

SAINT VINCENT AND THE GRENADINES
ANTI-TERRORISM ACT 2023
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SCHEDULE



SAINT VINCENT AND THE GRENADINES

ACT NO. 5 OF 2023

I ASSENT

[L.S.]

SUSAN DOUGAN
Governor-General
30th March, 2023.

AN ACT to criminalise terrorism and the financing of terrorism, to provide for the detection, prevention, prosecution, conviction and punishment of terrorist activities and the confiscation, forfeiture and seizure of terrorists' assets and of those involved in the financing of terrorism, to repeal the Anti-Terrorist Financing and Proliferation Act 2015 and for related matters.

[By Proclamation]

THE PARLIAMENT of Saint Vincent and the Grenadines enacts as follows:

PART I

PRELIMINARY

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|---|-------------------------------------|
| <p>1. (1) This Act may be cited as the Anti-Terrorism Act, 2023.</p> <p>(2) This Act comes into operation on a day as the Governor-General may appoint by Proclamation published in the <i>Gazette</i>.</p> | <p>Short title and commencement</p> |
| <p>2. In this Act –</p> <p>“1267, 1989 and 2253 Committee” means the Committee established by the United Nations Security Council pursuant to United Nations Security Council Resolutions 1267 (1999), 1989 (2011) and 2253 (2015);</p> <p>“1988 Committee” means the Sanctions Committee established by the United Nations pursuant to Article 30 of United Nations Security Council Resolution 1988 (2011);</p> | <p>Interpretation</p> |

“1988 List” means the Sanctions List prepared by the 1988 Committee;

“bearer negotiable instrument” includes –

- (a) a monetary instrument such as a travellers’ cheque, negotiable instrument including a cheque, promissory note and money order that is either in bearer form, endorsed without restriction, made out to a fictitious payee, or otherwise in such form that title thereto passes or payment is made upon delivery; or
- (b) an incomplete instrument including a cheque, promissory note and money order signed, but with the payee’s name omitted;

“cash” includes –

- (a) notes and coins in any currency;
- (b) postal orders;
- (c) cheques of any kind, including travelers’ cheques;
- (d) bankers’ drafts;
- (e) bearer bonds, bearer shares and bearer negotiable instruments;
- (f) electronic cash; and
- (g) any other monetary instrument that is prescribed as cash

“child” has the meaning assigned to it under section 2 of the Children (Care and Adoption) Act;

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“computer” means a device or group of interconnected or related devices which follows a program or external instruction to perform automatic processing of information or electronic data;

“Confiscated Assets Fund” means the Confiscated Assets Fund established under section 160 of the Proceeds of Crime Act 2013;

No. 38 of 2013

“Convention” means any of the following Conventions –

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- (a) Convention on Offences and certain Other Acts committed on Board Aircraft, signed at Tokyo on 14th September 1963;
 - (b) Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on 16th December 1970;
 - (c) Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23rd September 1971;
 - (d) Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14th December 1973;
 - (e) International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17th December 1979;
 - (f) Convention on the Physical Protection of Nuclear Material, adopted at Vienna on 3rd March 1980;
 - (g) 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 24th February 1988;
 - (h) Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10th March 1988;
 - (i) Protocol for the Suppression of Unlawful Acts against the Safety of fixed Platforms located on the continental shelf, done at Rome on 10th March 1988;
 - (j) Convention on the Marking of Plastic Explosives for the Purposes of Detection, signed at Montreal on 1st March 1991;
 - (k) International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15th December 1997;
 - (l) International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations on 9th December 1999;

“Court” means the High Court or Judge thereof;

“designated entity” means an individual or entity and their associates designated as terrorist entities by the Security Council of the United Nations, the 1267, 1989 and 2253 Committee or the 1988 Committee;

“Director of Public Prosecutions” means the Director of Public Prosecutions of Saint Vincent and the Grenadines or any person assigned by him for the purpose of this Act;

“explosive or other lethal device” means –

- (a) a weapon; or
- (b) an explosive or incendiary weapon, that is designed or has the capability to cause death, serious bodily injury or substantial material damage;

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

“financial business” has the meaning assigned to it in the Anti-Money Laundering and Terrorist Financing Regulations 2014;

No. 20 of 2014

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

“foreign terrorist fighter” means an individual who commits an offence under section 19;

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

“imprisonment for life” in relation to an offender, means imprisonment for the remainder of the natural life of the offender;

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

“Judge” means a Judge of the Court;

“law enforcement officer” means a police officer or a customs officer;

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

“listed entity” means an entity declared to be a listed entity in accordance with section 34;

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

“Minister” means the Minister to whom responsibility for national security is assigned;

“money” means –

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

“non-profit organisation” means a legal person or arrangement or organisation that primarily engages in raising or disbursing funds for charitable, religious, cultural, educational, social or fraternal purposes, or for the carrying out of other types of “good works”;

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

“person” includes any individual, group, undertaking, entity, organisation or body of persons;

“property” or “funds” means assets of any kind, whether tangible or intangible, moveable or immovable, however acquired, legitimate or illegitimate and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including but not limited to bank credits, payment cards, payment instruments, travellers

cheques, bank cheques, money orders, shares, securities, bonds, drafts, letters of credit, virtual assets whether situated in Saint Vincent and the Grenadines or elsewhere, and includes a legal or equitable interest, whether full or partial, in any such property, precious metals, oil and other natural resources and their refined products, modular refineries and related material and other economic resources which may be used to obtain funds, goods or services;

No. 20 of 2014

“relevant business” has the meaning assigned to it in the Anti-Money Laundering and Terrorist Financing Regulations 2014;

“Resolution 1267 (1999), 1989 (2011) and 2253 (2015) List” means the Sanctions List prepared by the 1267, 1989 and 2253 Committee;

“terrorist” includes a person who –

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

“terrorist act” means an act which constitutes an offence under Part II, Part III or Part IV;

“terrorist financing offence” means –

- (a) an offence under any of sections 4 to 20;

- (b) an attempt, conspiracy or incitement to commit an offence specified in paragraph (a); or
- (c) aiding, abetting, counselling, or procuring the commission of an offence specified in paragraph (a);

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

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

“terrorist property” means –

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

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

“weapon” includes –

- (a) a firearm under section 2 of the Firearms Act;
- (b) any article made or adapted for use for causing injury to a person or property or intended by a person for use by him or another person for that purpose;
- (c) an explosive weapon;
- (d) a chemical weapon;

(e) a biological weapon; or

(f) a nuclear weapon.

Application of
Parts II, III and
IV

3. Parts II, III and IV apply whether or not an offence is committed inside or outside of Saint Vincent and the Grenadines.

PART II

OFFENCES

Terrorist act

4. (1) A person commits the offence of committing a terrorist act who –

(a) with the intent to compel a government or an international organisation to do or refrain from doing any act or intimidates the public or a section of the public, for the purpose of advancing a political, ideological or a religious cause, does any act which he intends to cause, creates the likelihood of causing, or is likely to cause –

(i) loss of human life or serious bodily harm;

(ii) substantial damage to property;

(iii) the endangerment of a person's life, other than the life of the person taking the action;

(iv) the creation of a serious risk to the health or safety of the public or a section of the public; or

(v) prejudice to national security or disruption of public safety including disruption –

(A) in the provision of emergency services;

(B) to any computer or electronic system; or

(C) to the provision of services directly related to banking, communications, infrastructure, financial services, public utilities, transportation or other essential infrastructure;

(b) threatens to commit an act referred to in this Part;

(c) takes any preparatory steps for the purpose of committing an act under this Part; or

(d) coerces, encourages, entices, or incites another person to commit an offence under this Part.

(2) A person who commits an offence under subsection (1) is liable, where no other penalty is specified –

(a) on summary conviction, to imprisonment for a term of seven years or to a fine of \$500,000 or to both; or

(b) on conviction on indictment, to imprisonment for a term of twenty years or to an unlimited fine or to both.

(3) When a terrorist act involves the commission of a crime under some other law, the person committing it shall be liable to be punished for that crime as well as for the offence created by subsection (1), and any term of imprisonment imposed in respect of such crime shall run consecutively to that imposed under subsection (1).

(4) This section shall not apply to an act –

(a) which causes death or serious bodily harm to a person taking active part in armed conflict in accordance with the applicable rules of international law; or

(b) committed in pursuance of a demonstration, protest or stoppage of work that is not intended to result in any harm referred to in subsection (1).

5. (1) A person commits an offence who knowingly and without lawful excuse, directly or indirectly, provides or makes available financial or other related services, with the intention or knowledge of it being used, in whole or in part –

Provision of services for commission of terrorist act

(a) for the purpose of committing or facilitating the commission of a terrorist act;

(b) by a terrorist;

(c) by a terrorist organisation;

(d) by a listed entity; or

(e) by a person or entity acting on behalf of, or at the direction of a listed entity.

(2) An individual who commits an offence under subsection (1) is liable –

-
- (a) on summary conviction, to imprisonment for a term of seven years or to a fine of \$500,000 or to both; or
 - (b) on conviction on indictment, to imprisonment for a term of twenty years or to an unlimited fine or to both.
- (3) A body corporate which commits an offence under subsection (1) is liable –
- (a) on summary conviction, to a fine of \$750,000; or
 - (b) on conviction on indictment, to an unlimited fine.
- (4) A director or officer of a body corporate commits an offence who knowingly and without lawful excuse, authorises, acquiesces in, or permits the commission of an offence under this section –
- (a) for the benefit of the body corporate; or
 - (b) which results in the body corporate being used as a vehicle for the commission of an offence under this section.
- (5) A director or officer of a body corporate who commits an offence under subsection (4) is liable –
- (a) on summary conviction, to imprisonment for a term of seven years or to a fine of \$500,000 or to both; or
 - (b) on conviction on indictment, to imprisonment for a term of twenty years or to an unlimited fine or to both and the Court may *proprio motu*, exercise its power under section 67 of the Companies Act to order the individual to not be a director of the body corporate, or be in any way directly or indirectly concerned with the management of the body corporate for a period of time.
- (6) Where a body corporate has been convicted of an offence under this section, the Court may –
- (a) revoke business licences;
 - (b) order that the body corporate be wound up;
 - (c) forfeit the assets and property of the body corporate to the Crown who shall deal with it in accordance with Part VIII of the Proceeds of Crime Act 2013; and
 - (d) prohibit the body corporate from performing any further activities.

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(7) Notwithstanding subsection (1), a person does not commit an offence where he provides or makes available financial or other related services in accordance with an order made under section 34.

6. (1) A person commits an offence who, knowingly and without lawful excuse, directly or indirectly collects, provides or makes available property with the intention or knowledge of it being used –

Collection or
provision of
property to
commit terrorist
act

- (a) to commit a terrorist act;
- (b) by a terrorist;
- (c) by a terrorist organisation;
- (d) by a listed entity; or
- (e) by a person or entity acting on behalf of, or at the direction of, a listed entity.

(2) An individual who commits an offence under subsection (1) is liable –

- (a) on summary conviction, to imprisonment for a term of seven years or to a fine of \$500,000 or to both; or
- (b) on conviction on indictment, to imprisonment for a term of twenty years or to an unlimited fine or to both.

(3) A body corporate which commits an offence under subsection (1) is liable –

- (a) on summary conviction, to a fine of \$750,000; or
- (b) on conviction on indictment, to an unlimited fine.

(4) A director or officer of a body corporate commits an offence who, knowingly and without lawful excuse, authorises, acquiesces in, or permits the commission of an offence under this section –

- (a) for the benefit of the body corporate; or
- (b) which results in the body corporate being used as a vehicle for the commission of an offence under this section.

(5) A director or officer of a body corporate who commits an offence under subsection (4) is liable –

- (a) on summary conviction, to imprisonment for a term of seven years or to a fine of \$500,000 or to both; or

- (b) on conviction on indictment, to imprisonment for a term of twenty years or to an unlimited fine or to both and the Court may, *proprio motu*, exercise its power under section 67 of the Companies Act to order the individual to not be a director of the body corporate, or be in any way directly or indirectly concerned with the management of the body corporate for a period of time.

(6) Where a body corporate has been convicted of an offence under this section, the Court may –

- (a) revoke business licences;
- (b) order that the body corporate be wound up;
- (c) forfeit the assets and property of the body corporate to the Crown who shall deal with it in accordance with Part VIII of the Proceeds of Crime Act 2013; and
- (d) prohibit the body corporate from performing any further activities.

No. 38 of 2013

(7) Notwithstanding subsection (1), a person does not commit an offence where he provides or makes available property in accordance with an order made under section 34.

Use of property
for commission
of terrorist act

7. (1) A person commits an offence who, knowingly and without lawful excuse –

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

(2) A person who commits an offence under subsection (1) is liable –

- (a) on summary conviction, to imprisonment for a term of seven years or to a fine of \$500,000 or to both; or
- (b) on conviction on indictment, to imprisonment for a term of twenty years or to an unlimited fine or to both.

8. A person commits an offence who knowingly and without lawful excuse, becomes concerned in or enters into an arrangement which facilitates the acquisition, control or retention of terrorist property by or on behalf of another person and is liable –
- Arrangements for retention or control of terrorist property
- (a) on summary conviction, to imprisonment for a term of seven years or to a fine of \$500,000 or to both; or
 - (b) on conviction on indictment, to imprisonment for a term of twenty years or to an unlimited fine or to both.
9. (1) A person commits an offence who, knowingly and without lawful excuse –
- Dealing with terrorist property
- (a) acquires or possesses terrorist property;
 - (b) conceals, converts or disguises terrorist property;
 - (c) deals directly or indirectly with any terrorist property; or
 - (d) enters into or facilitates directly or indirectly any transaction in relation to terrorist property.
- (2) A person who commits an offence under subsection (1) is liable –
- (a) on summary conviction, to imprisonment for a term of seven years or to a fine of \$500,000 or to both; or
 - (b) on conviction on indictment, to imprisonment for a term of twenty years or to an unlimited fine or to both.
10. (1) A person commits an offence who knowingly and without lawful excuse, supports or solicits support for –
- Soliciting or giving support for the commission of terrorist act
- (a) the commission of a terrorist act;
 - (b) a terrorist;
 - (c) a terrorist organisation; or
 - (d) a listed entity.
- (2) An individual who commits an offence under subsection (1) is liable –
- (a) on summary conviction, to imprisonment for a term of seven years or to a fine of \$500,000 or to both; or

(b) on conviction on indictment, to imprisonment for a term of twenty years or to an unlimited fine or to both.

(3) A body corporate which commits an offence under subsection (1) is liable –

(a) on summary conviction, to a fine of \$750,000; or

(b) on conviction on indictment, to an unlimited fine.

(4) A director or officer of a body corporate commits an offence who knowingly and without lawful excuse, authorises, acquiesces in, or permits the commission of an offence under this section –

(a) for the benefit of the body corporate; or

(b) which results in the body corporate being used as a vehicle for the commission of an offence under this section.

(5) A director or officer of a body corporate who commits an offence under subsection (4) is liable –

(a) on summary conviction, to imprisonment for a term of seven years or to a fine of \$500,000 or to both;

(b) on conviction on indictment, to imprisonment for a term of twenty years or to an unlimited fine or to both and the Court may, *proprio motu* exercise its power under section 67 of the Companies Act to order the individual to not be a director of the body corporate, or be in any way directly or indirectly concerned with the management of the body corporate for a period of time.

(6) Where a body corporate has been convicted of an offence under this section, the Court may –

(a) revoke business licences;

(b) order that the body corporate be wound up;

(c) forfeit the assets and properties of the body corporate to the Crown who shall deal with it in accordance with Part VIII of the Proceeds of Crime Act 2013; and

(d) prohibit the body corporate from performing any further activities.

(7) Notwithstanding subsection (1), a person does not commit an offence where he does an act in accordance with an order made under section 34.

(8) For the purposes of subsection (1), “support” includes but is not limited to –

- (a) an offer to provide or the provision of expertise or a skill;
- (b) an offer to provide or the provision of documents; and
- (c) entering or remaining in any country, for the purpose of committing or facilitating a terrorist act.

11. A person commits an offence who, knowingly and without lawful excuse, conceals or harbours another person or hinders, interferes with or prevents the apprehension of, any other person having reason to believe or knowing that that other person has committed, is planning or is likely to commit a terrorist act and is liable on –

Harbouring of
persons
committing
terrorist act

- (a) summary conviction, to imprisonment for a term of seven years or to a fine of \$500,000 or to both; or
- (b) conviction on indictment, to imprisonment for a term of twenty years or to an unlimited fine or to both.

12. A person commits an offence who, knowingly and without lawful excuse, offers to provide, or provides any explosive or other lethal device for the purpose of committing or facilitating a terrorist act, and is liable on –

Provision of
devices

- (a) summary conviction, to imprisonment for a term of seven years or to a fine of \$500,000 or to both; or
- (b) conviction on indictment, to imprisonment for a term of twenty years or to an unlimited fine or to both.

13. (1) A person commits an offence who, knowingly and without lawful excuse, agrees to recruit or recruits –

Recruitment of
persons for
terrorist
purposes

- (a) a person to participate in the commission of a terrorist act; or
- (b) a child to participate in the commission of a terrorist act.

(2) A person who commits an offence under subsection (1) (a) is liable on –

- (a) summary conviction, to imprisonment for a term of seven years or to a fine of \$500,000 or to both; or
- (b) conviction on indictment, to imprisonment for a term of twenty years or to an unlimited fine or to both.

(3) A person who commits an offence under subsection (1) (b) is liable on –

- (a) summary conviction, to imprisonment for a term of ten years or to a fine of \$750,000 or to both; or
- (b) conviction on indictment, to imprisonment for a term of twenty-five years or to an unlimited fine or to both.

Joining terrorist
organisation

14. A person commits an offence who, knowingly and without lawful excuse, joins a terrorist organisation and is liable on –

- (a) summary conviction, to imprisonment for a term of seven years or to a fine of \$500,000 or to both.
- (b) conviction on indictment, to imprisonment for a term of twenty years or to an unlimited fine or to both.

Provision of
instruction or
training to
persons
committing
terrorist act

15. (1) A person commits an offence who, knowingly and without lawful excuse, agrees to provide instruction or training or provides instruction or training in –

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

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

(2) A person who commits an offence under subsection (1) is liable on –

- (a) summary conviction, to imprisonment for a term of seven years or to a fine of \$500,000 or to both; or
- (b) conviction on indictment, to imprisonment for a term of twenty years or to an unlimited fine or to both.

(3) A person commits an offence who, knowingly and without lawful excuse, agrees to provide instruction or training or provides instruction or training in –

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

to a child, for the purpose of engaging in or preparing to engage in the commission of a terrorist act.

(4) A person who commits an offence under subsection (3) is liable on –

- (a) summary conviction, to imprisonment for a term of ten years or to a fine of \$750,000 or to both; or
- (b) conviction on indictment, to imprisonment for a term of twenty-five years or to an unlimited fine or to both.

16. (1) A person commits an offence who, knowingly and without lawful excuse, attends or receives any instruction or training in –

- (a) the making or use of any explosive, weapon or other lethal device; or
- (b) the practice of military exercises or movements, whether in person or through electronic or other means, for the purposes of carrying out a terrorist act.

(2) A person who commits an offence under subsection (1) is liable on –

- (a) summary conviction, to imprisonment for a term of seven years or to a fine of \$500,000 or to both; or
- (b) conviction on indictment, to imprisonment for a term of twenty years or to an unlimited fine or to both.

(3) A person commits an offence who, knowingly and without lawful excuse, attends or receives any instruction or training from a terrorist or a terrorist organisation, whether in person or through electronic or other means and is liable on –

Attending or
recruiting
training to
commit
terrorist act

- (a) summary conviction, to imprisonment for a term of seven years or to a fine of \$500,000 or to both; or
- (b) conviction on indictment, to imprisonment for a term of twenty years or to an unlimited fine or to both.

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

17. (1) A person commits an offence who, knowingly and without lawful excuse, incites or promotes the commission of a terrorist act, or solicits property for the commission of a terrorist act and is liable on –

- (a) summary conviction, to imprisonment for a term of seven years or to a fine of \$500,000 or to both; or
- (b) conviction on indictment, to imprisonment for a term of twenty years or to an unlimited fine or to both.

(2) A person commits an offence who, knowingly and without lawful excuse, incites a child to commit a terrorist act and is liable on –

- (a) summary conviction, to imprisonment for a term of ten years or to a fine of \$750,000 or to both; or
- (b) conviction on indictment, to imprisonment for a term of twenty-five years or to an unlimited fine or to both.

Providing
facilities in
support of
terrorist act

18. (1) A person commits an offence who, knowingly and without lawful excuse, being the –

- (a) agent, charterer, lessee, master, operator or owner in charge of a vessel permits that vessel to be used;
- (b) agent, charterer, lessee, operator, owner or pilot in charge of an aircraft permits that aircraft to be used;
- (c) lessee, occupier, owner or person in charge of any place or premises permits a meeting to be held in that place or building; or
- (d) lessee, owner or person in charge of any equipment or facility that may be used for conferencing, recording of meetings through the use of technological means permits the equipment or facility to be used,

to facilitate the commission of an offence under this Act.

(2) A person who commits an offence under subsection (1) is liable on –

- (a) summary conviction, to imprisonment for a term of seven years or to a fine of \$500,000 or to both; or
- (b) conviction on indictment, to imprisonment for a term of twenty years or to an unlimited fine or to both.

19. (1) A person commits an offence who, knowingly and without lawful excuse, travels for the purpose of –

Travelling for the purpose of committing a terrorist act

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

(2) A person who commits an offence under subsection (1) is liable on –

- (a) summary conviction, to imprisonment for a term of seven years or to a fine of \$500,000 or to both; or
- (b) conviction on indictment, to imprisonment for a term of twenty years or to an unlimited fine or to both.

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

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

- (a) an offer to provide or the provision of expertise or a skill;
- (b) an offer to provide or the provision of documents; and
- (c) entering or remaining in any country, for the purpose of committing or facilitating a terrorist act.

20. (1) A person commits an offence if the person enters into or becomes concerned in an arrangement which facilitates, by whatever means, the retention or control by or on behalf of another person of terrorist property –

M o n e y
laundering

- (a) by concealment;
- (b) by removal from the jurisdiction;
- (c) by transfer to nominees; or

(d) in any other way.

(2) It is a defence for a person charged with an offence under subsection (1) to prove that he did not know and had no reasonable grounds for suspecting that the arrangement related to terrorist property.

(3) A person who commits an offence under subsection (1) is liable on –

- (a) summary conviction, to imprisonment for a term of seven years or to a fine of \$500,000 or to both; or
- (b) conviction on indictment, to imprisonment for a term of twenty years or to an unlimited fine or to both.

PART III

CONVENTION OFFENCES

Threats to
commit offences
under Part III

21. A threat to commit an offence under this Part is an offence and a person who commits such offence is liable to the same penalty as provided for the offence.

Taking of
preparatory
steps for an
offence

22. The taking of preparatory steps for the purpose of committing an offence under this Part is an offence and a person who commits such offence is liable to the same penalty as provided for the offence.

Coercing or
encouraging
person to commit
an offence

23. A person who coerces, encourages, entices, or incites another person to commit an offence under this Part commits an offence and is liable to the same penalty as provided for the offence.

Endangering the
safety of
maritime
navigation

24. (1) A person commits an offence who, in respect of a ship registered in Saint Vincent and the Grenadines or within the archipelagic or territorial waters of Saint Vincent and the Grenadines unlawfully and intentionally –

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

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

(2) A person who commits an offence under subsection (1) is liable, on conviction on indictment –

- (a) to imprisonment for twenty years; or
- (b) if the death of a person results from an act prohibited by this section, to be sentenced in accordance with the penalty prescribed for the offence.

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

B o m b i n g
offences

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

(2) A person who commits an offence under subsection (1) is liable on conviction on indictment to imprisonment for life.

(3) This section does not apply to the constabulary forces of a State –

Protection of
internationally
protected
persons

- (a) during an armed conflict; or
 - (b) in respect of activities undertaken in the exercise of their official duties.
26. (1) A person who kidnaps an internationally protected person commits an offence and is liable, on conviction on indictment, to imprisonment for life.
- (2) A person who commits any other attack on the person or liberty of an internationally protected person commits an offence and is liable, on conviction on indictment –
- (a) where the attack causes death, to be sentenced in accordance with the penalty prescribed for the offence;
 - (b) where the attack causes grievous bodily harm, to imprisonment for twenty years; or
 - (c) in any other case, to imprisonment for ten years.
- (3) A person commits an offence who intentionally destroys or damages otherwise than by means of fire or explosive –
- (a) official premises, private accommodation or means of transport, of an internationally protected person; or
 - (b) other premises or property in or on which an internationally protected person is present, or is likely to be present.
- (4) A person who commits an offence under subsection (3) is, on conviction on indictment, liable to imprisonment for ten years.
- (5) A person commits an offence who intentionally destroys or damages otherwise than by means of fire or explosive –
- (a) official premises, private accommodation or means of transport, of an internationally protected person; or
 - (b) other premises or property in or on which an internationally protected person is present, or is likely to be present,
- with intent to endanger the life of that internationally protected person by that destruction or damage.
- (6) A person who commits an offence under subsection (5) is, on conviction on indictment, liable to imprisonment for twenty years.

(7) A person who intentionally destroys or damages by means of fire or explosive –

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

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

(8) A person who intentionally destroys or damages by means of fire or explosive –

- (a) official premises, private accommodation or means of transport, of an internationally protected person; or
- (b) other premises or property in or upon which an internationally protected person is present, or is likely to be present, with intent to endanger the life of that internationally protected person by that destruction or damage,

commits an offence and is liable on conviction on indictment to imprisonment for twenty-five years.

(9) A person who threatens to do anything that would constitute an offence against subsections (1) to (8) commits an offence and is liable, on conviction on indictment, to imprisonment for ten years.

(10) A person who –

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

commits an offence and is liable on conviction on indictment to a fine of \$100,000.00 and to imprisonment for five years or to both.

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

Offences relating
to fixed platform

27. (1) A person commits an offence who unlawfully and intentionally –

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

(2) A person who commits an offence under subsection (1) is liable –

- (a) on conviction on indictment, to imprisonment for twenty years; and
- (b) in the case where death results from the commission of the offence, to be sentenced in accordance with the penalty prescribed for the offence.

Offences with
regard to nuclear
matter or
facilities

28. (1) A person commits an offence who unlawfully and intentionally –

- (a) intends to acquire or possesses nuclear material or designs or manufactures or possesses a device, or

attempts to manufacture or acquire a device, with the intent –

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

(2) A person commits an offence who –

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

(3) A person who commits an offence under subsection (1) or (2) is liable on conviction on indictment to imprisonment for life.

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

29. (1) A person commits an offence if he –

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

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

H o a x e s
i n v o l v i n g
n o x i o u s
s u b s t a n c e s o r
t h i n g s o r
e x p l o s i v e s o r
o t h e r l e t h a l
m a t e r i a l

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

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

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

(5) The Court, in imposing a sentence on a person who has been convicted of an offence under subsection (1), may order that person to reimburse any party incurring expenses incident to any emergency or investigating response to that conduct, for those expenses.

(6) A person ordered to make reimbursement under subsection (5) shall be jointly and severally liable for such expenses with each other person, if any, who is ordered to make reimbursement under subsection (5) for the same expenses.

(7) An order of reimbursement under subsection (5) shall, for the purposes of enforcement, be treated as a civil judgment.

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

Use of chemical,
biological or
nuclear weapons

30. (1) A person commits an offence who, unlawfully and intentionally uses, threatens or attempts or conspires to use chemical, biological or nuclear weapons –

- (a) against a citizen of Saint Vincent and the Grenadines or a person ordinarily resident in Saint Vincent and the Grenadines while either such person is outside Saint Vincent and the Grenadines;
- (b) against any person within Saint Vincent and the Grenadines; or
- (c) against any property that is owned, leased or used by the Government of Saint Vincent and the Grenadines whether the property is within or outside of Saint Vincent and the Grenadines,

(2) A person who commits an offence under subsection (1) is liable on conviction on indictment to imprisonment for life.

(3) A citizen of Saint Vincent and the Grenadines or person ordinarily resident within Saint Vincent and the Grenadines who, unlawfully and intentionally, uses chemical, biological or nuclear weapons outside of Saint Vincent and the Grenadines commits an offence and is liable on conviction on indictment to imprisonment for life.

PART IV

FINANCING OF TERRORISM

31. (1) A person commits the offence of financing terrorism who by any means, directly or indirectly, wilfully provides or collects funds, or attempts to do so, or coerces, encourages, entices, or incites another person to do so, without lawful excuse, with the intention or in the knowledge that the funds are to be used in whole or in part –

Offence of
financing of
terrorism

- (a) in order to carry out a terrorist act;
- (b) by a terrorist;
- (c) by a terrorist organisation;
- (d) in order to facilitate travel by an individual to a foreign State for the purposes of –
 - (i) carrying out a terrorist act; or
 - (ii) participating in, or providing instruction or training to carry out a terrorist act;
- (e) by a listed entity; or
- (f) to facilitate the travel or activities of a foreign terrorist fighter.

(2) Notwithstanding subsection (1), a person does not commit an offence where he provides or collects funds in accordance with an order made under section 34.

(3) An offence under subsection (1) is committed irrespective of whether –

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

-
- (c) the person alleged to have committed the offence is in the same country or a different country from the one in which the terrorist or terrorist organisation is located or the terrorist act occurred or will occur.
- (4) A person who commits an offence under this section is liable—
- (a) on summary conviction, to imprisonment for a term of seven years or to a fine of \$500,000 or to both; or
 - (b) on conviction on indictment, to imprisonment for a term of twenty years or to an unlimited fine or to both.
- (5) A director or officer of a body corporate commits an offence who knowingly and without lawful excuse, authorises, acquiesces in, or permits the commission of an offence under this section—
- (a) for the benefit of the body corporate; or
 - (b) which results in the body corporate being used as a vehicle for the commission of an offence under this section.
- (6) A director or officer of a body corporate who commits an offence under subsection (5) is liable on—
- (a) summary conviction, to imprisonment for a term of seven years or to a fine of \$500,000 or to both; or
 - (b) on conviction on indictment, to imprisonment for a term of twenty years or to an unlimited fine or to both and the Court may, *proprio motu*, exercise its power under section 67 of the Companies Act to order the individual to not be a director of the company, or be in any way directly or indirectly concerned with the management of the company for a period of time.
- (7) Where a body corporate commits an offence under subsection (1), the body corporate is liable on—
- (a) summary conviction, to a fine of \$750,000; or
 - (b) on conviction on indictment, to an unlimited fine.
- (8) Where a body corporate is convicted of an offence under this section, the Court may—

- (a) revoke business licences;
- (b) order that the body corporate be wound up;
- (c) forfeit the assets and property of the body corporate to the Crown who shall deal with it in accordance with Part VIII of the Proceeds of Crime Act 2013; and
- (d) prohibit the body corporate from performing any further activities.

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(9) The taking of preparatory steps for the purpose of committing an offence under this section is an offence and a person who commits such offence is liable to the same penalty as provided for the offence.

32. (1) For the purposes of sections 34 and 35, the FIU is responsible for –

S p e c i a l
p r o v i s i o n s f o r
d e s i g n a t e d
e n t i t i e s

- (a) maintaining a list of designated entities;
- (b) maintaining contact with the United Nations at frequent intervals to ensure that the list of designated entities remains current;
- (c) circulating the list referred to in paragraph (a) or (b) immediately, to relevant businesses requesting information on whether these designated entities have funds in Saint Vincent and the Grenadines;
- (d) furnishing the Attorney-General with information required to facilitate an application under section 34, where a designated entity has funds in Saint Vincent and the Grenadines; and
- (e) maintaining a consolidated list of all orders issued by the Court under section 34 (4) and circulating the same by email or other electronic means to all relevant businesses immediately at intervals of three months.

(2) Notwithstanding its obligation to circulate the consolidated list under subsection 1 (c), the FIU shall, when new information has been obtained before the expiration of three months, circulate any additions to that list or a new list immediately by email or other electronic means.

C e r t a i n
procedures apply

33. As soon as a relevant business receives the list of designated entities or the consolidated list referred to in section 32 (1) (c) or (e), the following procedures shall apply –

- (a) the relevant business shall immediately inform the FIU on the prescribed form, if any person or entity named on either list has funds with the relevant business;
- (b) if the relevant business has reasonable grounds to believe that a person or entity named on either list has funds in Saint Vincent and the Grenadines, the relevant business shall immediately inform the FIU on the prescribed form; and
- (c) if a person or entity named on that list attempts to enter into a transaction or continue a business relationship, the relevant business shall submit a suspicious activity report to the FIU immediately and shall not enter into or continue a business transaction or business relationship with such person or entity.

Listing of
terrorist entities

34. (1) Where the Attorney-General receives information that –

- (a) an individual or entity –
 - (i) committed or participated in the commission of a terrorist act;
 - (ii) is acting on behalf of, at the direction of, or in association with a designated entity or an individual or entity that has knowingly committed or participated in the commission of a terrorist act; or
 - (iii) committed an indictable offence for the benefit of a –
 - (A) terrorist;
 - (B) terrorist organisation; or
 - (C) listed entity; or
- (b) an entity is owned or controlled directly or indirectly by a listed entity,

the Attorney-General shall cause an investigation to be carried out in respect of that allegation and may, for that purpose, refer the matter to the FIU who may cause an investigation to be carried out in respect of the individual or entity.

(2) The Attorney-General shall apply to a Judge for an order under subsection (3) in respect of –

- (a) a designated entity;
- (b) an entity or individual, where there are reasonable grounds to believe that the individual or entity –
 - (i) has knowingly committed or participated in, or facilitated the commission of a terrorist act;
 - (ii) is knowingly acting on behalf of, or at the direction of, or in association with, an entity referred to in paragraph (a), subparagraph (i), or a listed entity; or
 - (iii) has knowingly committed an indictable offence for the benefit of, or in association with –
 - (A) a terrorist;
 - (B) a terrorist organisation; or
 - (C) a listed entity; or
- (c) an entity owned or controlled directly or indirectly by a listed entity.

(3) An application under subsection (2) shall be –

- (a) *ex parte*; and
- (b) accompanied by an affidavit deposing to the matters referred to in subsection (2).

(4) On an application under subsection (2), the Judge shall, by order –

- (a) declare an individual or a designated or legal entity to be a listed entity for the purposes of this Act if the Judge is satisfied as to the matters referred to in subsection (2); and
- (b) freeze the property –

- (i) that is owned or controlled by the listed entity;
- (ii) that is wholly or jointly owned or controlled, directly or indirectly, by the listed entity; or
- (iii) derived or generated from funds or other assets owned or controlled directly or indirectly by the listed entity.

(5) A person likely to be affected by an order made under subsection (4)–

- (a) shall, as far as practicable, be served with a copy of the order; and
- (b) may include a person with the same or similar name to a designated entity.

(6) Subject to section 36, an order under subsection (4) may –

- (a) be made subject to any other condition that the Court considers reasonable;
- (b) prohibit the listed entity from possessing or controlling cash in excess of an amount to be prescribed by the Judge;
- (c) indicate into which account held in a relevant business any excess cash shall be placed; and
- (d) make provisions to preserve the rights of a *bona fide* third party acting in good faith.

(7) Notwithstanding subsection (4), where a listed entity is in possession of cash in excess of an amount prescribed in an order made under subsection (4), the listed entity shall pay the excess amount into a bank account owned by the listed entity in Saint Vincent and the Grenadines as specified by the Court.

(8) The provisions of section 32 (d) shall not apply to a listed entity where the listed entity conducts a transaction in accordance with subsection (7).

(9) Nothing in this section shall prohibit the addition of interest or earnings due on an account frozen under subsection (4) or payments under contracts, agreements or obligations that arose prior to the making of an order under subsection (4).

(10) Where an order is made under subsection (4), the Court –

- (a) may serve the order on the listed entity or the relevant business; and
- (b) shall serve the order on the FIU immediately,

in accordance with the Civil Procedure Rules, 2000.

(11) Where an order is served on a relevant business under subsection (10), action shall immediately be taken to restrict the availability of the funds, subject to the order, in accordance with the terms of the order.

(12) Where an order is made under subsection (4) or section 35 (3) (d) or (7), the Attorney -General shall, within seven days after the date of the order, cause to be published in the *Gazette*, on the Government website and in two weekly newspapers of general circulation in Saint Vincent and Grenadines –

- (a) a copy of the order; and
- (b) in the case of an order under subsection (4), a statement that the matter will be reviewed every six months.

(13) Where the Attorney-General reasonably believes that a listed entity who is the subject of an order under this section, has funds in another jurisdiction, he may apply to the relevant authorities in the jurisdiction for the enforcement of an order made under this section.

(14) The Attorney-General may, where he thinks it necessary, make a request to another country to initiate proceedings for the entity or individual to be a listed entity in that country.

(15) For the purposes of an application under this section, the Judge may receive in evidence anything that, in the opinion of the Judge, is reliable and relevant.

35. (1) Within sixty days after the date of publication of an order under section 34 (12), the individual or entity in respect of which the order is made may apply to a Judge for a review of the order and shall notify the Attorney-General of the application.

Review of order

(2) Where an application for review is made under subsection (1), the Attorney-General shall be served with a copy of the application and given the opportunity to make representations to the Court in respect of any proceedings for the review of an order made under section 34(4).

(3) On an application made under subsection (1), the Judge shall –

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

(4) For the purposes of a review under this section, the Judge may receive in evidence anything that, in the opinion of the Judge, is reliable and relevant.

(5) The Attorney-General shall, every six months –

- (a) review all orders made under section 34 (4) so as to determine whether the circumstances referred to in section 34 (2) continue to exist in respect of the listed entity; and
- (b) if he determines that the circumstances no longer exist, apply to a Judge for the revocation of the order in respect of the listed entity.

(6) Nothing in this section shall preclude the Attorney-General at any time from –

- (a) conducting a review of the circumstances relative to an order made under section 34 (4) to determine whether the circumstances referred to in section 34 (2) continue to exist in respect of the listed entity; or
- (b) applying to a Judge for the variation or revocation of the order in respect of the listed entity if he determines that such circumstances no longer exist.

(7) On an application under subsection (5), the Judge shall, if satisfied as to the matters referred to in that subsection, make an order for the revocation, which order shall be –

- (a) published in the *Gazette*, on the Government website and in two weekly newspapers of general circulation in Saint Vincent and the Grenadines; and
- (b) served on the FIU.

(8) Where an order has been made under subsection (7), the FIU shall remove the individual or entity from the list referred to in section 32 (1)(e) and immediately circulate the list by email or other electronic means to all relevant businesses.

(9) For the purposes of this section and section 34, “control” means the power of a person to –

- (a) exercise more than fifty per cent of the voting rights at any general meeting of an entity;
- (b) elect a majority of the directors of an entity; or
- (c) exercise direct or indirect influence that, if exercised, would result in control in fact of the entity.

36. Where an order under section 34 (4), in respect of a listed entity which is not a designated entity, is being made the Court may in the order –

Considerations
for listed entities

- (a) make provision for meting out of the property or specified part of the property, reasonable living expenses, including but not limited to –
 - (i) mortgage or rent payments;

- (ii) allowances for food, medicine and medical treatment;
- (iii) any payments due as a result of an order of the Court;
- (iv) provision for –
 - (A) the reasonable living expenses of dependants, including educational expenses; and
 - (B) medicine and the medical treatment of dependants; and
- (v) provision for taxes, insurance premiums and public utilities;
- (b) make provision for reasonable legal expenses, including expenses incurred in defending a criminal charge or any proceedings connected thereto and any proceedings under this Act;
- (c) make provision for expenses necessary to enable a person to carry on any trade, business, profession or occupation;
- (d) make provision for fees or service charges for routine holding or maintenance of frozen funds or other financial assets or economic resources; and
- (e) make the listed entity subject to any other condition that the Court considers reasonable.

Considerations
for designated
entities

37. (1) Where an order under section 34 has been made in respect of a designated entity, the Attorney-General shall not apply to the Court for a variation of the order in accordance with section 35 (6) to make provision for meting out of the property or specified part of the property –

- (a) any consideration under section 36 (a)(i), (ii) and (v), (b), (c) or (d), unless he has first notified the 1267, 1989 and 2253 Committee of his intention to apply to the Court for such an order and the 1267, 1989 and 2253 Committee has not indicated its objection to such an application to the Court within forty-eight hours of said notice; or

- (b) any other consideration, unless he has first obtained the consent of the 1267, 1989 and 2253 Committee for such an application to the Court.

(2) For the avoidance of doubt, where after an order has been made under section 34 (4), the 1267, 1989 and 2253 Committee has raised no objection in accordance with subsection (1)(a) or has granted its consent under subsection (1)(b), the Attorney General may apply to the Court in accordance with section 35 (6) for a variation of the order to provide for matters under subsection (1).

38. (1) The FIU may, for the purpose of determining whether a listed entity against whom an order under section 34 (4) is made, is complying with measures specified in the order, apply to a Magistrate for a warrant.

Power to search to determine compliance

(2) Where on an application under subsection (1), a Magistrate is satisfied that it is necessary to determine whether a listed entity complies with measures set out in the order, he may issue a warrant authorizing a law enforcement officer –

- (a) search an individual who is a listed entity;
- (b) enter and search –
 - (i) the place of residence of an individual who is a listed entity; or
 - (ii) any other premises that are specified in the warrant; or
- (c) seize any document, computer or electronic device.

39. (1) Where the Attorney-General is satisfied that there are reasonable grounds to believe that a listed entity meets the criteria for being placed on the Resolutions 1267 (1999), 1989 (2011) and 2253 (2015) List or the 1988 List for the time being in force, he may make a request to the 1267, 1989 and 2253 Committee or the 1988 Committee as the case may be for the individual or entity to be placed on the respective list.

Attorney - General to propose names to the UNSC

(2) Notwithstanding subsection (3), the Attorney-General shall not make a request to the 1267, 1989 and 2253 Committee or the 1988 Committee, as the case may be, for an individual or entity to be placed on the Resolutions 1267 (1999), 1989 (2011) and 2253 (2015) List or the 1988 List unless that individual or entity has been listed in accordance with section 34 (3).

(3) Where an individual or entity has been placed on the Resolutions 1267 (1999), 1989 (2011) and 2253 (2015) List or the 1988 List on the basis of a request by the Attorney General, and the Attorney - General is satisfied that an individual or entity listed pursuant to section 34 (3) no longer meets the criteria for listing, he may petition –

- (a) the 1267, 1989 and 2253 Committee for removal of the individual or entity from the Resolutions 1267 (1999), 1989 (2011) and 2253 (2015) List; or
- (b) the 1988 Committee for removal of the individual or entity from the 1988 List.

(4) Where an individual or entity has been placed on the Resolutions 1267 (1999), 1989 (2011) and 2253 (2015) List or the 1988 List, the Attorney General shall, as far as practicable, inform the individual or entity of the availability of the UN office of the Ombudsperson or focal point for De-Listing, as appropriate, for the purposes of petitioning the removal from the Resolutions 1267 (1999), 1989 (2011) and 2253 (2015) List or the 1988 List, as the case may be.

Attorney -
General to receive
requests for
declaration of a
listed entity

40. (1) The Attorney-General shall receive all requests on behalf of another country for the declaration of an individual or entity as a listed entity.

(2) Where a request is made on behalf of a country for the declaration of an individual or entity as a listed entity, a record of the case shall be furnished, which shall include –

- (a) a document summarising the evidence available to that country for use in the designation of the individual or entity, including –
 - (i) sufficient identifying information to allow for the accurate and positive identification of the individual or entity; and
 - (ii) evidence that the individual or entity meets the relevant criteria for designation as set out in section 34; and
- (b) particulars of the facts upon which the request is being made.

(3) The Attorney-General shall, on receipt of a request made for the purposes of this section on behalf of a country, cause an

investigation to be carried out in respect of that allegation and may for that purpose refer the matter to the FIU who may cause an investigation to be carried out in respect of the request.

(4) Where, on the basis of an investigation under subsection (3), the Attorney-General is satisfied that the individual or entity referred to under subsection (1) meets the criteria under section 34 (2) (b) or (c), he shall make an application to a Judge for an order under section 34 (4).

41. (1) Where a relevant business knows or has reasonable grounds to suspect that funds within the relevant business belong to an individual or legal entity who –

Reporting
requirement

- (a) commits terrorist acts or participates in or facilitates the commission of terrorist acts or the financing of terrorism;
- (b) is a designated entity; or
- (c) is a listed entity,

the relevant business shall report the existence of the funds to the FIU.

(2) A relevant business shall –

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

to the FIU;

- (b) examine the background and purpose of all transactions which have no economic or visible legal purpose under paragraph (a) (i) and make available to the FIU, written findings after its examinations, where necessary;

No. 20 of 2014

- (c) keep and retain records relating to financial activities in accordance with regulations 21, 22 and 23 of the Anti- Money Laundering and Terrorist Financing Regulations 2014;
- (d) develop and implement a written compliance programme, reasonably designed to ensure compliance with this Act; and
- (e) monitor compliance with the Anti-Money Laundering and Terrorist Financing Regulations.

(3) Where a relevant business knows or has reasonable grounds to suspect that funds are linked or related to, or to be used for terrorism, terrorist acts or by terrorist organisations or those who finance terrorism, the relevant business shall make a suspicious activity report to the FIU.

(4) Subject to section 42, where a relevant business makes a suspicious activity report to the FIU under this section, the Director or staff of the FIU or of such relevant business shall not disclose the fact or content of the report to any person.

(5) A person who contravenes subsection (4) commits an offence and is liable –

- (a) on summary conviction, to imprisonment for a term of seven years or to a fine of \$500,000 or to both; or
- (b) on conviction on indictment, to imprisonment for a term of twenty years or to an unlimited fine or to both.

(6) A report to which subsection (3) refers shall be made within fourteen days of the date on which the relevant business knew or had reasonable grounds to suspect that the funds were linked or related to, or were to be used for terrorism, terrorist acts or by terrorist organisations or those who finance terrorism.

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

42. (1) Where the Analytical Department of the FIU receives information from a relevant business and it considers that an investigation may disclose that funds –

Identification of
offence of
financing of
terrorism

- (a) in the possession of any individual or legal entity are being used, have been used or are intended for use in the financing of terrorism;
- (b) belong to a designated entity; or
- (c) belong to a listed entity,

it shall forward such information to the Investigative Department of the FIU for further investigation.

43. (1) The Analytical Department of the FIU may instruct a relevant business in writing, to suspend the processing of a transaction for a period not exceeding five working days, pending the completion of an evaluation and analysis of a suspicious transaction or suspicious activity report.

FIU may suspend
certain
transactions

(2) Where those instructions are given, a relevant business or any other aggrieved person, may apply to a Judge to discharge the instructions of the FIU and shall serve notice on the FIU, to join in the proceedings, save however, that the instructions shall remain in force until the Judge determines otherwise.

(3) After the Analytical Department of FIU has concluded its evaluation and analysis of a suspicious activity report, and where the Director of the FIU is of the view that the circumstances warrant investigation, a report shall be submitted to the Investigative Department of the FIU for investigation to determine whether an offence of financing of terrorism has been committed and whether the funds are located in Saint Vincent and the Grenadines or elsewhere.

PART V

INVESTIGATION OF OFFENCES

44. (1) A law enforcement officer may, for the purpose of preventing the commission of an offence under this Act or preventing interference in the investigation of an offence under this Act, apply *ex parte*, to a Judge for a detention order.

Detention orders

(2) A Judge may make an order under subsection (1) for the detention of the person named in the application if he is satisfied that there are reasonable grounds to believe that the person is –

- (a) interfering or is likely to interfere with an investigation of;

- (b) preparing to commit; or
 - (c) facilitating the commission of,
- an offence under this Act.

(3) An order under subsection (2) shall –

- (a) be for a period not exceeding forty-eight hours in the first instance and may be extended for a further period provided that the maximum period of detention under the order does not exceed fourteen days; and
- (b) specify the place at which the person named in the order is to be detained and conditions in respect of access to a medical officer.

Schedule

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

Power to gather information

45. (1) A law enforcement officer may, for the purpose of an investigation of an offence under this Act, apply *ex parte* to a Judge for an order for the gathering of information from named persons.

(2) A Judge may make an order under subsection (1) for the gathering of information if he is satisfied that –

- (a) that there are reasonable grounds to believe that an offence under this Act has been committed and that –
 - (i) information concerning the offence; or
 - (ii) information that may reveal the whereabouts of a person suspected by the law enforcement officer of having committed the offence,
 is likely to be obtained as a result of the order; or
- (b) that –
 - (i) there are reasonable grounds to believe that an offence under this Act will be committed;
 - (ii) there are reasonable grounds to believe that a person has direct and material information that relates to the offence referred to in subparagraph (i); or

- (iii) there are reasonable grounds to believe that a person has direct and material information that may reveal the whereabouts of a person who the law enforcement officer suspects may commit the offence referred to in subparagraph (i); and
- (iv) reasonable attempts have been made to obtain the information referred to in subparagraph (ii) or (iii) from the person referred to therein.

(3) An order made under subsection (2) may –

- (a) include conditions or terms which the Judge considers reasonable;
- (b) order the examination on oath of the person named in the order;
- (c) order the person to attend at a time and place fixed by the Judge, for the purpose of being examined; and
- (d) order the person to bring and produce anything, document, computer or electronic device in his control or possession for the purpose of the examination.

(4) An order made under subsection (2) may be executed anywhere in Saint Vincent and the Grenadines.

(5) The Judge who made the order under subsection (2), or another Judge, may vary its terms and conditions.

(6) A person named in an order made under subsection (2) shall –

- (a) answer questions put to the person by the Director of Public Prosecutions or the Director of Public Prosecution's representative; and
- (b) produce to the Judge any thing, document, computer or electronic device, respectively that the person was ordered to bring,

but may, subject to the ruling of the Judge under subsection (7), refuse to do so if answering a question or producing any thing, document, computer or electronic device, respectively would disclose information that is protected by the law relating to non-disclosure of information or privilege.

(7) The Judge shall rule on every objection or issue relating to a refusal to answer any question or to produce any thing, document, computer or electronic device.

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

(9) Notwithstanding subsection (8), any –

- (a) answer given by;
- (b) thing, document, computer or electronic device produced by; or
- (c) evidence obtained from,

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

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

(11) The presiding Judge, if satisfied that any thing, document, computer or electronic device produced during the course of the examination is likely to be relevant to the investigation of an offence under this Act, shall order that the thing, document, computer or electronic device be given into the custody of the police.

(12) Subject to subsection (7), nothing in this section requires the disclosure of any information which is protected by privilege.

(13) Notwithstanding subsection (12), material held with the intention of furthering a criminal purpose is not protected by privilege.

Authority for
search

46. (1) A law enforcement officer may, for the purposes of an investigation into the offence of financing of terrorism apply to a Judge for a warrant under this section.

(2) On such application, the Judge may issue a warrant authorising a law enforcement officer to enter and search the premises if the Judge is satisfied in relation to the offence of financing of terrorism –

- (a) that there are reasonable grounds for suspecting that an individual or legal entity is linked to the commission of that offence;
- (b) that there are reasonable grounds for suspecting that there is on the premises material relating to the commission of that offence; and
- (c) that it would be appropriate to make an order in relation to the material because –
 - (i) it is not practicable to communicate with a person entitled to produce the material;
 - (ii) it is not practicable to communicate with a person entitled to grant access to the material or entitled to grant entry to the premises on which the material is situated; or
 - (iii) the investigation for the purposes of which the application is made might be seriously prejudiced unless a law enforcement officer could secure immediate access to the material.

(3) Where a law enforcement officer has entered the premises in the execution of a warrant issued under this section, he may seize and retain any material, which is likely to be of substantial value, whether by itself or together with other material, to the investigation for the purposes of which the warrant was issued.

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

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

47. (1) If satisfied that there are reasonable grounds for believing that a relevant business may have information that is relevant to an investigation, a Judge may, on application by a law enforcement officer,

C u s t o m e r
i n f o r m a t i o n
o r d e r

make an order that the relevant business provide to an authorised officer customer information relating to the person or account specified in the application.

(2) An application under subsection (1) shall state that there is an investigation of financing of terrorism or other offence under this Act and the order is sought for purposes of a criminal investigation of that offence.

(3) Customer information is information as to whether a person holds, or has held an account or accounts at the relevant business (whether solely or jointly), and information identifying a person who holds an account, and includes all information as to –

- (a) the account number or numbers;
- (b) the person's full name;
- (c) his date of birth;
- (d) his most recent address and any previous addresses;
- (e) the date or dates on which he began to hold the account or accounts and, if he has ceased to hold the account or any of the accounts, the date or dates on which he did so;
- (f) such evidence of his identity as was obtained by the relevant business;
- (g) the full name, date of birth and most recent address, and any previous addresses, of a person who holds, or has held, an account at the relevant business jointly with him;
- (h) the account number or numbers of any other account or accounts held at the relevant business to which he is a signatory and details of the person holding the other account or accounts; and
- (i) any other information which the Court specifies in the customer information order.

(4) Where the customer is a legal entity, the information shall include –

- (a) a description of any business which it carries on;
- (b) the country or territory in which it is incorporated or otherwise established and any number allocated to it;
- (c) its registered office, and any previous registered offices;
- (d) the full name, date of birth and most recent address and any previous addresses of a person who is a signatory to the account or any of the accounts; and
- (e) any other information which the Court specifies in the customer information order.

(5) A relevant business shall provide the information to the authorised officer in the manner, and at or by the time, as is specified in the order.

(6) An authorised officer for purposes of this section is the FIU.

(7) No obligation to maintain the confidentiality of information held by a relevant business, whether imposed by a law or contract, can excuse compliance with an order made under this section.

(8) A relevant business subject to an order under this section, commits an offence if it knowingly –

- (a) fails to comply with the order; or
- (b) provides false or misleading information in purported compliance with the order.

(9) A relevant business that commits an offence under subsection (8) is liable on –

- (a) summary conviction, to a fine of \$750,000; or
- (b) conviction on indictment, to an unlimited fine.

(10) A relevant business that has been served with an order under this section shall not disclose the existence or operation of the order to a person except an –

- (a) officer or agent of the institution for the purpose of complying with the order; or
- (b) authorised officer referred to in the order.

(11) Where a relevant business contravenes subsection (10), the relevant business commits an offence and is liable on –

- (a) summary conviction, to a fine of \$750,000; or
- (b) conviction on indictment, to an unlimited fine.

A c c o u n t
monitoring order

48. (1) A law enforcement officer may apply *ex parte* to a Judge for an account monitoring order directing a relevant business or non-profit organisation to provide certain information.

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

(3) An account monitoring order shall –

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

(4) A Judge shall issue an account monitoring order only if he is satisfied that there are reasonable grounds for believing that –

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

-
- (5) An account monitoring order shall specify –
- (a) the name or names in which the account is believed to be held; and
 - (b) the class of information that the relevant business or non-profit organisation is required to give.
- (6) A relevant business or non-profit organisation subject to an order under this section, commits an offence if it knowingly –
- (a) fails to comply with the order; or
 - (b) provides false or misleading information in purported compliance with the order,
- (7) A relevant business or non-profit organisation that commits an offence under subsection (6) is liable –
- (a) on summary conviction, to a fine of \$750,000; or
 - (b) on conviction on indictment, to an unlimited fine.
- (8) A relevant business or non-profit organisation that is or has been subject to an account monitoring order shall not knowingly disclose the existence or operation of the order to any person except –
- (a) an officer or agent of the relevant business or non-profit organisation, for the purpose of ensuring compliance with the order;
 - (b) a legal adviser for the purpose of obtaining legal advice or representation in respect of the order; or
 - (c) the authorised officer referred to in the order.
- (9) Where a relevant business or non-profit organisation contravenes subsection (8), it commits an offence and is liable –
- (a) on summary conviction, to a fine of \$750,000; or
 - (b) on conviction on indictment, to an unlimited fine.
- (10) Nothing in this section prevents the disclosure of information concerning an account monitoring order for the purposes of or in connection with legal proceedings or in the course of proceedings before a Court.
49. (1) A law enforcement officer may apply to a Judge for a production order

- (2) An application for a production order shall state that –
- (a) a person specified in the application is subject to an investigation of financing of terrorism;
 - (b) the order is sought –
 - (i) for the purposes of the investigation; and
 - (ii) in relation to material, or material of description, specified in the application; and
 - (c) a person specified in the application appears to be in possession or control of the material.
- (3) On an application made under subsection (1), a Judge may make a production order if he is satisfied that –
- (a) there are reasonable grounds for suspecting that in the case of an investigation of financing of terrorism, the person specified in the application as being subject to the investigation has committed a terrorist financing offence;
 - (b) there is reasonable grounds for believing that –
 - (i) the person specified in the application as appearing to be in possession or control of the specified material is in possession or control of it; and
 - (ii) the material is likely to be of substantial value, whether by itself or together with other material, to the investigation for the purposes of which the order is sought; and
 - (c) there are reasonable grounds for believing that it is in the public interest for the material to be produced or for access to be given to it having regard to –
 - (i) the benefit likely to accrue to the investigation if material is obtained; and
 - (ii) the circumstances under which the person the application specifies as appearing to be in possession or control of the material holds it.
- (4) A production order is an order –
- (a) requiring the person specified in the order as appearing to be in possession or control of material to produce it to a law enforcement officer, or the applicant for the order, for him to take away;

- (b) requiring the person to give a law enforcement officer, or the applicant for the order, access to it, within the period stated in the order.

(5) The period specified in a production order shall be seven days commencing on the date that the order is made unless it appears to the Judge that a longer or shorter period would be appropriate in the particular circumstances.

- (6) A production order –
 - (a) shall not require a person to produce, or give access to material protected by privilege; and
 - (b) may be made in relation to material in possession of a Government department.

PART VI

JURISDICTION AND TRIAL OF OFFENCES

50. (1) The Courts of Saint Vincent and the Grenadines have jurisdiction in respect of an offence referred to in this Act if –

Jurisdiction of
Saint Vincent and
the Grenadines
Courts

- (a) the alleged perpetrator of the offence is arrested in Saint Vincent and the Grenadines, or on board a ship registered in Saint Vincent and the Grenadines or an aircraft registered in Saint Vincent and the Grenadines; and
- (b) the offence was committed –
 - (i) in Saint Vincent and the Grenadines, or committed elsewhere, if the act is punishable in terms of the domestic laws of Saint Vincent and the Grenadines, including this Act or in terms of the obligations of Saint Vincent and the Grenadines under international law;
 - (ii) on board a vessel or a ship or fixed platform registered in Saint Vincent and the Grenadines or an aircraft which is registered under the laws of Saint Vincent and the Grenadines at the time the offence is committed;
 - (iii) outside of Saint Vincent and the Grenadines, and the person who has committed the act is, after the commission of the act, present in Saint Vincent and the Grenadines; or

(c) the evidence reveals any other basis recognized by law.

(2) An act or omission committed outside Saint Vincent and the Grenadines which would, if committed in Saint Vincent and the Grenadines, constitute an offence under this Act shall be deemed to have been committed in Saint Vincent and the Grenadines if the person committing the act or omission is present in Saint Vincent and the Grenadines and cannot be extradited to a foreign State having jurisdiction over the offence constituted by the act or omission.

(3) Where the Attorney-General receives information that there may be present in Saint Vincent and the Grenadines a person who is alleged to have committed an offence under this Act, the Attorney-General shall –

- (a) cause an investigation to be carried out in respect of that allegation and may refer the matter to the Commissioner of Police who may cause an investigation to be carried out in respect of that allegation; and
- (b) inform any other foreign State which might also have jurisdiction over the alleged offence promptly of the findings of the investigation.

Evidenced by a certificate

51. Where in any proceedings under this Act, a question arises as to whether any thing or substance is a weapon, a hazardous, radioactive or a harmful substance, a toxic chemical or microbial or other biological agent or toxin, a certificate purporting to be signed by an appropriate authority to the effect that the thing or substance, described in the certificate is a weapon, a hazardous, radioactive or a harmful substance, a toxic chemical or microbial or other biological agent or toxin, is admissible in evidence without proof of the signature or authority of the person appearing to have signed it and is, in the absence of evidence to the contrary, proof of the facts stated therein.

PART VII

INFORMATION SHARING, EXTRADITION AND MUTUAL ASSISTANCE IN CRIMINAL MATTERS

Exchange of information relating to terrorist acts

52. The Minister may, after consultation with the Attorney-General, on a request made by the appropriate authority of a foreign State, disclose to that authority, any information in his possession or, with the necessary permission, in the possession of any other government, department or agency, relating to any of the following –

- (a) the actions or movements of persons suspected of involvement in the commission of terrorist acts;
- (b) the use of forged or falsified travel papers by persons suspected of involvement in the commission of terrorist acts;
- (c) traffic in explosives or other lethal devices or sensitive materials by persons suspected of involvement in the commission of terrorist acts; or
- (d) the use of communication technologies by persons suspected of involvement in the commission of terrorist acts,

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

53. (1) Where Saint Vincent and the Grenadines becomes a party to a treaty and there is in force, an extradition arrangement between the Government and another State which is a party to that treaty, the extradition arrangement shall be deemed, for the purpose of the Fugitive Offender's Act, to include provision for extradition in respect of offences falling within the scope of that treaty.

Treaty to be used
as basis for
extradition
Cap. 175

(2) Where Saint Vincent and the Grenadines becomes a party to a treaty and there is no extradition arrangement between the Government and another State which is a party to that treaty, the Attorney-General may, by Order, subject to an affirmative resolution of the House of Assembly, treat the treaty, for the purposes of the Fugitive Offender's Act, as an extradition arrangement between the Government and that State providing for extradition, in respect of offences falling within the scope of that treaty.

54. (1) Where Saint Vincent and the Grenadines becomes a party to a treaty and there is in force, an arrangement between the Government and another State which is a party to that treaty, for mutual assistance in criminal matters, the arrangement shall be deemed, for the purposes of the Mutual Assistance in Criminal Matters Act, to include provision for mutual assistance in criminal matters in respect of offences falling within the scope of that treaty.

Treaty to be used
as basis for mutual
assistance in
criminal matters

Cap. 177

(2) Where Saint Vincent and the Grenadines becomes a party to a treaty and there is no arrangement between the Government and another State which is a party to that treaty for mutual assistance in criminal matters, the Attorney-General may, by Order subject to an

affirmative resolution of the House of Assembly, treat the treaty as an arrangement between the Government and that State providing for mutual assistance in criminal matters in respect of offences falling within the scope of that treaty.

PART VIII

DISCLOSURE AND SHARING INFORMATION

Duty to disclose information relating to offences and terrorist acts

55. (1) A person or regulatory authority who has any information which will assist in –

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

shall forthwith disclose the information to a police officer or the Attorney-General.

(2) Notwithstanding subsection (1), a person referred to in subsection (1), shall not be required to disclose any information which is protected by privilege.

(3) Notwithstanding subsection (2), material held with the intention of furthering a criminal purpose is not protected by privilege.

(4) Civil or criminal proceedings shall not lie against a person for disclosing any information in good faith pursuant to subsection (1).

(5) A person who fails to comply with subsection (1) commits an offence and is liable on conviction on indictment to a fine of ten thousand dollars or to imprisonment for two years or to both.

(6) For the purposes of this section, “regulatory authority” means the –

- (a) Eastern Caribbean Central Bank;
- (b) Eastern Caribbean Securities Regulatory Commission;
- (c) Financial Services Authority; and
- (d) Financial Intelligence Unit.

56. (1) A person shall forthwith disclose to the FIU –

- (a) the existence of any property in his possession or control, which to his knowledge is terrorist property or property to which an order made under section 34 applies or which there are reasonable grounds to believe is terrorist property or property to which an order made under section 34 applies;
- (b) any information regarding a transaction or proposed transaction in respect of terrorist property; or
- (c) any information regarding a transaction or proposed transaction which there are reasonable grounds to believe may involve terrorist property.

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

(2) The FIU shall disclose to the appropriate authority, any information in its possession relating to any terrorist property if such information is requested or if the Minister is of the view that the information would be relevant to a foreign State.

(3) A financial business shall report, every four months, to the FIU –

- (a) if it is not in possession or control of terrorist property that it is not in possession or control of such property; or
- (b) if it is in possession or control of terrorist property that it is in possession or control of such property, and the particulars relating to the persons, accounts and transactions involved and the total value of the property.

(4) No civil or criminal proceedings shall lie against a person for making a disclosure or report, in good faith, under subsection (1), (2) or (3).

(5) A person who fails to comply with subsection (1) or (3) commits an offence and is liable –

- (a) on summary conviction, to imprisonment for a term of seven years or to a fine of \$500,000 or to both; or

- (b) on conviction on indictment, to imprisonment for a term of twenty years or to an unlimited fine or to both.

PART IX

SEIZURE AND FORFEITURE OF TERRORIST PROPERTY

Application for
restraint order

57. (1) Where a law enforcement officer reasonably believes that property in the possession of a person is terrorist property, he may apply to a Judge for a restraint order in respect of that property.

(2) Where information is forwarded to the FIU under section 42, and the FIU has reasonable grounds to believe that funds should be restrained, the FIU may apply to the Court for an order to restrain the funds.

(3) This section applies to property that is being –

- (a) brought to any place in Saint Vincent and the Grenadines for the purpose of being exported from;
- (b) exported from; or
- (c) imported into,

Saint Vincent and the Grenadines.

(4) Subject to subsection (6), a restraint order made under subsection (1) or (2), shall be valid for a period of sixty days, and may, on application, be renewed by a Judge, for a further period of sixty days or until such time as the property referred to in the order is produced in Court in proceedings for an offence under this Act in respect of that property whichever is the sooner.

(5) A restraint order made under subsection (1) or (2) may make such provision as the Court thinks fit for living expenses and legal expenses of an individual or legal entity, as the case may be.

(6) A Judge may release any property referred to in a restraint order made under subsection (1) or (2) if –

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

(7) No civil or criminal proceedings shall lie against an officer for a seizure of property, made in good faith, under subsection (1) or (2).

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

58. (1) Where a person is convicted of an offence under this Act, or an offence under any other Act where the act or omission also constitutes a terrorist act, the Court may order that any property –

- (a) used for, or in connection with; or
- (b) obtained as proceeds from,

the commission of that offence, be forfeited to the Crown.

(2) Before making a forfeiture order, the Judge shall give an opportunity to be heard to a person who –

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

the property.

(3) Property forfeited to the Crown under subsection (1) shall vest in the Crown –

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

(4) The proceeds of the sale of any property forfeited to the Crown under subsection (1) shall be paid into the Confiscated Assets Fund.

59. (1) Where on an *ex parte* application, made by the Director of Public Prosecutions to a Judge, the Judge is satisfied that there are reasonable grounds to believe that there is in any building, place or vessel, any property in respect of which an order of forfeiture may be made under section 61, the Judge may issue a warrant authorising a police officer to –

- (a) search the building, place or vessel for that property; and

Orders for forfeiture of property on conviction for offences under this Act

Search and seizure warrant

(b) seize that property if found, and any other property in respect of which that police officer believes, on reasonable grounds, that an order of forfeiture may be made under section 61.

(2) A copy of the order under subsection (1) shall be kept by the Registrar.

(3) The Director of Public Prosecutions shall inform the Attorney-General of any application, warrant or order made under this section.

(4) On an application made under subsection (1), the Judge may, at the request of the Director of Public Prosecutions and if the Judge is of the opinion that the circumstances so require –

(a) appoint a person to take control of, and manage or otherwise deal with, the whole or a part of the property, in accordance with the directions of the Judge; and

(b) require any person having possession of the property to give possession thereof to the person appointed under paragraph (a).

(5) The power to manage or otherwise deal with property under subsection (4) includes in the case of –

(a) perishable or rapidly depreciating property, the power to sell that property; and

(b) property that has little or no value, the power to destroy that property.

(6) Before a person appointed under subsection (4) (a) destroys any property referred to in subsection (5), he shall apply to a Judge for a destruction order.

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

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

(9) A management order under subsection (4) shall cease to have effect when the property which is the subject of the management order is returned to an applicant in accordance with the law or forfeited to the Crown.

(10) The Director of Public Prosecutions may at any time apply to a Judge to cancel or vary a warrant issued under this section.

60. (1) An application to discharge or vary a restraint order may be made by the Director of Public Prosecution or by any person affected by the order.

Application to discharge or vary restraint order

- (2) On an application under subsection (1) –
 - (a) the Judge may discharge or vary the restraint order;
 - (b) if the application was made on the basis that proceedings were instituted or an application was made, the Judge shall discharge the restraint order on the conclusion of the proceedings or the application, as the case may be; or
 - (c) if the application was made on the basis that an investigation was started, the Judge shall discharge the restraint order if within a reasonable period proceedings for the offence are not instituted.
- (3) Where –
 - (a) a restraint order is discharged under subsection (2); or
 - (b) proceedings are instituted against a person for the offence of financing terrorism and either –
 - (i) the proceedings do not result in his conviction for the offence;
 - (ii) the conviction or convictions concerned are quashed; or
 - (iii) he is pardoned in respect of the conviction or convictions concerned,

the Court may, on application by a person who held property which is subject to a forfeiture or restraint order made in or in relation to those proceedings, order compensation to be paid to the applicant if, having regard to all circumstances, it considers it appropriate to make such an order.

61. (1) The Attorney-General may make an application to a Judge for an order of forfeiture in respect of terrorist property.

Order for forfeiture of property

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

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

(4) Where a Judge is satisfied, on a balance of probabilities, that the property which is the subject of the application is terrorist property, the Judge shall order that the property be forfeited to the Crown to be disposed of as directed by the Judge.

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

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

(7) Where a Judge is satisfied that a person –

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

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

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

(9) Pending the determination of an appeal against an order of forfeiture made under this section –

- (a) property restrained under section 59 shall continue to be restrained;
- (b) property seized under a warrant issued under section 59 shall continue to be detained; and
- (c) a person appointed to manage, control or otherwise deal with the property under section 59 shall continue in that capacity.

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

(11) The proceeds of the sale of any property forfeited to the Crown under this section shall be paid into the Confiscated Assets Fund.

62. (1) The Attorney-General may enter into an agreement with the government of any foreign State for the reciprocal sharing of the proceeds or disposition of property confiscated, forfeited or seized –

Sharing of
forfeited
property

- (a) under this Act; or
- (b) by that foreign State,

in circumstances where law enforcement authorities of that foreign State, or of Saint Vincent and the Grenadines, as the case may be have participated in the investigation of the offence that led to the confiscation, forfeiture or seizure of the property or if the law enforcement authorities participation led to the confiscation, forfeiture or seizure of the property under this Act.

(2) Notwithstanding sections 58 (4) and 61 (4), Saint Vincent and the Grenadines may, pursuant to any agreement with any other State for the sharing of forfeited property, share with that State on a reciprocal basis the property derived from forfeiture pursuant to this Act.

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

63. (1) A law enforcement officer may seize and detain part of or the whole amount of any cash where there are reasonable grounds for suspecting that it is –

Seizure,
detention and
forfeiture of cash

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

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

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

- (a) its origin or derivation or intended use is further investigated or consideration is given to bringing proceedings, whether in or outside the State, against a person for an offence with which the cash is connected; or
- (b) proceedings against a person for an offence with which the cash is connected have been started and have not been concluded.

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

(5) Subject to subsection (6), cash detained under this section may be released in whole or in part to the person on whose behalf it was transported by order of a Judge, that its continued detention is no longer justified on application by or on behalf of that person and after considering any views of a law enforcement officer.

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

(7) Where the application relates to cash that is commingled with other cash, all the cash is subject to continued detention under this subsection.

(8) On an application by a law enforcement officer, a Judge shall order forfeiture of any cash which has been seized and detained under this section if satisfied on the balance of probabilities that the cash directly or indirectly represents –

- (a) terrorist property; or
- (b) proceeds of an offence or intended for use in the commission of an offence.

(9) Before making an order of forfeiture under subsection (8), the Court shall order that notice be provided to any person who has asserted an interest in the cash and provide an opportunity for that person to be heard.

(10) In the case of cash which belongs to joint proprietor, one of whom is an excepted joint owner, the order may not apply to so much of it as the Court think is attributable to the excepted joint owner's share.

(11) An excepted joint owner is a person who obtained the property in circumstances in which it was not property obtained by or in return for criminal conduct and nor did it then represent such property and references to the excepted joint owner's share of the property are to so much of the property as would have been his if the joint ownership had been severed.

(12) In this section "criminal conduct" has the meaning assigned to it in the Proceeds of Crime Act 2013.

No. 38 of 2013

64. (1) The Minister may make regulations for the purpose of enabling the enforcement in Saint Vincent and the Grenadines of external orders.

Enforcement of external orders

- (2) An "external order" is an order which –
 - (a) is made in a country outside Saint Vincent and the Grenadines; and
 - (b) complies with subsection (3).
- (3) An external order complies with this subsection if it makes provision –
 - (a) for forfeiture of terrorist property ("an external forfeiture order"); or
 - (b) is made in a country outside Saint Vincent and the Grenadines, prohibiting the dealing with property –
 - (i) which is subject to an external forfeiture order; or

- (ii) in respect of which such an order could be made in proceedings which have been or are to be instituted in that country (“an external restraint order”).
- (4) Regulations under this section may, in particular –
 - (a) for the purpose of facilitating the enforcement of any external order that may be made, include provisions that have effected at times before there is an order to be enforced; and
 - (b) make provision for the proof of any matter relevant for the purposes of anything falling to be done in pursuance of the regulations.
- (5) Regulations under this section may also make provision with respect to anything falling to be done on behalf of Saint Vincent and the Grenadines in a country outside of Saint Vincent and the Grenadines in relation to proceedings in that country for or in connection with making of an external order.
- (6) Regulations under this section may make different provision for different cases.

PART X

ANTI-TERRORISM UNIT

Establishment of
Anti-Terrorism
Unit

65. (1) There is established in the FIU, a unit to be known as “the Anti-Terrorism Unit” (“the Unit”).
- (2) The functions of the Attorney-General under this Act may be exercised by the Attorney-General in person or through a public officer or legal officer who is –
- (a) employed in the Unit;
 - (b) authorised by the Attorney-General in writing; and
 - (c) acting under and in accordance with the general or special directions of the Attorney-General.
- (3) Nothing in this section shall be constructed as authorising a public officer or legal officer to make an Order or other statutory instrument under this Act.

66. (1) The Attorney-General shall, within three months after the end of each year, cause a report with respect to the performance of his functions under this Act to be prepared.

Annual report

(2) A report under subsection (1) shall contain such statistical and other information as the Attorney-General thinks fit in relation to –

- (a) court listings;
- (b) international cooperation;
- (c) forfeitures; and
- (d) such other matters as the Attorney-General considers necessary.

(3) The Attorney-General shall cause a copy of the report prepared under subsection (1) to be submitted to the Minister.

(4) The Minister shall cause a copy of the report submitted under subsection (3) to be laid in the House of Assembly within one month of its submission.

PART XI

MISCELLANEOUS

67. (1) The operator of an aircraft or master of a vessel departing from Saint Vincent and the Grenadines or registered in Saint Vincent and the Grenadines departing from any place outside Saint Vincent and the Grenadines shall, in accordance with regulations made under this section provide to the –

Duty to disclose information relating to passengers of aircraft and vessels

- (a) Chief Immigration Officer any information in his possession relating to persons on board or expected to be on board the aircraft or vessel; or
- (b) competent authority of a foreign State any information in his possession relating to persons on board or expected to be on board the aircraft or vessel in accordance with the law of that foreign State.

(2) The Minister may, subject to regulations made under subsection (4), provide to the competent authority in a foreign State any information in his possession relating to persons entering or leaving Saint Vincent and the Grenadines, by land, and that is required by the laws of that foreign State.

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

(4) The Minister may make regulations generally to give effect to the purposes of this section, including regulations –

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

Power to refuse
r e f u g e e
application

68. The Minister may, having regard to the interests of national security and public safety, refuse the application of a person applying for status as a refugee, if he has reasonable grounds to believe that the applicant has committed a terrorist act or is likely to be, involved in the commission of a terrorist act.

Power to make
regulations

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

(2) Regulations made under subsection (1) are subject to affirmative resolution of the House of Assembly.

Offences and
penalties

70. (1) A relevant business which fails to comply with section 33 or 41 (1), (2) or (3) commits an offence and is liable on –

- (a) summary conviction, to imprisonment for a term of seven years or to a fine of \$500,000 or to both; or
- (b) conviction on indictment, to imprisonment for a term of twenty years or to an unlimited fine or to both.

(2) Where a body corporate commits an offence under sections 33 or 41 (1), (2) and (3), any officer, director or agent of the body corporate –

- (a) who directed, authorised, assented to, or acquiesced in the commission of the offence; or
- (b) to whom any omission is attributable,

is a party to the offence and is liable on summary conviction or on conviction on indictment, to the penalty prescribed in subsection (1).

71. (1) The Attorney-General shall cause to be prepared and submitted to the Minister an annual report on the number of prosecutions, convictions, listed entities and Orders made pursuant to this Act. Annual report

(2) The Minister shall cause to be laid in the House of Assembly the annual report submitted to him under subsection (1).

72. The Anti-Terrorist Financing and Proliferation Act 2015 is repealed. Repeal
No. 14 of 2015

73. Section 160 (2) of the Proceeds of Crime Act 2013 is amended – Consequential
amendments
No. 38 of 2013

(a) in paragraph (a) (ii), by deleting “Anti-Terrorism Financing and Proliferation Act 2015” and inserting “Anti-Terrorism Act 2023”;

(b) in paragraph (c), by deleting “section 33 of the Anti-Terrorism Financing and Proliferation Act 2015” and inserting “section 63 (8), (9), (10) and (11) of the Anti-Terrorism Act 2023”.

SCHEDULE

(section 44 (4))

CUSTODY RECORD FOR DETAINED PERSON

1. Entries shall be made in respect of all matters relevant to the detention of the arrested person and shall be referred to as the Custody Record. In particular, the entries shall be made in respect of the following:
 - (a) an accurate record of the time and place of –
 - (i) the arrest;
 - (ii) the issue of the direction; and
 - (iii) each interview, including any interview immediately following the arrest of the person detained;
 - (b) the place or places where the interview takes place;
 - (c) the time at which the interview begins and the time at which it ends;
 - (d) any break during the interview;
 - (e) the names of persons present at the interview;
 - (f) the time and reason for any transfer of the detained person from one place of custody to another as well as the time at which the detention ends;
 - (g) any property secured from the person on his arrest or during his detention;
 - (h) the name and rank of the police officer on whose authority any action in relation to the detained person is taken; and
 - (i) the ground or grounds, on which the detention is based.
2. The Custody Record shall be opened as soon as practicable after the start of a person's detention.
3. The person making an entry in the Custody Record shall insert the time at which the entry is made and his signature against the entry made.
4. The Custody Record or copy of the Record shall accompany a detained person to any other place where he is transferred.
5. A copy of the Custody Record shall be supplied to the person detained or his legal representative as soon as is practicable after he or the representative makes a request on his release from detention or his being taken to Court.

6. The person detained shall be allowed to check and shall be made to insert his signature in respect of any entry in the Custody Record.
7. An entry shall be made in respect of any refusal of the person detained to insert his signature where such signature is required.
8. Entries in the Custody Record shall be made as soon as practicable after the occurrence of the events to which they relate.
9. A police officer of the rank of inspector or above shall be responsible for ensuring the accuracy and completeness of the Custody Record and that the Custody Record or a copy of the Record accompanies the detained person on his transfer.
10. Entries in a computerised Custody Record shall be timed and shall contain evidence of the computer operator's identity.

Passed in the House of Assembly this 21st day of March, 2023.

NICOLE HERBERT

Clerk of the House of Assembly.

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