



REPUBLIC OF NAURU

COUNTER TERRORISM AND TRANSNATIONAL ORGANISED CRIME (AMENDMENT) BILL 2020

No. of 2020

A Bill for an Act to amend the *Counter Terrorism and Transnational Organised Crime Act 2004*.

Certified: []

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Enacted by the Parliament of Nauru as follows:

1 Short title

This Act may be cited as the *Counter Terrorism and Transnational Organised Crime (Amendment) Act 2020*.

2 Commencement

This Act commences on certification of the Speaker.

3 Amendment of the Counter Terrorism and Transnational Organised Crime Act 2004

The *Counter Terrorism and Transnational Organised Crime Act 2004* is amended by the provisions of this Act.

4 Amendment of Section 2

Section 2(1) is amended by:

(a) deleting and substituting the definitions for the following terms:

'property' includes:

- (a) assets of every kind, including financial assets and economic resources, whether corporeal or incorporeal, moveable or immoveable, tangible or intangible;
- (b) 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 and letters of credit;
- (c) any interest, dividends or other income on or value accruing from or generated by such assets; and
- (d) any other asset which potentially may be used to obtain funds, goods or services;

'terrorist group' means a group of persons that:

- (a) commits or attempts to commit a terrorist act;
- (b) participates as an accomplice in a terrorist act;
- (c) organises or directs others to commit a terrorist act; or
- (d) contributes to the commission of a terrorist act by 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;

'terrorist property' means any property that is:

- (a) the proceeds of terrorism financing or a terrorist act;
 - (b) used in, intended or allocated for use in terrorism financing or a terrorist act; or
 - (c) used by, intended or allocated for use by a terrorist group;
- (b) inserting the following term and its definition in alphabetical order:

'terrorist' means a natural person who:

- (a) commits or attempts to commit a terrorist act;
 - (b) participates as an accomplice in a terrorist act;
 - (c) organises or directs others to commit a terrorist act; or
 - (d) contributes to the commission of a terrorist act 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; and
 - (e) includes a terrorist fighter.'
- (d) deleting the term **'specified entity'** and its definition.

5 **Amendment of Section 3**

Section 3 is deleted and substituted as follows:

'3 Definition of terrorist act

- (1) For the purposes of this Act, **'terrorist act'** means:
- (a) an act which constitutes an offence within the scope of and as defined by a counter terrorism convention;
 - (b) any other act intended to cause any one or more of the outcomes specified in subsection (2), when the purpose of such act, by its nature or context is to:
 - (i) intimidate a civilian population or a section of a civilian population; or

- (ii) compel or coerce a domestic or foreign government or an international organisation to do or abstain from doing any act.

(2) For the purposes of subsection (1), an outcome is:

- (a) the death of or serious bodily injury to one or more persons, other than a person carrying out the act;
- (b) a serious risk to the health or safety of a population;
- (c) destruction of or serious damage to property of great value or importance;
- (d) major economic loss or environmental damage, if likely to result as a consequence of 1 or more outcomes specified in paragraphs (a), (b) or (c);
- (e) serious interference with, or serious disruption to, an infrastructure facility, if likely to endanger human life;
- (f) introduction or release of a disease-bearing organism, if likely to devastate the national economy of a country; or
- (g) acquire finance or property to perpetuate or perpetrate, to further achieve the objectives in subsection (1).

(3) An act does not fall within subsection (1), if it occurs in a situation of armed conflict and is, at the time and in the place that it occurs, in accordance with rules of international law applicable to the conflict.

(4) For the avoidance of doubt, the fact that a person engages in any protest, advocacy, dissent, strike, lockout or other industrial action, is not, by itself, a sufficient basis for inferring that the person is carrying out an act with an outcome, specified in subsection (2) or terrorist act.'

6 Amendment of Part 2

Part 2 is repealed.

7 Amendment of Section 10

Section 10 is deleted and substituted as follows:

'10 Terrorism financing

- (1) No person shall provide, offer or collect a property by any means, directly or indirectly, with the knowledge that such property be used or is to be used, in full or in part:
 - (a) to carry out a terrorist act;
 - (b) by a terrorist group; or
 - (c) by a terrorist.
- (2) A person contravenes subsection (1):
 - (a) even in the absence of a link to a specific terrorist act;
 - (b) regardless of whether the property is from a legitimate or illegitimate source;
 - (c) even if the property provided or collected was not actually used, in full or in part, to carry out or attempt a terrorist act;
 - (d) regardless of whether the person is in the same country or a different country from the one in which a terrorist or terrorist group is located; and
 - (e) regardless of whether the person is in the same country or a different country from the one in which the terrorist act occurred or will occur.
- (3) A person who contravenes subsection (1), commits an offence and upon conviction is liable to:
 - (a) if the offender is a natural person, life imprisonment; or
 - (b) if the offender is a legal person, a fine not exceeding \$10,000,000.'

8 Insert new Section 15A

A new section 15A is inserted as follows:

'15A Foreign terrorist

- (1) No foreign terrorist shall:
 - (a) leave or attempt to leave the Republic;
 - (b) board or attempt to board a vessel or an aircraft intending to leave the Republic; or

- (c) provide, receive or participate in any training on how to plan or carry out a terrorist act,

for the purposes of perpetrating, planning, preparing or participating in the commission of 1 or more terrorist acts in the Republic or in a foreign jurisdiction.

- (2) A person who contravenes subsection (1), commits an offence and upon conviction is liable to life imprisonment.'

9 Insert new Section 15B

A new section 15B is inserted as follows:

'15B Assisting foreign terrorist

- (1) No person shall recruit, organise, facilitate or assist a foreign terrorist to leave or attempt to leave the Republic for the purposes of:

- (a) planning, preparing, carrying out, participating in or assisting the commission of any act outside of the Republic that, if committed in the Republic, would be a terrorist act; or

- (b) providing, receiving or participating in any training on how to plan or carry out a terrorist act,

knowing that or is being reckless as to whether the terrorist or terrorist group is leaving or attempting to leave the Republic for such purpose.

- (2) A person who contravenes subsection (1), commits an offence and is liable upon conviction to:

- (a) if the offender is a natural person, life imprisonment; or

- (b) if the offender is a legal person, a fine not exceeding \$10,000,000.'

10 Insert new Section 15C

A new section 15C is inserted as follows:

'15C Financing foreign terrorist

- (1) No person shall provide or collect any property by any means, directly or indirectly, with the knowledge that it is to be used, in full or in part, to facilitate the travel of a

terrorist to a foreign country other than his or her country or country of residence or nationality for the purposes of:

- (a) perpetrating a terrorist act;
- (b) planning a terrorist act;
- (c) preparing a terrorist act;
- (d) participating in a terrorist act; or
- (e) providing or receiving terrorist training.

(2) A person contravenes subsection (1):

- (a) even in the absence of a link to a specific terrorist act;
- (b) regardless of whether the property is from a legitimate or illegitimate source;
- (c) even if the property collected or provided was not actually used, in full or in part, to carry out or attempt an activity mentioned in subsection (1);
- (d) regardless of whether the person is in the same country or a different country from the one in which the foreign terrorist is located;
- (e) regardless of whether the person is in the same country or a different country from the one in which an activity mentioned in subsection (1)(a) to (e) occurred or will occur.

(3) A person who contravenes subsection (1), commits an offence and upon conviction is liable to:

- (a) if the offender is a natural person, life imprisonment; or
- (b) if the offender is a legal person, a fine not exceeding \$10,000,000.'

11 **Amendment of Part 4**

Part 4 is amended as follows:

- (a) delete the words '*property of specified entities*' wherever they appear and substitute with the words '*terrorist properties*';
- (b) delete and substitute subsection 18(5):

'(5) If not earlier revoked, a direction under Section 16 about terrorist property expires if a forfeiture order is made under Section 24 in relation to the property.'

(c) for Section 22(3), delete and substitute paragraphs (a) and (b):

'(a) the person was knowingly involved in any way in the carrying out of the terrorist act; or

(b) if the person acquired an interest in the property before it became a terrorist property, the applicant did not acquire the interest in the property in good faith and for value, without knowing or having reason to believe that the property was, at the time of the acquisition, property subject to a direction under Section 16.'

(d) for Section 29, delete subsections (1), (2) and (3) and all subsequent references to those subsections.

12 General amendment

The Act is amended by deleting:

(a) '*Schedule 1*' wherever it appears and substituting with the word '*Schedule*'; and

(b) the words '*specified entity*' wherever they appear and substituting with the words '*terrorist group*'.

13 Amendment of Schedule – Counter Terrorism Conventions

The Schedule is amended by adding new items after item '16' as follows:

' 17 Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation 2010, adopted at Beijing on 10 September 2010

18 Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft 2010, adopted at Beijing on 10 September 2010

19 Protocol to the Convention on Offences and Certain other Acts Committed on Board Aircraft 2014, done at Montreal on 4 April 2014'