

**PROTECTION OF CONSTITUTIONAL DEMOCRACY AGAINST
TERRORIST AND RELATED ACTIVITIES ACT
NO. 33 OF 2004**

[\[View Regulation\]](#)

[ASSENTED TO 4 FEBRUARY, 2005]
[DATE OF COMMENCEMENT: 20 MAY, 2005]

(English text signed by the President)

This Act has been updated to <i>Government Gazette</i> 27502 dated 15 April, 2005.
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ACT

To provide for measures to prevent and combat terrorist and related activities; to provide for an offence of terrorism and other offences associated or connected with terrorist activities; to provide for Convention offences; to give effect to international instruments dealing with terrorist and related activities; to provide for a mechanism to comply with United Nations Security Council Resolutions, which are binding on member States, in respect of terrorist and related activities; to provide for measures to prevent and combat the financing of terrorist and related activities; to provide for investigative measures in respect of terrorist and related activities; and to provide for matters connected therewith.

Preamble.—WHEREAS the Republic of South Africa is a constitutional democracy where fundamental human rights, such as the right to life and free political activity, are constitutionally enshrined;

AND WHEREAS terrorist and related activities, in whichever form, are intended to achieve political and other aims in a violent or otherwise unconstitutional manner, and thereby undermine democratic rights and values and [the Constitution](#);

AND WHEREAS terrorist and related activities are an international problem, which can only be effectively addressed by means of international co-operation;

AND WHEREAS the Government of the Republic of South Africa has committed itself in international fora such as the United Nations, the African Union and the Non-Aligned Movement, to the prevention and combating of terrorist and related activities;

AND WHEREAS the United Nations Security Council Resolution 1373/2001, which is binding on all Member States of the United Nations, as well as the *Convention for the Prevention and Combating of Terrorism*, adopted by the Organisation of African Unity, requires Member States to become Party to instruments, dealing with terrorist and related activities, as soon as possible;

AND WHEREAS the Republic of South Africa has already become Party to the following instruments of the United Nations:

- (a) The *Convention on Offences and Certain Other Acts Committed on Board Aircraft*, signed at Tokyo on 14 September 1963. The Republic became a Party thereto, by accession on 26 May 1972;
- (b) the *Convention for the Suppression of Unlawful Seizure of Aircraft*, signed at The Hague on 16 December 1970. The Republic became a Party thereto by ratification on 30 May 1972;
- (c)

the *Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation*, concluded at Montreal on 23 September 1971. The Republic became a Party thereto by ratification on 30 May 1972;

- (d) the *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 14 December 1973. The Republic became a Party thereto by accession on 23 September 2003;
- (e) the *International Convention Against the Taking of Hostages*, adopted by the General Assembly of the United Nations on 17 December 1979. The Republic became a Party thereto by accession on 23 September 2003;
- (f) the *Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation*, adopted at Montreal on 24 February 1988. The Republic became a Party thereto by accession on 21 September 1998;
- (g) the *Convention on the Marking of Plastic Explosives for the Purpose of Detection*, signed at Montreal on 1 March 1991. The Republic became a Party thereto by accession on 1 December 1999;
- (h) the *International Convention for the Suppression of Terrorist Bombings*, adopted by the General Assembly of the United Nations on 15 December 1997. The Republic became a Party thereto by ratification on 1 May 2003; and
- (i) the *International Convention on the Suppression of the Financing of Terrorism*, adopted by the United Nations General Assembly on 9 December 1999. The Republic became a Party thereto by ratification on 1 May 2003;

AND WHEREAS the Republic of South Africa desires to become a Party to the following remaining instruments of the United Nations, not yet ratified or acceded to by the Republic:

- (a) The *Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation*, adopted at Rome on 10 March 1988;
- (b) the *Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms on the Continental Shelf*, adopted at Rome on 10 March 1988;
- (c) the *Convention on the Physical Protection of Nuclear Material*, adopted at Vienna on 26 October 1979, and signed on behalf of the Republic on 18 May 1981;

AND WHEREAS the Republic of South Africa has become a Party by ratification, on 7 November 2002, to the *Convention on the Prevention and Combating of Terrorism*, adopted by the Organisation of African Unity at Algiers on 14 July 1999;

AND WHEREAS the United Nations Security Council from time to time passes resolutions under Chapter VII of the United Nations Charter, requiring Member States to combat terrorist and related activities, including taking effective measures to prevent and combat the financing of terrorist and related activities, and the freezing of funds, assets or economic resources of persons who commit terrorist and related activities;

AND WHEREAS our national laws do not meet all the international requirements relating to the prevention and combating of terrorist and related activities;

AND WHEREAS international law, and in particular international humanitarian law, including the purposes and principles of the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the said Charter recognizes acts committed in accordance with such international law during a struggle waged by peoples, including any action during an armed struggle, in the exercise or furtherance of their legitimate right to national liberation, self-determination and independence against colonialism, or occupation or aggression or domination by alien or foreign forces, as being excluded from terrorist activities;

AND REALISING the importance to enact appropriate domestic legislation necessary to implement the provisions of relevant international instruments dealing with terrorist and related activities, to ensure that the jurisdiction of the courts of the Republic of South Africa enables them to bring to trial the perpetrators of terrorist and related activities; and to co-operate with and provide support and assistance to other States and relevant international and regional organisations to that end;

AND MINDFUL that the Republic has, since 1994, become a legitimate member of the community of nations and is committed to bringing to justice persons who commit such terrorist and related activities; and to carrying out its obligations in terms of the international instruments dealing with terrorist and related activities,

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BE IT THEREFORE ENACTED by the Parliament of the Republic of South Africa, as follows:—

CHAPTER 1
DEFINITIONS AND INTERPRETATION

1. Definitions.—(1) In this Act, unless the context indicates otherwise—

(i)

“**appropriate government body**”, with reference to [section 15](#), means an appropriate government body as defined in [section 1](#) of the International Co-operation in Criminal Matters Act, 1996 ([Act No. 75 of 1996](#));

“**Convention offence**” means—

(ii)

(a)

an offence, created in fulfillment of the Republic's international obligations in terms of instruments dealing with terrorist and related activities, referred to in Part 2 of Chapter 2;

(b)

an offence referred to in [section 56 \(1\) \(h\)](#) of the Nuclear Energy Act, 1999 ([Act No. 46 of 1999](#)); or

(c)

an offence referred to in [section 2 \(1\)](#) or [\(2\)](#) of the Civil Aviation Offences Act, 1972 ([Act No. 10 of 1972](#));

(iii)

"Director of Public Prosecutions" means a Director of Public Prosecutions appointed under section 13 (1) of the National Prosecuting Authority Act, 1998 ([Act No. 32 of 1998](#));

(iv)

"engages in a terrorist activity", with reference to [sections 2](#) and [3](#), includes—

(a)

the commission, performance or carrying out of;

(b)

the facilitation of, participation or assistance in, or contribution to the commission, performance or carrying out of;

(c)

the performance of an act in preparation for or planning of; or

(d)

instructing, directly or indirectly, the—

(i)

commission, performance, carrying out of;

(ii)

facilitation of, participation or assistance in, or contribution to the commission, performance or carrying out of; or

(iii)

performance of an act in preparation for or planning of,

a terrorist activity, and the expressions **"to engage in a terrorist activity"**, **"engaging in a terrorist activity"** and **"engagement in a terrorist activity"** shall be construed accordingly;

(v)

"entity", with reference to [sections 3](#), [4](#), and 14 (in so far as it relates to the aforementioned sections), 22, 23 and 25, means a natural person, or a group of two or more natural persons (whether acting in the furtherance of a common purpose or conspiracy or not), or a syndicate, gang, agency, trust, partnership, fund or other unincorporated association or organisation, or any incorporated association or organisation or other legal person, and includes, where appropriate, a cell, unit, section, sub-group or branch thereof or any combination thereof;

(vi)

"explosive", with reference to the definition of "explosive or other lethal device" in this section, and [sections 5](#) and [13](#), means an explosive referred to in [section 1](#) of the Explosives Act, 2003 ([Act No. 15 of 2003](#));

(vii)

"explosive or other lethal device", with reference to [sections 5](#) and [13](#), means—

(a)
an explosive or incendiary weapon or device which is designed or manufactured, or has the capability, to cause death, serious bodily injury or material damage;

(b)
a weapon or device which is designed or manufactured, or has the capability, to cause death, serious bodily injury or material damage through the release, dissemination or impact of toxic chemicals, biological agents or toxins or similar substances or radiation or radioactive material; or

(c)
any weapon of mass destruction, as defined in [section 1](#) of the Non-Proliferation of Weapons of Mass Destruction Act, 1993 ([Act No. 87 of 1993](#));

(viii)
“fixed platform”, with reference to [sections 6](#) and [15](#), means an artificial island, installation, or structure permanently attached to the sea-bed for the purpose of exploration or exploitation of resources or for economic purposes, but does not include a ship;

(ix)
“infrastructure facility”, with reference to the definition of “terrorist activity” in this section and [section 5](#), means any publicly or privately owned facility providing or distributing services for the benefit of the public, such as water, sewage, energy, fuel or communications;

(x)
“instruments dealing with terrorist and related activities”, means any of the following instruments:

(a)
The Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963;

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

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

(d)
the 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 14 December 1973;

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

(f)
the *Convention on the Physical Protection of Nuclear Material*, adopted at Vienna on 26 October 1979;

(g)
the *Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation*, adopted at Montreal on 24 February 1988;

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

(i)
the *Protocol for the Suppression of Unlawful Acts against the Safety of fixed Platforms on the Continental Shelf*, 1988, adopted at Rome on 10 March 1988;

(j)
the *Convention on the Marking of Plastic Explosives for the Purpose of Detection*, signed at Montreal on 1 March 1991;

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

(l)
the *Convention on the Prevention and Combating of Terrorism*, adopted by the Organisation of African Unity at Algiers on 14 July 1999; or

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

(xi)
“**international organisation**”, with reference to the definitions of “intergovernmental organisation”, “internationally protected person” and “terrorist activity” in this section, means an international organisation of states, and includes an intergovernmental organisation;

(xii)
“**intergovernmental organisation**”, with reference to the definitions of “international organisation”, “internationally protected person”, “State or government facility” and “terrorist activity” in this section, and [section 7](#), means an international organisation established by the governments of states;

(xiii)
“**internationally protected person**”, with reference to [section 8](#), means—

(a)
a Head of State, including any member of a collegial body performing the functions of a Head of State under the constitution of the State concerned, a Head of Government or a Minister for Foreign Affairs, whenever any such person is in the Republic, as well as members of his or her family accompanying him or her; or

(b)
any representative or official of a State or any official or other agent of an international organisation or intergovernmental organisation or of an intergovernmental character who, at the time when and in the place where a crime against him or her or his or her official premises, his or her private accommodation or his or her means of transport is committed, is entitled, pursuant to international law to special protection from any attack on his or her person, freedom or dignity, as well as members of his or her family forming part of his or her household;

(xiv)
“**judge**” means a Judge of the High Court;

(xv)
“**Minister**” means the Minister for Safety and Security;

(xvi)

“National Commissioner” means the National Commissioner of the South African Police Service appointed in terms of [section 207 \(1\)](#) of [the Constitution](#);

(xvii)

“National Director” means the National Director of Public Prosecutions appointed in terms of [section 179 \(1\)](#) of [the Constitution](#);

(xviii)

“place of public use”, with reference to [section 5](#), includes those parts of any building, land, street, waterway or other location that are at any time accessible or open to members of the public, whether continuously, periodically or occasionally;

(xix)

“police official” means a “member” as defined in [section 1](#) of the South African Police Service Act, 1995 ([Act No. 68 of 1995](#)), and with reference to [section 24](#), includes a member of the South African National Defence Force employed in co-operation with the South African Police Service in terms of [section 201 \(2\) \(a\)](#) of [the Constitution](#) in the prevention and combating of crime and maintenance and preservation of law and order within the Republic, as contemplated in [section 19 \(1\)](#) of the Defence Act, 2002 ([Act No. 42 of 2002](#));

(xx)

“property” means money or any other movable, immovable, corporeal or incorporeal thing, and includes any rights, privileges, claims and securities and any interest therein and all proceeds thereof;

(xxi)

“public transportation system”, with reference to [section 5](#), means all facilities, conveyances and instrumentalities, whether publicly or privately owned, that are used in or for publicly available services for the transportation of persons or cargo;

(xxii)

“ship”, with reference to the definition of “fixed platform” in this section and [section 10](#), means a vessel of any type whatsoever not permanently attached to the sea-bed, including dynamically supported craft, submersibles or other floating craft, but does not include—

(a)

a warship;

(b)

a ship owned or operated by a State; or

(c)

a ship which has been withdrawn from navigation or laid up;

(xxiii)

“specified offence”, with reference to [section 4](#), [14](#) (in so far as it relates to [section 4](#)), and 23, means—

(a)

the offence of terrorism referred to in [section 2](#), an offence associated or connected with terrorist activities referred to in [section 3](#), a Convention offence, or an offence referred to in [section 13](#) or [14](#) (in so far as it relates to the aforementioned sections); or

(b)

any activity outside the Republic which constitutes an offence under the law of another state and which would have constituted an offence referred to in paragraph (a), had that activity taken place in the Republic;

(xxiv)
“**State or government facility**”, with reference to [section 5](#), includes any permanent or temporary facility or conveyance that is used or occupied by representatives of a State, members of Government, the legislature or the judiciary or by officials or employees of a State or any other public authority or entity of the Republic or by employees or officials of an intergovernmental organisation in connection with their official duties;

(xxv)
“**terrorist activity**”, with reference to this section and [sections 2, 3](#) and [17 \(2\)](#), means—

(a)
any act committed in or outside the Republic, which—

(i)
involves the systematic, repeated or arbitrary use of violence by any means or method;

(ii)
involves the systematic, repeated or arbitrary release into the environment or any part of it or distributing or exposing the public or any part of it to—

(aa)
any dangerous, hazardous, radioactive or harmful substance or organism;

(bb)
any toxic chemical; or

(cc)
any microbial or other biological agent or toxin;

(iii)
endangers the life, or violates the physical integrity or physical freedom of, or causes serious bodily injury to or the death of, any person, or any number of persons;

(iv)
causes serious risk to the health or safety of the public or any segment of the public;

(v)
causes the destruction of or substantial damage to any property, natural resource, or the environmental or cultural heritage, whether public or private;

(vi)
is designed or calculated to cause serious interference with or serious disruption of an essential service, facility or system, or the delivery of any such service, facility or system, whether public or private, including, but not limited to—

(aa)
a system used for, or by, an electronic system, including an information system;

(bb)
a telecommunication service or system;

(cc)
a banking or financial service or financial system;

(dd)

a system used for the delivery of essential government services;

(*ee*)

a system used for, or by, an essential public utility or transport provider;

(*ff*)

an essential infrastructure facility; or

(*gg*)

any essential emergency services, such as police, medical or civil defence services;

(*vii*)

causes any major economic loss or extensive destabilisation of an economic system or substantial devastation of the national economy of a country; or

(*viii*)

creates a serious public emergency situation or a general insurrection in the Republic,

whether the harm contemplated in paragraphs (*a*) (i) to (*vii*) is or may be suffered in or outside the Republic, and whether the activity referred to in subparagraphs (ii) to (*viii*) was committed by way of any means or method; and

(*b*)

which is intended, or by its nature and context, can reasonably be regarded as being intended, in whole or in part, directly or indirectly, to—

(i)

threaten the unity and territorial integrity of the Republic;

(ii)

intimidate, or to induce or cause feelings of insecurity within, the public, or a segment of the public, with regard to its security, including its economic security, or to induce, cause or spread feelings of terror, fear or panic in a civilian population; or

(iii)

unduly compel, intimidate, force, coerce, induce or cause a person, a government, the general public or a segment of the public, or a domestic or an international organisation or body or intergovernmental organisation or body, to do or to abstain or refrain from doing any act, or to adopt or abandon a particular standpoint, or to act in accordance with certain principles,

whether the public or the person, government, body, or organisation or institution referred to in subparagraphs (ii) or (iii), as the case may be, is inside or outside the Republic; and

(*c*)

which is committed, directly or indirectly, in whole or in part, for the purpose of the advancement of an individual or collective political, religious, ideological or philosophical motive, objective, cause or undertaking;

(*xxvi*)

“terrorist and related activities” means any act or activity related to or associated or connected with the commission of the offence of terrorism, or an offence associated or connected with a terrorist activity, or a Convention offence, or an offence referred to in [sections 11 to 14](#).

(2) For purposes of this Act, “act” includes “omission”.

(3) For the purposes of paragraph (a) (vi) and (vii) of the definition of “terrorist activity”, any act which is committed in pursuance of any advocacy, protest, dissent or industrial action and which does not intend the harm contemplated in paragraph (a) (i) to (v) of that definition, shall not be regarded as a terrorist activity within the meaning of that definition.

(4) Notwithstanding any provision of this Act or any other law, any act committed during a struggle waged by peoples, including any action during an armed struggle, in the exercise or furtherance of their legitimate right to national liberation, self-determination and independence against colonialism, or occupation or aggression or domination by alien or foreign forces, in accordance with the principles of international law, especially international humanitarian law, including the purposes and principles of the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the said Charter, shall not, for any reason, including for purposes of prosecution or extradition, be considered as a terrorist activity, as defined in [subsection \(1\)](#).

(5) Notwithstanding any provision in any other law, and subject to [subsection \(4\)](#), a political, philosophical, ideological, racial, ethnic, religious or any similar motive, shall not be considered for any reason, including for purposes of prosecution or extradition, to be a justifiable defense in respect of an offence of which the definition of terrorist activity forms an integral part.

(6) For the purposes of this Act a person has knowledge of a fact if—

(a) the person has actual knowledge of that fact; or

(b) the court is satisfied that—

(i) the person believes that there is a reasonable possibility of the existence of that fact; and

(ii) he or she fails to obtain information to confirm the existence of that fact.

(7) For the purposes of this Act a person ought reasonably to have known or suspected a fact if the conclusions that he or she ought to have reached, are those which would have been reached by a reasonably diligent and vigilant person having both—

(a) the general knowledge, skill, training and experience that may reasonably be expected of a person in his or her position; and

(b) the general knowledge, skill, training and experience that he or she in fact has.

CHAPTER 2 OFFENCES AND PENALTIES

PART 1

Offence of terrorism and offences associated or connected with terrorist activities

2. Offence of terrorism.—Any person who engages in a terrorist activity is guilty of the offence of terrorism.

3. Offences associated or connected with terrorist activities.—(1) Any person who—

- (a) does anything which will, or is likely to, enhance the ability of any entity to engage in a terrorist activity, including to provide or offering to provide a skill or an expertise;
- (b) enters or remains in any country; or
- (c) makes himself or herself available,

for the benefit of, at the direction of, or in association with any entity engaging in a terrorist activity, and who knows or ought reasonably to have known or suspected, that such act was done for the purpose of enhancing the ability of such entity to engage in a terrorist activity, is guilty of the offence associated with a terrorist activity.

(2) Any person who—

- (a) provides or offers to provide any weapon to any other person for use by or for the benefit of an entity;
- (b) solicits support for or gives support to an entity;
- (c) provides, receives or participates in training or instruction, or recruits an entity to receive training or instruction;
- (d) recruits any entity;
- (e) collects or makes a document; or
- (f) possesses a thing,

connected with the engagement in a terrorist activity, and who knows or ought reasonably to have known or suspected that such weapons, soliciting, training, recruitment, document or thing is so connected, is guilty of an offence connected with terrorist activities.

PART 2
Convention Offences

4. Offences associated or connected with financing of specified offences.—

(1) Any person who, directly or indirectly, in whole or in part, and by any means or method—

- (a) acquires property;
- (b) collects property;
- (c) uses property;
- (d) possesses property;
- (e) owns property;
- (f) provides or makes available, or invites a person to provide or make available property;

- (g) provides or makes available, or invites a person to provide or make available any financial or other service;
- (h) provides or makes available, or invites a person to provide or make available economic support; or
- (i) facilitates the acquisition, collection, use or provision of property, or the provision of any financial or other service, or the provision of economic support,

intending that the property, financial or other service or economic support, as the case may be, be used, or while such person knows or ought reasonably to have known or suspected that the property, service or support concerned will be used, directly or indirectly, in whole or in part—

- (i) to commit or facilitate the commission of a specified offence;
- (ii) for the benefit of, or on behalf of, or at the direction of, or under the control of an entity which commits or attempts to commit or facilitates the commission of a specified offence; or
- (iii) for the benefit of a specific entity identified in a notice issued by the President under [section 25](#),

is guilty of an offence.

(2) Any person who, directly or indirectly, in whole or in part, and by any means or method—

- (a) deals with, enters into or facilitates any transaction or performs any other act in connection with property which such person knows or ought reasonably to have known or suspected to have been acquired, collected, used, possessed, owned or provided—
 - (i) to commit or facilitate the commission of a specified offence;
 - (ii) for the benefit of, or on behalf of, or at the direction of, or under the control of an entity which commits or attempts to commit or facilitates the commission of a specified offence; or
 - (iii) for the benefit of a specific entity identified in a notice issued by the President under [section 25](#); or

- (b) provides financial or other services in respect of property referred to in [paragraph \(a\)](#),

is guilty of an offence.

(3) Any person who knows or ought reasonably to have known or suspected that property is property referred to in [subsection \(2\) \(a\)](#) and enters into, or becomes concerned in, an arrangement which in any way has or is likely to have the effect of—

- (a) facilitating the retention or control of such property by or on behalf of—
 - (i)

an entity which commits or attempts to commit or facilitates the commission of a specified offence; or

(ii)
a specific entity identified in a notice issued by the President under [section 25](#);

- (b) converting such property;
- (c) concealing or disguising the nature, source, location, disposition or movement of such property, the ownership thereof or any interest anyone may have therein;
- (d) removing such property from a jurisdiction; or
- (e) transferring such property to a nominee,

is guilty of an offence.

5. Offences relating to explosive or other lethal devices.—Any person who 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, with the purpose, amongst others, of causing—

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

is guilty of an offence relating to explosive or other lethal devices.

6. Offences relating to hijacking, destroying or endangering safety of a fixed platform.—Any person who intentionally—

- (a) seizes or exercises control over a fixed platform by force or any other form of intimidation;
- (b) performs an act of violence against a person on board a fixed platform, which act is likely to endanger the safety of that fixed platform;
- (c)
 - (i) destroys such a fixed platform; or
 - (ii) causes damage to it, which damage is likely to endanger the safety of that fixed platform;
- (d) places or causes to be placed on 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; or
- (e) injures or kills any person in connection with the commission of any of the acts referred to in [paragraphs \(a\) to \(d\)](#),

is guilty of an offence relating to the hijacking, destroying or endangering of a fixed platform.

7. Offences relating to taking a hostage.—Any person who intentionally—

- (a) seizes or detains; and
- (b) threatens to kill, to injure or to continue to detain,

any other person (hereinafter referred to as a hostage), in order to compel a third party, namely a State, an intergovernmental organisation, a natural or juridical person, or a group of persons to do or abstain from doing any act as an explicit or implicit condition for the release of the hostage, is guilty of an offence of taking a hostage.

8. Offences relating to causing harm to internationally protected persons.—Any person who, knowing that a person is an internationally protected person, intentionally—

- (a) murders or kidnaps or otherwise violently attacks the person or liberty of that person; or
- (b) executes a violent attack upon the official premises, the private accommodation or the means of transport of that person, which attack is likely to endanger his or her person or liberty,

is guilty of an offence relating to causing harm to an internationally protected person.

9. Offences relating to hijacking an aircraft.—Any person who intentionally, by force or threat thereof, or by any other form of intimidation, seizes or exercises control of an aircraft and with the purpose of—

- (a) causing any person on board the aircraft to be detained against his or her will;
- (b) causing any person on board the aircraft to be transported against his or her will to any place other than the next scheduled place of landing of the aircraft;
- (c) holding any person on board the aircraft for ransom or to service against his or her will; or
- (d) causing that aircraft to deviate from its flight plan,

is guilty of an offence of hijacking an aircraft.

10. Offences relating to hijacking a ship or endangering safety of maritime navigation.—Any person who intentionally—

- (a) seizes or exercises control over a ship by force or threat thereof or any other form of intimidation;
- (b) performs any act of violence against a person on board a ship if that act is likely to endanger the safe navigation of that ship;
- (c)

destroys a ship or causes damage to a ship or to its cargo which is likely to endanger the safe navigation of that ship;

- (d) places or causes to be placed on a ship, by any means whatsoever, a device or substance which is likely to destroy that ship, or causes damage to that ship or its cargo which endangers or is likely to endanger the safe navigation of that ship;
- (e) destroys or seriously damages maritime navigational facilities or seriously interferes with their operation, if such acts are likely to endanger the safe navigation of a ship;
- (f) communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safe navigation of a ship; or
- (g) injures or kills a person, in connection with the commission of any of the acts set forth in [paragraphs \(a\) to \(f\)](#),

is guilty of an offence relating to hijacking a ship or endangering the safety of maritime navigation.

PART 3
Other offences

11. Offences relating to harbouring or concealment of persons committing specified offences.—Any person who harbours or conceals any person, whom he or she knows, or ought reasonably to have known or suspected, to be a person who has committed a specified offence, as referred to in paragraph (a) of the definition of “specified offence”, or who is likely to commit such an offence, is guilty of an offence.

12. Duty to report presence of person suspected of intending to commit or having committed an offence and failure to so report.—(1) Any person who—

- (a) has reason to suspect that any other person intends to commit or has committed an offence referred to in this Chapter; or
- (b) is aware of the presence at any place of any other person who is so suspected of intending to commit or having committed such an offence,

must report as soon as reasonably possible such suspicion or presence, as the case may be, or cause such suspicion or presence to be reported to any police official.

(2) Any person who fails to comply with the provisions of [subsection \(1\) \(a\)](#) or [\(b\)](#), is guilty of an offence.

(3) Upon receipt of a report referred to in [subsection \(1\)](#), the police official involved, must take down the report in the manner directed by the National Commissioner, and forthwith provide the person who made the report with an acknowledgement of receipt of such report.

(4) (a) The National Commissioner must, at the commencement of this Act, publish the direction contemplated in [subsection \(3\)](#) in the *Gazette*.

(b) Any direction issued under [subsection \(3\)](#) must be tabled in Parliament.

(5) A person required to make a report in terms of [subsection \(1\)](#) concerning a suspicion that any other person intends to commit or has committed an offence referred to in [section 4](#), may continue with and carry out any transaction to which such a suspicion relates, unless directed in terms of [subsection \(6\)](#) not to proceed with such a transaction.

(6) If a police official authorised thereto by the National Commissioner, after consulting with a person required to make a report contemplated in subsection (5), has reasonable grounds to suspect that a transaction referred to in that subsection may constitute an offence contemplated in [section 4](#), that police official may direct that person, in writing, not to proceed with the carrying out of that transaction or any other transaction in respect of the property affected by that transaction for a period as may be determined by that police official, which may not be more than five days.

(7) For the purposes of calculating the period of five days in [subsection \(6\)](#), Saturdays, Sundays and proclaimed public holidays must not be taken into account.

(8) [Subsection \(6\)](#) does not apply to the carrying out of a transaction to which the rules of an exchange licensed in terms of the Stock Exchanges Control Act, 1985 ([Act No. 1 of 1985](#)), or the Financial Markets Control Act, 1989 ([Act No. 55 of 1989](#)), apply.

Repealed Act	X
Act 1 of 1985 has been repealed by s 117 of Act 36 of 2004	
Repealed Act	X
Act 55 of 1989 has been repealed by s 117 of Act 36 of 2004	

13. Offences relating to hoaxes.—(1) (a) Any person who, with the intention of inducing in a person anywhere in the world a false belief that a substance, thing or device is, or contains, or is likely to be, or contains a noxious substance or thing or an explosive or other lethal device—

(i)

places that substance, thing or device in any place; or

(ii)

sends that substance, thing or device from one place to another, by post, rail or any other means whatsoever,

is guilty of an offence.

(b) Any person who, directly or indirectly, communicates any information, which he or she knows, or ought reasonably to have known or suspected, or believes to be false, with the intention of inducing in a person anywhere in the world a belief that a noxious substance or thing or an explosive or other lethal device is likely to be present (whether at the time the information is communicated or later) in or at any place, is guilty of an offence.

(2) 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).

14. Threat, attempt, conspiracy and inducing another person to commit offence.—Any person who—

(a) threatens;

(b) attempts;

(c) conspires with any other person; or

(d) aids, abets, induces, incites, instigates, instructs or commands, counsels or procures another person,

to commit an offence in terms of this Chapter, is guilty of an offence.

CHAPTER 3
PROVISIONS RELATING TO OFFENCES AND PENALTIES

PART 1
Provisions relating to offences

15. Jurisdiction in respect of offences.—(1) A court of the Republic has jurisdiction in respect of any specified offence as defined in paragraph (a) of the definition of “specified offence”, if—

- (a) the accused was arrested in the territory of the Republic, or in its territorial waters or on board a ship or aircraft registered or required to be registered in the Republic; or
- (b) the offence was committed—
 - (i) in the territory of the Republic;
 - (ii) on board a vessel, a ship, an off-shore installation, or a fixed platform, or an aircraft registered or required to be registered in the Republic at the time the offence was committed;
 - (iii) by a citizen of the Republic or a person ordinarily resident in the Republic;
 - (iv) against the Republic, a citizen of the Republic or a person ordinarily resident in the Republic;
 - (v) on board an aircraft in respect of which the operator is licensed in terms of the Air Services Licensing Act, 1990 ([Act No. 115 of 1990](#)), or the International Air Services Act, 1993 ([Act No. 60 of 1993](#));
 - (vi) against a government facility of the Republic abroad, including an embassy or other diplomatic or consular premises, or any other property of the Republic;
 - (vii) when during its commission, a national of the Republic is seized, threatened, injured or killed;
 - (viii) in an attempt to compel the Republic to do or to abstain or to refrain from doing any act; or
- (c) the evidence reveals any other basis recognised by law.

(2) Any act alleged to constitute an offence under this Act and which is committed outside the Republic by a person other than a person contemplated in [subsection \(1\)](#), shall, regardless of whether or not the act constitutes an offence or not at the place of its commission, be deemed to have been committed also in the Republic if that—

- (a) act affects or is intended to affect a public body, any person or business in the Republic;
- (b) person is found to be in the Republic; and

- (c) person is for one or other reason not extradited by the Republic or if there is no application to extradite that person.

(3) Any offence committed in a country outside the Republic as contemplated in [subsection \(1\)](#) or [\(2\)](#), is, for the purpose of determining the jurisdiction of a court to try the offence, deemed to have been committed—

- (a) at the place where the accused is ordinarily resident; or
- (b) at the accused person's principal place of business.

(4) Where a person is charged with conspiracy or incitement to commit an offence or as an accessory after that offence, the offence is deemed to have been committed not only at the place where the act was committed, but also at every place where the conspirator, inciter or accessory acted or, in case of an omission, should have acted.

(5) Whenever the National Commissioner receives information from an appropriate government body of a foreign State that a person who is alleged to have committed or is convicted of or is sentenced in respect of any Convention offence in respect of which—

- (a) a court in the Republic has jurisdiction as referred to in [subsection \(1\)](#); or
- (b) any court in a foreign State may have jurisdiction,

may be present in the Republic, the National Commissioner must cause such measures to be taken as he or she may deem necessary to investigate the matter.

(6) Where it appears on reasonable grounds from the investigation referred to in [subsection \(5\)](#) that extradition or criminal proceedings may be instituted against such person, that person may be arrested as contemplated in [section 40 \(1\)](#) of the Criminal Procedure Act, 1977 ([Act No. 51 of 1977](#)), in order to ensure his or her presence at such proceedings.

(7) The National Director must, upon an arrest contemplated in [subsection \(6\)](#), promptly be notified thereof by the police official effecting such arrest.

(8) Upon being notified in terms of [subsection \(7\)](#), the National Director must promptly notify any foreign State that might have jurisdiction over the offence in question, either directly or through the Secretary General of the United Nations—

- (a) of the fact that the person is in custody;
- (b) of the circumstances that justify the person's detention; and
- (c) whether he or she intends to prosecute the person,

with a view to the surrender of such person to a foreign State for prosecution by that State, should the National Director decline to prosecute.

(9) The provisions of this section must be exercised subject to the provisions of the Extradition Act, 1962 ([Act No. 67 of 1962](#)).

16. Consent of National Director to institute proceedings and reporting obligations.—(1) No prosecution under Chapter 2 may be instituted without the written authority of the National Director.

(2) The National Director must communicate the final outcome of the proceedings promptly to—

- (a)

the Secretary General of the United Nations, so that he or she may transmit the information to other members of the United Nations, if a person is prosecuted for an offence referred to in [section 4](#), [5](#), [7](#) or [8](#);

(b) the Council of the International Civil Aviation Organization, if a person is prosecuted for an offence referred to in [section 9](#); or

(c) the Secretary General of the International Maritime Organization, if a person is prosecuted for an offence referred to in [section 6](#) or [10](#).

17. Evidential matters and exclusions.—(1) If in any proceedings in a court of law any question arises as to whether or not any person is an internationally protected person, or is pursuant to international law entitled to special protection from any attack on his or her person, freedom or dignity, a certificate under the hand or issued under the authority of the Director General of the Department of Foreign Affairs, stating any fact relating to that question, is *prima facie* evidence of that fact.

(2) A person commits an offence under [section 2](#), [3](#), [4](#), [11](#), [12 \(2\)](#) or [14](#) (in so far as it relates to the aforementioned sections), notwithstanding whether the terrorist activity occurs or not.

(3) A person commits an offence under [section 3](#), [4](#), [11](#) or [14](#) (in so far as it relates to the aforementioned sections), whether or not—

(a) the actions of the accused actually enhance the ability of any person to commit a specified offence; or

(b) the accused knows or ought reasonably to have known or suspected the specific offence that may be committed.

(4) Nothing in [section 4](#) makes it an offence to provide or collect funds intending that they be used, or knowing or while a person ought reasonably to have known or suspected that they are to be used, for the purpose of advocating democratic government or the protection of human rights.

(5) If a person reports the presence of a person referred to in [section 11](#), as soon as possible in accordance with [section 12](#), he or she shall not be liable for prosecution, under [section 11](#).

(6) A person charged with committing an offence under [section 4](#) may raise as a defence—

(a) the fact that he or she had performed any act in connection with the property in question, or allowed or facilitated the performance of any act in connection with that property, solely for the purpose of preserving the value of that property; or

(b) that he or she acted in good faith and reported his or her suspicion in accordance with [section 12](#) of this Act, or [section 29](#) of the Financial Intelligence Centre Act, 2001 ([Act No. 38 of 2001](#)), as the case may be.

(7) No action, whether criminal or civil, lies against a person complying in good faith with [section 12 \(1\)](#).

(8) A person who has made, initiated or contributed to a report in terms of [section 12 \(1\)](#) concerning a suspicion that any other person intends to commit or has committed an offence referred to in [section 4](#) is competent, but not compellable, to give evidence in criminal proceedings arising from the report.

(9) No evidence concerning the identity of a person who has made, initiated or contributed to a report in terms of [section 12 \(1\)](#) concerning a suspicion that any other person intends to commit or has committed an offence referred to in [section 4](#), is

admissible as evidence in criminal proceedings unless that person testifies at those proceedings.

(10) A person who acts reasonably in taking or omitting to take measures to comply with [section 4 \(2\)](#) shall not be liable in any civil action arising from having taken or omitted to have taken those measures, if the person proves that he or she took all reasonable steps to satisfy himself or herself that the relevant property was not owned, controlled or possessed by, or on behalf of or for the benefit of or at the direction of, an entity referred to in the said [section 4 \(2\)](#).

(11) A person is guilty of an offence under [section 13 \(1\) \(a\)](#) or [\(b\)](#), whether or not he or she has any particular person in mind as the person in whom he or she intends to induce the belief in question.

PART 2

Penalties and matters relating to penalties

18. Penalties.—(1) Any person who is convicted of an offence referred to in—

(a)

[section 2, 5, 6, 7, 8, 9](#) or [10](#) is liable—

(i)

in the case of a sentence to be imposed by a High Court, to a fine or to imprisonment for a period up to imprisonment for life;

(ii)

in the case of a sentence to be imposed by a regional court, to a fine or to imprisonment for a period not exceeding 18 years;

(iii)

in the case of a sentence to be imposed by any magistrate's court, to a fine or to imprisonment for a period not exceeding five years;

(b)

[section 3](#) or [11](#) is liable—

(i)

in the case of a sentence to be imposed by a High Court or a regional court, to a fine or to imprisonment for a period not exceeding 15 years;

(ii)

in the case of a sentence to be imposed by any magistrate's court, to any penalty which may lawfully be imposed by that court;

(c)

[section 4](#), is liable—

(i)

in the case of a sentence to be imposed by a High Court or a regional court, to a fine not exceeding R100 million or to imprisonment for a period not exceeding 15 years;

(ii)

in the case of a sentence to be imposed by any magistrate's court, to a fine not exceeding R250 000,00, or to imprisonment for a period not exceeding five years;

(d)

[section 13 \(1\) \(a\)](#) or [\(b\)](#), is liable—

(i)

in the case of a sentence to be imposed by a High Court or a regional court, to a fine or to imprisonment for a period not exceeding 10 years;

(ii)

in the case of a sentence to be imposed by any magistrate's court, to any penalty which may lawfully be imposed by that court;

(e) [section 12 \(2\)](#), is liable—

(i)
in the case of a sentence to be imposed by a High Court or a regional court, to a fine or to imprisonment for a period not exceeding five years;

(ii)
in the case of a sentence to be imposed by any magistrate's court, to any penalty which may lawfully be imposed by that court;

(f) [section 14](#), is liable to the punishment laid down in [paragraph \(a\)](#), [\(b\)](#), [\(c\)](#), [\(d\)](#) or [\(e\)](#) for the offence which that person threatened, attempted or conspired to commit or aided, abetted, induced, instigated, instructed, commanded, counselled or procured another person to commit.

(2) (a) The court, in imposing a sentence on a person who has been convicted of an offence under [section 13 \(1\) \(a\)](#) or [\(b\)](#), may order that person to reimburse any party incurring expenses incidental to any emergency or investigative response to that conduct, for those expenses.

(b) A person ordered to make reimbursement under [paragraph \(a\)](#), shall be jointly and severally liable for such expenses with each other person, if any, who is ordered to make reimbursement under that paragraph for the same expenses.

(c) An order of reimbursement under [paragraph \(a\)](#), shall, for the purposes of enforcement, be treated as a civil judgment.

19. Declarations of forfeiture on conviction.—(1) Whenever any person is convicted of an offence under this Act, the court in passing sentence must, in addition to any punishment which that court may impose in respect of the offence, declare any property which is reasonably believed to have been used—

(a) in the commission of the offence; or

(b) for the purpose of or in connection with the commission of the offence,

and which was seized under any power exercised under [section 22](#), or is in the possession or custody or under the control of the convicted person, to be forfeited to the State.

(2) The court which makes a declaration of forfeiture of property referred to in [subsection \(1\)](#), must order the registrar of the High Court concerned or clerk of the Magistrate's Court for the district concerned to forthwith publish such declaration calling upon interested parties through the media and by notice in the *Gazette*.

(3) Anything forfeited under [subsection \(1\)](#) must, if it was seized under any power exercised under [section 22](#), be kept or, if it is in the possession or custody or under the control of the convicted person, be seized and kept—

(a) for a period of 45 days after the date of the notice published in the *Gazette*; or

(b) if any person referred to in [section 20 \(1\)](#) has, within the period contemplated in [paragraph \(a\)](#), made an application to the court concerned regarding his or her interest in such thing, until a final decision has been rendered in respect of any such application.

20. Interests of third parties.—(1) A declaration of forfeiture in terms of [section 19 \(1\)](#) does not affect any interest, which any person other than the convicted person may have in the property in question, if the former person proves—

(a) that he or she acquired the interest in that property in good faith and for consideration, whether in cash or otherwise; and

(b) that—
(i) the circumstances under which he or she acquired the interest in that property were not of such a nature that he or she knew or ought reasonably to have known or suspected that it was property used as contemplated in [section 19 \(1\)](#); or

(ii) he or she could not prevent the use of that property as contemplated in that section.

(2) (a) Subject to the provisions of [subsection \(1\)](#), the court concerned or, if the judge or judicial officer concerned is not available, any judge or judicial officer of that court, may at any time within a period of three years from the date of the declaration of forfeiture, on the application of any person, other than the convicted person, who claims that he or she has any interest in the property in question, inquire into and determine any such interest.

(b) If a court referred to in [paragraph \(a\)](#) finds—
(i) that the property is wholly owned by the applicant, the court must set aside the declaration of forfeiture in question and direct that the property be returned to the applicant or, if the State has disposed of it, direct that the applicant be compensated by the State in an amount equal to the value of the property disposed of; or

(ii) that the applicant has an interest in the property—

(aa) the court must direct that the property be sold by public auction and that the applicant be paid out of the proceeds of the sale an amount equal to the value of his or her interest therein, but not exceeding the proceeds of the sale; or

(bb) if the State has disposed of the property, the court must direct that the applicant be compensated by the State in an amount equal to the value of his or her interest therein.

(3) Any person aggrieved by a determination made by the court under [subsection \(2\)](#), may appeal against the determination as if it were a conviction by the court making the determination, and such appeal may be heard either separately or jointly with an appeal against the conviction as a result of which the declaration of forfeiture was made, or against a sentence imposed as a result of such conviction.

21. Evidence in respect of declarations of forfeiture and certain interests.— In order to make a declaration of forfeiture under [section 19 \(1\)](#) or to determine any interest under [section 20 \(2\)](#), the court may refer to the evidence and proceedings at the trial or hear such further evidence, either orally or by affidavit, as it may deem fit.

22. Investigating powers.—(1) Whenever the National Director has reason to believe that—

- (a) any person may be in possession of information relevant to—
 - (i) the commission or intended commission of an alleged offence under Chapter 2; or
 - (ii) any property which—
 - (aa) may have been used in the commission, or for the purpose of or in connection with the commission, of an offence under this Act;
 - (bb) may have facilitated the commission of an offence under this Act, or enabled any entity to commit such an offence, or provided financial or economic support to an entity in the commission of such an offence; or
 - (cc) may afford evidence of the commission or intended commission of an offence referred to in [subsection \(i\)](#);
- (b) there may be in any building, receptacle or place, or in the possession, custody or control of any entity any property referred to in [paragraph \(a\) \(ii\)](#); or
- (c) any entity may be in possession, custody or control of any documentary material relevant—
 - (i) to an alleged offence referred to in [paragraph \(a\) \(i\)](#); or
 - (ii) in respect of any property referred to in [paragraph \(a\) \(ii\)](#) or [\(b\)](#),

he or she may, prior to the institution of any civil or criminal proceeding, under written authority direct that a Director of Public Prosecutions shall have, in respect of a specific investigation, the power to institute an investigation in terms of the provisions of [Chapter 5](#) of the National Prosecuting Authority Act, 1998 ([Act No. 32 of 1998](#)), relating to the commission or intended commission of an alleged offence referred to in [paragraph \(a\) \(i\)](#) or any property contemplated in [paragraph \(a\) \(ii\)](#), or to any property referred to in [paragraph \(b\)](#), or to the possession, custody or control of any documentary material referred to in paragraph (c).

(2) For purposes of [subsection \(1\)](#), a reference in the said Chapter 5 to—

- (a) the **“head of the Directorate of Special Operations”** or an **“Investigating Director”** shall be construed as a reference to a Director of Public Prosecutions authorized under [subsection \(1\)](#): Provided that for purposes of section 28 (2) (a) of the said Act, a Director of Public Prosecutions, may only designate a Deputy Director of Public Prosecutions;
- (b) a **“special investigator”** shall be construed as to include a **“police official”**.

(3) If any property, contemplated in [subsection \(1\) \(a\) \(ii\)](#), seized under any power exercised under [subsection \(1\)](#), consists of cash or funds standing to the credit of a bank account, the Director of Public Prosecutions who has instituted the investigation under that

subsection, shall cause the cash or funds to be paid into a banking account which shall be opened with any bank as defined in [section 1](#) of the Banks Act, 1990 ([Act No. 94 of 1990](#)), and the Director of Public Prosecutions shall forthwith report to the Financial Intelligence Centre established in terms of [section 2 \(1\)](#) of the Financial Intelligence Centre Act, 2001 ([Act No. 38 of 2001](#)), the fact of the seizure of the cash or funds and the opening of the account.

23. Freezing order.—(1) A High Court may, on *ex parte* application by the National Director to a judge in chambers, make an order prohibiting any person from engaging in any conduct, or obliging any person to cease any conduct, concerning property in respect of which there are reasonable grounds to believe that the property is owned or controlled by or on behalf of, or at the direction of—

- (a) any entity which has committed, attempted to commit, participated in or facilitated the commission of a specified offence; or
- (b) a specific entity identified in a notice issued by the President under [section 25](#).

(2) An order made under [subsection \(1\)](#) may include an order to freeze any such property.

(3) A High Court may make an interim order under [subsection \(1\)](#) pending its final determination of an application for such an order.

24. Cordoning off, stop and search of vehicle and person.—(1) If, on written request under oath to a judge in chambers by a police official of or above the rank of director, it appears to the judge that it is necessary in order to prevent any terrorist or related activity, the judge may issue a warrant for the cordoning off, and stopping and searching of vehicles and persons with a view to preventing such terrorist or related activity, in a specified area, and such warrant applies for the period specified therein, which period may not exceed 10 days.

(2) Under such warrant any police official who identifies himself or herself as such, may cordon off the specified area for the period specified and stop and search any vehicle or person in that area, for articles or things which could be used or have been used for or in connection with the preparation for or the commission or instigation of any terrorist or related activity.

(3) The police official may seize any article or thing contemplated in [subsection \(2\)](#), and [Chapter 2](#) of the Criminal Procedure Act, 1977 ([Act No. 51 of 1977](#)), applies with the necessary changes required by the context in respect of any such article or thing.

(4) [Section 29](#) of the Criminal Procedure Act, 1977 ([Act No. 51 of 1977](#)), applies in respect of the powers conferred upon police officials in terms of this section.

(5) The provisions of this section shall not be construed as affecting the rights of any police official or law enforcement officer to use any other power in any other law in respect of cordoning off, search or seizure.

CHAPTER 5 RESOLUTION OF UNITED NATIONS SECURITY COUNCIL

25. Notification by President in respect of entities identified by United Nations Security Council.—The President must, by Proclamation in the *Gazette*, and other appropriate means of publication, give notice that the Security Council of the United Nations, under Chapter VII of the Charter of the United Nations, has identified a specific entity as being—

- (a) an entity who commits, or attempts to commit, any terrorist and related activity or participates in or facilitates the commission of any terrorist and related activity; or

(b)

an entity against whom Member States of the United Nations must take the actions specified in Resolutions of the said Security Council, in order to combat or prevent terrorist and related activities.

26. Parliamentary supervision.—Every Proclamation issued under [section 25](#) shall be tabled in Parliament for its consideration and decision and Parliament may thereupon take such steps as it may consider necessary.

CHAPTER 6 GENERAL PROVISIONS

27. Amendment and repeal of laws and transitional provisions.—(1) The laws set out in [the Schedule](#) are hereby amended or repealed to the extent indicated in the fourth column of that Schedule.

(2) All criminal proceedings which immediately prior to the commencement of this Act were instituted in terms of the provisions of the Internal Security Act, 1982 ([Act No. 74 of 1982](#)), and which proceedings have not been concluded before the commencement of this Act, shall be continued and concluded, in all respects as if this Act had not been passed.

(3) An investigation, or prosecution or other legal proceedings, in respect of conduct which would have constituted an offence under the Internal Security Act, 1982, and which occurred after the commencement of that Act but before the commencement of this Act, may be conducted, instituted and continued as if this Act had not been passed.

(4) Notwithstanding the repeal or amendment of any provision of any law by this Act, such provision shall, for the purpose of the disposal of any criminal proceedings, investigation, prosecution or legal proceedings contemplated in [subsection \(2\)](#) or [\(3\)](#), remain in force as if such provision had not been repealed or amended.

Repealed Act	X
Act 74 of 1982 has been repealed by s 27 of Act 33 of 2004	

28. Short title and commencement.—This Act is called the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004, and shall come into operation on a date fixed by the President by proclamation in the *Gazette*.

COMMENCEMENT OF THIS ACT

<i>Date of commencement</i>	<i>The whole Act/ Sections</i>	<i>Proclamation No</i>	<i>Government Gazette</i>	<i>Date of Government Gazette</i>
20 May, 2005	The whole	R.18	27502	15 April, 2005

Schedule

SCHEDULE OF LAWS AMENDED OR REPEALED: [SECTION 27](#)

<i>Act No.</i>	<i>Year</i>	<i>Title</i>	<i>Extent of amendment or repeal</i>
67	1962	Extradition Act	1. <i>Inserts section 22.</i>
51	1977	Criminal Procedure Act	1. <i>Inserts offences in Schedule 5.</i> 2. <i>Inserts offences in Schedule 6.</i>
74	1982	Internal Security Act	1. <i>Repeals the whole.</i>
87	1993	Non-Proliferation of Weapons of	1. <i>Amends section 26 (1) as follows:—sub-item</i>

		Mass Destruction Act	<i>(a) substitutes paragraph (h); sub-item (b) inserts paragraphs (j) and (k); sub-item (c) inserts subparagraph (v); and sub-item (d) inserts section 26A.</i>
105	1997	Criminal Law Amendment Act	<ol style="list-style-type: none"> 1. Adds an item to Part I of Schedule 2. 2. Adds an item to Part II of Schedule 2.
121	1998	Prevention of Organised Crime Act	<ol style="list-style-type: none"> 1. Substitutes the long title. 2. Amends the preamble as follows:—sub-item (a) inserts a paragraph after the tenth paragraph; and sub-item (b) substitutes the eleventh paragraph. 3. Amends section 1 as follows:—sub-item (a) inserts the definition of “entity”; and sub-item (b) inserts the definition of “property associated with terrorist and related activities”. 4. Substitutes section 38 (2). 5. Substitutes section 50 (1). 6. Substitutes section 51. 7. Amends section 52 as follows:—sub-item (a) substitutes subsection (2A); sub-item (b) substitutes subsection (3); and sub-item (c) substitutes subsection (4). 8. Substitutes section 54 (8A). 9. Substitutes section 68 (b). 10. Inserts item 32A in Schedule 1.
46	1999	Nuclear Energy Act	<ol style="list-style-type: none"> 1. Inserts section 34A. 2. Amends section 56 (1) by inserting paragraph (h). 3. Amends section 56 (2) by inserting paragraph (d). 4. Inserts section 56A.
38	2001	Financial Intelligence Centre Act	<ol style="list-style-type: none"> 1. Substitutes the long title. 2. Amends section 1 as follows:—sub-item (a) inserts the definition of “entity”; and sub-item (b) inserts the definition of “offence relating to the financing of terrorist and related activities”. 3. Substitutes section 3 (1). 4. Substitutes the heading to Chapter 3. 5. Inserts section 28A. 6. Substitutes section 29 (1). 7. Substitutes section 34 (1). 8. Amends section 35 (1) by substituting paragraphs (a) and (b). 9. Amends section 40 (1) by substituting paragraph (b).
70	2002	Regulation of Interception of Communications and Provision of Communication-related Information Act	<ol style="list-style-type: none"> 1. Amends the Schedule as follows:—sub-item (a) substitutes item 2; and sub-item (b) deletes item 3.

**PROTECTION OF CONSTITUTIONAL DEMOCRACY AGAINST
TERRORIST AND RELATED ACTIVITIES ACT
33 OF 2004**

NOTICES

GNR.474 of 20 May 2005

Direction by the National Commissioner of the South African Police Service in terms of section 12 (3) of the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004

NOTICES

GNR.474 of 20 May 2005: Direction by the National Commissioner of the South African Police Service in terms of section 12 (3) of the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004

DEPARTMENT OF SAFETY AND SECURITY

I, Jacob Sello Selebi, in my capacity as the National Commissioner of the South African Police Service hereby, in terms of section 12 (4) (a) of the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004 (Act No. 33 of 2004), publish the direction contemplated in section 12 (3) in the Schedule.

SCHEDULE

The manner in which a police official takes down a report contemplated in section 12 (1) of the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004 (Act No. 33 of 2004), hereinafter referred to as "the Act", must be as follows:

1. Any police official who receives a report from a person as contemplated in section 12 (1) of the Act must—
 - (a) take down the report in the format of the form contained in Annexure A;
 - (b) as soon as possible open an enquiry on the South African Police Service CAS System; and
 - (c) forthwith provide the person who made the report with an acknowledgement of receipt reflecting the relevant CAS number, in the format of the form contained in Annexure B which will serve as a unique reference number for future enquiries and official purposes.
2. After the report has been taken down as contemplated in paragraph 1 (a), it must without delay be faxed to a Central Reporting Office situated at the Divisional Commissioner: Detective Service, South African Police Service, Pretoria as well as a Central Reporting Office situated at the Divisional Commissioner: Crime Intelligence, South African Police Service, Pretoria.
3. The responsibilities of the Central Reporting Offices include the following:
 - (a) To ensure that access to the facsimile machines involved is limited to police officials designated by the respective Divisional Commissioners mentioned above and such designated police officials only, are responsible to deal with reports that have been taken down as contemplated in paragraph 1.
 - (b) To promote the confidentiality and integrity of the reporting system.
- 4.

The Divisional Commissioner: Detective Service, must ensure that an investigator contacts the person who made the report and takes down a complete affidavit, which could serve as a basis for a police investigation into the report.

(Signed)
J S SELEBI
National Commissioner of the South African Police Service

Annexure A

Taking down of report contemplated in [section 12 \(1\)](#) of the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004

TAKING DOWN OF REPORT CONTEMPLATED IN [SECTION 12 \(1\)](#) OF THE PROTECTION OF CONSTITUTIONAL DEMOCRACY AGAINST TERRORIST AND RELATED ACTIVITIES ACT, 2004

TO: A: THE DIVISIONAL COMMISSIONER: DETECTIVE SERVICE: CENTRAL REPORTING OFFICE
B: THE DIVISIONAL COMMISSIONER: CRIME INTELLIGENCE: CENTRAL REPORTING OFFICE

I, (full names and surname)

(rank)

(service number)

stationed at

, a police official in the South African Police Service,

have received the following report

(report attached, if applicable)

from a person contemplated in [section 12 \(1\)](#) of the Act,

(Full names and surname of person making the report)

with the following contact particulars:

Contact address:

Telephone Number:

Cellular phone Number:

E-mail address:

Business/employment address:

Business Telephone Number:

Business Telephone Number:

Business E-mail address:

The report received entails the following:

Description of offence: ([sections 2; 3; 4; 5; 6; 7; 8; 9; 10; 11; 12; 13 and 14](#))

(Circle the applicable offence/s)

1. Description of the nature of the knowledge or suspicion of offence referred to above:

2. Name and contact details of person/s allegedly involved:

3. When did the offence/s occur or is it ongoing?

4. Name and contact details of possible witnesses to the alleged offence/s:

5. Manner in which acknowledgement of receipt is preferred (only applicable in respect of facsimile, telephonic or electronic reports):

Signed at

on this

day of

20

SIGNATURE OF POLICE OFFICIAL TAKING DOWN THE REPORT

Unique reporting reference number (CAS number)

(To be inserted by the police official

to whom the report is made and a corresponding number must appear on the acknowledgement of receipt ([Annexure B](#))).

Annexure B

Acknowledgement of receipt in terms of [section 12 \(3\)](#) of the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004 (Act [No. 33 of 2004](#))

Unique reference Number (CAS number)

(This receipt is not valid without this number)

ACKNOWLEDGEMENT OF RECEIPT IN TERMS OF [SECTION 12 \(3\)](#) OF THE PROTECTION OF CONSTITUTIONAL DEMOCRACY AGAINST TERRORIST AND RELATED ACTIVITIES ACT, 2004 (ACT [NO. 33 OF 2004](#))

I, (full names and surname)

(rank)

(service number)

stationed at

hereby acknowledge receipt of a report _____, a police official in the South African Police Service,
received from (Name)

The following documentation has been received with the report:

Signed at

(place), on this

day of

20

SIGNATURE OF POLICE OFFICIAL