned or controlled, directly or indirectly, by the entity;
- (c) property derived or generated from any property of the kind referred to in paragraph (b).

Content of notice to designated terrorist entity

43. A notice under section 39(d)(i) or section 41(e)(i) (to notify the designated terrorist entity of the making of the designation under section 38 or section 40)—

- (a) shall state the section under which the designation is made, and whether the entity concerned is designated as a terrorist entity or as an associated entity;
- (b) may describe the entity concerned by reference to any name or names or associates or other details by which the entity may be identified;
- (c) shall state that any person who deals with the entity's property may be liable to prosecution for an offence under section 17;
- (d) shall state the maximum period for which the designation may have effect or, if it is made under section 40, the maximum period for which it may have effect without being renewed under section 52(2) or (3);
- (e) shall include general information about how it may be reviewed and revoked; and

- (f) shall include any other information specified for the purposes of this subsection by regulations made under this Act.

Content of notice to public and others

44. (1) Subsection (2) applies to—

- (a) a notice under section 39(c)(i) or section 41(d)(i) to notify publicly the making of a designation under section 38 or section 40; and
- (b) a notice under section 39(d)(ii) or section 41(e)(ii) to notify specified persons or bodies of the making of a designation under section 38 or section 40.

(2) The notice—

- (a) shall state the section under which the designation is made, and whether the entity concerned is designated as a terrorist entity or as an associated entity;
- (b) may describe the entity concerned by reference to any name or names or associates or other details by which the entity may be identified;
- (c) shall state that any person who deals with the entity's property may be liable to prosecution for an offence under section 17;
- (d) shall state the maximum period for which the designation may have effect or, if it is made under section 40, the maximum period for which it may have effect without being renewed under section 52(2) or (3);
- (e) shall include any other information specified for the purposes of this subsection by regulations made under this Act; and
- (f) may include details of all earlier designations under this Act that have not yet expired or been revoked, so as to provide details of all entities currently designated under this Act.

Further notification of making of designation

45. (1) The Governor may, for the purposes of section 39(c)(ii) or section 41(d)(ii), direct that the making of a designation under section 38 or section 40 be publicly notified, other than by notice in the *Gazette*, and either in the prescribed manner or form or both, if any, or in any other manner or form or both that the Governor thinks fit.

(2) The Governor may, for the purposes of section 39(d)(ii) or section 41(e)(ii), direct that notice of the making of a designation under section 38 or section 40 be given, either in the prescribed manner or in any other manner that the Governor thinks fit, to any persons or bodies that the Governor thinks fit, for example, to any registered banks or other person—

- (a) who may possess property which may be property to which section 17 relates; or
- (b) who may make available property or services to which sections 19 and 20 may relate.

Designations not invalid for certain reasons

46. No designation under section 38 or section 40 shall be invalid only by reason that—
- (a) the entity concerned was not, before the designation was made, given notice that it may be made, or a chance to comment on whether it should be made, or both; or
 - (b) the making of it has not been notified or notice of the making of it has not been given, in the manner or form required by section 39 or section 41.

Changes of description of designated entities

47. (1) If satisfied that an entity designated under section 40 should have a description other than —
- (a) that under which the entity was designated, or
 - (b) the description stated in the most recent notice under this section 43 (b) relating to the entity, the Governor may, by signing a written notice to that effect, state a new description for the entity.
- (2) The notice shall identify the entity by reference to—
- (a) its most recent description; and
 - (b) the notice in the *Gazette* in which that description was stated.
- (3) Sections 41(d) and (e) apply to the notice as if it were a designation under section 40; and section 45(2) applies accordingly.
- (4) The stating of the new description does not affect the designation of the entity and, in particular, does not affect the application of section 52(1) to it.

PART 5

MATERIAL ON WHICH DESIGNATIONS MAY BE BASED

Information available to Governor

48. In considering whether to make or to revoke a designation under section 38 or section 40 or section 51, the Governor may take into account any relevant information, including classified security information.

Classified security information defined

49. (1) In this Act, “classified security information” means information—
- (a) relevant to whether there are or may be grounds for designating an identifiable entity under this Act as a terrorist entity or as an associated entity;
 - (b) held by a specified agency; and

- (c) that the Head of the specified agency certifies in writing (in the prescribed form (if any)) that the information cannot be disclosed except to the extent provided in section 53 because, in the opinion of the Head of the specified agency—
 - (i) the information is information of a kind specified in subsection (2); and
 - (ii) disclosure of the information would be disclosure of a kind specified in subsection (3).
- (2) Information falls within subsection (1)(c)(i) if it—
 - (a) might lead to the identification of, or provide details of, the source of the information, the nature, content, or scope of the information, or the nature or type of the assistance or operational methods available to the specified agency;
 - (b) is about particular operations that have been undertaken, or are being or are proposed to be undertaken, in pursuance of any of the functions of the specified agency; or
 - (c) has been provided to the specified agency by the Government of another country or by an agency of a Government of another country or by an international organisation, and is information that cannot be disclosed by the specified agency because the government or agency or organisation by which the information has been provided will not consent to the disclosure.
- (3) Disclosure of information falls within subsection (1)(c)(ii) if the disclosure would be likely—
 - (a) to prejudice the security or defence of Anguilla or the international relations of the Government of Anguilla;
 - (b) to prejudice the entrusting of information to the Government of Anguilla on a basis of confidence by the Government of another country or any agency of such a Government, or by any international organisation;
 - (c) to prejudice the maintenance of the law, including the prevention, investigation, and detection of offences, and the right to a fair trial; or
 - (d) to endanger the safety of any person.

Judicial review of designations

50. Nothing in this Act prevents a person from bringing any judicial review or other proceedings before a court arising out of, or relating to, the making of a designation under this Act.

Revocation of designations

51. (1) The Governor may at any time revoke a designation made under section 38 or section 40, either on the Governor's own initiative or on an application in writing for the purpose—

- (a) by the entity who is the subject of the designation; or

(b) by a third party with an interest in the designation that, in the Governor's opinion, is an interest apart from any interest in common with the public.

(2) Without limiting subsection (1)(b), a party may have an interest in a designation apart from any interest in common with the public through—

(a) possessing or controlling, or having an interest in, property to which section 17 applies as a result of the designation;

(b) making available property or services to which section 19 and 20 applies as a result of the designation; or

(c) having an especially close association with the designated terrorist entity or its interests or objectives.

(3) Subject to subsection (4), an application under subsection (1) for revocation of a designation shall be based on the grounds—

(a) that the designation should not stand because the entity concerned does not satisfy the test stated in section 38(1) or (3) or, as the case requires, in section 40(1) or (3); or

(b) that the entity concerned is no longer involved in any way in acts of the kind that made, or that would make, the entity eligible for designation.

(4) The Governor may not refuse an application to revoke a designation under section 38 or section 40 without having first consulted with the Attorney-General about the proposed refusal.

(5) Except as provided in subsection (4), subsection (1) overrides every other provision of this Act.

Designations under section 40 to expire after 3 years unless renewed by Governor

52. (1) A designation under section 40 expires 3 years after the date on which it takes effect, unless it is earlier—

(a) revoked under section 51; or

(b) renewed by an order under subsection (2) or (3).

(2) The Governor may order that a designation made under section 40 remain in force for a further 3 years after the making of the order if the Governor is satisfied that there are still reasonable grounds as set out in section 40 for an entity to be designated under that section.

(3) Before the expiry of an order under subsection (2), the Governor may make another order renewing the designation concerned for a further 3 years.

(5) The Governor may make any number of orders under subsection (3) in respect of the same designation.

Procedure in proceedings involving classified security information

53. (1) This section applies to any proceedings in a court arising out of, or relating to, the making of a designation under this Act.

(2) The court shall determine the proceedings on the basis of information available to it (whether or not that information has been disclosed to or responded to by all parties to the proceedings).

(3) If information presented, or proposed to be presented, by the Crown includes classified security information—

- (a) except where proceedings are before the Court of Appeal, the proceedings shall be heard and determined by a Judge; and
- (b) the court shall, on a request for the purpose by the Attorney-General, and if satisfied that it is desirable to do so for the protection of either all or part of the classified security information, receive or hear the relevant part or all of the classified security information in the absence of—
 - (i) the designated terrorist entity concerned, and
 - (ii) all legal practitioners, if any, representing that entity, and
 - (iii) members of the public.

(4) Without limiting subsection (3), if the designated terrorist entity concerned participates in proceedings—

- (a) the court shall approve a summary of the information of the kind referred to in section 49(2) that is presented by the Attorney-General except to the extent that a summary of any particular part of the information would itself involve disclosure that would be likely to prejudice the interests referred to in section 49(3); and
- (b) on being approved by the court a copy of the statement shall be given to the entity concerned.

(5) Nothing in this section limits section 24 of the Crown Proceedings Act or any rule of law that authorises or requires the withholding of a document or the refusal to answer a question on the ground that the disclosure of the document or the answering of the question would be injurious to the public interest.

(6) Subsections (2) to (5) apply despite any enactment or rule of law to the contrary.

Ancillary general practices and procedures to protect classified security information

54. (1) Any general practices and procedures that may be necessary to implement the procedures specified in section 53 and to ensure that classified security information is protected in all proceedings to which that section relates shall be agreed between the High Court Judge and the Attorney-General as soon as practicable after the commencement of this section, and revised from time to time.

(2) Without limiting the generality of subsection (1), general practices and procedures may be agreed under that subsection on the following matters—

- (a) measures relating to the physical protection of the information during all proceedings to which section 53 relates;
- (b) the manner in which the information may be provided to the court;
- (c) measures to preserve the integrity of the information until any appeals are withdrawn or finally determined.

Notification of revocation, expiry, or invalidity of designations

55. (1) If a designation under this Act expires or is revoked or is found to be or to have been invalid, under section 48 or section 59 or by virtue of any judicial review or other proceedings before a court, the Governor shall—

- (a) ensure that notice of the revocation or expiry or invalidity is published in the *Gazette* as soon as practicable; and
- (b) take all reasonable steps to ensure that notice of the revocation or expiry or invalidity is given, in the manner and form required by section 39(d) or section 41(e), to every person and body specified in subsection (2) who is not already aware of it.

(2) The persons and bodies referred to in subsection (1)(b) are every person or body to whom notice of the making of the designation was given under section 39(d) or section 41(e).

Listing and De-listing Procedure

56. (1) The Governor may, through the Foreign and Commonwealth Office of the United Kingdom, propose to any relevant United Nations Security Council Committee, that an entity be—

- (a) listed as a designated terrorist entity because of the involvement of that entity in one or more terrorist acts; or
- (b) de-listed from any list maintained by a relevant United Nations Security Council Committee, where the Governor believes that the entity no longer meets the criteria for designation.

(2) The Governor shall not make a proposal for a designation under subparagraph (1)(a) against an entity unless the Governor has reasonable grounds to suspect or believe that the entity is involved in one or more terrorist acts.

(3) The Governor, when proposing entities to the relevant United Nations Security Council Committee, shall—

- (a) follow the procedures and standard forms for listing, as adopted by the relevant United Nations Security Council Committee;
- (b) provide as much relevant information as possible on the proposed entity, particularly, sufficient identifying information to allow for the accurate and positive

identification of the entity and to the extent possible, the information required by Interpol to issue a Special Notice.

- (c) provide a statement of case which contains as much detail as possible on the basis for the listing, including—
 - (i) specific information supporting a determination that the entity meets the relevant criteria for designation under sections 38(2) and 40(1) of this Act,
 - (ii) the nature of the information,
 - (iii) supporting information or documents that can be provided, and
 - (iv) details of any connection between the proposed designee and any currently designated entity; and
 - (d) specify whether the status as a designating state may be made known.
- (4) The Governor shall, while his proposal is being considered, operate *ex parte* against the entity that has been identified as a designated terrorist entity.
- (5) The Governor may establish procedures for the—
- (a) de-listing; and
 - (b) unfreezing of funds and other resources, of a person who no longer meets the criteria for designation.
- (6) The procedures referred to in subsection (5) include the following—
- (a) the submission of a de-listing request to the relevant United Nations Sanctions Committee;
 - (b) in relation to United Nations Security Council Resolution 1373, allowing, upon request, review of a designation decision before a court or other independent competent authority;
 - (c) in relation to designations under United Nations Security Council Resolution 1988, facilitation of the review by the 1988 Committee;
 - (d) in relation to designations on the Al-Qaida Sanctions List, informing designated terrorist entities of the availability of the United Nations Office of the Ombudsman pursuant to United Nations Security Council Resolutions 1904, 1989 and 2083 to accept de-listing petitions;
 - (e) unfreezing of the funds or other assets of an entity with the same or similar name as a designated terrorist entity; and
 - (f) facilitation of the review of a designation by the United Nations Security Council 1988 Committee concerning the Taliban and associated individuals and entities.

Communication of designated terrorist entities' list, de-listing and unfreezing

57. (1) The Unit shall, as soon as is reasonably practicable after a designation is made, communicate the designation through a medium it considers appropriate, to all financial institution or service providers.

(2) The Unit shall, as soon as is reasonably practicable after an entity is de-listed as a designated terrorist entity or funds or other assets are unfrozen, communicate the de-listing and the unfreezing through a medium it considers appropriate, to all financial institution or service provider it is required to supervise.

(3) The Unit shall maintain and make available to the public an updated list of all designated terrorist entities, entities that have been de-listed as designated terrorist entities and funds and assets that have been unfrozen.

(4) A person, upon being notified that an entity is no longer listed as a designated terrorist entity, shall, without delay—

- (a) confirm whether it has frozen funds or other assets of the entity;
- (b) verify with the Unit that the entity is no longer subject to the prohibition under section 66; and
- (c) if funds or other assets are frozen, unfreeze the funds or other assets of the entity and reactivate the relevant accounts.

(5) A person shall submit notification to the entity that the assets are no longer subject to the prohibition under section 19 and 20 and notify the Governor of the actions taken.

Appeal to the court in relation to designations

58. (1) This section applies to any decision of the Governor—

- (a) to make or vary an interim or final designation of an entity;
- (b) to renew a final designation of an entity; or
- (c) not to vary or revoke an interim or final designation of an entity.

(2) The designated terrorist entity concerned may appeal against any such decision to the court.

(3) On an appeal under subsection (2), the court may make such Order as it consider appropriate.

(4) Under subsection (3), where an Order is being made, the court may in the Order—

- (a) make provision for the access of funds or other assets of the designated terrorist entity to cover basic or extraordinary expenses, including but not limited to—
 - (i) mortgage or rent payments,
 - (ii) allowances for food, medicine and medical treatment,

- (iii) any payments due as a result of an Order of the court,
 - (iv) provision for—
 - (A) the reasonable living expenses of dependants, including educational expenses, and
 - (B) medicine and medical treatment of dependants, and
 - (v) provision for taxes, insurance premiums and public utilities;
 - (b) make provision for reasonable legal expenses, including expenses incurred in defending a criminal charge or any proceedings connected thereto and any proceedings under Part 2;
 - (c) make provision for expenses necessary to enable a person to carry on any trade, business, profession or occupation;
 - (d) make provision for fees or service charges for routine holding or maintenance of frozen funds or other financial assets or economic resources; and
 - (e) make the designated terrorist entity subject to any other condition that the court considers necessary and reasonable.
- (5) The making of an appeal under this section does not suspend the effect of the decision to which the appeal relates.

Review of other decisions by the court

59. (1) This section applies to any decision of the Governor in connection with his functions under this Part other than a decision to which section 61 applies.

(2) Any person affected by a decision to which this section applies may apply to the court for the decision to be set aside.

(3) In determining whether the decision should be set aside, the court shall apply the principles applicable on an application for judicial review.

(4) If the court decides that a decision should be set aside it may make any Order, or give any relief, as may be made or given in proceedings for judicial review.

Jurisdiction to try offences

60. Where an offence under 19 to 22 and sections 24 is committed outside of Anguilla, proceedings for the offence may be taken in Anguilla and the offence may for all incidental purposes be treated as having been committed in Anguilla.

Procedure for offences by unincorporated bodies

61. (1) A fine imposed on an unincorporated body on its conviction of an offence under Part 2 shall be paid out of the funds of the body.

(2) If it is alleged that an offence under Part 2 has been committed by an unincorporated body, as opposed to by a member of the body—

- (a) proceedings for the offence shall be brought in the name of the body; and
- (b) for the purposes of such proceedings any rules of court relating to the service of documents have effect as if the body were a body corporate.

Notices under this Part

62. (1) Where a notice is required to be given to a person by the Governor under this Part, the notice may be given—

- (a) by posting it to the person's last known address; or
- (b) where the person is a body corporate, partnership or unincorporated body other than a partnership, by posting it to the registered or principal office of the body or partnership concerned.

(2) Where the Governor does not have an address for the person, he shall cause arrangements to be made for the notice to be given to the person at the first available opportunity.

PART 6

PROVISIONS FOR DESIGNATED ENTITIES

Application of this Part

63. This Part applies to entities that have been designated as terrorist entities, hereinafter referred to as "designated entities" by—

- (a) the Governor; and
- (b) the United Nation Security Council.

Duties of the Unit in relation to designated entities

64. (1) In relation to a designation by the Governor or the United Nations Security Council, the Unit shall be responsible for the following—

- (a) maintaining a list of designated entities designated by the Governor and the United Nations Security Council ;
- (b) maintaining contact with the United Nations at frequent intervals to ensure that the list of designated entities remains current;
- (c) circulating the list referred to in paragraph (a) or (b) immediately, to financial institutions and or service provider requesting information on whether these designated entities have funds in Anguilla;
- (d) furnishing the Attorney-General with information required to facilitate an application under section 75, where a designated entity has funds in Anguilla; and

- (e) maintaining a consolidated list of all Orders issued by the Court under section 75(3) and circulating same by facsimile transmission or other electronic means to all financial institutions and or service provider immediately at intervals of 3 months.

(3) Notwithstanding its obligation to circulate the consolidated list under subsection 2(e), the Unit shall, when new information has been obtained before the expiration of 3 months, circulate any additions to that list or a new list immediately by facsimile transmission.

Certain procedures apply

65. (1) As soon as a person, financial institution or service provider receives the list of designated entities referred to in section 64(2)(c) or the consolidated list of all Orders issued by the court referred to in section 64(2)(e), the following procedures shall apply—

- (a) the person, financial institution or service provider shall immediately inform the Unit in the prescribed form, if any individual or entity named on either list has funds with the financial institution or service provider;
- (b) if the person, financial institution or service provider has reasonable grounds to believe that a individual or entity named on either list has funds in Anguilla, it shall immediately inform the Unit on the prescribed form;
- (c) if an individual or entity named on that list attempts to enter into a transaction or continue a business relationship with the financial institution or service provider, the financial institution or service provider shall submit a suspicious activity report to the Unit immediately and shall not enter into or continue a business transaction or business relationship with such person or entity; and
- (d) the person, financial institution or service provider shall freeze funds without delay and without prior notice in accordance with section 66.

(2) Where a person, financial institution or service providers informs the Unit under subsection (1)(a) to (c) this shall be in the form a Suspicious Activity or Suspicious Transaction Report and such reports shall be made in accordance with Schedule 1.

(3) Where the Unit receives information referred to in subsection (1) from a person, financial institution or a service provider, the Unit shall immediately furnish this information to the Attorney-General and the Attorney-General shall make an application for an Order under section 75(3).

Freezing of funds and economic resources

66. (1) The financial institution or service provider shall freeze, without delay and without providing prior notice—

- (a) the funds or economic resources owned, held or controlled by a designated entity;
- (b) the funds or economic resources that are wholly or jointly owned, held or controlled, directly or indirectly by a designated entity;
- (c) the funds or economic resources derived or generated from funds or other economic resources owned or controlled directly or indirectly by a designated entity; and

- (d) the funds or economic resources of a person acting on behalf of or at the direction of a designated entity;

if the financial institution or service providers knows, or has reasonable cause to suspect, that the designated entity is dealing with such funds or economic resources.

- (2) In subsection (1)—

“dealing with” includes—

- (a) in relation to funds, transferring, converting, disposing, moving or using; or
- (b) in relation to economic resources, exchanging or using in exchange for funds, goods or services; and

“freeze” means to prohibit the transfer, conversion, disposition, movement or use of any funds or economic resources that are owned or controlled by a designated terrorist entity.

Reporting requirements

67. (1) Where a person, financial institution or service provider knows or has reasonable grounds to suspect that funds within the financial institution or service provider or property held belong to an individual or legal entity who—

- (a) commits terrorist acts or participates in or facilitates the commission of terrorist acts or the financing of terrorism; or
- (b) is a designated entity or
- (c) is an entity that is knowingly acting on behalf of, at the direction of, or in association with, a designated entity;

the person, financial institution or service provider shall promptly make a suspicious activity report or suspicious transaction report to inform the Unit of the existence of such funds, assets frozen or actions taken in compliance with the prohibition requirements.

- (2) Every financial institution or service provider shall—

- (a) pay special attention to and report to the Unit in accordance with subsection (1) all—
 - (i) business transactions between individuals, corporate persons and financial institutions in or from other countries which do not comply with, or who comply insufficiently with the recommendations of the Financial Action Task Force, and
 - (ii) complex, unusual, or large transactions, whether completed or not,
 - (iii) unusual patterns of transactions, and
 - (iv) significant but periodic transactions which have no apparent economic or visible lawful purpose;

- (b) examine the background and purpose of all transactions which have no apparent economic or visible legal purpose under paragraph (a)(iv) and make available to the Unit, written findings after its examinations, where necessary;
- (c) keep and retain records relating to financial activities in accordance with the Regulations made under this Act;
- (d) develop and implement a written compliance programme, reasonably designed to ensure compliance with this Act; and
- (e) monitor compliance with the Regulations made under this Act.

(3) Where a financial institution or service provider knows or has reasonable grounds to suspect that there is a completed or attempted activity or transaction—

- (a) that is related to terrorist financing or a terrorist acts;
- (b) that is connected to property owned or controlled, directly or indirectly, by a designated terrorist entity; and
- (c) that is connected to property that is derived or generated from any terrorist financing or a terrorist act.

the financial institution or service provider shall promptly make a suspicious transaction, or a suspicious activity report to the Unit.

(4) Where a financial institution or service provider makes a report to the Unit under subsection (1), (2)(a) or (3), it shall state—

- (a) the information or other matter on which the knowledge or suspicion is based; and
- (b) any information it holds about the person by which the person can be identified.

(5) Where a financial institution or service provider makes a report to the Unit under subsection (1), (2) or (3) that it knows, or has reasonable cause to suspect, that—

- (a) a person is a designated terrorist entity; and
- (b) that entity is a customer of the institution;

the financial institution or service provider shall also state the nature and amount or quantity of any funds or economic resources held by it for the customer at the time when it first had the knowledge or suspicion.

(6) A financial institution or service provider that fails to comply with any requirement of subsection (1) to (5) commits an offence and is liable—

- (a) on summary conviction to a fine of \$100,000 and to imprisonment for 2 years; and
- (b) on conviction on indictment, to a fine of \$200,000 and to imprisonment for 7 years.

(7) Where a company commits an offence under subsections (1), to (5), any officer, director or agent of the company—

(a) who directed, authorised, assented to, or acquiesced in the commission of the offence; or

(b) to whom any omission is attributable;

is a party to the offence and is liable—

(i) on summary conviction to a fine of \$100,000 and to imprisonment for 2 years; and

(ii) on conviction on indictment, to a fine of \$200,000 and to imprisonment for 7 years.

(8) A financial institution or service provider shall report any action taken by the institution or service provider in accordance with the prohibitions outlined in Part 2.

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(9) Subject to sections 68 and 75, where a financial institution or service provider makes a suspicious transaction or suspicious activity report to the Unit under this section, the Director or staff of the Unit or of such financial institution or service provider shall not disclose the fact or content of such report to any person.

(10) Any person who contravenes subsection (9) commits an offence and is liable on summary conviction to a fine of \$500,000 and to imprisonment for 5 years.

(11) A report made under this section shall be made within 14 days of the date on which the financial institution or service provider knew or had reasonable grounds to suspect that the funds were linked or related to, or were to be used for terrorism, terrorist acts or by terrorist organisations or those who finance terrorism.

(12) When the report referred to in this section is made in good faith, the financial institution or service provider and their employees, staff, directors, owners or other representatives as authorised by law, are exempt from criminal, civil or administrative liability, as the case may be, for complying with this section or for breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision, regardless of the result of the communication.

(13) Any information required under this section to be reported by a financial institution or service provider shall be—

(a) made in the form of a suspicious activity report or a suspicious transaction report and;

(b) done in accordance with Schedule 2.

Identification of offence of financing of terrorism

68. (1) Where the Unit receives information from a financial institution or service provider and it considers that an investigation may disclose that funds in the possession of any individual or legal

entity are being used, have been used or are intended for use in the financing of terrorism, the Director of the Unit shall initiate an investigation.

Unit may suspend certain transactions

69. (1) The Unit may instruct a financial institution or service provider in writing, to suspend the processing of a transaction for a period not exceeding 5 working days, pending the completion of an evaluation and analysis of a suspicious transaction or suspicious activity report.

(2) Where those instructions are given, a financial institution or service provider or any other aggrieved person, may apply to a judge to discharge the instructions of the Unit and shall serve notice on the Unit, to join in the proceedings, save however, that the instructions shall remain in force until the judge determines otherwise.

(3) After the Unit has concluded its evaluation and analysis of a suspicious transaction or suspicious activity report, and where the Director of the Unit is of the view that the circumstances warrant investigation, a report shall be submitted to the Commissioner of Police for investigation to determine whether an offence of financing of terrorism (under sections 18 to 24) has been committed and whether the funds are located in Anguilla or elsewhere.

Unit's power to request information

70. (1) The Unit may request a designated entity to provide information concerning—

- (a) funds or economic resources owned, held or controlled by or on behalf of the designated entity; or
- (b) any disposal of such funds or economic resources.

(2) The Unit may request a designated entity to provide such information as the Unit may reasonably require about expenditure—

- (a) by or on behalf of the designated entity; or
- (b) for the benefit of the designated entity.

(3) The power in subsections (1) or (2) is exercisable only where the Unit believes that it is necessary for the purpose of monitoring compliance with or detecting evasion of the obligations and prohibitions specified in this Part and Part 2 (prohibitions).

(4) The Unit may request a person acting under a licence referred to in section 26 or granted under section 28 to provide information concerning—

- (a) funds or economic resources dealt with under the licence; or
- (b) funds, economic resources or financial services made available under the licence.

(5) The Unit may request any person in or resident in Anguilla to provide such information as the Unit may reasonably require in order to—

- (a) establish for the purposes of this Part—

- (i) the nature and amount or quantity of any funds or economic resources owned, held or controlled by or on behalf of a designated entity,
 - (ii) the nature and amount or quantity of any funds, economic resources or financial services made available directly or indirectly to, or for the benefit of, a designated entity, or
 - (iii) the nature of any financial transactions entered into by a designated entity;
- (b) monitor compliance with or detecting evasion of this Part or Part 2; or
- (c) obtain evidence of the commission of an offence under Part 2.

(6) The Unit may specify the manner in which, and the period within which, information shall be provided, and if no such period is specified, the information which has been requested shall be provided within a reasonable time.

(7) A request may include a continuing obligation to keep the Unit informed as circumstances change, or on such regular basis as the Unit may specify.

(8) Information requested under this paragraph may relate to any period of time during which a person is, or was, a designated entity.

(9) Information requested under subsections (1)(b), (2) or (5)(a)(iii) may relate to any period of time before a person became a designated entity or any subsequent period of time.

Production of documents

71. (1) A request under section 70 may include a request to produce specified documents or documents of a specified description.

(2) Where the Unit requests that documents be produced, he may—

- (a) cause copies to be made of, or extracts to be taken from, any document so produced;
- (b) request any person producing a document to give an explanation of it; and
- (c) where that person is a body corporate, partnership or unincorporated body other than a partnership, request any person who is—
 - (i) in the case of a partnership, a present or past partner or employee of the partnership, or
 - (ii) in any other case, a present or past officer or employee of the body concerned;

to give such an explanation.

(3) Where the Unit requests a designated entity or a person acting under a licence referred to in section 26 or granted under section 28 to produce documents, that person shall—

- (a) take reasonable steps to obtain the documents, if they are not already in the person's possession or control; and

- (b) keep the documents under the person's possession or control except for the purpose of providing them to the Unit or as the Unit may otherwise permit.

Failure to comply with Unit's request for information

72. (1) A person commits an offence who—

- (a) without reasonable excuse refuses or fails within the time and in the manner specified, (or, if no time has been specified, within a reasonable time) to comply with any request made under section 70 and 71 or a requirement under section 67;
- (b) knowingly or recklessly gives any information, or produces any document, which is false in a material particular in response to such a request or in compliance with a requirement under section 67;
- (c) with intent to evade the provisions of sections 67, 70 or 71, destroys, mutilates, defaces, conceals or removes any document; or
- (d) otherwise intentionally obstructs the Unit in the exercise of his powers under sections 67, 70 or 71.

(2) A person who commits an offence under this section is liable and is liable—

- (a) on summary conviction to a fine of \$100,000 and to imprisonment for 2 years; and
- (b) on conviction on indictment, to a fine of \$200,000 and to imprisonment for 7 years.

(3) Where a person is convicted of an offence under this section, the court may make an order requiring that person, within such period as may be specified in the order, to comply with the request.

Disclosure of information by Unit

73. (1) The Unit may disclose any information obtained by it in exercise of its powers under this Act, including any document so obtained and any copy made of, or extract taken from, any document so obtained—

- (a) Commissioner or Police or to a senior ranking police officer;
- (b) to a public officer;
- (c) for the purpose of giving assistance or co-operation, pursuant to the relevant Security Council resolutions; to—
 - (i) any organ of the United Nations, or
 - (ii) any person in the service of the United Nations or the Government of any country;
- (d) with a view to instituting, or otherwise for the purposes of, any proceedings—
 - (i) in Anguilla, for an offence under Part 2, or

- (ii) in the United Kingdom or any British Overseas Territory, for an offence under a similar provision in any such jurisdiction; or
- (e) with the consent of a person who, in his own right, is entitled to the information or to possession of the document, copy or extract, to any third party.

(2) In subsection (1)(f) “in his own right” means not merely in the capacity as a servant or agent of another person.

Co-operation with local or international investigations

74. The Unit shall take such steps as it considers appropriate to co-operate with any investigation, in Anguilla or elsewhere, relating to the funds, economic resources or financial transactions of a designated terrorist entity.

Application for an Order to freeze funds of an entity declared as a “listed entity”

75. (1) Where the Attorney-General is in receipt of information from the Unit under this Part shall apply to a judge for an Order under subsection (3)—

- (a) in respect of an entity, where the entity is a designated entity; or
- (b) in respect of an entity or individual where there are reasonable grounds to believe that the entity or individual—
 - (i) has knowingly committed or participated in the commission of a terrorist act, or
 - (ii) is knowingly acting on behalf of, at the direction of, or in association with, a designated entity.

(2) An application under subsection (1) shall be—

- (a) made without delay;
- (b) *ex parte*; and
- (c) accompanied by an affidavit deposing to the matters referred to in subsection (1).

(3) Upon an application under subsection (1) the judge shall, by Order—

- (a) declare an individual or a designated or legal entity to be a listed entity for the purposes of this Act if the judge is satisfied as to the matters referred to in subsection (1); and
- (b) freeze the funds of the listed entity.

(4) An Order made under subsection (3) may make such provision as the Court thinks fit for living expenses and legal expenses of the individual, designated entity or legal entity as the case may be.

(5) Where an Order is made under subsection (3), the Court shall serve the Order upon the listed entity, the Unit and the financial institution or service provider, immediately in accordance with the Eastern Caribbean Supreme Court Civil Procedure Rules.

(6) Where an Order is served on a financial institution or service provider under subsection (5)—

- (a) the financial institution or service provider shall take immediate action to restrict the availability of the funds, subject to the Order, in accordance with the terms of the Order; and
- (b) the funds frozen in accordance with section 66 shall now be governed by the Order issued under this subsection.

(7) Where an Order is made under subsection (3), (9)(d) or (12), the Attorney-General shall, within 7 days after the date of the Order, cause to be published in the *Gazette* and in a newspaper of general circulation in Anguilla—

- (a) a copy of the Order; and
- (b) in the case of an Order under subsection (3), a statement that the matter will be reviewed every 6 months.

(8) Within 60 days after the date of publication of an Order under subsection (7), the individual or entity in respect of which the Order is made may apply to a judge for a review of the Order and shall notify the Attorney-General of the application.

(9) Upon an application made under subsection (8), the judge shall—

- (a) hear any evidence or other information that may be presented by the Attorney-General and may, at the request of the Attorney-General, hear all or part of that evidence or information in the absence of the applicant or any counsel representing the applicant, if the judge is of the opinion that the disclosure of the information would be prejudicial to national security or endanger the safety of any person;
- (b) provide the applicant with a statement summarising the information available to the judge, so as to enable the applicant to be reasonably informed of the reasons for the making of the Order, without disclosing any information the disclosure of which would, in the opinion of the judge, be prejudicial to national security or endanger the safety of any person;
- (c) provide the applicant with a reasonable opportunity to be heard; and
- (d) determine whether or not the Order should be revoked on the basis of the information available to the judge and, if he determines that the Order should be revoked, make an Order for such revocation.

(10) For the purposes of any application or review under this section, the judge may receive in evidence anything that, in the opinion of the judge, is reliable and relevant.

(11) The Attorney-General shall, every 6 months—

- (a) review all Orders made under subsection (3) so as to determine whether the circumstances referred to in subsection (1) continue to exist in respect of the listed entity; and
- (b) if he determines that such circumstances no longer exist, apply to a judge for the revocation of the Order in respect of the listed entity.

(12) Upon an application under subsection (11), the judge shall, if satisfied as to the matters referred to in that subsection, make an order for the revocation, which Order shall be published in the *Gazette* and a newspaper of general circulation in Anguilla.

(13) For the purposes of this section a “listed entity” is as an entity that is declared by the judge under subsection (3) as a terrorist entity, and such listed entity shall include an individual or legal entity and their associates.

PART 7

SANCTIONS UNDER THE SANCTIONS AND ANTI-MONEY LAUNDERING ACT 2018

Sanctions implemented under the Sanctions and Anti-Money Laundering Act 2018

76. (1) Where the Office of Financial Sanctions Implementation has implemented sanctions under the Sanctions and Anti-Money Laundering Act (SAML) 2018 (or any other equivalent legislation enacted by the UK) to be applied to designated entities, these sanctions shall be implemented in Anguilla with immediate effect.

(2) Where a financial institution or service provider has imposed on a person, a sanction implemented under subsection (4), the financial institution or service provider and their employees, staff, directors, owners or other representatives as authorised by law, are exempt from criminal, civil or administrative liability, as the case may be, for complying with this section unless it is proved that the sanction was imposed as a result of negligence.

(3) Where—

- (a) a person or entity has been identified as a designated person or entity and therefore is subject to financial sanctions; or
- (b) a financial institution or service provider has frozen the funds or assets of a designated person or entity (in accordance with a Court order issued under section 75(6); or
- (c) where a financial institution or service provider has suspected that a person or entity has breached a financial sanction

the financial institution or service provider shall make report to the Unit in accordance with Schedule 3.

PART 8

TRAVEL BAN AND ARMS EMBARGO

Travel ban - U.K.S.I 2007 No. 1678

77. A designated terrorist entity, other than a designated terrorist entity who is an Anguillian as defined under section 80 of the Constitution, shall not be allowed entry into, or transit through, Anguilla.

Exemptions to travel ban

78. (1) Notwithstanding section 77—

- (a) if there are reasonable grounds to believe that a designated terrorist entity has committed any offence under this Act, the Governor shall take appropriate measures to allow that individual entry into, or transit through, Anguilla and to ensure his presence is for the purposes of prosecution or extradition; or
- (b) the Governor may allow a designated terrorist entity to enter into, or transit through, Anguilla in relation to judicial proceedings other than those related to an offence under this Act, including when it is necessary for the purposes of identification, testimony or otherwise providing assistance in obtaining evidence for the investigation or prosecution of any other offence.

(2) When the presence of a designated terrorist entity is not required under subsection (1)(a) and (b), section 77 shall apply.

(3) The Governor may submit to the relevant United Nations Security Council Committee a request for authorisation to grant entry or transit of any designated terrorist entity for reasons different from those specified in subsection (1)(a) and (b).

PART 9

INVESTIGATION OF OFFENCES

Detention Orders

79. (1) Subject to subsection (2), a senior police officer may, for the purpose of preventing the commission of an offence under this Act or preventing interference in the investigation of an offence under this Act, apply *ex parte*, to a judge for a detention Order.

(2) A senior police officer may make an application under subsection (1) only with the prior written consent of the Attorney-General.

(3) A judge may make an Order under subsection (1) for the detention of the person named in the application if he is satisfied that there are reasonable grounds to believe that the person is—

- (a) interfering or is likely to interfere with an investigation of;
- (b) preparing to commit; or
- (c) facilitating the commission of;

an offence under this Act.

(4) An Order under subsection (3) shall be for a period not exceeding 48 hours in the first instance and may be extended for a further period provided that the maximum period of detention under the Order does not exceed 14 days.

(5) Every Order shall specify the place at which the person named in the Order is to be detained and conditions in respect of access to a medical officer.

(6) An accurate and continuous record shall be kept in accordance with Schedule 2, in respect of any detainee for the whole period of his detention.

Power to gather information

80. (1) Subject to subsection (2), a senior police officer may, for the purpose of an investigation of an offence under this Act, apply *ex parte* to a judge for an Order for the gathering of information from named persons.

(2) A senior police officer may make an application under subsection (1) only with the prior written consent of the Attorney-General.

(3) A judge may make an Order under subsection (1) for the gathering of information if he is satisfied that the written consent of the Attorney-General was obtained and—

(a) that there are reasonable grounds to believe that an offence under this Act has been committed and that—

(i) information concerning the offence, or

(ii) information that may reveal the whereabouts of a person suspected by a senior police officer 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 the offence referred to in subparagraph (i), or

(iii) there are reasonable grounds to believe that a person has direct and material information that may reveal the whereabouts of a person who the senior police officer suspects may commit the offence referred to in subparagraph (i), and

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

(4) An Order made under subsection (3) may—

(a) include conditions or terms which the judge considers reasonable;

- (b) order the examination on oath of the person named in the Order;
- (c) order the person to attend at a time and place fixed by the judge, for the purpose of being examined; and
- (d) order the person to bring and produce any document or thing in his control or possession for the purpose of the examination.

(5) An Order made under subsection (3) may be executed anywhere in Anguilla.

(6) The judge who made the Order under subsection (3), or another judge of the same Court, may vary its terms and conditions.

(7) A person named in an Order made under subsection (3) shall answer questions put to the person by the Attorney-General or the Attorney-General's representative, and shall produce to the presiding judge documents or things that the person was ordered to bring, but may, subject to the ruling of the judge under subsection (8), refuse to do so if answering a question or producing a document or thing would disclose information that is protected by the law relating to non-disclosure of information or privilege.

(8) The presiding judge shall rule on every objection or issue relating to a refusal to answer any question or to produce any document or thing.

(9) A person shall not be excused from answering a question or producing a document or thing on the ground that the answer, document or thing may incriminate him or subject him to any penalty or proceedings.

(10) Notwithstanding subsection (9) any—

- (a) answer given;
- (b) document or thing produced; or
- (c) evidence obtained;

from that person shall not be used or received against him in any criminal proceedings other than in a prosecution for perjury.

(11) A person may retain and instruct an Attorney-at-law at any stage of the proceedings under this section and the Attorney-at-law so retained may attend and represent the person named in the Order when he is being examined.

(12) The presiding judge, if satisfied that any document or thing produced during the course of the examination is likely to be relevant to the investigation of any offence under this Act, shall order that the document or thing be given into the custody of the senior police officer.

(13) Subject to subsection (8), nothing in this section requires the disclosure of any privileged material.

Authority for search

81. (1) A senior police officer may, for the purposes of an investigation into the offence of financing of terrorism or any other offence under this Act, apply to a judge for a warrant under this section.

(2) On such application the judge may issue a warrant authorising a senior police officer to enter and search the premises if the judge is satisfied in relation to the offence—

- (a) that there are reasonable grounds for suspecting that an individual or legal entity is linked to the commission of that offence;
- (b) that there are reasonable grounds for suspecting that there are on the premises material relating to the commission of that offence; and
- (c) that it would be appropriate to make an Order 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 located, or
 - (iii) the investigation for the purposes of which the application is made might be seriously prejudiced unless a senior police officer could secure immediate access to the material.

(3) A warrant issued under this section shall authorise the senior police officer named in the warrant—

- (a) to enter the premises specified in the warrant;
- (b) to search the premises and to—
 - (i) seize and retain anything appearing to be information or a document (other than privileged material) which is likely to be of substantial value, whether by itself or together with other material, to the investigation for the purposes of which the warrant was issued, or
 - (ii) to take, in relation to any such information or document, any other steps which may appear to be necessary for preserving it or preventing interference with it;
- (c) to take copies of, or extracts from, any information or document specified in the warrant;
- (d) to require any person on the premises to provide an explanation of any information or document appearing to be of the kind specified in the warrant or to state where it may be found; and
- (e) to use such force as may reasonably be necessary.

(4) The person to whom a search warrant is issued shall furnish a report in writing, within 10 days after the execution of the warrant or the expiry of the warrant, whichever occurs first, to the judge who issued the warrant—

- (a) stating whether or not the warrant was executed;
- (b) if the warrant was executed, setting out a detailed description of anything seized; or
- (c) if the warrant was not executed, setting out briefly the reasons why the warrant was not executed.

Customer Information Order

82. (1) A judge may on application made by a senior police officer and if the conditions set out in subsection (2) are met, make an Order that a financial institution or service provider provide to an authorised officer any such customer information relating to the person or account specified in the application.

(2) An application under subsection (1) shall state—

- (a) that there is an investigation of financing of terrorism and the Order is sought for purposes of a criminal investigation of that offence; and
- (b) the judge is satisfied that there are reasonable grounds for believing that the financial institution or service provider may have information that is relevant in the investigation.

(3) Customer information is information as to whether a person holds, or has held an account or accounts at the financial institution or service provider (whether solely or jointly), and information identifying a person who holds an account, and includes all information as to—

- (a) the account number or numbers;
- (b) the person's full name;
- (c) his date of birth;
- (d) his most recent address and any previous addresses;
- (e) the date or dates on which he began to hold the account or accounts and, if he has ceased to hold the account or any of the accounts, the date or dates on which he did so;
- (f) such evidence of his identity as was obtained by the financial institution or service provider;
- (g) the full name, date of birth and most recent address, and any previous addresses, of any person who holds, or has held, an account at the financial institution or service provider jointly with him;

- (h) the account number or numbers of any other account or accounts held at the financial institution or service provider to which he is a signatory and details of the person holding the other account or accounts; and
 - (i) any other information which the Court specifies in the customer information Order.
- (4) Where the customer is a legal entity, the information shall include—
- (a) a description of any business which it carries on;
 - (b) the country or territory in which it is incorporated or otherwise established and any number allocated to it;
 - (c) its registered office, and any previous registered offices;
 - (d) the full name, date of birth and most recent address and any previous addresses of any person who is a signatory to the account or any of the accounts; and
 - (e) any other information which the Court specifies in the customer information Order.
- (5) A financial institution or service provider shall provide the information to the authorised officer in such manner, and at or by such time, as is specified in the Order.
- (6) An authorised officer for purposes of this section is the Unit.
- (7) No obligation to maintain the confidentiality of information held by a financial institution or service provider, whether imposed by a law or contract, can excuse compliance with an Order made under this section.
- (8) Where a financial institution or service provider subject to an Order under this section, knowingly—
- (a) fails to comply with the Order; or
 - (b) provides false or misleading information in purported compliance with the Order;
- the financial institution or service provider commits an offence and is liable on conviction on indictment to a fine of \$100,000.
- (9) A financial institution or service provider that has been served with an Order under this section shall not disclose the existence or operation of the Order to any person except—
- (a) an officer or agent of the financial institution or service provider for the purpose of complying with the Order; or
 - (b) an authorised officer referred to in the Order.
- (10) Where a financial institution or service provider contravenes subsection (9), it commits an offence and is liable on conviction on indictment to a fine of \$500,000.

Monitoring Order

83. (1) A senior police officer may apply, *ex parte* to a judge for a monitoring Order directing a financial institution, service provider or non-profit organisation to provide certain information.

(2) An application under subsection (1) shall be supported by an affidavit deposing to matters referred to in subsection (4).

(3) A monitoring Order shall—

- (a) direct a financial institution, service provider or non-profit organisation to disclose information it obtained relating to transactions conducted through an account held by a particular person with the financial institution, service provider or non-profit organisation;
- (b) not have retrospective effect; and
- (c) only apply for a period not exceeding 3 months from the date it is made.

(4) A judge shall issue a monitoring Order only if he is satisfied that there are reasonable grounds for believing that—

- (a) the person in respect of whose account the Order is sought—
 - (i) has committed or was involved in the commission, or is about to commit or be involved in the commission of, an offence, and
 - (ii) has benefited directly or indirectly, or is about to benefit directly or indirectly, from the commission of an offence; or
- (b) the account is relevant to identifying, locating or quantifying terrorist property.

(5) A monitoring Order shall specify—

- (a) the name or names in which the account is believed to be held; and
- (b) the class of information that the financial institution, service provider or non-profit organisation is required to give.

(6) Where a financial institution, service provider or non-profit organisation subject to an Order under this section, knowingly—

- (a) fails to comply with the Order; or
 - (b) provides false or misleading information in purported compliance with the Order;
- the financial institution, service provider or non-profit organization commits an offence and is liable on conviction on indictment to a fine of \$100,000.

(7) A financial institution, service provider or non-profit organisation that is or has been subject to a monitoring Order shall not knowingly disclose the existence or operation of the Order to any person except—

- (a) an officer or agent of the financial institution, service provider or non-profit organisation, for the purpose of ensuring compliance with the Order;
- (b) a legal adviser for the purpose of obtaining legal advice or representation in respect of the Order; or
- (c) the authorised officer referred to in the Order.

(8) Where a financial institution, service provider or non-profit organisation contravenes subsection (7), it commits an offence and is liable on conviction on indictment to a fine of \$500,000.

(9) Nothing in this section prevents the disclosure of information concerning a monitoring Order for the purposes of or in connection with legal proceedings or in the course of proceedings before a Court.

(10) Nothing in this section shall be construed as requiring a legal adviser to disclose to any Court the existence or operation of a monitoring Order.

PART 10

DISCLOSURE AND SHARING INFORMATION

Duty to disclose information relating to offences and terrorist acts by regulatory authorities

84. (1) Every regulatory authority which has any information which will assist in—

- (a) preventing the commission by another person, of a terrorist act; or
- (b) securing the arrest or prosecution of another person for—
 - (i) an offence under this Act, or
 - (ii) an offence under any other law and which offence also constitutes a terrorist act;

shall forthwith disclose the information to a senior police officer or the Unit.

(2) Notwithstanding subsection (1) a regulatory authority referred to in subsection (1), shall not be required to disclose any privileged material.

(3) Civil or criminal proceedings shall not lie against the regulatory authority for disclosing any information in good faith pursuant to subsection (1).

(4) Any regulatory authority who fails to comply with subsection (1) commits an offence and is liable on conviction on indictment to a fine of \$100,000 and to imprisonment for 2 years.

(5) For the purposes of this section, “regulatory authority” means the Central Bank, the Eastern Caribbean Securities Exchange (ECSE) and the Anguilla Financial Services Commission.

Duty to disclose information relating to offences and terrorist acts

85. (1) This section applies where a person—

- (a) suspects or believes that a person is in possession of any money or other property that is terrorist property; or
- (b) believes or suspects that another person has committed any other offence under this Act; and
- (c) bases his belief or suspicion on information which comes to his attention in the course of a trade, profession, business or employment.

(2) But this section does not apply if the information came to the person in the course of business in the regulated sector as a regulated business as referred to in section 86.

(3) The person commits an offence if he does not disclose to a senior police officer or the Unit, as soon as is reasonably practicable—

- (a) his belief or suspicion; and
- (b) the information on which it is based.

in accordance with subsection (1).

(4) It is a defence for a person charged with an offence under subsection (3) to prove that he had a reasonable excuse for not making the disclosure.

(5) Where—

- (a) a person is in employment;
- (b) his employer has established a procedure for the making of disclosures of the matters specified in subsection (3); and
- (c) he is charged with an offence under subsection (3);

it is a defence for him to prove that he disclosed the matters specified in subsection (3), in accordance with the procedure.

(6) Subsection (3) does not require disclosure by a professional legal adviser of—

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

(7) For the purposes of subsection (6) information is obtained by an 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.
- (8) For the purposes of subsection (1)(a) a person shall be treated as having committed an offence under this Act if—
- (a) he has taken an action or been in possession of a thing; and
 - (b) he would have committed an offence under one of those sections if he had been in Anguilla at the time when he took the action or was in possession of the thing.
- (9) A person guilty of an offence under this section shall be liable—
- (a) on summary conviction, to a fine of \$50,000 or to imprisonment for 1 year, or to both.
 - (b) on conviction on indictment, to a fine of \$100,000 or to imprisonment for 5 years, or to both.

Disclosure of information: regulated businesses

- 86.** (1) This section applies if the information came to the person in the course of business in the regulated sector as a regulated business.
- (2) A person commits an offence if each of the following conditions is satisfied—
- (a) he knows or suspects that another person has committed an offence under this Act.
 - (b) the information or other matter on which his knowledge or suspicion is based came to him in the course of business in the regulated sector (as a regulated business).
 - (c) he does not disclose the information or other matter to a police officer or a nominated officer as soon as is reasonably practicable after it comes to him.
- (3) A person does not commit an offence under subsection (2) if—
- (a) he has a reasonable excuse for not disclosing the information or other matter; or
 - (b) he is a professional legal adviser and the information or other matter came to him in privileged circumstances.
- (4) In deciding whether a person committed an offence under this section the court shall consider—
- (a) whether any relevant guidance was at the time concerned issued by a supervisory authority or any other appropriate authority;
 - (b) whether such guidance was approved by the Governor;

(c) whether such guidance was published in a manner approved by the Governor as appropriate in his opinion to bring the guidance to the attention of persons likely to be affected by it; and

(d) whether he followed the aforementioned relevant guidance.

(5) A certificate signed by or behalf of the Governor (or a true copy of such a certificate) that a matter was, or was not, approved by the Governor at any material time for the purposes of subsection (4) shall be conclusive evidence of that fact in any legal proceedings, and a document which purports to be such a certificate (or to be a true copy of such a certificate) shall be received in evidence in any legal proceedings and shall, until the contrary is proved, be deemed to be such a certificate (or such a copy).

(6) A disclosure to a nominated officer is a disclosure which—

(a) is made to a person nominated by the employer of alleged offender to receive disclosures under this section; and

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

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

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

(b) by (or by a representative of) a person seeking legal advice from the adviser; or

(c) by a person in connection with legal proceedings or contemplated legal proceedings.

(8) Information shall not be deemed to have come to a professional legal adviser in privileged circumstances if the information or other matter which is communicated or given with a view to furthering a criminal purpose.

(9) For the purposes of subsection (2)(a) the other person is taken to have committed an offence if—

(a) he has taken an action or been in possession of a thing; and

(b) he would have committed an offence if he had been in Anguilla at the time when he took the action or was in possession of the thing.

(10) For the purposes of this section—

(a) a regulated business has the meaning given in the Anti-Money Laundering and Terrorist Financing Regulations;

(b) a supervisory authority, in relation to a regulated business or a class of regulated businesses, is the Anguilla Financial Services Commission or any other authority that is for the time being specified in that behalf by order made by the Governor,

and any such order may specify an authority as a supervisory authority in relation to a particular regulated business or in relation to a particular class or particular classes of regulated businesses or in relation to regulated businesses in general;

- (c) an appropriate body is anybody which regulates or is representative of any trade, profession, business or employment carried on by the alleged offender.

(11) A person guilty of an offence under this section is liable—

- (a) on summary conviction, to a fine of \$50,000 or to imprisonment for 1 year, or to both, or
- (b) on conviction on indictment, to a fine of \$100,000 or to imprisonment for 5 years, or to both.

Protected disclosures

87. (1) A disclosure which satisfies the following 3 conditions is not to be taken to breach any restriction on the disclosure of information (however imposed)—

- (a) the information or other matter disclosed came to the person making the disclosure (the discloser) in the course of a business in the regulated sector (as a regulated business).
- (b) the information or other matter causes the discloser to know or suspect that another person has committed an offence under the Act; and
- (c) the disclosure is made to a police officer or nominated officer as soon as is practicable after the information or other matter comes to the discloser.

(2) A disclosure to a nominated officer is a disclosure which—

- (a) is made to a person nominated by the discloser's employer to receive disclosures under this section; and
- (b) is made in the course of the discloser's employment and in accordance with the procedure established by the employer for that purpose.

Disclosure of information: public sectors

88. (1) Notwithstanding any restriction otherwise imposed by any law for the time being in force in Anguilla on the disclosure by a specified public officer or a specified public authority of information obtained in an official capacity by that officer or authority, that officer or authority may, and shall if so directed by the Governor under this section, disclose such information for any of the purposes to which this section applies.

(2) The Governor may give a direction under this section that specifies—

- (a) the information to be disclosed;
- (b) the person or authority to whom it is to be disclosed;
- (c) the manner in which; and

(d) any conditions subject to which, it is to be disclosed.

(3) The information that may be disclosed, or may be directed to be disclosed under this section includes information obtained before the commencement of this Act.

(4) It is an offence to fail to comply with a direction given by the Governor under this section, and any person guilty of such an offence shall be liable—

(a) on summary conviction, to a fine of \$50,000 or to imprisonment for 1 year, or to both; or

(b) on conviction on indictment, to a fine of \$100,000 or to imprisonment for 5 years, or to both.

(5) A disclosure shall be made by a public officer or specified public authority under this section for—

(a) the purposes of a criminal investigation for the offence of terrorist financing or any criminal investigation of an offence under this Act which is being or may be carried out, whether in Anguilla or elsewhere;

(b) the purposes of a criminal proceedings for the offence of terrorist financing or any criminal proceedings in relation to an offence under this Act which have been or may be initiated, whether in Anguilla or elsewhere;

(c) the purposes of the initiation or bringing to an end of any such investigation or proceedings; or

(d) the purpose of facilitating a determination of whether any such investigation or proceedings should be initiated or brought to an end.

(6) Nothing in this section shall be taken to prejudice any power to disclose information which exists apart from this paragraph.

(7) In this section—

“conduct” includes acts, omissions and statements;

“criminal investigation” means an investigation of any conduct which—

(a) constitutes one or more offences under Part 2 (financing of terrorism offences) or any other offence under this Act; or

(b) is, or corresponds to, conduct which, if it all took place in Anguilla, would constitute such an offence or such offences;

(c) and includes an investigation of any alleged or suspected such conduct and an investigation of whether any such conduct has taken place;

“criminal proceedings” means proceedings for an offence of terrorist financing or any other offence under this Act or, if they are proceedings outside Anguilla, for an offence or offences substantially corresponding to a financing of terrorism offence;

“financing of terrorism offence” means an offence specified in sections 18 to 23;

“specified public authority” means an authority that is for the time being specified for the purposes of this section by an order made by the Governor; and

“specified public officer” means any person holding or acting in any office that is for the time being specified for the purposes of this section by an order made by the Governor.

Restriction on disclosure of information for overseas purposes

89. (1) The Governor may give a direction which—

(a) specifies any overseas proceedings or overseas investigation or any description of such proceedings or investigations; and

(b) prohibits, the making of any relevant disclosures for the purposes of those proceedings or that investigation or, as the case may be, proceedings or investigations of that description.

(2) A prohibition referred to in subsection (1) may be absolute or subject to such conditions as to consent or otherwise, as may be specified in the direction.

(3) In subsection (1) the reference, in relation to a direction, to a relevant disclosure is a reference to a disclosure which—

(a) is authorised by a direction given by the Governor pursuant to section 88 or by or under any other law for the time being in force in Anguilla; and

(b) is a disclosure of such information as is described in the direction.

(4) A person who discloses any information in contravention of a direction under this subsection (1) or (2) shall be guilty of an offence and shall be liable—

(a) on summary conviction, to a fine of \$50,000 or to imprisonment for 1 year, or to both;

(b) on conviction on indictment, to a fine of \$100,000 or imprisonment for 2 years, or to both.

(5) In this section—

“overseas investigation” means an investigation into a financing of terrorism offence specified in Part 2 or any other offence under this Act which is being, or will or may be, conducted by an authority of a country outside Anguilla;

“overseas proceedings” means criminal proceedings of financing of terrorism offence which are taking place, or will or may take place, in a country outside Anguilla.

Duty to disclose information relating to property used for commission of offences under this Act

- 90.** (1) Every person shall forthwith disclose to the Unit—
- (a) the existence of any property in his possession or control, which to his knowledge is terrorist property, or which there are reasonable grounds to believe is terrorist property;
 - (b) any information regarding a transaction or proposed transaction in respect of terrorist property; or
 - (c) any information regarding a transaction or proposed transaction which there are reasonable grounds to believe may involve terrorist property.
- (2) Every financial institution shall report, every 3 months, to the Unit—
- (a) if it is not in possession or control of terrorist property, that it is not in possession or control of such property; or
 - (b) if it is in possession or control of terrorist property, that it is in possession or control of such property, and the particulars relating to the persons, accounts and transactions involved and the total value of the property.
- (3) No civil or criminal proceedings shall lie against any person for making a disclosure or report, in good faith, under subsection (1) or (2).
- (4) Every person who fails to comply with subsection (1) or (2) commits an offence and shall, on conviction on indictment, be liable to imprisonment for 5 years.

PART 11

INFORMATION SHARING, EXTRADITION AND
MUTUAL ASSISTANCE IN CRIMINAL MATTERS**Exchange of information relating to terrorist acts**

- 91.** The Governor may, after consultation with the Attorney-General, on a request made by the appropriate authority of a foreign State, disclose to that authority, any information in his possession or, with the necessary permission, in the possession of any other government department or agency—
- (a) relating to any of the following—
 - (i) the actions or movements of persons suspected of involvement in the commission of terrorist acts,
 - (ii) the use of forged or falsified travel papers by persons suspected of involvement in the commission of terrorist acts,
 - (iii) trafficking in explosives or other lethal devices or sensitive materials by persons suspected of involvement in the commission of terrorist acts, or

(iv) the use of communication technologies by persons suspected of involvement in the commission of terrorist acts; or

(b) any information which in the Governor's view would be relevant to the foreign State;

if the disclosure is not prohibited by any law and will not, in the Governor's view be prejudicial to national security or public safety.

Counter-terrorism Convention to be used as basis for extradition

92. (1) Where—

(a) the United Kingdom becomes a party to a counter-terrorism Convention, and it extends such Convention to Anguilla; and

(b) there is in force, an extradition arrangement between the United Kingdom and another state which is a party to that counter-terrorism Convention;

the extradition arrangement shall be deemed for the purposes of giving effect to this Act to include provision for extradition in respect of offences falling within the scope of that counter-terrorism Convention.

(2) Where—

(a) the United Kingdom becomes a party to a counter-terrorism Convention, and it extends such Convention to Anguilla; and

(b) there is no extradition arrangement between the United Kingdom and another state which is a party to that counter-terrorism Convention;

the Governor may with the advice of the Secretary of State, by order published in the *Gazette*, treat the counter-terrorism Convention for the purposes of giving effect to this Act, as an arrangement between the United Kingdom and that state for providing for extradition in respect of offences falling within the scope of the counter-terrorism Convention.

Counter-terrorism Convention to be used as a basis for mutual assistance in criminal matters

93. (1) Where—

(a) the United Kingdom becomes party to a counter-terrorism Convention, and it extends such Convention to Anguilla; and

(b) there is in force an arrangement between the United Kingdom and another state which is a party to that counter-terrorism Convention, for mutual assistance in criminal matters;

the arrangement shall be deemed for the purposes of mutual legal assistance legislation in the Anguilla to include provisions for mutual legal assistance in criminal matters falling within the scope of the counter-terrorism Convention.

(2) Where—

- (a) the United Kingdom becomes party to a counter-terrorism Convention, and it extends such Convention to Anguilla; and
- (b) there is no arrangement between the United Kingdom and another state which is a party to that counter-terrorism Convention, for mutual assistance in criminal matters;

the Governor may with the advice of the Secretary of State, by order published in the *Gazette*, treat the counter-terrorism convention for the purposes of giving effect to this Act, as an arrangement between the United Kingdom and that state for providing for mutual legal assistance in criminal matters falling within the scope of the counter-terrorism Convention.

Offences under this Act deemed not to be offences of a political character for purposes of extradition

94. Notwithstanding any provision in the Extradition Act 2003 (Overseas Territories) Order 2016 or the Criminal Justice (International Cooperation) (Anguilla) Act or the Mutual Legal Assistance (United States of America) Act, in any other Law in Anguilla relating to extradition or mutual assistance, an offence under this Act shall for the purposes of extradition or of mutual assistance be deemed not to be an offence of a political character or an offence connected with a political offence or an offence inspired by political motives.

PART 12

SEIZURE AND CONFISCATION OF TERRORIST PROPERTY

Application for restraint order

95. (1) Where a senior customs officer, senior immigration officer, or senior police officer reasonably believes that property in the possession of a person is terrorist property, he may apply to a judge for a restraint Order in respect of that property.

(2) Subsection (1) applies to property that is being—

- (a) brought to any place in Anguilla for the purpose of being exported from;
- (b) exported from; or
- (c) imported into;

Anguilla.

(3) Where the Director receives information pursuant to section 68, and he has reasonable grounds to believe that funds should be restrained, the Director may apply to the Court for an Order to restrain such funds.

(4) A restraint Order made under subsections (1) and (3), shall be valid—

- (a) for a period of 60 days, and may, on application, be renewed by a judge for a further period of 60 days; or

- (b) until such time as the property or funds referred to in the Order is produced in Court in proceedings for an offence under this Act in respect of that property;

whichever is the sooner.

(5) A restraint Order made under subsections (1) and (3) may make such provision as the Court thinks fit for living expenses and legal expenses of an individual or legal entity, as the case may be.

(6) A judge may release any property or funds referred to in a restraint Order made under subsections (1) and (3) if—

- (a) he no longer has reasonable grounds to suspect that the property or funds have been, are being or will be used to commit an offence under this Act; or
- (b) no proceedings are instituted in the High Court for an offence under this Act in respect of that property or funds within 120 days of the date of the restraint Order.

(7) No civil or criminal proceedings shall lie against an officer for a seizure of property or funds, made in good faith, under subsections (1) and (3).

(8) An appeal from a decision of the judge made under this section shall lie to the Court of Appeal.

Orders for confiscation of property or money on conviction for offences under this Act

96. (1) Where a person is convicted of an offence under this Act, or an offence under any other Act where the act or omission also constitutes a terrorist act, the Court may order that the following property or money be confiscated and paid into the National Forfeiture Fund—

- (a) any money or property—
- (i) used for, or in connection with, or
- (ii) obtained as proceeds from;

the commission of that offence;

- (b) any money or other property—
- (i) which, at the time of the offence, he had in his possession or under his control, and
- (ii) which, at that time, he—
- (A) intended should be used, or
- (B) suspected might be used,
- (C) knew would be used;

for the purposes of terrorism; and

- (c) any money or other property which wholly or partly, and directly or indirectly, is received by any person as a payment or other reward in connection with the commission of the offence.

(2) Before making a confiscation Order the judge shall give an opportunity to be heard to any person who—

- (a) appears to the Court to have an interest in; or
- (b) claims to be the owner of;

the property.

(3) Property confiscated by the State under subsection (1) shall vest in the State—

- (a) if no appeal has been made against the Order, at the end of the period within which an appeal may be made against the Order; or
- (b) if an appeal has been made against the Order, on the final determination of the matter, where the decision is made in favour of the State.

Orders for search, seizure and restraint of property

97. (1) Where on an *ex parte* application made by the Attorney-General to a judge, the judge is satisfied that there are reasonable grounds to believe that there is in any building, place or vessel, any property in respect of which an Order of confiscation may be made under section 98, the judge may issue—

- (a) a warrant authorising a police officer or financial investigator to search the building, place or vessel for that property and to seize that property if found, and any other property in respect of which that police officer believes, on reasonable grounds, that an Order of confiscation may be made under section 98; or
- (b) a restraint Order prohibiting any person from disposing of, or otherwise dealing with any interest in, that property, other than as may be specified in the Order.

(2) On an application made under subsection (1), the judge may, at the request of the Attorney-General and if the judge is of the opinion that the circumstances so require—

- (a) appoint a person to take control of, and manage or otherwise deal with, the whole or a part of the property, in accordance with the directions of the judge; and
- (b) require any person having possession of the property to give possession thereof to the person appointed under paragraph (a).

(3) The power to manage or otherwise deal with property under subsection (2) includes in the case of perishable or rapidly depreciating property, the power to sell that property; and in the case of property that has little or no value, the power to destroy that property.

(4) Before a person appointed under subsection (2) destroys any property referred to in subsection (3), he shall apply to a judge for a destruction Order.

(5) Before making a destruction Order in relation to any property, the judge shall require notice to be given, in such manner as the judge may direct to any person who, in the opinion of the judge, appears to have an interest in the property and may provide that person with a reasonable opportunity to be heard.

(6) A judge may order that any property in respect of which an application is made under subsection (4), be destroyed if he is satisfied that the property has little or no financial or other value.

(7) A management Order under subsection (2) shall cease to have effect when the property which is the subject of the management Order is—

- (a) returned to an applicant in accordance with the law or
- (b) confiscated and paid into the National Forfeiture Fund.

(8) The Attorney-General may at any time apply to a judge to cancel or vary a warrant or Order issued under this section.

Orders for confiscation of property

98. (1) The Attorney-General may make an application to a judge for an Order of confiscation in respect of terrorist property.

(2) The Attorney-General shall be required to name as Respondents to an application under subsection (1) only those persons who are known to own or control the property that is the subject of the application.

(3) The Attorney-General shall give notice of an application under subsection (1) to the Respondents named in the application, in such manner as the judge may direct.

(4) Where a judge is satisfied, on a balance of probabilities, that the property which is the subject of the application is terrorist property, the judge shall Order that the property be confiscated by the State to be disposed of as directed by the judge.

(5) Where a judge refuses an application under subsection (1), the judge shall make an Order that describes the property and declare that it is not terrorist property.

(6) On an application under subsection (1), a judge may require notice to be given to any person not named as a Respondent who in the opinion of the judge, appears to have an interest in the property, and any such person shall be entitled to be added as a Respondent to the application.

(7) Where a judge is satisfied that a person—

- (a) has an interest in the property which is the subject of the application; and
- (b) has exercised reasonable care to ensure that the property is not the proceeds of a terrorist act, and would not be used to commit or facilitate the commission of a terrorist act;

the judge shall order that the interest shall not be affected by the Order made under subsection (4) and the Order shall also declare the nature and extent of the interest in question.

(8) A person who claims an interest in property that has been confiscated and who has not been named as a Respondent or been given notice under subsection (6) may make an application to the High Court to vary or set aside an Order made under subsection (4), not later than 60 days after the day on which the confiscation Order was made.

(9) Pending the determination of an appeal against an Order of confiscation made under this section—

- (a) property restrained under section 97 shall continue to be restrained,
- (b) property seized under a warrant issued under section 97 shall continue to be detained; and
- (c) any person appointed to manage, control or otherwise deal with the property under section 97 shall continue in that capacity.

(10) The provisions of this section shall not affect the operation of any other provision of this Act respecting confiscation.

Sharing of confiscated property

99. (1) Anguilla may, pursuant to any agreement with any other State, share with that State on a reciprocal basis the property derived from confiscation pursuant to this Act.

(2) Property referred to under subsection (1), may be utilised to compensate victims of the offences referred to under this Act.

Seizure and detention of cash

100. (1) A senior immigration officer, senior customs officer or senior police officer may seize and detain part of or the whole amount of any cash where there are reasonable grounds for suspecting that it is—

- (a) intended for use in the commission of an offence under this Act; or
- (b) is terrorist property.

(2) Cash detained under subsection (1) shall not be detained for more than 96 hours after seizure, unless a Magistrate or Judge orders its continued detention for a period not exceeding 3 months from the date of the initial seizure and the detained cash shall be paid into Court.

(3) A Magistrate or Judge may order a detention under subsection (1) upon being satisfied that the continued detention of the cash is justified while—

- (a) its origin or derivation is further investigated; or
- (b) consideration is being given (in Anguilla or elsewhere) as to whether criminal proceedings should be instituted against any person for an offence with which the seized item is connected; or

(4) A judge may subsequently order continued detention of the cash if satisfied of the matters set forth in subsections (2) and (3), but the total period of detention shall not exceed 2 years from the date of the Order made under those subsections.

(5) Subject to subsection (6), cash detained under this section may be released in whole or in part to the person on whose behalf it was transported by Order of a judge, that its continued detention is no longer justified—

- (a) upon application by or on behalf of that person; and
- (b) after considering any views of a senior police officer.

(6) Cash detained under this section shall not be released where an application for restraint or confiscation of the cash is pending under this Act or if proceedings have been instituted in Anguilla or elsewhere against any person for an offence with which the cash is connected, unless and until the proceedings on the application or the proceedings related to an offence have been concluded.

(7) Where the application for restraint or confiscation of cash referred to in subsection (6) relates to cash that is commingled with other cash, the commingled cash is subject to continued detention under this subsection.

(8) Property seized and detained under this section shall be dealt with in accordance with sections 108 and 109 of the Proceeds of Crime Act.

Seizure of electronic devices

101. Where an electronic device is seized under this Act, a warrant must be obtained to access any information stored on such device.

PART 13

MISCELLANEOUS

Duty to disclose information relating to passengers of aircraft and vessels

102. (1) The operator of an aircraft or master of a vessel—

- (a) departing from Anguilla; or
- (b) registered in Anguilla departing from any place outside Anguilla;

shall, in accordance with Regulations made under this Act provide to the—

- (i) Chief Immigration Officer any information in his possession relating to persons on board or expected to be on board the aircraft or vessel, or
- (ii) competent authority of a foreign State any information in his possession relating to persons on board or expected to be on

board the aircraft or vessel in accordance with the law of that foreign State.

(2) The Governor may, subject to Regulations made under this Act, provide to the competent authority in a foreign State any information in his possession relating to persons entering or leaving Anguilla and that is required by the laws of that foreign State.

(3) No information provided to the Chief Immigration Officer under subsection (1) shall be used or disclosed by the Chief Immigration Officer except for the purpose of protecting national security or public safety.

Exercise of powers under this Act

103. Where, in relation to a money laundering, terrorism, terrorist financing or proliferation financing activity, a power referred to in this Act may be exercised under this Act and under another enactment or Order-in-Council, the power shall be exercised either under this Act or under another enactment or Order-in-Council, but not under both.

Power to make Regulations

104. (1) The Governor may make Regulations in respect of all matters for which Regulations are required or authorised to be made by this Act.

(2) The Governor to whom responsibility for the Unit is assigned may make Regulations, subject to negative resolution of the Parliament prescribing—

- (a) the type of records to be kept by a financial institution or service provider and the type of information to be included in these records;
- (b) the procedure to be followed in implementing section 67(2)(d);
- (c) the periods for which and the methods by which the records referred to in paragraph (a) may be retained;
- (d) the measures which a financial institution or service provider shall implement to—
 - (i) ascertain the identity of persons with whom they are dealing, and
 - (ii) treat with circumstances in which sufficient identification data is not made available by an applicant or business;
- (e) the measures that may be taken by a Supervisory Authority to secure compliance with this Act or to prevent the commission of an unsafe or unsound practice, including—
 - (i) administrative sanctions, and
 - (ii) disciplinary actions when possible;
- (f) the manner and time frame in which due diligence may be undertaken in respect of existing customers and business relationships established prior to the coming into force of the Proceeds of Crime Act, by a financial institution or service provider; and
- (g) generally, for the purpose of giving effect to anything required to be done under this Act.

(5) The Governor may make Regulations generally to give effect to the purposes of this section, including Regulations—

- (a) respecting the types or classes of information that may be provided under this section 82;
- (b) specifying the foreign States to which the information may be provided under section 82.

Citation

105. (1) This Act may be cited as the Counter-Terrorism Act, 2023.

SCHEDULE 1

(Section 65)

**DETAILS TO BE INCLUDED IN SUSPICIOUS ACTIVITY/TRANSACTION REPORTS
REGARDING PROPERTY OWNED OR CONTROLLED BY
DESIGNATED TERRORIST ENTITIES**

1. The name, and, if available, the last known address, of the designated terrorist entity concerned.
2. For property that came into the possession or immediate control of a reporting entity through a transaction conducted or proposed to be conducted through the reporting entity and involving a facility with the reporting entity:
 - (a) the grounds on which the reporting entity holds the suspicion referred to in section 60(3) and the date on which that suspicion was formed;
 - (b) to the best of the knowledge of the reporting entity, the date on which the reporting entity became aware of the existence of the property, and if readily available to the reporting entity, the type of, and all other available identifying information about, the property;
 - (c) if readily available electronically to the reporting entity—
 - (i) the nature of the transaction; and
 - (ii) the date of the transaction.
 - (iii) the type and identifying number of the facility;
 - (iv) the value of the property in the facility, if known to the person preparing the report for the reporting entity;
 - (d) the name, address, date of birth, if applicable, and if known to the person preparing the report for the reporting entity, occupation or, if appropriate, business or principal activity of the person in whose name the facility is operated, and if available to the person preparing the report for the reporting entity, details of any documentary or other evidence held by the reporting entity and used to establish the identity of that person;
 - (e) the names of the signatories to the facility and, if available to the person preparing the report for the reporting entity, details of any documentary or other evidence held by the reporting entity and used to establish the identity of the signatories to the facility;
 - (f) if readily available electronically to the reporting entity, the name, address, date of birth, if applicable, and occupation or, if appropriate, business or principal activity of each person conducting the transaction and of any person on whose behalf the transaction is conducted;
 - (g) if applicable, the branch name, address, and telephone number of the reporting entity which provided the facility involved in the transaction or the reporting entity through which the transaction was conducted, as the case may be.
3. For other property in the possession or immediate control of a reporting entity or any other person
 - (a) the grounds on which the reporting entity or other person holds the suspicion referred to in section 60(3) and the date on which that suspicion was formed;

- (b) to the best of the knowledge of the reporting entity or other person, the date on which the reporting entity or other person became aware of the existence of the property, and if readily available to the reporting entity or other person, the type of, and all other available identifying information about the property;
- (c) the value of the property, if known to the reporting entity or other person;
- (d) if available to the reporting entity or other person the name, address, date of birth, if applicable, and occupation or, if appropriate, business or principal activity of the person who owns the property, if it is not owned by the entity, and details of any documentary or other evidence held by the reporting entity or other person and used to establish the identity of the person who owns the property;
- (e) if available to the reporting entity or other person, the name, address, date of birth, if applicable, and occupation or, if appropriate, business or principal activity of the person who controls the property, if it is not controlled by the entity, and details of any documentary or other evidence held by the reporting entity or other person and used to establish the identity of the person who controls the property.

4. If the report is made in relation to property controlled or possessed by a reporting entity, the name, position, and phone and fax number of the person authorised by the reporting entity to prepare and submit the report. In all other cases, the name, position, if relevant, and phone and fax numbers of the person who prepared the report.

SCHEDULE 2

(Section 79)

CUSTODY RECORD FOR DETAINED PERSON

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

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

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

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

SCHEDULE 3

(Section 76(7))

COMPLIANCE REPORTING FORM FOR SUSPECTED SANCTIONS BREACHES

- (a) This form should be used to report all compliance-related information to the Financial Intelligence Unit including information regarding suspected designated persons (Part B); assets you have frozen (Part C); and suspected breaches of financial sanctions (Part D).
- (b) Please note that the information you provide may be shared for the purpose of facilitating or ensuring compliance with financial sanctions regulations.
- (c) Annexes 2 and 3 to this form provide key terms and information to assist you in completing your report.
- (d) Your financial sanctions reporting and compliance obligations are explained in the Financial Sanctions Guidance. You should consult this guidance prior to completing this form. Please note that for some businesses there is a legal obligation to report, and that not doing so is a criminal offence.
- (e) Please ensure that when you complete this form, you believe that the facts and information provided in this form are accurate and true to the best of your knowledge.
- (f) You should note that a criminal offence may be committed if you contravene any of the prohibitions in respect of the financial sanctions regime(s) detailed in part 12 below, or you intentionally participate in activities knowing that the object or effect of them is to circumvent any of those prohibitions or enables or facilitates the contravention of any of those prohibitions.
- (g) Please email completed forms, including any associated documents to:

Financial Intelligence Unit at fiu@gov.ai with "SUSPECTED DESIGNATED PERSON", "FROZEN ASSETS", or "SUSPECTED BREACH" as applicable in the subject line.

All submissions should be password protected with unique password issued by the Financial Intelligence Unit to Reporting Entities.

If you are unsure of your compliance or reporting obligations under financial sanctions, you should seek independent legal advice.

PART A: GENERAL INFORMATION

Please complete this part of the form and indicate what you are reporting on.

1. Person submitting this report	
a. Full Name	
b. Job title	
c. Company / Organisation	
d. Address	
e. Contact number (s)	
f. Email address	
2. Date submitted (DD – MM – YYYY)	
3. Are you submitting this form on behalf of a third party? (Tick box) e.g. you are a law firm, agent or guardian representing someone	
	Yes
	No
If yes, please provide the third party's contact details, including their Group ID if they are a designated person.	
4. What are you reporting? (Tick all that are applicable)	
Suspected designated person [Please complete Part B of this form]	
Frozen assets [Please complete Part C of this form]	
Suspected breach [Please complete Part D of this form]	

PART B: REPORTING A SUSPECTED DESIGNATED PERSON

This part should be used to report your knowledge or suspicion that an individual, business or organisation is a designated person and therefore subject to financial sanctions. Please complete a separate form for each designated person on whom you are reporting.

Your report should include information from which a designated person can be identified. For example, aliases or alternative identities that could be used to evade sanctions.

If you are also reporting that you have frozen the assets of a designated person, please complete Part C of this form. If you are also reporting a suspected breach of financial sanctions, please complete Part D of this form.

5. Suspected designated person (including persons owned or controlled by them)	
a. Group ID from the consolidated list	
b. Name of the designated person as given on the consolidated list	
c. Name of the person/entity if owned/controlled by a designated person	

6. Information on which your knowledge or suspicion is based	
a. What has caused you to know or suspect that the person you are reporting on is a designated person (or is owned/controlled by one)? ¹	
b. Please provide any information not already on the consolidated list by which the designated person can be identified	<i>E.g. new aliases, dates of birth, addresses, passport numbers, additional trading names, etc.</i>

PART C: INFORMATION ON FROZEN ASSETS

This part should be used to report that you have frozen the assets of a designated person. Please complete a separate form for each designated person whose assets you have frozen.

If you know or suspect that a person is a designated person, please complete Part B of this form. If you are also reporting a breach of financial sanctions, please complete Part D of this form.

7. Designated person (“DP”)	
a. Group ID from the consolidated list	
b. Name of the designated person as given on the consolidated list	
c. Name of the person/entity if owned/controlled by a designated person	
8. Please provide information on all funds and economic resources you have frozen (For definitions and guidance on what to include please see Annexes A & B.)	

¹ Please provide as much detail as possible, including your relationship with the person, what information you hold and how it came to you.

Part D: INFORMATION ABOUT A SUSPECTED BREACH

This part should be used to report any suspected or known breach of financial sanctions. Please complete one form for each overarching activity. Multiple transactions/transfers relating to an overarching activity may be listed in one form.

Your report should include all known details in relation to the suspected breach activity. Additional supporting material should be attached to your submission and noted in section 22. Where information is not known or not applicable, please state in requisite field.

9. Who do you suspect has committed, or has attempted to commit, the suspected breach? Please provide details

10. Summary of facts
[Including the date(s) the suspected breach (or breaches) was discovered, how it was discovered, and the series of actions that led to a suspected breach taking place (where known)].

--

11. Does this information relate to a suspected completed, or suspected attempted, breach? Tick box	
Completed	
Attempted (<i>including blocked or rejected activity</i>)	

<p>12. Financial sanctions regime(s) under which the suspected breach has occurred The list of all financial sanctions regimes in effect in the UK can be found on OFSI's on GOV.UK: https://www.gov.uk/government/collections/financial-sanctions-regime-specific-consolidated-lists-and-releases</p> <p>Additionally, the list of all financial sanction regimes in effect in Anguilla can be found on the following: Financial Intelligence Unit: https://www.fiu.gov.ai/amlcft-legal-frameworks/financial-sanctions-notice Financial Services Commission: http://fsc.org.ai/internationalsanctions.php Government of Anguilla: http://gov.ai/department.php?id=4&dept=33</p>	
a. Financial Sanctions Regime (s)	
b. Act/Regulation(s) (<i>if known</i>)	
c. Relevant section(s), article(s), regulation(s) suspected of having been breached (<i>if known</i>)	

DETAILS OF SUSPECTED BREACH

See Annex A for a description of what can constitute funds, economic resources, and financial services.

13. What does the suspected breach involve: (Tick all applicable boxes and include a description).

Funds	
-------	--

Describe, in full, the type(s) of funds involved.	
Economic Resource(s)	
Describe, in full, the economic resource(s) involved.	
Financial Services	
Describe, in full, what the financial services are, including how and when they were provided.	
Licence conditions	
Give the licence condition(s) and describe, in full, how you suspect it has been breached. Please include the licence no.	

Reporting obligations	
Give the reporting obligation and describe, in full, how you suspect it has been breached. Please include the licence no. where relevant.	
14. Total value of the suspected breach (actual or estimated) Please provide this information in the currency that was used at the time of the transfer (or provide an estimated value in USD or XCD if unknown with the currency estimated being indicated).	

15. Method(s) of payment and/or transfer e.g. bank transfer, cash, cheque, money order, internet/electronic, or physical asset transfer – road, rail, air, sea, etc.

16. Remitter/sender information
--

<p>Please provide full information on the remitter/sender of the funds and/or economic resources, including: dates, goods involved, amount(s), currencies, account names, account numbers and sort codes, bank details, and nationalities of payers, dates of birth, where known.</p>	
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If more space is required, please complete Annex 1 (A1), or attach supporting documents with your submission.

17. Intermediary information

<p>Please provide any information you have on intermediaries involved in the activity, including: role in transfer, name(s), date of birth, company registration information, country of operation/nationality, address/location, account name, account number and sort code and bank details, where known.</p>	
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If more space is required, please complete Annex 1 (A2), or attach supporting documents with your submission.

18. Ultimate beneficiary information

<p>Please provide information on the ultimate beneficiaries of the funds and/or economic resources, including: name, account name, account number and sort code, bank details, residential/company address, date of birth and nationality, where known.</p>	
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If more space is required, please complete Annex 1 (A3), or attach supporting documents with your submission.

19. Please list all external parties who have been made aware that this information is being passed to OFSI, including any designated persons

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20. Has this matter been reported to any other authority? If so, please provide their contact details.

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21. Other relevant information
Please provide any other information you think will help us understand what has happened.

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22. Are you providing any supporting documents? <i>Please include any documents that support the information provided, such as bank statements, transaction reports, copies of licences, paperwork, contracts, etc. including those from other jurisdictions.</i>	Yes	
	No	

Please list the supporting documents you are providing.	
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Annex 1

Additional remittances *(for Section 16 Remitting information)*

A1. Additional remittance information

Additional remittances *(for Section 17 Intermediary information)*

A2. Additional intermediaries

Additional remittances *(for Section 18 Beneficiary/Beneficiaries information)*

A3. Additional beneficiaries' information

Annex 2

This Annex describes some of the common terms used in financial sanctions legislation.

DESIGNATED PERSONS

A designated person is an individual, entity or body, listed under EU or UK legislation as being subject to financial sanctions.

The list of designated persons can be found on OFSI's consolidated list of asset freeze targets here:

<https://www.gov.uk/government/publications/financial-sanctions-consolidated-list-of-targets>

Note that the financial sanctions also apply to persons and entities that are **owned or controlled**, directly or indirectly, by a designated person. Those persons or entities may not be designated in their own right, so their name may not appear on the consolidated list. However, those persons or entities are similarly the subject of the financial sanctions. For more information on ownership and control see OFSI's Guide to Financial Sanctions.

FUNDS

Funds means financial assets and benefits of every kind, including but not limited to:

- cash, cheques, claims on money, drafts, money orders and other payment instruments;
- deposits with financial institutions or other entities, balances on accounts, debts and debt obligations;
- loans and mortgages;
- publicly and privately traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivatives contracts;
- interest, dividends or other income on or value accruing from or generated by assets;
- credit, right of set-off, guarantees, performance bonds or other financial commitments;
- letters of credit, bills of lading, bills of sale;
- documents evidencing an interest in funds or financial resources;
- any other instrument of export-financing.

ECONOMIC RESOURCES

Economic resources mean assets of every kind, whether tangible or intangible, movable or immovable, (such as goods, property, or rights) which are not funds themselves but which can be used to obtain funds, goods or services.

GROUP ID

All reports to OFSI involving a designated person should include their ‘Group ID’ reference number. The Group ID is a unique identifier for a designated person which can be found in their entry on the consolidated list.

<https://www.gov.uk/government/publications/financial-sanctions-consolidated-list-of-targets>

FINANCIAL SERVICES

Financial services mean any service of a financial nature, including, but not limited to:

- insurance-related services consisting of:
 - direct life assurance;
 - direct insurance other than life assurance;
 - reinsurance and retrocession;
 - insurance intermediation, such as brokerage and agency;
 - services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services.

- banking and other financial services consisting of:
 - accepting deposits and other repayable funds;
 - lending (including consumer credit, mortgage credit, factoring and financing of commercial transactions);
 - financial leasing;
 - payment and money transmission services (including credit, charge and debit cards, travellers’ cheques and bankers’ drafts);
 - providing guarantees or commitments;
 - financial trading (as defined below);
 - participating in issues of any kind of securities (including underwriting and placement as an agent, whether publicly or privately) and providing services related to such issues;
 - money brokering;
 - asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services;
 - settlement and clearing services for financial assets (including securities, derivative products and other negotiable instruments);
 - providing or transferring financial information, and financial data processing or related software (but only by suppliers of other financial services);
 - providing advisory and other auxiliary financial services in respect of any activity listed in sub-paragraphs (i) to (xi) (including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy).

- “Financial trading” means trading for own account or for account of customers, whether on an investment exchange, in an over-the-counter market or otherwise, in:
 - money market instruments (including cheques, bills and certificates of deposit);
 - foreign exchange;
 - derivative products (including futures and options);
 - exchange rate and interest rate instruments (including products such as swaps and forward rate agreements);
 - transferable securities;
 - other negotiable instruments and financial assets (including bullion).

TRUST SERVICES

‘Trust services’ are defined as:

- the creation of a trust, or similar arrangement;

- o the provision of a registered office, business address, correspondence address, administrative address for a trust or similar arrangement;
- o the operation or management of a trust or similar arrangement; or
- o acting or arranging for another person to act as a trustee of a trust or similar arrangement.

Trust services are provided 'for the benefit of' a person ("B") where -

- (a) B is a beneficiary of a trust or similar arrangement
- (b) B is referred to as a potential beneficiary in a document from the settlor relating to a trust or similar arrangement (such as a letter of wishes), or
- (c) Having regard to all the circumstances, B might reasonably be expected to obtain, or to be able to obtain, a significant financial benefit from the trust or similar arrangement.

Annex 3**Frozen accounts**

All reports of frozen accounts should include the following information:

- Name of financial institution holding the account
- Account name
- Details of the account holder
- Date account frozen
- Type of account
- Account number
- Sort code (where relevant)
- Credit balance
- Debit balance
- Currency
- Date account opened
- Any other relevant information relevant to the freezing of the account

Frozen payments / transactions

All reports of frozen payments or transactions should include the following information:

- Details of the institution/person who has frozen the transaction
- Details of their role in the transaction
- Date of transaction (Inc. amount and currency)
- Date transaction frozen
- All relevant account details (originator, intermediaries, beneficiary)
- Details of the originator of the transaction (name, address, etc.)
- Details of the originating financial institution (name, address, etc.)
- Details of any intermediary financial institutions (name, address, etc.)
- Details of the beneficiary of the transaction (name, address, etc.)
- Details of the beneficiary financial institution (name, address, etc.)
- Any additional information found in the originator-to-beneficiary or bank-to-bank information
- Any other additional information relevant to the freezing of the transaction, including the payment instruction where available.

Barbara Webster-Bourne
Speaker

Passed by the House of Assembly this day of , 2023

Lenox J. Proctor
Clerk of the House of Assembly

OBJECTS AND REASONS

(The objects and reasons do not form part of the Bill)

The objects and reasons of the Bill for Counter Terrorism Act 2023, is to make provisions for offences related to terrorism and related matters. The Bill has 13 Parts—

Part 1 of this Bill deals with the interpretation of terms used in the Bill including defining what is meant by terrorism, terrorist property and privileged communication.

Part 2 outlines the different offences related to terrorism that are created under this Part. The particular acts which are prohibited under this Part include the following—

1. Persons are prohibited from making available financial and other related services with the intention that such services will be used for the purposes of terrorism. Similarly, persons are prohibited from making available property where there is reason to believe that same will be used for terrorism. Persons are also prohibited from using their property for the purposes of terrorism.
2. Persons are prohibited from entering arrangements which facilitate the retention or acquisition of terrorist property by another person.
3. Other offences include prohibition against acquiring, concealing or dealing with terrorist property, soliciting or giving support for the commission of terrorist acts, harbouring of persons committing terrorist act, offering to provide explosives or lethal devices for the purpose of committing a terrorist act, recruiting persons for terrorist purposes, providing training to persons committing terrorism, money laundering.
4. This Part also provides that a person does not commit an offence under this Act where he cooperates with the police, which includes disclosing his suspicion of the commission of a terrorist act to a police officer or acting under the express consent/instruction of a police officer.

Part 3 deals with offences created under Conventions dealing with combatting terrorism. These offences include the following—

1. It is an offence to engage in any activity which endangers the safety of maritime navigation, which includes destroying navigational facilities, seizing control over a ship by force or performing an act of violence against a person on board the ship.
2. It also prohibits the delivering discharging etc. of an explosive in a public place.
3. A person who places any substance in a place or sends a substance to a particular place with the intention of inducing a person to believe that the substance placed is noxious or is a lethal device or chemical weapon commits an offence. Similarly an offence is committed where a person communicated information which he knows is false with the intention of inducing a person to believe that there is a noxious substance, lethal device or weapon of mass destruction present in a particular place.
4. A person also commits an offence he unlawfully uses, threatens etc. to use chemical, biological or nuclear weapons against a person or property in Anguilla.

Part 4 deals with the interim and final designation as terrorist or associated entity. This part provides that the Governor may make an interim designation of an entity as a terrorist entity if the UN Security Council has advised that measures should be taken in relation to an entity because of the risks of terrorist acts being carried out by that entity. Similarly, the Governor may after

consultation with the Secretary of State, make a final designation of an entity if he believes that the entity is involved in a terrorist act or is owned or controlled by someone involved in a terrorist act. This Part provides for the notification of these designations to the entity and the public by publication in the Gazette.

Part 5 deals with material on which designations may be based. This Part provides that the Governor in determining whether or not to make or revoke a designation may take into account any relevant information, including classified security information. This Part also defines “classified security information” and information held by a specified Agency that must be treated as confidential for specified reasons. This Part also makes provision for the judicial review of designations by the Governor and revocation and renewal by the Governor of designations made by him or her. Where a designation is revoked, renewed or expires or is invalid the Governor is required under this Part to notify the public and specified persons, including the designated entity of same.

Part 6 deals with provisions in relation designated entities whether such designation is a UN Security Council Designation or a designation by the Governor. This Part outlines the duties of the Unit in relation to entities or individual that is designated as a terrorist entity by the Security Council of the UN. Such duties including maintaining a list of designated entities and circulating a list of the designated entities to financial institutions and service providers. This Part also outlines the procedures that financial institutions and service providers must apply in relation to designated entities. Where a designated entity has funds with a financial institution or service provider, the institution or service provider shall immediately inform the Unit of same. The financial institution or service provider is also required to immediately freeze funds owned or controlled by a designation entity. Where the Unit is in receipt of any information under this section, the Unit shall furnish this information to the Attorney-General immediately. The Attorney-General may also apply to a judge for an order declaring an individual or entity to be a listed entity and for the funds of such listed entity to be frozen.

Part 7 deals with sanctions under the Sanctions and Anti-Money Laundering Act 2018.

Part 8 deals with travel ban and arms embargo.

Part 9 deals with the investigation of offences and gives a senior police officer varying powers to assist with the investigation of offences. A senior officer may apply for a detention order to detain a person where such officer believes that such detention is necessary to prevent the commission of an offence or the interference of an investigation of an offence. The senior officer may also apply for an order to gather information from a specified person where the court is satisfied that an offence has been committed and the information being sought relates to the offence or the whereabouts of the person suspected of committing the offence. This Part also provides that the officer may apply to the court for an order to search property in connection with an offence under this Bill.

Part 10 deals with the duties imposed on regulatory authorizes, regulated businesses and the public service to disclose in accordance with this Part, information that comes into its possession in relation to an offence under this Bill. The obligation to disclose however does not extend to information that is subject to legal privilege.

Part 11 deals with information sharing to a foreign state.

Part 12 deals with the seizure and confiscation of terrorist property. This Part provides that where a senior customs officer, immigration officer or police officer believes that a person is in possession

of terrorist property, such officer may apply to a Judge for a restraint order in respect of that property. This Part also allows for the application for the confiscation of property or money on conviction of an offence under this Bill. The Attorney-General may also apply to a Judge for an order to search a building, place or vessel and to seize property found in such building, place or vessel that he reasonably believes may be confiscated under an Order for confiscation. A restraint order may also be given to prevent the dealing or disposing of any interest in property seized under this Part. Under this Part a senior immigration, customs or police officer may also make an application for an order to seize and detain cash where there is reasonable ground to believe that such cash is terrorist property or is intended to be used in the commission of a terrorist offence.

Part 13 deals with miscellaneous matters including the power given to the Governor to make Regulations under this Bill.