

## PREVENTION OF TERRORISM (AMENDMENT) BILL, 2021

(Bill No. 8 of 2021)

### OBJECTS AND REASONS

The Prevention of Terrorism Act, 2004 (Cap 179) (hereinafter referred to as Prevention of Terrorism Act) was enacted to provide for measures to prevent and suppress terrorism and for connected matters.

The Financial Action Task Force (FATF), an inter-governmental body established in 1989 by the Ministers of the member jurisdictions has set out the standards to promote effective implementation of the measures for combating money laundering activities. Recommendation Numbers 5, 6 and 7 of the said recommendations relates to Terrorist Financing and Proliferation Financing. The Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG), a regional body has been, *inter alia*, tasked by the FATF to oversee the implementation of FATF Recommendations in the Region. The said ESAAMLG evaluated the steps taken for implementation of FATF recommendations and submitted its Mutual Evaluation Report (MER) in September, 2018. In the said MER, the ESAAMLG, *inter alia*, observed that criterion No's. 5.2, 5.10, 6.1, 6.2 and 6.5 were partly met with and criterion No's. 5.7, 6.3, 7.1 to 7.5 have not been met with the recommendations of the FATF. In so far as criterion No.'s 6.1, 6.2, 6.5 and 7.5 of the recommendations, regulations are required to be amended.

In order to meet with the other criterion, it is proposed to amend sections 2, 5, 6, 15, 27, 35 and insert new section 20A and new PART-III A relating to proliferation financing (sections 20B to 20H) in the Prevention of Terrorism Act (Cap.179). The salient features of the proposed Bill are as follows:

- (A) **Amendment of section 2 (Definitions):** The proposed Bill provides for definitions of the terms “financial institution”, “funds”, “person”, “legal person”, “property”, “terrorist” and expanding the scope of the term “terrorist acts” and “terrorist group”. It is proposed to give the reference of the definitions provided in the AMLCFT Act, 2020.

- (B) **Amendment of section 5, 6, 15, 27 and 35:** It is proposed to amend sections 5, 6, 15, 27 and 35 of the Prevention of Terrorism Act to sync with the recommendations of the FATF.
- (C) **Insertion of new section 20A:** It is proposed to insert a new section 20A in the Prevention of Terrorism Act to provide for punishment for the legal persons for violation of any provisions of the PT Act.
- (D) **Insertion of new PART-III A:** It is proposed to insert a new PART-III A in the Prevention of Terrorism Act to provide provisions for proliferation of weapons of mass destruction and its financing.

**Dated this 2nd day of March, 2021.**

**FRANK D.R. ALLY  
ATTORNEY-GENERAL**

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*(Bill No. 8 of 2021)*



**A BILL**

**FOR**

**AN ACT to amend the Prevention of Terrorism Act (Cap. 179).**

**ENACTED** by the President and the National Assembly.

**Short title**

**1.** This Act may be cited as the Prevention of Terrorism (Amendment) Act, 2021.

**Amendments to Cap. 179**

2. The Prevention of Terrorism Act (hereinafter referred to as the principal Act) is amended as follows —

(a) in section 2 of the principal Act, —

(i) by repealing the definition “financial institution” and therefor substituting the following definitions —

' “financial institution” shall have the same meaning assigned to it in Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020);

“funds” shall have the same meaning assigned to it in Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020);';

(ii) after the definition of “operator”, the following definition shall be added —

' “person” and “legal person” shall have the same meanings assigned to them in the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020);';

(iii) by repealing the definition of “property” and therefor substituting the following definition —

' “property” shall have the same meaning assigned to it in Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020);';

(iv) after the definition of “specified entity”, the following definition shall be added —

' “terrorist” means a natural person who —

(a) commits or attempts to commit terrorist acts by any means, directly or indirectly;

- (b) participates as an accomplice in terrorist acts;
  - (c) organises or directs others to commit terrorist acts;
  - (d) contributes to the commission of terrorist acts by a group of persons acting with a common purpose where the contribution is made intentionally and with the aim of furthering the terrorist act or with the knowledge of the intention of the group to commit a terrorist act;”;
- (v) in the definition of “terrorist acts”, after paragraph (e), the following paragraph shall be inserted —
- “(ea) involves any of the following activities —
- (i) any offence relating to aircraft hijacking;
  - (ii) any offence relating to aviation sabotage;
  - (iii) any offence against the safety of maritime navigation;
  - (iv) any offence against the safety of fixed platforms located on the continental shelf;
  - (v) any criminal acts against internationally protected persons such as diplomats etc.;
  - (vi) unlawfully taking possession of nuclear material;
  - (vii) any activities in relation to hostage taking;
  - (viii) any offence relating to terrorist bombings or bomb threats or hoax information and use of aircraft as a weapon; and
  - (ix) funding terrorist acts, terrorists and terrorist organisations;”;

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- (vi) in the definition of “terrorist group”, paragraphs (a) and (b) shall be renumbered as paragraphs (b) and (c) and before those renumbered paragraphs, the following paragraph shall be inserted —
- “(a) an individual terrorist;”;
- (b) in section 5 of the principal Act, after the words “terrorist act”, the following words shall be inserted —
- “even in the absence of a link to a specific terrorist act or acts”;
- (c) in section 6 of the principal Act, —
- (i) after the words “other related services”, the words “, intending or knowing that” shall be inserted;
- (ii) in paragraph (a), by repealing the words “intending that”;
- (iii) in paragraph (b) by repealing the words “knowing that”;
- (d) in section 15 of the principal Act —
- (i) after the words “who in Seychelles”, insert the words “or who travels to any foreign State”;
- (ii) in paragraph (a), —
- (a) after the words “of any act”, insert the words “in Seychelles or”;
- (b) after subparagraph (iii), the following subparagraph shall be added —
- “(iv) for the purpose of perpetration, planning or preparation of, or participation in any terrorist act;”;
- (e) after section 20 of the principle Act, the following section shall be added —

**Punishment for offence by legal persons**

**20A.**(1) Every legal person who commits an offence under this Act is guilty of an offence and shall on conviction, be liable to pay penalty of not less than SCR500,000.

(2) Every Director and Senior Manager of the legal person who is holding the position on the date of offence shall be responsible for any offence committed by the said legal person under this Act.

(a) after PART III, the following PART shall be inserted —

**“PART-III A-PROLIFERATION OF WEAPONS OF MASS DESTRUCTION AND ITS FINANCING****Definitions**

**20B.** In this Part —

“biological weapons” are —

- (i) microbial or other biological agents, or toxins whatever their origin or method of production, of types and in quantities that have no justification for prophylactic, protective or other peaceful purposes; and
- (ii) weapons, equipment or delivery systems specially designed to use such agents or toxins for hostile purposes or in armed conflict;

“chemical weapons” means —

- (i) the toxic chemicals and their precursors, except where intended for —
  - (a) industrial, agricultural, research, medical, pharmaceutical or other peaceful purposes;
  - (b) protective purposes, namely those purposes directly related to protection against toxic

chemicals and to protection against chemical weapons;

- (c) military purposes not connected with the use of chemical weapons and not dependent on the use of the toxic properties of chemicals as a method of warfare; or
- (d) law enforcement including domestic riot control purposes,

as long as the types and quantities are consistent with such purposes;

- (ii) the munitions and devices, specifically designed to cause death or other harm through the toxic properties of those toxic chemicals specified in paragraph (i), which would be released as a result of the employment of such munitions and devices; and
- (iii) any equipment specifically designed for use directly in connection with the employment of munitions and devices specified in paragraph (ii),

together or separately;

“nuclear weapon” means any nuclear weapon or other nuclear explosive device as may be determined by the Minister by notice published in the Gazette, whose determination in the matter shall be final;

“person” shall have the same meaning assigned to it in Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020);

“proliferation financing” means the act of providing funds or financial assistance or service, which may, in whole or in part be used for the manufacture, acquisition, possession, development, export, transshipment, brokering, transport, transfer, stockpiling or use of nuclear, chemical or biological weapons and their means of delivery and related materials (including both technologies and dual use goods used for non-legitimate purposes), in contravention of the Laws of Seychelles, where applicable and the international obligations;

“weapons of mass destruction” means any biological, chemical or nuclear weapons.

### **Offence of proliferation financing**

**20C.(1)** No person shall engage in the proliferation financing.

(2) Any person who contravenes subsection (1), —

- (a) in case of a natural person, commits an offence and is liable on conviction to imprisonment for a term not exceeding 20 years and to a fine of not less than SCR500,000;
- (b) in case of a body corporate, a fine not less than SCR1000,000.

### **Enforcement of United Nations Security Council Resolutions in the Republic.**

**20D.(1)** In order to enforce compliance in the Republic with United Nations Security Council Resolutions, adopted under Chapter VII of the Charter of the United Nations, relating to terrorism and terrorist financing and relating to the

prevention, suppression and disruption of proliferation of weapons of mass destruction and its financing, the procedures under subsections (2) to (6) of this section, which are in addition to and not in substitution for any other process of detention, freezing or forfeiture under this Act, a restraint order under section 69 of the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020, or a forfeiture order or a pecuniary penalty order under that Act or any order that might be made under the provisions of the Proceeds of Crimes (Civil Confiscation) Act (Cap. 298).

(2) All natural and non-natural persons within Seychelles shall without delay and without prior notice freeze the property of designated entities.

(3) Without prejudice to the generality of the foregoing, the freezing obligation shall extend to —

- (i) all property that is owned or controlled by the designated entity and not just that which can be tied to a particular terrorist act, plot or threat or to a particular act, plot or threat of proliferation;
- (ii) property that is wholly or jointly owned or controlled directly or indirectly by a designated entity;
- (iii) property derived or generated from property owned or controlled directly or indirectly by a designated entity; and
- (iv) property of a person or entity acting on behalf of or at the direction of a designated entity.

(4) A person who without lawful excuse fails or refuses to freeze property without delay as provided in

subsection (2) commits an offence and as regards a natural person, is liable on conviction to imprisonment for a term not exceeding 20 years or to a fine not exceeding SCR1000000 or to both and in case of a non-natural person to a fine not exceeding SCR2000000.

### **Regulations**

**20E.**(1) The Minister may, by regulations make such provisions as may appear to the Minister to be necessary or expedient for the application and enforcement of this Part and to enforce compliance with United Nations Security Council Resolutions, relating to terrorism and terrorist financing and relating to the prevention, suppression and disruption of proliferation of weapons of mass destructions and its financing.

(2) Where a designation is made under a regulation made under subsection (1), that the named entity is engaged in the financing of proliferation of weapons of mass destructions, that entity shall be deemed with effect from the date of publication of the regulation to have been so engaged.

(3) Any designation made under any regulation made under subsection (1) shall be communicated to all the financial institutions and designated non-financial businesses or professions with the guidance to hold targeted funds or other assets, in taking action for freezing such funds or assets.

(4) Every financial institutions and designated non-financial businesses or professions shall report to their respective supervisory authorities regarding freezing of any assets or any action taken in compliance with the designation made under the regulations issued under subsection (1).

### **Protection of action taken in good faith**

**20F.** No person shall be prosecuted for any action taken by him or her in good faith for implementing the provisions of this Part, against any person.

**Compliance by financial institutions and designated non-financial businesses or professions.**

**20G.**(1) Every financial institution and designated non-financial businesses or professions shall comply with all the requirement under this Part and report the compliance to their respective monitoring supervisory authority designated under the provisions of the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020).

(2) Failure to comply with any of the requirements under this Part by any financial institution and designated non-financial businesses or professions under subsection (1), commits an offence and as regards a natural person, is liable on conviction to imprisonment for a term not exceeding 20 years or to a fine not exceeding SCR1000000 or to both and in case of a non-natural person to a fine not exceeding SCR2000000.

**Power to prohibit making funds available to persons in foreign states to commit proliferation financing.**

**20H.**(1) Where the Minister has reasonable grounds to believe that a person outside Seychelles is committing, or is likely to commit proliferation financing in Seychelles, the Minister may, by Order published in the Gazette prohibit —

- (a) all persons in Seychelles;
- (b) all citizens of Seychelles residing outside Seychelles,

from making funds available to, or for the use or benefit of, the first mentioned person who shall be named in the Order or be identified by reference to a description of persons set out in the Order.

(2) Every person who does any act in contravention of an Order made under subsection (1), commits an offence

and shall on conviction, be liable to imprisonment for a term not less than 3 years and not exceeding 5 years.”;

- (f) in section 27(3) (a), by inserting a new subparagraph (iii) after subparagraph (ii) —

(iii) a non-Seychellois person;

- (g) in section 35 of the principal Act —

(A) in subsection (2) repeal the words “Every financial institution shall report every three months to the Central Bank—” and therefor substitute the words “Every person shall report to the Financial Intelligence Unit as per the regulations made under this Act—”;

(B) in subsection (4), repeal the words “Central Bank” occurring at both places and substitute therefor the words “Financial Intelligence Unit”;

### **MISCELLANEOUS AMENDMENTS**

- (h) Section 55 of the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 is amended by inserting a new subsection (4) —

(4) Notwithstanding anything in subsections (1) to (3), the supervisory authorities shall be the monitoring authorities for the purposes of the Prevention of Terrorism Act (Cap.179) and all the reporting entities and entities covered under this Act shall comply with all the requirements under the Prevention of Terrorism Act (Cap.179).