



**THE ISLAND MWALI (MOHÉLI)
ACT NO. 1-05 OF 2007**

AN ACT for the implementation of the provisions of the International Convention for the Suppression of the Financing of Terrorism, 1999 and to provide for measures to combat terrorism.

Short title and commencement

1. This Act may be cited as the United Nations (Anti-Terrorism Measures) Act, 2007 and shall come into force on a date that the Governor may appoint by proclamation published in the Gazette.

Interpretation

2. In this Act unless the context otherwise requires –
“Commissioner” means the Commissioner of Police; “Convention” means the International Convention for the Suppression of the Financing of Terrorism, adopted in New York on 9 December, 1999 the text of which is set out in the First Schedule;

“funds” means assets of every kind as defined in Article 1 of the Convention;

“Minister” means the Minister responsible for National Security;
“proceeds” means any funds derived from or obtained, directly or indirectly, through the commission of an offence under this Act;

“terrorist” means any person who-
(a) commits, or attempts to commit, any terrorist act; or
(b) participates in or facilitates the commission of any terrorist act;

“terrorist act” means the use or threat of action which constitutes –

(a) an offence within the scope of and as defined in one of the treaties listed in the Second Schedule; or

(b) any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act;

“terrorist property” means money or other property however acquired which is likely to be used for the purposes of committing a terrorist act and includes proceeds of acts carried out for the purposes of a terrorist

act.

Other terms used but not specifically defined in this Act, which have been defined in the Convention, have the same meaning as in the Convention.

**Prohibition
against provision
or collection of
funds for
terrorist acts**

3. (1) Any person in THE ISLAND MWALI (MOHÉLI) or any citizen of THE ISLAND MWALI (MOHÉLI) outside THE ISLAND MWALI (MOHÉLI) who by any means, directly or indirectly, unlawfully and wilfully, provides or collects funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out a terrorist act or to facilitate the commission of any terrorist act commits an offence.

(2) For an act to constitute an offence under subsection (1), it shall not be necessary that the funds were actually used to carry out a terrorist act.

(3) Any person in THE ISLAND MWALI (MOHÉLI) or any citizen of THE ISLAND MWALI (MOHÉLI) outside THE ISLAND MWALI (MOHÉLI) who

- (a) attempts to commit an offence as set forth in subsection (1); or
 - (b) participates as an accomplice of anyone who commits or attempts to commit an offence as set forth in subsection (1); or
 - (c) organises or directs others to commit or attempt to commit an offence as set forth in subsection (1);
- shall likewise be guilty of an offence.

(4) Any person in THE ISLAND MWALI (MOHÉLI) or any citizen of THE ISLAND MWALI (MOHÉLI) outside THE ISLAND MWALI (MOHÉLI) who intentionally contributes to the commission of one or more offences set forth in subsection (1) or (3) by a group of persons acting with a common purpose either:

- (a) with the aim of furthering the criminal activity or criminal purpose of the group;
 - or
 - (b) in the knowledge of the intention of the group to commit an offence as set forth in subsection (1) or (3);
- shall likewise be guilty of an offence.

**Prohibition
against provision
of resources and
services for
benefit of
terrorists**

4. Any person in THE ISLAND MWALI (MOHÉLI) or any citizen of THE ISLAND MWALI (MOHÉLI) outside THE ISLAND MWALI (MOHÉLI) who makes any funds, financial assets, economic

resources or financial or other related services available, directly or indirectly, for the benefit of-

- (a) any terrorist;
- (b) any entity owned or controlled by any terrorist;
- (c) any person or entity acting on behalf of or at the direction of any terrorist or any entity owned or controlled by any terrorist

commits an offence

**Prohibition
against dealing
with property of
terrorists**

5. Any person in THE ISLAND MWALI (MOHÉLI) or any citizen of THE ISLAND MWALI (MOHÉLI) outside THE ISLAND MWALI (MOHÉLI) who-

- (a) deals, directly or indirectly, in any property that is owned or controlled by or on behalf of any terrorist or any entity owned or controlled by any terrorist, including funds derived or generated from property owned or controlled, directly or indirectly, by any terrorist or any entity owned or controlled by any terrorist;
- (b) enters into or facilitates, directly or indirectly, any financial transaction related to a dealing in property referred to in paragraph (a); or
- (c) provides any financial services or any other related services in respect of any property referred to in paragraph (a), to or for the benefit of, or on the direction or order of, any terrorist or any entity owned or controlled by any terrorist

commits an offence.

**Prohibition
against
supporting
terrorists in
other ways**

6. Any person in THE ISLAND MWALI (MOHÉLI) or any citizen of THE ISLAND MWALI (MOHÉLI) outside THE ISLAND MWALI (MOHÉLI) who provides any form of support, active or passive, to any terrorist or any entity owned or controlled by any terrorist or to any entity acting on behalf of or at the direction of any terrorist-

- (a) by recruiting or assisting in the recruitment of persons; or
- (b) by supplying or assisting in the supply of weapons

commits an offence.

Penalties 7. A person guilty of an offence under sections 3, 4, 5 or 6

**Forfeiture of
terrorist
property**

- of this Act shall be liable-
- (a) on conviction on indictment, to imprisonment for a term not exceeding twenty years, to an unlimited fine or both; or
 - (b) on summary conviction, to imprisonment for a term not exceeding five years, to a fine not exceeding \$500,000 or both.

8. (1) The court by or before which a person is convicted of an offence under sections 3, 4, 5 or 6 of this Act may order the forfeiture of any money or other property-

- (a) which at the time of the offence, the convicted person had in his possession or under his control, and
- (b) which, at that time, such person intended should be used, or knew or had reasonable cause to suspect would or might be used, for the purposes of a terrorist act.

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

Jurisdiction 9. Notwithstanding anything in this or in any other Act, offences listed in sections 3, 4, 5 and 6 of this Act shall be deemed to have been committed in THE ISLAND MWALI (MOHÉLI) when

- (a) the offence is committed in the territory of THE ISLAND MWALI (MOHÉLI), including on board ships and aircraft registered, licensed, or otherwise subject to the jurisdiction of THE ISLAND MWALI (MOHÉLI);

- (b) regardless of where the offence was committed, the person who committed the offence is

- (i) a citizen of THE ISLAND MWALI (MOHÉLI); or
- (ii) a stateless person having his habitual or ordinary residence in THE ISLAND MWALI (MOHÉLI);

- (c) regardless of where the offence was committed, the offence was directed towards or resulted in the carrying out of a terrorist act -

- (i) in the territory of or against a national of THE ISLAND MWALI (MOHÉLI); or

- (ii) against a State or government facility of THE ISLAND MWALI (MOHÉLI) abroad, including its diplomatic or consular premises; or

- (iii) in an attempt to compel THE ISLAND MWALI (MOHÉLI) to do

or abstain from doing any act;
(d) regardless of where the offence was committed, the person who committed the offence is, after the commission thereof, present in the territory of THE ISLAND MWALI (MOHÉLI).

Duty to provide information

10. Every person in THE ISLAND MWALI (MOHÉLI) and any citizen of THE ISLAND MWALI (MOHÉLI) outside THE ISLAND MWALI (MOHÉLI) who-

(a) has possession, custody or control of any property belonging to any terrorist or any entity owned or controlled by any terrorist; or

(b) has information about any transaction or proposed transaction in respect of any property belonging to any terrorist or any entity owned or controlled by any terrorist,

shall immediately inform the Commissioner or such other person as the Minister may designate of the fact or information and provide such further information relating to the property, or transaction or proposed transaction, as the Commissioner or designated person may require.

Duty to investigate and rights of the alleged offender

11. (1) Upon receiving information that a person who has committed or who is alleged to have committed any offence under this Act may be present in THE ISLAND MWALI (MOHÉLI), the Commissioner shall take all measures necessary under the laws THE ISLAND MWALI (MOHÉLI) to investigate the facts contained in the information and upon being satisfied that the circumstances so warrant the Commissioner shall take all appropriate measures to ensure the presence of such person in THE ISLAND MWALI (MOHÉLI) for the purpose of prosecution or extradition.

(2) Every alleged offender in respect of whom measures referred to in subsection (1) are being taken shall be entitled

(a) to communicate without delay with his nearest appropriate diplomatic representative; and

(b) to be visited by that representative.

(3) Nothing in subsection (2) shall prejudice the right of the alleged offender to communicate with, and be visited by the International Committee of the Red Cross, when it has been invited to do so by his national State, or State of habitual residence when he is a stateless person.

(4) Nothing in this Act shall impair the alleged offender's enjoyment of all other rights and guarantees available.

Notification requirements

12. (1) The result of all prosecutions under this Act shall

be communicated to the Secretary General of the United Nations.

(2) If any person has been taken into custody or subjected to similar measures in contemplation of prosecution or extradition for any of the offences set out in this Act, the following

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parties shall be notified, either directly or through the Secretary General of the United Nations, of the fact that such person is in custody and of the circumstances which warrant that person's detention:

- (a) the State in the territory of which the offence was committed;
- (b) the State of registration of the vessel or aircraft on board which the offence was committed;
- (c) the State of which the alleged offender was a national or a habitual resident in the case of a stateless person;
- (d) the State against which the offence was directed or on whose territory or against whose national the terrorist act was carried out;
- (e) the State against whose State or government facility abroad, including diplomatic or consular premises of that State, the offence was directed or the terrorist act was carried out;
- (f) the State against which compulsion had been directed or attempted by the commission of the offence or the carrying out of the terrorist act, to get that State to do or abstain from doing any act;
- (g) the State whose Government was operating any aircraft on board which the offence was committed.

Upon the completion of the investigation for any of the offences set out in this Act, the above-mentioned State Parties shall also be notified about the findings of the investigation and the intention of the Government of THE ISLAND MWALI (MOHÉLI) to exercise its jurisdiction.

**Seizure and
detention of
terrorist cash**

13. (1) In this section "cash" means-

- (a) coins and notes in any currency,
- (b) postal orders,
- (c) travellers' cheques,
- (d) bankers' drafts, and
- (e) such other kinds of monetary instruments as the Attorney General may specify by order.

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(2) Any member of the Royal THE ISLAND MWALI (MOHÉLI) Police Force, any customs officer, or any immigration officer may seize and detain any cash to which this section applies if he

- has reasonable grounds for suspecting that-
 - (a) it is intended to be used for the purposes of a terrorist act,
 - (b) it is terrorist property within the meaning given in section 2 of this Act.
- (3) This section applies to cash which-
 - (a) is being imported into or exported from the THE ISLAND MWALI (MOHÉLI),
 - (b) is being brought to any place in THE ISLAND MWALI (MOHÉLI) for the purpose of being exported from THE ISLAND MWALI (MOHÉLI),
- (4) Subject to subsection (5), cash seized under this section shall be released not later than the end of the period of 48 hours beginning with the time when it is seized.
- (5) Where an order is made under section 14 in relation to cash seized, it may be detained during the period specified in the order.

Continued detention

14. (1) The Commissioner, Chief Immigration Officer or the Comptroller of Customs may apply to a magistrates' court for an order under this section in relation to cash seized under section 13.

(2) An order under this section

- (a) shall authorise the further detention under section 13 of the cash to which it relates for a period specified in the order,
- (b) shall specify a period which ends not later than the end of the period of three months beginning with the date of the order, and
- (c) shall require notice to be given to the person from whom the cash was seized and to any other person who is affected by and specified in the order.

(3) An application for an order under this section may be granted only if the court is satisfied-

- (a) that there are reasonable grounds to suspect that the cash is cash of a kind mentioned in section 13 (2) (a) or (b), and
- (b) that the continued detention of the cash is justified pending completion of an investigation of its origin or derivation or pending a determination whether to institute criminal proceedings (whether in THE ISLAND MWALI (MOHÉLI) or elsewhere) which relate to the cash.

(4) More than one order may be made under this section in relation to particular cash; but cash shall not be detained by virtue of an order under this section after the end of the period of two years beginning with the date when the first order under this section was made in relation to it.

Detained cash

15. (1) Cash detained under section 13 by virtue of an order under section 14 shall, unless required as evidence of an offence, be held in an interest bearing account; and the interest accruing on the

cash shall be added to it on its release or forfeiture.

(2) Any person may apply to a magistrate's court, for a direction that cash detained under section 14 be released.

(3) A magistrate's court shall grant an application under subsection (2) if satisfied-

(a) that section 14 (3) (a) or (b) no longer

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applies, or

(b) that the detention of the cash is for any other reason no longer justified.

(4) Cash detained under section 14 shall not be released under this section-

(a) while proceedings on an application for its forfeiture under section 16 have not been concluded, or

(b) while proceedings, whether in the THE ISLAND MWALI (MOHÉLI) or elsewhere, which relate to the cash have not been concluded.

Forfeiture of detained cash

16. (1) The Director of Public Prosecutions may apply to a Judge in chambers of the High Court for an order forfeiting cash being detained under section 13 by virtue of an order under section 14.

(2) The Judge in chambers may grant an application only if he is reasonably satisfied that the cash is of a kind mentioned in section 13 (2) (a) or (b).

(3) Before making an order under this section, the Judge in chambers must give an opportunity to be heard by any person-

(a) who is not a party to the proceedings, and

(b) who claims to be the owner of or otherwise interested in any of the cash which can be forfeited under this section.

Restraint orders

17. (1) The High Court may make a restraint order to prohibit persons from dealing with funds and other financial assets or economic resources of:

(a) persons who commit, or attempt to commit, a terrorist act or participate in or facilitate the commission of a terrorist act;

(b) entities owned or controlled directly or

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indirectly by persons referred to at (a) above;

(c) persons and entities acting on behalf of, or at the direction of persons referred to at

(a) above or entities referred to at (b) above.

(2) The High Court may also make a restraint order to prohibit persons from dealing with funds derived or generated from property owned or controlled directly or indirectly by persons referred to in subsection (1) (a) above or their associated persons and entities.

(3) A restraint order-

- (a) may be made only on an application by the Director of Public Prosecutions;
- (b) may be made on an ex parte application to a Judge in chambers; and
- (c) shall provide for notice to be given to persons affected by the order.

(4) A restraint order-

- (a) may, on the application of any person affected by the order, be discharged or varied in relation to any funds or financial assets; and
- (b) shall be discharged when proceedings for offences under this Act are concluded.

(5) For the purposes of this section, dealing with funds or financial assets held by any person or entity includes (without prejudice to the generality of the expression):

- (a) making any payment to any person from such funds or assets; and
- (b) removing such funds or assets from THE ISLAND MWALI (MOHÉLI).

Extradition

18. (1) Offences under this Act shall be deemed to be included in the description of relevant offences set out in the First

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Schedule to the Fugitive Offenders Act.

(2) Notwithstanding anything contained in sections 3 and 4 of the Fugitive Offenders Act, the Fugitive Offenders Act shall apply to all countries State Parties to the Convention in respect of offences to which the Convention relates.

(3) For the purposes of the Fugitive Offenders Act any offence described in this Act, wherever committed, which is an offence against the law of any State Party to the Convention shall be deemed to be an offence committed within the jurisdiction of that country.

Mutual Legal Assistance

19. (1) In connection with criminal investigations or criminal or extradition proceedings in respect of offences under this Act, fullest measure of assistance shall be provided to other State Parties to the Convention in accordance with the Mutual Assistance in Criminal Matters Act, 1993 (No. 46 of 1993).

(2) A request for mutual legal assistance under subsection (1) shall not be refused on the ground of bank secrecy or on the sole ground that it concerns a political offence.

**INTERNATIONAL CONVENTION FOR
THE SUPPRESSION OF THE FINANCING
OF TERRORISM, 1999**

1. Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on 16 December 1970.
2. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971.
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3. 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.
4. International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979.
5. Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 24 February 1988.
6. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988.
7. Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf.

