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THE PRESIDENCY

No. 128 11 February 2005

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

No. 33 of 2004: Protection of Constitutional Democracy Against Terrorist and Related Activities Act, 2004.

DIE PRESIDENSIE

No. 128 11 Februarie 2005

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 33 van 2004: Wet op Beskerming van Konstitusionele Demokrasie teen Terroriste- en Verwante Aktiwiteite, 2004.

**Act No. 33, 2004 PROTECTION OF CONSTITUTIONAL DEMOCRACY AGAINST
TERRORIST AND RELATED ACTIVITIES ACT, 2004**

(English text signed by the President.)
(Assented to 4 February 2005.)

ACT

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

PREAMBLE

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

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

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

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

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

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

- (a) The *Convention on Offences and Certain Other Acts Committed on Board Aircraft*, signed at Tokyo on 14 September 1963. The Republic became a Party thereto, by accession on 26 May 1972;
- (b) the *Convention for the Suppression of Unlawful Seizure of Aircraft*, signed at The Hague on 16 December 1970. The Republic became a Party thereto by ratification on 30 May 1972;
- (c) the *Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation*, concluded at Montreal on 23 September 1971. The Republic became a Party thereto by ratification on 30 May 1972;

WET

Ten einde voorsiening te maak vir maatreëls om terroriste- en verwante aktiwiteite te voorkom en te bekamp; ten einde voorsiening te maak vir 'n misdryf van terrorisme en ander misdrywe geassosieer met of verwant aan terroriste-aktiwiteite; ten einde voorsiening te maak vir Konvensiemisdrywe; ten einde uitvoering te gee aan internasionale instrumente ten opsigte van terroriste- en verwante aktiwiteite; ten einde 'n meganisme te skep om te voldoen aan Resolusies van die Veiligheidsraad van die Verenigde Nasies, met betrekking tot terroriste- en verwante aktiwiteite wat bindend is op Ledestate; ten einde voorsiening te maak vir maatreëls ter voorkoming en bekamping van die finansiering van terroriste- en verwante aktiwiteite; ten einde voorsiening te maak vir ondersoekbevoegdheids ten opsigte van terroriste- en verwante aktiwiteite; en om voorsiening te maak vir aangeleenthede wat daarmee verband hou.

AANHEF

AANGESIEN die Republiek van Suid-Afrika 'n konstitusionele demokrasie is waar basiese menseregte, soos die reg op lewe, en vrye politieke aktiwiteite konstitusioneel beskerm word;

EN AANGESIEN terroriste- en verwante aktiwiteite, in welke vorm ook al, ten doel het om politieke en ander doelwitte op 'n gewelddadige, of andersins deur onkonstitusionele metodes te bereik, en daardeur demokratiese regte en waardes en die Grondwet ondermyn;

EN AANGESIEN terroriste- en verwante aktiwiteite 'n internasionale probleem is, wat slegs by wyse van internasionale samewerking doeltreffend aangespreek kan word;

EN AANGESIEN die Regering van die Republiek van Suid-Afrika homself in internasionale fora, soos die Verenigde Nasies, die Afrika-Unie, en die Onverbonde Beweging tot die bekamping van terroriste- en verwante aktiwiteite verbind het;

EN AANGESIEN Resolusie 1373/2001 van die Veiligheidsraad van die Verenigde Nasies, wat bindend is op alle Ledestate, sowel as die Konvensie vir die Voorkoming en Bekamping van Terrorisme, aanvaar deur die Organisasie vir Afrika Eenheid, vereis dat ledestate so spoedig moontlik Partye tot internasionale instrumente met betrekking tot terroriste- en verwante aktiwiteite behoort te word;

EN AANGESIEN die Republiek van Suid-Afrika reeds 'n Partye geword het tot die volgende instrumente van die Verenigde Nasies:

- (a) Die *Konvensie insake Misdrywe en Sekere Ander Dade Gepleeg aan Boord van Vliegtuie*, geteken te Tokio op 14 September 1963. Die Republiek het deur toetrede op 26 Mei 1972 'n Partye daartoe geword;
- (b) Die *Konvensie insake die Onderdrukking van die Onwettige Oorname van Vliegtuie*, geteken te Den Haag op 16 Desember 1970. Die Republiek het op 30 Mei 1972 deur ratifikasie 'n Partye daartoe geword;
- (c) Die *Konvensie insake die Onderdrukking van Onwettige Dade teen die Veiligheid van Burgerlugvaart*, gefinaliseer te Montreal op 23 September 1971. Die Republiek het op 30 Mei 1972 deur ratifikasie 'n Partye daartoe geword;

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

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

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

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

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

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

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

AND REALISING the importance to enact appropriate domestic legislation necessary to implement the provisions of relevant international instruments dealing with terrorist

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- (d) Die *Konvensie insake die Voorkoming en Bestrafing van Misdade teen Internasionaal-beskernde Persone, insluitende Diplomatieke Verteenwoordigers*, aanvaar deur die Algemene Vergadering van die Verenigde Nasies op 14 Desember 1973. Die Republiek het op 23 September 2003, deur toetrede 'n Party daartoe geword;
- (e) Die *Internasionale Konvensie teen die Neem van Gyselaars*, aanvaar deur die Algemene Vergadering van die Verenigde Nasies op 17 Desember 1979. Die Republiek het op 23 September 2003, deur toetrede 'n Party daartoe geword;
- (f) Die *Protokol insake die Onderdrukking van Onwettige Dade van Geweld by Lughawens, wat Internasionale Burgerlugvaart bedien*, aanvaar te Montreal op 24 Februarie 1988. Die Republiek het op 21 September 1998, deur toetrede 'n Party daartoe geword;
- (g) Die *Konvensie insake die Merk van Plastiese Springstowwe vir die Doel van Opsporing*, geteken te Montreal op 1 Maart 1991. Die Republiek het op 1 Desember 1999 deur toetrede 'n Party daartoe geword;
- (h) Die *Internasionale Konvensie insake die Onderdrukking van Terroristebomaanvalle*, aanvaar deur die Algemene Vergadering van die Verenigde Nasies op 15 Desember 1997. Die Republiek het op 1 Mei 2003, deur ratifikasie 'n Party daartoe geword;
- (i) Die *Internasionale Konvensie insake die Onderdrukking van die Finansiering van Terrorisme*, aanvaar deur die Verenigde Nasies se Algemene Vergadering op 9 Desember 1999. Die Republiek het op 1 Mei 2003, deur ratifikasie, 'n Party daartoe geword;

EN AANGESIEN die Republiek van Suid-Afrika begerig is om 'n Party te word tot die volgende oorblywende instrumente van die Verenigde Nasies, wat nog nie geratifiseer is of waartoe toegetree is nie:

- (a) Die *Konvensie vir die Onderdrukking van Onregmatige Dade teen die Veiligheid van Skeepsvaart*, aanvaar te Rome op 10 Maart 1988;
- (b) Die *Protokol vir die Onderdrukking van Onregmatige Dade teen die Veiligheid van Vaste Platforms op die Vastelandsplat*, aanvaar te Rome op 10 Maart 1988;
- (c) Die *Konvensie oor die Fisiese Beskerming van Kernmateriaal* aanvaar te Wene op 26 Oktober 1979, en namens die Republiek geteken op 18 Maart 1981;

EN AANGESIEN die Republiek van Suid-Afrika op 7 November 2002, deur middel van ratifikasie, 'n Party tot die *Konvensie insake die Voorkoming en Bekamping van Terrorisme*, deur die Organisasie vir Afrika Eenheid aanvaar te Algiers, op 14 Julie 1999, geword het;

EN AANGESIEN die Veiligheidsraad van die Verenigde Nasies, van tyd tot tyd, ingevolge Hoofstuk VII van die Handves van die Verenigde Nasies resolusies aanneem, wat van Ledestate vereis om terroriste- en verwante aktiwiteite te bekamp, insluitend die neem van doeltreffende maatreëls ten einde die finansiering van terroriste- en verwante aktiwiteite te voorkom, of te bekamp, asook die bevriësing van fondse, bates en ekonomiese hulpbronne van persone wat terroriste- en verwante aktiwiteite pleeg;

EN AANGESIEN nasionale wetgewing nie aan al die internasionale vereistes ten opsigte van die voorkoming en bekamping van terroriste- en verwante aktiwiteite voldoen nie;

EN AANGESIEN die volkereg, en in die besonder die internasionale humanitêre reg, insluitende die doelstellings en beginsels van die Handves van die Verenigde Nasies en die Verklaring oor die Beginsels van die Volkereg met betrekking tot Vriendskaplike Verhoudings en Samewerking tussen State in ooreenstemming met die bedoelde Handves die stryd deur volke, insluitende enige handeling tydens 'n gewapende stryd in ooreenstemming met sodanige volkereg vir hul wettige reg tot nasionale bevryding, selfbeskikking, en onafhanklikheid teen kolonialisme, besetting, aggressie en oorheersing van vreemde magte erken, en uitsluit van terroriste-aktiwiteite;

EN ONDER DIE BESEF van die belangrikheid daarvan om gepaste nasionale wetgewing te verorden ten einde die bepalinge van die toepaslike instrumente met

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and related activities, to ensure that the jurisdiction of the courts of the Republic of South Africa enables them to bring to trial the perpetrators of terrorist and related activities; and to co-operate with and provide support and assistance to other States and relevant international and regional organisations to that end;

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

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

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betrekking tot terroriste- en verwante aktiwiteite te implementeer ten einde te verseker dat die jurisdiksie van die howe van die Republiek van Suid-Afrika hul in staat sal stel om die plegers van terroriste- en verwante aktiwiteite te verhoor; en om saam te werk met en ondersteuning en bystand aan ander State en toepaslike internasionale- en Streeksorganisasies in dié verband te verleen;

EN GEDAGTIG daaraan, dat die Republiek sedert 1994, 'n regmatige lid van die gemeenskap van volke geword het en daartoe verbind is om persone wat sodanige terroriste- en verwante aktiwiteite gepleeg het voor die gereg te bring en om sy verpligtinge ingevolge die instrumente met betrekking tot terroriste- en verwante aktiwiteite na te kom,

WORD daar derhalwe deur die Parlement van die Republiek van Suid-Afrika bepaal, soos volg:—

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 - (i) **“appropriate government body”**, with reference to section 15, means an appropriate government body as defined in section 1 of the International Co-operation in Criminal Matters Act, 1996 (Act No. 75 of 1996); 35
 - (ii) **“Convention offence”** means—
 - (a) an offence, created in fulfilment of the Republic’s international obligations in terms of instruments dealing with terrorist and related activities, referred to in Part 2 of Chapter 2;
 - (b) an offence referred to in section 56(1)(h) of the Nuclear Energy Act, 1999 40 (Act No. 46 of 1999); or

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1. (1) Tensy uit die samehang anders blyk, beteken in hierdie Wet—
 - (i) “**Direkteur van Openbare Vervolgings**”, ’n Direkteur van Openbare Vervolgings, aangestel kragtens artikel 13(1) van die Wet op die Nasionale Vervolgingsgesag, 1998 (Wet No. 32 van 1998);
 - (ii) “**entiteit**”, met verwysing na artikels 3, 4 en 14 (in soverre dit op die voorgemelde artikels betrekking het), 22, 23 en 25, ’n natuurlike persoon, of ’n groep van twee of meer natuurlike persone (ongegag hulle in die bevordering van ’n gemeenskaplike opset of sameswering optree al dan nie), of ’n sindikaat, bende, agentskap, trust, vennootskap, fonds of ander oningelyfde assosiasie of organisasie, of enige ingelyfde assosiasie of organisasie of enige

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- (c) an offence referred to in section 2(1) or (2) of the Civil Aviation Offences Act, 1972 (Act No.10 of 1972);
- (iii) **“Director of Public Prosecutions”** means a Director of Public Prosecutions appointed under section 13(1) of the National Prosecuting Authority Act, 1998 (Act No. 32 of 1998); 5
- (iv) **“engages in a terrorist activity”**, with reference to sections 2 and 3, includes—
- (a) the commission, performance or carrying out of;
- (b) the facilitation of, participation or assistance in, or contribution to the commission, performance or carrying out of; 10
- (c) the performance of an act in preparation for or planning of; or
- (d) instructing, directly or indirectly, the—
- (i) commission, performance, carrying out of;
- (ii) facilitation of, participation or assistance in, or contribution to the commission, performance or carrying out of; or 15
- (iii) performance of an act in preparation for or planning of, a terrorist activity, and the expressions **“to engage in a terrorist activity”**, **“engaging in a terrorist activity”** and **“engagement in a terrorist activity”** shall be construed accordingly;
- (v) **“entity”**, with reference to sections 3, 4, and 14 (in so far as it relates to the aforementioned sections), 22, 23 and 25, means a natural person, or a group of two or more natural persons (whether acting in the furtherance of a common purpose or conspiracy or not), or a syndicate, gang, agency, trust, partnership, fund or other unincorporated association or organisation, or any incorporated association or organisation or other legal person, and includes, where appropriate, a cell, unit, section, sub-group or branch thereof or any combination thereof; 25
- (vi) **“explosive”**, with reference to the definition of **“explosive or other lethal device”** in this section, and sections 5 and 13, means an explosive referred to in section 1 of the Explosives Act, 2003 (Act No. 15 of 2003); 30
- (vii) **“explosive or other lethal device”**, with reference to sections 5 and 13, means—
- (a) an explosive or incendiary weapon or device which is designed or manufactured, or has the capability, to cause death, serious bodily injury or material damage; 35
- (b) a weapon or device which is designed or manufactured, or has the capability, to cause death, serious bodily injury or material damage through the release, dissemination or impact of toxic chemicals, biological agents or toxins or similar substances or radiation or radioactive material; or 40
- (c) any weapon of mass destruction, as defined in section 1 of the Non-Proliferation of Weapons of Mass Destruction Act, 1993 (Act No. 87 of 1993);
- (viii) **“fixed platform”**, with reference to sections 6 and 15, means an artificial island, installation, or structure permanently attached to the sea-bed for the purpose of exploration or exploitation of resources or for economic purposes, but does not include a ship; 45
- (ix) **“infrastructure facility”**, with reference to the definition of **“terrorist activity”** in this section and section 5, means any publicly or privately owned facility providing or distributing services for the benefit of the public, such as water, sewage, energy, fuel or communications; 50
- (x) **“instruments dealing with terrorist and related activities”**, means any of the following instruments:
- (a) *The Convention on Offences and Certain Other Acts Committed on Board Aircraft*, signed at Tokyo on 14 September 1963; 55
- (b) *the Convention for the Suppression of Unlawful Seizure of Aircraft*, signed at The Hague on 16 December 1970;

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- ander regspersoon, en sluit, waar toepaslik, 'n sel, eenheid, seksie, of subgroep of kombinasie daarvan in;
- (iii) **“eiendom”** geld of ander roerende of onroerende liggaamlike saak of onliggaamlike saak en ook enige regte, voorregte en eise en waarborge, belang daarin en alle opbrengste daarvan; 5
- (iv) **“gespesifiseerde misdryf”**, met verwysing na artikels 4, 14 (in soverre dit betrekking het op artikel 4), en 23—
- (a) die misdryf van terrorisme, soos bedoel in artikel 2, 'n misdryf wat met terroriste-aktiwiteit geassosieer is of verband hou, soos bedoel in artikel 3, 'n Konvensiemisdryf, of 'n misdryf bedoel in artikel 13 of 14 (in soverre dit betrekking het op die voorgemelde misdrywe); 10
- (b) enige aktiwiteit buite die Republiek wat 'n misdryf uitmaak ingevolge die reg van 'n vreemde Staat, en wat 'n misdryf bedoel in paragraaf (a) sou daarstel indien daardie aktiwiteit in die Republiek sou plaasvind;
- (v) **“infrastruktuurfasiliteit”**, met verwysing na die omskrywing van **“terroriste-aktiwiteit”**, in hierdie artikel en artikel 5, enige fasiliteit in openbare of private besit, wat dienste soos water, riolering, energie, brandstof of kommunikasies tot voordeel van die publiek verskaf of versprei; 15
- (vi) **“instrumente met betrekking tot terroriste- en verwante aktiwiteite”**, enige van die volgende instrumente: 20
- (a) Die *Konvensie insake Misdrywe en Sekere Ander Dade Gepleeg aan Boord van Vliegtuie*, geteken te Tokio op 14 September 1963;
- (b) Die *Konvensie insake die Onderdrukking van die Onwettige Oorname van Vliegtuie*, geteken te Den Haag op 16 Desember 1970;
- (c) Die *Konvensie insake die Onderdrukking van Onwettige Dade teen die Veiligheid van Burgerlugvaart*, gefinaliseer te Montreal op 23 September 1971; 25
- (d) Die *Konvensie insake die Voorkoming en Bestrawwing van Misdade teen Internasionaal Beskernde Persone, insluitende Diplomatieke Verteenwoordigers*, aanvaar deur die Algemene Vergadering van die Verenigde Nasies op 14 Desember 1973; 30
- (e) Die *Internasionale Konvensie teen die Neem van Gyselaars*, aanvaar deur die Algemene Vergadering van die Verenigde Nasies op 17 Desember 1979;
- (f) Die *Konvensie oor die Fisiese Beskerming van Kernmateriaal*, aanvaar te Wene, op 26 Oktober 1979; 35
- (g) Die *Protokol insake die Onderdrukking van Onwettige Dade van Geweld by Lughawens, wat Internasionale Burgerlugvaart bedien*, aanvaar te Montreal op 24 Februarie 1988;
- (h) Die *Konvensie vir die Onderdrukking van Onregmatige Dade teen die Veiligheid van Skeepsvaart*, 1988, aanvaar te Rome op 10 Maart 1988; 40
- (i) Die *Protokol vir die Onderdrukking van Onregmatige Dade teen die Veiligheid van Vaste Platforms op die Vastelandsplat*, 1988; aanvaar te Rome op 10 Maart 1988;
- (j) Die *Konvensie insake die Merk van Plastiese Springstowwe vir die Doel van Opsporing*, geteken te Montreal op 1 Maart 1991; 45
- (k) Die *Internasionale Konvensie insake die Onderdrukking van Terroristebomaanvalle*, aanvaar deur die Algemene Vergadering van die Verenigde Nasies op 15 Desember 1997;
- (l) Die *Konvensie oor die Voorkoming en Bekamping van Terrorisme*, 50 aanvaar deur die Organisasie vir Afrika Eenheid te Algiers op 14 Julie 1999; of
- (m) Die *Internasionale Konvensie insake die Onderdrukking van die Finansiering van Terrorisme*, aanvaar deur die Verenigde Nasies se Algemene Vergadering op 9 Desember 1999; 55

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- (c) the *Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation*, concluded at Montreal on 23 September 1971;
- (d) the *Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons including Diplomatic Agents*, adopted by the General Assembly of the United Nations on 14 December 1973; 5
- (e) the *International Convention Against the Taking of Hostages*, adopted by the General Assembly of the United Nations on 17 December 1979;
- (f) the *Convention on the Physical Protection of Nuclear Material*, adopted at Vienna on 26 October 1979;
- (g) the *Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation*, adopted at Montreal on 24 February 1988; 10
- (h) the *Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation*, 1988, adopted at Rome on 10 March 1988;
- (i) the *Protocol for the Suppression of Unlawful Acts against the Safety of fixed Platforms on the Continental Shelf*, 1988, adopted at Rome on 10 March 1988; 15
- (j) the *Convention on the Marking of Plastic Explosives for the Purpose of Detection*, signed at Montreal on 1 March 1991;
- (k) the *International Convention for the Suppression of Terrorist Bombings*, adopted by the General Assembly of the United Nations on 15 December 1997; 20
- (l) the *Convention on the Prevention and Combating of Terrorism*, adopted by the Organisation of African Unity at Algiers on 14 July 1999; or
- (m) the *International Convention on the Suppression of the Financing of Terrorism*, adopted by the General Assembly of the United Nations on 9 December 1999; 25
- (xi) **“international organisation”**, with reference to the definitions of **“inter-governmental organisation”**, **“internationally protected person”** and **“terrorist activity”** in this section, means an international organisation of states, and includes an intergovernmental organisation; 30
- (xii) **“intergovernmental organisation”**, with reference to the definitions of **“international organisation”**, **“internationally protected person”**, **“State or government facility”** and **“terrorist activity”** in this section, and section 7, means an international organisation established by the governments of states; 35
- (xiii) **“internationally protected person”**, with reference to section 8, means—
- (a) a Head of State, including any member of a collegial body performing the functions of a Head of State under the constitution of the State concerned, a Head of Government or a Minister for Foreign Affairs, whenever any such person is in the Republic, as well as members of his or her family accompanying him or her; or 40
- (b) any representative or official of a State or any official or other agent of an international organisation or intergovernmental organisation or of an intergovernmental character who, at the time when and in the place where a crime against him or her or his or her official premises, his or her private accommodation or his or her means of transport is committed, is entitled, pursuant to international law to special protection from any attack on his or her person, freedom or dignity, as well as members of his or her family forming part of his or her household; 45
- (xiv) **“judge”** means a Judge of the High Court; 50
- (xv) **“Minister”** means the Minister for Safety and Security;
- (xvi) **“National Commissioner”** means the National Commissioner of the South African Police Service appointed in terms of section 207(1) of the Constitution; 55
- (xvii) **“National Director”** means the National Director of Public Prosecutions appointed in terms of section 179(1) of the Constitution;

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- (vii) “**internasionale organisasie**”, met verwysing na die omskrywings van “**inter-regerings organisasie**”, “**internasionaal-beskermdde persoon**”, en “**terroriste-aktiwiteit**”, in hierdie artikel. ’n internasionale organisasie van state en sluit ’n inter-regeringsorganisasie in;
- (viii) “**internasionaal-beskermdde persoon**”, met verwysing na artikel 8— 5
- (a) ’n Staatshoof, insluitende enige lid van ’n raad wat die funksies van ’n Staatshoof ingevolge die Grondwet van die betrokke Staat vervul, ’n Regeringshoof, of ’n Minister van Buitelandse Sake, wanneer sodanige persoon in die Republiek is, insluitende sy of haar familielede, wat hom of haar vergesel; of 10
- (b) enige verteenwoordiger of beamppte van ’n Staat, of enige beamppte of ander agent van ’n internasionale organisasie, of interstaatlike organisasie met ’n interstaatlike karakter wie, ten tyde van en op die plek waar, ’n misdryf teen hom of haar of sy of haar amptelike perseel, sy of haar private akkommodasie, of sy of haar vervoermiddel gepleeg word, ooreenkomstig die volkereg geregig is op spesiale beskerming teen enige aanval op sy of haar persoon, vryheid of waardigheid, of op die van sy of haar familie wat deel vorm van sy of haar huishouding; 15
- (ix) “**inter-regeringsorganisasie**”, met verwysing na die omskrywings van “**internasionale organisasie**”, “**internasionaal beskermdde persoon**”, “**staats- of regeringsfasiliteit**”, en “**terroriste-aktiwiteit**” in hierdie artikel, en artikel 7. ’n internasionale organisasie ingestel deur die regerings van state; 20
- (x) “**Konvensiemisdryf**”—
- (a) ’n misdryf geskep ter voldoening aan die volkeregtelike verpligtinge van die Republiek ingevolge instrumente met betrekking tot terroriste- en verwante aktiwiteite, bedoel in Deel 2 van Hoofstuk 2; 25
- (b) ’n misdryf bedoel in artikel 56(1)(h) van die Wet op Kernenergie, 1999 (Wet No. 46 van 1999); of
- (c) ’n misdryf bedoel in artikel 2(1) of (2) van die Wet op Misdrywe teen Burgerlike Lugvaart, 1972 (Wet No. 10 van 1972); 30
- (xi) “**Minister**”, die Minister vir Veiligheid en Sekuriteit;
- (xii) “**Nasionale Kommissaris**”, die Nasionale Kommissaris van die Suid-Afrikaanse Polisie, aangestel kragtens artikel 207(1) van die Grondwet;
- (xiii) “**Nasionale Direkteur**”, die Nasionale Direkteur van Openbare Vervolgings, aangestel kragtens artikel 179(1) van die Grondwet; 35
- (xiv) “**openbare vervoerstelsel**”, met verwysing na artikel 5, alle fasiliteite, vervoermiddele en voertuie, hetsy in openbare of privaatbesit, wat gebruik word, of vir die publiek beskikbaar is vir die vervoer van persone of vrag;
- (xv) “**plek van openbare gebruik**”, met betrekking tot artikel 5, sluit in daardie gedeeltes van enige gebou, grond, straat, waterweg, of ander plek wat te eniger tyd toeganklik of oop is vir lede van die publiek, hetsy voortdurend, periodiek of per geleentheid; 40
- (xvi) “**polisiebeampte**”, ’n “**lid**” soos bedoel in artikel 1 van die Wet op die Suid-Afrikaanse Polisie, 1995 (Wet No. 68 van 1995), en sluit in, met verwysing na artikel 24, ’n lid van die Suid-Afrikaanse Nasionale Weermag, wat ingevolge artikel 201(2)(a) van die Grondwet, in samewerking met die Suid-Afrikaanse Polisie ter voorkoming en bekamping van misdaad en handhawing en behoud van wet en orde in die Republiek aangewend word, soos bedoel in artikel 19(1) van die Verdedigingswet, 2002 (Wet No. 42 van 2002); 45
- (xvii) “**regter**”, ’n regter van die Hoë Hof; 50
- (xviii) “**skip**”, met verwysing na die omskrywing van “**vaste platform**”, in hierdie artikel en artikel 10, enige vaartuig, van welke aard ookal, wat nie permanent aan die seebedding vasgeheg is nie, insluitend skeertuie, onderwatervaartuie, of ander drywende vaartuie, maar sluit nie in nie: 55
- (a) ’n oorlogskip;
- (b) ’n skip waarvan ’n staat die eienaar of operateur is; of
- (c) ’n skip wat van seevaart onttrek of opgeskort is;

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- (xviii) **“place of public use”**, with reference to section 5, includes those parts of any building, land, street, waterway or other location that are at any time accessible or open to members of the public, whether continuously, periodically or occasionally;
- (xix) **“police official”** means a **“member”** as defined in section 1 of the South African Police Service Act, 1995 (Act No. 68 of 1995), and with reference to section 24, includes a member of the South African National Defence Force employed in co-operation with the South African Police Service in terms of section 201(2)(a) of the Constitution in the prevention and combating of crime and maintenance and preservation of law and order within the Republic, as contemplated in section 19(1) of the Defence Act, 2002 (Act No. 42 of 2002);
- (xx) **“property”** means money or any other movable, immovable, corporeal or incorporeal thing, and includes any rights, privileges, claims and securities and any interest therein and all proceeds thereof;
- (xxi) **“public transportation system”**, with reference to section 5, means all facilities, conveyances and instrumentalities, whether publicly or privately owned, that are used in or for publicly available services for the transportation of persons or cargo;
- (xxii) **“ship”**, with reference to the definition of **“fixed platform”** in this section and section 10, means a vessel of any type whatsoever not permanently attached to the sea-bed, including dynamically supported craft, submersibles or other floating craft, but does not include—
- (a) a warship;
- (b) a ship owned or operated by a State; or
- (c) a ship which has been withdrawn from navigation or laid up;
- (xxiii) **“specified offence”**, with reference to section 4, 14 (in so far as it relates to section 4), and 23, means—
- (a) the offence of terrorism referred to in section 2, an offence associated or connected with terrorist activities referred to in section 3, a Convention offence, or an offence referred to in section 13 or 14 (in so far as it relates to the aforementioned sections); or
- (b) any activity outside the Republic which constitutes an offence under the law of another state and which would have constituted an offence referred to in paragraph (a), had that activity taken place in the Republic;
- (xxiv) **“State or government facility”**, with reference to section 5, includes any permanent or temporary facility or conveyance that is used or occupied by representatives of a State, members of Government, the legislature or the judiciary or by officials or employees of a State or any other public authority or entity of the Republic or by employees or officials of an intergovernmental organisation in connection with their official duties;
- (xxv) **“terrorist activity”**, with reference to this section and sections 2, 3 and 17(2), means—
- (a) any act committed in or outside the Republic, which—
- (i) involves the systematic, repeated or arbitrary use of violence by any means or method;
- (ii) involves the systematic, repeated or arbitrary release into the environment or any part of it or distributing or exposing the public or any part of it to—
- (aa) any dangerous, hazardous, radioactive or harmful substance or organism;
- (bb) any toxic chemical; or
- (cc) any microbial or other biological agent or toxin;
- (iii) endangers the life, or violates the physical integrity or physical freedom of, or causes serious bodily injury to or the death of, any person, or any number of persons;
- (iv) causes serious risk to the health or safety of the public or any segment of the public;

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- (xix) **“springstof”**, met betrekking tot die definisie van **“springstof of ander dodelike toestel”** in hierdie artikel, en artikels 5 en 13, ’n springstof soos bedoel in artikel 1 van die Wet op Springstowwe, 2003 (Wet No. 15 van 2003);
- (xx) **“springstof- of ander dodelike toestel”**, met verwysing na artikels 5 en 13— 5
- (a) ’n ontplofbare of brandstigtingswapen, of toestel wat ontwerp of vervaardig is, of oor die vermoë beskik om dood, ernstige liggaamlike besering of materiële skade te veroorsaak;
- (b) ’n wapen of toestel wat ontwerp of vervaardig is, of oor die vermoë beskik om dood, ernstige liggaamlike besering of materiële skade te veroorsaak deur die vrystelling, verspreiding of impak van giftige chemikalieë, biologiese agense of toksienes, of soortgelyke stowwe, of bestralings- of radio-aktiewe materiaal; of 10
- (c) enige wapen van massavernietiging, soos omskryf in artikel 1 van die Wet op die Nie-Proliferasie van Wapens van Massavernietiging, 1993 (Wet No. 87 van 1993); 15
- (xxi) **“Staat- of regeringsfasiliteit”**, sluit enige permanente of tydelike fasiliteit, of vervoermiddel wat gebruik of beset word deur verteenwoordigers van ’n Staat, regeringslede, die wetgewer, regsbank, of beamptes of werknemers van ’n Staats-, of openbare owerheid, of entiteit in die Republiek, of deur werknemers, of beamptes van ’n interstaatlike organisasie, in verband met hul amptelike pligte; 20
- (xxii) **“terroriste-aktiwiteit”**, met verwysing na hierdie artikel en artikels 2, 3 en 17(2)—
- (a) enige handeling, binne of buite die Republiek gepleeg, wat— 25
- (i) die sistematiese, herhaalde of arbitrêre gebruik van geweld deur middel van enige wyse of metode behels;
- (ii) behels die sistematiese, herhaalde of arbitrêre vrystelling in die omgewing of enige gedeelte daarvan of die verspreiding of blootstelling van die publiek of ’n gedeelte van die publiek aan— 30
- (aa) enige gevaarlike, gevaarhoudende, radio-aktiewe of skadelike stof of organisme;
- (bb) enige giftige chemikalie; of
- (cc) enige mikrobiiese of ander biologiese agens of toksiene;
- (iii) die lewe in gevaar stel, of die fisiese integriteit of fisiese vryheid aantas of ernstige liggaamlike besering of die dood veroorsaak van, enige persoon of enige aantal persone; 35
- (iv) ’n ernstige risiko vir die gesondheid of veiligheid van die publiek of enige gedeelte daarvan veroorsaak;
- (v) die vernietiging van of omvangryke skade aan enige eiendom, natuurlike hulpbron, of die omgewing of omgewings- of kulturele erfenis, hetsy openbaar of privaat, veroorsaak; 40
- (vi) daarop gemik is, of bereken is, om ’n ernstige bemoeiing of ontwrigting van ’n noodsaaklike diens, fasiliteit of stelsel, of die lewering van enige sodanige diens, fasiliteit of stelsel hetsy openbaar of privaat, te veroorsaak, wat die volgende insluit, maar nie daartoe beperk is nie— 45
- (aa) ’n stelsel gebruik vir of deur, ’n elektroniese stelsel, insluitende ’n inligtingsstelsel;
- (bb) ’n telekommunikasiediens- of stelsel; 50
- (cc) ’n bank- of finansiële diens of finansiële stelsel;
- (dd) ’n stelsel gebruik vir die lewering van noodsaaklike regeringsdienste;
- (ee) ’n stelsel gebruik vir of deur ’n openbare nutsinstelling of vervoerverskaffer; 55
- (ff) ’n noodsaaklike infrastruktuurfasiliteit;
- (gg) enige essensiële nooddienste, soos polisie-, mediese of burgerlike beskermingsdienste;
- (vii) enige grootskaalse ekonomiese verlies of uitgebreide destabilisering van ’n ekonomiese stelsel of ’n omvangryke verwoesting van die nasionale ekonomie van ’n land veroorsaak; of 60

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- (v) causes the destruction of or substantial damage to any property, natural resource, or the environmental or cultural heritage, whether public or private;
- (vi) is designed or calculated to cause serious interference with or serious disruption of an essential service, facility or system, or the delivery of any such service, facility or system, whether public or private, including, but not limited to— 5
- (aa) a system used for, or by, an electronic system, including an information system;
- (bb) a telecommunication service or system; 10
- (cc) a banking or financial service or financial system;
- (dd) a system used for the delivery of essential government services;
- (ee) a system used for, or by, an essential public utility or transport provider; 15
- (ff) an essential infrastructure facility; or
- (gg) any essential emergency services, such as police, medical or civil defence services;
- (vii) causes any major economic loss or extensive destabilisation of an economic system or substantial devastation of the national economy of a country; or 20
- (viii) creates a serious public emergency situation or a general insurrection in the Republic,
- whether the harm contemplated in paragraphs (a)(i) to (vii) is or may be suffered in or outside the Republic, and whether the activity referred to in subparagraphs (ii) to (viii) was committed by way of any means or method; and 25
- (b) which is intended, or by its nature and context, can reasonably be regarded as being intended, in whole or in part, directly or indirectly, to— 30
- (i) threaten the unity and territorial integrity of the Republic;
- (ii) intimidate, or to induce or cause feelings of insecurity within, the public, or a segment of the public, with regard to its security, including its economic security, or to induce, cause or spread feelings of terror, fear or panic in a civilian population; or 35
- (iii) unduly compel, intimidate, force, coerce, induce or cause a person, a government, the general public or a segment of the public, or a domestic or an international organisation or body or intergovernmental organisation or body, to do or to abstain or refrain from doing any act, or to adopt or abandon a particular standpoint, or to act in accordance with certain principles, 40
- whether the public or the person, government, body, or organisation or institution referred to in subparagraphs (ii) or (iii), as the case may be, is inside or outside the Republic; and
- (c) which is committed, directly or indirectly, in whole or in part, for the purpose of the advancement of an individual or collective political, religious, ideological or philosophical motive, objective, cause or undertaking; 45
- (xxvi) **“terrorist and related activities”** means any act or activity related to or associated or connected with the commission of the offence of terrorism, or an offence associated or connected with a terrorist activity, or a Convention offence, or an offence referred to in sections 11 to 14. 50
- (2) For purposes of this Act, **“act”** includes **“omission”**.

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- (viii) 'n ernstige openbare noodtoestand of algemene oproer in die Republiek veroorsaak, hetsy die nadeel bedoel in paragrafe (a)(i) tot (vii) binne of buite die Republiek veroorsaak of gely word, en hetsy die aktiwiteit bedoel in subparagrafe (ii) tot (viii), op enige wyse of metode gepleeg is; en 5
- (b) waarvan die opset is, of vanweë die aard of konteks daarvan, die opset redelikerwys beskou kan word, in die geheel of gedeeltelik, direk of indirek, om—
- (i) die eenheid of die territoriale integriteit van die Republiek te bedreig; 10
- (ii) die publiek of 'n gedeelte van die publiek te intimideer, of om gevoelens van onsekerheid met betrekking tot die veiligheid, insluitende ekonomiese veiligheid, daarvan te veroorsaak, of om gevoelens van terreur, vrees of paniek in 'n burgerlike bevolking te saai, te veroorsaak of hul daartoe te oorreed; 15
- (iii) 'n persoon, 'n regering, die algemene publiek of 'n gedeelte van die publiek, 'n plaaslike of internasionale organisasie of liggaam of inter-regeringsorganisasie of liggaam onbehoorlik te verplig, te intimideer, te dwing of te oorreed, of veroorsaak om enige handeling te verrig of nie te verrig nie of weerhou daarvan om dit te verrig of nie te verrig nie, of om 'n bepaalde standpunt in te neem of te laat vaar, of om in ooreenstemming met sekere beginsels op te tree, hetsy die publiek of die persoon, regering, liggaam of organisasie bedoel in subparagrafe (ii) of (iii), na gelang van die geval, binne of buite die Republiek is; en 20 25
- (c) wat direk of indirek, in die geheel of gedeeltelik, gepleeg word vir doeleindes van die bevordering van 'n individuele of gemeenskaplike politieke, religieuse, ideologiese of filosofiese motief, doelwit, saak of onderneming; 30
- (xxiii) **“terroriste-aktiwiteit onderneem”**, met verwysing na artikels 2 en 3, ook—
- (a) die pleging, verrigting of uitvoering van;
- (b) die fasilitering van, deelname of hulpverlening aan, of bydra tot die pleging, verrigting of uitvoering van;
- (c) die verrigting van 'n handeling ter voorbereiding of beplanning van; of 35
- (d) opdraggewing, direk of indirek, vir die—
- (i) pleging, verrigting of uitvoering van;
- (ii) fasilitering van, deelname aan of hulpverlening met, of bydra tot die pleging, verrigting of uitvoering van; of
- (iii) verrigting van 'n handeling ter voorbereiding of beplanning van, 'n terroriste-aktiwiteit, en moet die uitdrukkings **“om 'n terroriste-aktiwiteit te onderneem”**, **“onderneem 'n terroriste-aktiwiteit”** en **“onderneming van 'n terroriste-aktiwiteit”** dienooreenkomstig uitgelê word; 40
- (xxiv) **“terroriste- en verwante aktiwiteite”**, enige handeling of aktiwiteit met betrekking tot, of geassosieer met, of in verband met die pleging van die misdryf van terrorisme, of 'n misdryf geassosieer of in verband met 'n terroriste-aktiwiteit of 'n Konvensiemisdryf, of 'n misdryf bedoel in artikels 11 tot 14; 45
- (xxv) **“toepaslike owerheidsliggaam”**, met verwysing na artikel 15, 'n toepaslike owerheidsliggaam soos omskryf in artikel 1 van die Wet op Internasionale Samewerking in Strafregtelike Aangeleenthede, 1996 (Wet No. 75 van 1996); 50
- (xxvi) **“vaste platform”**, met verwysing na artikels 6 en 15, 'n kunsmatige eiland, installasie of struktuur wat permanent aan die seebodem geheg is vir doeleindes van eksplorاسie of benutting van hulpbronne, of vir ekonomiese doeleindes, maar sluit nie 'n skip in nie. 55
- (2) Vir doeleindes van hierdie Wet, sluit **“handeling”**, **“late”** in.
- (3) Vir doeleindes van paragraaf (a)(vi) en (vii) van die omskrywing van **“terroriste-aktiwiteit”**, word enige handeling wat verrig word in navolging van enige voorspraak, protes, geskil of arbeidsregtelike aksie en wat nie die nadeel bedoel in paragraaf (a)(i) tot (v) van daardie omskrywing ten doel het nie, nie binne die betekenis van daardie omskrywing as 'n terroriste-aktiwiteit beskou nie. 60
- (4) Nieteenstaande enige bepaling in hierdie Wet, of in enige ander Wet, sal enige handeling gepleeg tydens 'n stryd deur volkere, insluitende enige handeling tydens 'n

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(3) For the purposes of paragraph (a)(vi) and (vii) of the definition of “**terrorist activity**”, any act which is committed in pursuance of any advocacy, protest, dissent or industrial action and which does not intend the harm contemplated in paragraph (a)(i) to (v) of that definition, shall not be regarded as a terrorist activity within the meaning of that definition. 5

(4) Notwithstanding any provision of this Act or any other law, any act committed during a struggle waged by peoples, including any action during an armed struggle, in the exercise or furtherance of their legitimate right to national liberation, self-determination and independence against colonialism, or occupation or aggression or domination by alien or foreign forces, in accordance with the principles of international law, especially international humanitarian law, including the purposes and principles of the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the said Charter, shall not, for any reason, including for purposes of prosecution or extradition, be considered as a terrorist activity, as defined in subsection (1). 10 15

(5) Notwithstanding any provision in any other law, and subject to subsection (4), a political, philosophical, ideological, racial, ethnic, religious or any similar motive, shall not be considered for any reason, including for purposes of prosecution or extradition, to be a justifiable defense in respect of an offence of which the definition of terrorist activity forms an integral part. 20

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

- (a) the person has actual knowledge of that fact; or
- (b) the court is satisfied that—
 - (i) the person believes that there is a reasonable possibility of the existence of that fact; and
 - (ii) he or she fails to obtain information to confirm the existence of that fact. 25

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

- (a) the general knowledge, skill, training and experience that may reasonably be expected of a person in his or her position; and
- (b) the general knowledge, skill, training and experience that he or she in fact has. 30

CHAPTER 2

OFFENCES AND PENALTIES

PART 1 35

Offence of terrorism and offences associated or connected with terrorist activities

Offence of terrorism

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

Offences associated or connected with terrorist activities

3. (1) Any person who— 40

- (a) does anything which will, or is likely to, enhance the ability of any entity to engage in a terrorist activity, including to provide or offering to provide a skill or an expertise;
- (b) enters or remains in any country; or
- (c) makes himself or herself available, 45

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

(2) Any person who— 50

- (a) provides or offers to provide any weapon to any other person for use by or for the benefit of an entity;
- (b) solicits support for or gives support to an entity;
- (c) provides, receives or participates in training or instruction, or recruits an entity to receive training or instruction; 55

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gewapende stryd in die uitoefening of bevordering van hul wettige reg op nasionale bevryding, selfbeskikking en onafhanklikheid teen kolonialisme of besetting of aggressie of oorheersing deur vreemde of buitelandse magte, ooreenkomstig die beginsels van die volkereg, in die besonder internasionale humanitêre reg, insluitende die doelstellings en beginsels van die Handves van die Verenigde Nasies en die Verklaring oor die Beginsels van die Volkereg insake Vriendskaplike Verhoudinge en Samewerking tussen State, in ooreenstemming met bedoelde Handves, nie vir enige doel, insluitende vervolging of uitlewering, as 'n terroriste-aktiwiteit, soos omskryf in subartikel (1), beskou word nie.

(5) Nieteenstaande enige bepaling in enige ander Wet, en behoudens subartikel (4), sal 'n politieke, filosofiese, ideologiese, rasse-, etniese, religieuse, of ander soortgelyke motief, nie vir enige rede, insluitende vervolging of uitlewering, beskou word as 'n gegregverdigde verweer ten opsigte van 'n misdryf waarvan die omskrywing van "terroriste-aktiwiteit", 'n integrale deel uitmaak nie.

(6) Vir die doeleindes van hierdie Wet, het 'n persoon kennis van 'n feit indien— 15

(a) die persoon werklik kennis van daardie feit het; of

(b) die hof oortuig is dat—

(i) die persoon van mening is daar is 'n redelike moontlikheid dat daardie feit bestaan; en

(ii) die persoon versuim om inligting te bekom om die bestaan van daardie feit te bevestig. 20

(7) Vir die doeleindes van hierdie Wet moes 'n persoon redelikerwys van 'n feit kennis gedra het, of die bestaan van die feit vermoed het, indien die gevolgtrekkings wat hy of sy behoort te gemaak het die gevolgtrekkings is wat deur 'n redelike pligsgetroue en waaksame persoon gemaak sou word wat beide— 25

(a) die algemene kennis, kundigheid, opleiding en ervaring het wat redelikerwys van 'n persoon in sy of haar posisie is, verwag word; en

(b) die algemene kennis, kundigheid, opleiding en ervaring het wat hy of sy inderdaad het.

HOOFSTUK 2 30

MISDRYWE EN STRAWWE

DEEL 1

Misdryf van terrorisme en misdrywe geassosieer of in verband met terroriste-aktiwiteite

Misdryf van terrorisme 35

2. Enigiemand wat 'n terroriste-aktiwiteit onderneem, is aan die misdryf van terrorisme skuldig.

Misdrywe met terroriste-aktiwiteite geassosieer of daarmee verband hou

3. (1) Enigiemand wat—

(a) enigiets doen wat die vermoë van enige entiteit sal vergroot, of waarskynlik sal vergroot, om 'n terroriste-aktiwiteit te onderneem, insluitende die verskaffing of aanbidding van 'n vaardigheid of deskundigheid; 40

(b) enige land binnegaan of daar bly; of

(c) hom- of haarself beskikbaar stel,

tot voordeel van, in opdrag van of in samewerking met enige entiteit wat 'n terroriste-aktiwiteit onderneem, en wat kennis dra of redelikerwys moes kennis dra, of vermoed, dat sodanige handeling verrig is met die doel om die vermoë van sodanige entiteit om 'n terroriste-aktiwiteit te onderneem, te vergroot, is skuldig aan 'n misdryf geassosieer met 'n terroriste-aktiwiteit.

(2) Enigiemand wat— 50

(a) enige wapen aan enige ander persoon verskaf of aanbied vir gebruik deur of tot voordeel van enige entiteit;

(b) ondersteuning werf of verleen aan 'n entiteit;

(c) opleiding of onderrig verskaf, ontvang of daaraan deelneem, of enige entiteit werf om opleiding of onderrig te ondergaan; 55

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- (d) recruits any entity;
- (e) collects or makes a document; or
- (f) possesses a thing,

connected with the engagement in a terrorist activity, and who knows or ought reasonably to have known or suspected that such weapons, soliciting, training, recruitment, document or thing is so connected, is guilty of an offence connected with terrorist activities. 5

PART 2

Convention Offences

Offences associated or connected with financing of specified offences 10

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

- (a) acquires property;
- (b) collects property;
- (c) uses property; 15
- (d) possesses property;
- (e) owns property;
- (f) provides or makes available, or invites a person to provide or make available property;
- (g) provides or makes available, or invites a person to provide or make available any financial or other service; 20
- (h) provides or makes available, or invites a person to provide or make available economic support; or
- (i) facilitates the acquisition, collection, use or provision of property, or the provision of any financial or other service, or the provision of economic support, 25
intending that the property, financial or other service or economic support, as the case may be, be used, or while such person knows or ought reasonably to have known or suspected that the property, service or support concerned will be used, directly or indirectly, in whole or in part— 30
 - (i) to commit or facilitate the commission of a specified offence;
 - (ii) for the benefit of, or on behalf of, or at the direction of, or under the control of an entity which commits or attempts to commit or facilitates the commission of a specified offence; or
 - (iii) for the benefit of a specific entity identified in a notice issued by the President under section 25, 35

is guilty of an offence.

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

- (a) deals with, enters into or facilitates any transaction or performs any other act in connection with property which such person knows or ought reasonably to have known or suspected to have been acquired, collected, used, possessed, owned or provided— 40
 - (i) to commit or facilitate the commission of a specified offence;
 - (ii) for the benefit of, or on behalf of, or at the direction of, or under the control of an entity which commits or attempts to commit or facilitates the commission of a specified offence; or 45
 - (iii) for the benefit of a specific entity identified in a notice issued by the President under section 25; or
- (b) provides financial or other services in respect of property referred to in paragraph (a), 50

is guilty of an offence.

(3) Any person who knows or ought reasonably to have known or suspected that property is property referred to in subsection (2)(a) and enters into, or becomes concerned in, an arrangement which in any way has or is likely to have the effect of— 55

- (a) facilitating the retention or control of such property by or on behalf of—
 - (i) an entity which commits or attempts to commit or facilitates the commission of a specified offence; or

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- (d) enige entiteit werf;
- (e) enige dokument ontvang of saamstel; of
- (f) enige saak besit,

in verband met die onderneming van 'n terroriste-aktiwiteit, en wat kennis dra of redelikerwys moes kennis dra, of vermoed dat bedoelde wapens, steunwerwing, opleiding, werwing, dokument of saak sodanig verband hou, is skuldig aan 'n misdryf wat met terroriste-aktiwiteite verband hou. 5

Deel 2

Konvensiemisdrywe

Misdrywe geassosieer of in verband met finansiering van gespesifiseerde misdrywe 10

4. (1) Enigiemand wat, direk of indirek, in die geheel of gedeeltelik, en op enige wyse of metode—

- (a) eiendom verkry;
 - (b) eiendom insamel;
 - (c) eiendom gebruik; 15
 - (d) eiendom in sy besit het;
 - (e) eiendom besit;
 - (f) eiendom verskaf of beskikbaar stel, of enige persoon versoek om eiendom te verskaf of beskikbaar te stel;
 - (g) enige finansiële of verwante diens lewer of beskikbaar stel, of enige persoon versoek om 'n finansiële of ander diens beskikbaar te stel; 20
 - (h) ekonomiese steun verleen of beskikbaar stel, of enige persoon versoek om ekonomiese steun te verleen of beskikbaar te stel; of
 - (i) die verkryging, insameling, gebruik of verskaffing van enige finansiële of ander diens, of die verskaffing van ekonomiese steun, fasiliteer, 25
- met die doel dat die eiendom, of finansiële of ander diens, of ekonomiese steun, na gelang van die geval, gebruik kan word, of terwyl die persoon kennis dra of redelikerwys moes kennis dra, of vermoed dat die betrokke eiendom, diens of steun direk of indirek, in die geheel of gedeeltelik gebruik sal word—
- (i) om 'n gespesifiseerde misdryf te pleeg of te fasiliteer; 30
 - (ii) tot die voordeel, of ten behoeve van, of in opdrag van of onder die beheer van enige entiteit wat 'n gespesifiseerde misdryf pleeg, of poog om dit te pleeg of die pleging van 'n gespesifiseerde misdryf fasiliteer; of
 - (iii) tot die voordeel van 'n spesifieke entiteit geïdentifiseer in 'n kennisgewing deur die President kragtens artikel 25 uitgereik, 35

is aan 'n misdryf skuldig.

(2) Enigiemand wat direk of indirek, in die geheel of gedeeltelik, en op enige wyse of metode—

- (a) enige transaksie hanteer, sluit of fasiliteer of enige handeling in verband met eiendom waarvan die persoon kennis dra of redelikerwys moes kennis dra, of vermoed dat dit verkry, ingesamel, gebruik, in besit is of besit word, of voorsien is— 40
- (i) om 'n gespesifiseerde misdryf te pleeg of te fasiliteer;
- (ii) tot die voordeel, of ten behoeve van, of in opdrag van of onder die beheer van 'n entiteit wat 'n gespesifiseerde misdryf pleeg, of poog om dit te pleeg of die pleging daarvan fasiliteer; of 45
- (iii) tot die voordeel van 'n spesifieke entiteit geïdentifiseer in 'n kennisgewing deur die President kragtens artikel 25 uitgereik; of
- (b) finansiële of ander dienste ten opsigte van eiendom bedoel in paragraaf (a), voorsien, 50

is aan 'n misdryf skuldig.

(3) Enige persoon wat kennis dra, of redelikerwys moes kennis dra, of vermoed dat eiendom, eiendom is soos bedoel in subartikel (2)(a), en 'n ooreenkoms sluit, of daarby betrokke raak, wat op enige wyse die gevolg of waarskynlike gevolg sal hê van—

- (a) die fasilitering van die behoud oor of beheer van bedoelde eiendom deur of ten behoeve van— 55
- (i) 'n entiteit wat 'n gespesifiseerde misdryf pleeg, of poog om dit te pleeg, of die pleging daarvan fasiliteer; of

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- (ii) a specific entity identified in a notice issued by the President under section 25;
 - (b) converting such property;
 - (c) concealing or disguising the nature, source, location, disposition or movement of such property, the ownership thereof or any interest anyone may have therein; 5
 - (d) removing such property from a jurisdiction; or
 - (e) transferring such property to a nominee,
- is guilty of an offence.

Offences relating to explosive or other lethal devices 10

- 5. Any person who intentionally delivers, places, discharges or detonates an explosive or other lethal device in, into or against a place of public use, a state or government facility, a public transport facility, a public transportation system, or an infrastructure facility, with the purpose, amongst others, of causing—**
- (a) death or serious bodily injury; or 15
 - (b) extensive damage to, or destruction of such a place, facility or system, where such destruction results in or is likely to result in major economic loss,
- is guilty of an offence relating to explosive or other lethal devices.

Offences relating to hijacking, destroying or endangering safety of a fixed platform

- 6. Any person who intentionally— 20**
- (a) seizes or exercises control over a fixed platform by force or any other form of intimidation;
 - (b) performs an act of violence against a person on board a fixed platform, which act is likely to endanger the safety of that fixed platform;
 - (c) (i) destroys such a fixed platform; or 25
 - (ii) causes damage to it, which damage is likely to endanger the safety of that fixed platform;
 - (d) places or causes to be placed on a fixed platform, by any means whatsoever, a device or substance, which is likely to destroy that fixed platform or likely to endanger its safety; or 30
 - (e) injures or kills any person in connection with the commission of any of the acts referred to in paragraphs (a) to (d),
- is guilty of an offence relating to the hijacking, destroying or endangering of a fixed platform.

Offences relating to taking a hostage 35

- 7. Any person who intentionally—**
- (a) seizes or detains; and
 - (b) threatens to kill, to injure or to continue to detain,
- any other person (hereinafter referred to as a hostage), in order to compel a third party, namely a State, an intergovernmental organisation, a natural or juridical person, or a group of persons to do or abstain from doing any act as an explicit or implicit condition for the release of the hostage, is guilty of an offence of taking a hostage. 40

Offences relating to causing harm to internationally protected persons

- 8. Any person who, knowing that a person is an internationally protected person, intentionally— 45**
- (a) murders or kidnaps or otherwise violently attacks the person or liberty of that person; or
 - (b) executes a violent attack upon the official premises, the private accommodation or the means of transport of that person, which attack is likely to endanger his or her person or liberty, 50
- is guilty of an offence relating to causing harm to an internationally protected person.

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- (ii) 'n spesifieke entiteit geïdentifiseer in 'n kennisgewing kragtens artikel 25 deur die President uitgereik;
- (b) die omskakeling van bedoelde eiendom;
- (c) die versteking of verdoeseling van die aard, oorsprong, ligging, beskikking of beweging van bedoelde eiendom, die eienaarskap daarvan, of enige belang wat enigiemand daarin mag hê; 5
- (d) die verwydering van bedoelde eiendom vanuit 'n jurisdiksie; of
- (e) die oordrag van bedoelde eiendom aan 'n genomineerde, is aan 'n misdryf skuldig.

Misdrywe met betrekking tot springstof- of ander dodelike toestelle 10

5. Enigiemand wat opsetlik 'n springstof- of ander dodelike toestel aflewer, plaas, detoneer of laat ontplof binne, of by, of teen 'n plek van openbare gebruik, 'n staats- of regeringsfasiliteit, 'n openbare vervoerfasiliteit, 'n openbare vervoerstelsel of 'n infrastrukturele fasiliteit met die oogmerk om, onder andere, die volgende te veroorsaak— 15

- (a) dood of ernstige liggaamlike besering; of
- (b) omvangryke skade aan, of vernietiging van bedoelde plek, fasiliteit of stelsel aan te rig waar sodanige vernietiging grootskaalse ekonomiese verlies veroorsaak, of kan veroorsaak, is aan 'n misdryf met betrekking tot springstof- of ander dodelike toestelle skuldig. 20

Misdrywe met betrekking tot kaping, vernietiging, of ingevaarstelling van veiligheid van vaste platform

- 6.** Enigiemand wat opsetlik—
- (a) met geweld of enige ander vorm van intimidasie beheer oorneem of uitoefen oor 'n vaste platform; 25
- (b) 'n daad van geweld uitvoer teen 'n persoon op sodanige vaste platform, welke daad waarskynlik die veiligheid van die platform in gevaar kan stel;
- (c) (i) sodanige vaste platform vernietig; of
- (ii) skade daaraan veroorsaak, welke skade die veiligheid van bedoelde platform waarskynlik in gevaar kan stel; 30
- (d) op enige wyse hoegenaamd 'n toestel of stof wat waarskynlik daardie vaste platform sal vernietig of die veiligheid daarvan in gevaar kan stel, op bedoelde platform plaas; of
- (e) enige persoon in verband met die pleging van enige van die misdrywe gemeld in paragrafe (a) tot (d) beseer of dood, 35
- is aan 'n misdryf met betrekking tot die kaping, vernietiging, of ingevaarstelling van 'n vaste platform. skuldig.

Misdrywe met betrekking tot neem van 'n gyselaar

- 7.** Enigiemand wat opsetlik enige ander persoon (hierna na verwys as 'n gyselaar)—
- (a) gevange neem of aanhou; en 40
- (b) dreig om dood te maak, te beseer of verder aan te hou.
- ten einde 'n derde party, naamlik 'n Staat, inter-regeringsorganisasie, of 'n natuurlike of regspersoon, of 'n groep persone te dwing om enige handeling te verrig, of nie te verrig nie, as 'n uitdruklike of geïmpliseerde voorwaarde vir die vrylating van die gyselaar, is skuldig aan die misdryf van die neem van 'n gyselaar. 45

Misdrywe met betrekking tot leed aan internasionaal-beskermd persone

- 8.** Enigiemand wat kennis dra dat 'n persoon 'n internasionaal-beskermd persoon is en opsetlik—
- (a) die persoon dood of ontvoer, of andersins 'n gewelddadige aanval uitvoer op die persoon of sy vryheid; 50
- (b) 'n gewelddadige aanval op die amptelike perseel, die private woonplek of vervoermiddel van daardie persoon uitvoer wat waarskynlik sy of haar persoon of vryheid in gevaar kan stel,
- is skuldig aan 'n misdryf met betrekking tot leed aan 'n internasionaal-beskermd persoon. 55

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Offences relating to hijacking an aircraft

- 9.** Any person who intentionally, by force or threat thereof, or by any other form of intimidation, seizes or exercises control of an aircraft and with the purpose of—
- (a) causing any person on board the aircraft to be detained against his or her will;
 - (b) causing any person on board the aircraft to be transported against his or her will to any place other than the next scheduled place of landing of the aircraft; 5
 - (c) holding any person on board the aircraft for ransom or to service against his or her will; or
 - (d) causing that aircraft to deviate from its flight plan,
- is guilty of an offence of hijacking an aircraft. 10

Offences relating to hijacking a ship or endangering safety of maritime navigation

- 10.** Any person who intentionally—
- (a) seizes or exercises control over a ship by force or threat thereof or any other form of intimidation;
 - (b) performs any act of violence against a person on board a ship if that act is likely to endanger the safe navigation of that ship; 15
 - (c) destroys a ship or causes damage to a ship or to its cargo which is likely to endanger the safe navigation of that ship;
 - (d) places or causes to be placed on a ship, by any means whatsoever, a device or substance which is likely to destroy that ship, or causes damage to that ship or its cargo which endangers or is likely to endanger the safe navigation of that ship; 20
 - (e) destroys or seriously damages maritime navigational facilities or seriously interferes with their operation, if such acts are likely to endanger the safe navigation of a ship; 25
 - (f) communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safe navigation of a ship; or
 - (g) injures or kills a person, in connection with the commission of any of the acts set forth in paragraphs (a) to (f), 30
- is guilty of an offence relating to hijacking a ship or endangering the safety of maritime navigation.

PART 3

Other offences

Offences relating to harbouring or concealment of persons committing specified offences 35

- 11.** Any person who harbours or conceals any person, whom he or she knows, or ought reasonably to have known or suspected, to be a person who has committed a specified offence, as referred to in paragraph (a) of the definition of “**specified offence**”, or who is likely to commit such an offence, is guilty of an offence. 40

Duty to report presence of person suspected of intending to commit or having committed an offence and failure to so report

- 12.** (1) Any person who—
- (a) has reason to suspect that any other person intends to commit or has committed an offence referred to in this Chapter; or 45
 - (b) is aware of the presence at any place of any other person who is so suspected of intending to commit or having committed such an offence,
- must report as soon as reasonably possible such suspicion or presence, as the case may be, or cause such suspicion or presence to be reported to any police official.

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Misdrywe met betrekking tot kaping van 'n vliegtuig

9. Enigiemand wat opsetlik, met geweld of 'n dreigement daartoe, of deur middel van enige ander vorm van intimidasie, beheer oor 'n vliegtuig oorneem of uitoefen, met die oogmerk om—

- (a) enige persoon aan boord van die vliegtuig wederregtelik teen sy of haar wil aan te hou; 5
 - (b) teen sy of haar sin na enige ander plek as die volgende geskeduleerde landingsplek van die vliegtuig te vervoer;
 - (c) enige persoon aan boord van die vliegtuig vir 'n losprys of om 'n diens teen sy of haar wil te lewer, aan te hou; of 10
 - (d) veroorsaak dat die vliegtuig van sy vlugplan afwyk.
- is skuldig aan die misdryf van kaping van 'n vliegtuig.

Misdrywe met betrekking tot kaping van 'n skip of ingevaarstelling van die veiligheid van seevaart

10. Enigiemand wat opsetlik— 15
- (a) met geweld, 'n dreigement van geweld of deur middel van enige ander vorm van intimidasie, beheer oor 'n skip uitoefen;
 - (b) enige daad van geweld teen 'n persoon aan boord van 'n skip pleeg, indien daardie daad waarskynlik die veilige vaart van daardie skip in gevaar sal stel;
 - (c) 'n skip vernietig of skade aan 'n skip of die vrag daarvan veroorsaak, wat waarskynlik die veilige vaart van daardie skip in gevaar sal stel; 20
 - (d) op enige wyse hoegenaamd enige toestel of stof op 'n skip plaas of laat plaas, wat waarskynlik daardie skip sal vernietig of beskadig, of skade aan die skip of skeepsvrag sal veroorsaak wat die veilige vaart van die skip in gevaar stel of waarskynlik in gevaar sal stel; 25
 - (e) seevaartnavigasiefasiliteite vernietig of ernstig beskadig of ernstig inmeng met die werking daarvan, indien bedoelde daad waarskynlik die veilige vaart van 'n skip in gevaar sal stel;
 - (f) inligting kommunikeer, wetende dat dit vals is en in omstandighede waar bedoelde inligting waarskynlik geglo sal word en daardeur die veilige vaart van 'n skip in gevaar stel; of 30
 - (g) 'n persoon in verband met die pleging of gepoogde pleging van enige van die misdrywe gemeld in subparagrafe (a) tot (f) beseer of dood;
- is skuldig aan 'n misdryf met betrekking tot die kaping van 'n skip, of die ingevaarstelling van die veiligheid van seevaart. 35

Deel 3

Ander misdrywe

Misdrywe met betrekking tot herberg of versteking van persone wat gespesifiseerde misdrywe pleeg

11. Enigiemand wat 'n persoon herberg of versteek van wie hy of sy kennis dra, of behoort kennis te dra of te vermoed, dat dit 'n persoon is wat 'n gespesifiseerde misdryf, soos bedoel in paragraaf (a) van die omskrywing van “gespesifiseerde misdryf”, gepleeg het, of waarskynlik gaan pleeg, is aan 'n misdryf skuldig. 40

Plig om teenwoordigheid van persoon wat verdink word van die pleging of beplande pleging van 'n misdryf te rapporteer en versuim om aldus te rapporteer 45

12. (1) Enigiemand wat—
- (a) rede het om te vermoed dat 'n ander persoon 'n misdryf bedoel in hierdie Hoofstuk gepleeg het of die opset het om dit te pleeg; of
 - (b) bewus is van die teenwoordigheid, te enige plek, van enige ander persoon wat aldus vermoed word bedoelde misdryf te gepleeg het of die opset het om dit te pleeg, 50
- moet sodanige vermoede of teenwoordigheid van daardie persoon, na gelang van die geval, so spoedig as wat redelik moontlik is aan enige polisiebeampte rapporteer of laat rapporteer.

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

(3) Upon receipt of a report referred to in subsection (1), the police official involved, must take down the report in the manner directed by the National Commissioner, and forthwith provide the person who made the report with an acknowledgement of receipt of such report. 5

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

(b) Any direction issued under subsection (3) must be tabled in Parliament.

(5) A person required to make a report in terms of subsection (1) concerning a suspicion that any other person intends to commit or has committed an offence referred to in section 4, may continue with and carry out any transaction to which such a suspicion relates, unless directed in terms of subsection (6) not to proceed with such a transaction. 10

(6) If a police official authorised thereto by the National Commissioner, after consulting with a person required to make a report contemplated in subsection (5), has reasonable grounds to suspect that a transaction referred to in that subsection may constitute an offence contemplated in section 4, that police official may direct that person, in writing, not to proceed with the carrying out of that transaction or any other transaction in respect of the property affected by that transaction for a period as may be determined by that police official, which may not be more than five days. 15 20

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

(8) Subsection (6) does not apply to the carrying out of a transaction to which the rules of an exchange licensed in terms of the Stock Exchanges Control Act, 1985 (Act No. 1 of 1985), or the Financial Markets Control Act, 1989 (Act No. 55 of 1989), apply. 25

Offences relating to hoaxes

13. (1) (a) Any person who, with the intention of inducing in a person anywhere in the world a false belief that a substance, thing or device is, or contains, or is likely to be, or contains a noxious substance or thing or an explosive or other lethal device— 30

(i) places that substance, thing or device in any place; or

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

is guilty of an offence.

(b) Any person who, directly or indirectly, communicates any information, which he or she knows, or ought reasonably to have known or suspected, or believes to be false, with the intention of inducing in a person anywhere in the world a belief that a noxious substance or thing or an explosive or other lethal device is likely to be present (whether at the time the information is communicated or later) in or at any place, is guilty of an offence. 35 40

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

Threat, attempt, conspiracy and inducing another person to commit offence

14. Any person who— 45

(a) threatens;

(b) attempts;

(c) conspires with any other person; or

(d) aids, abets, induces, incites, instigates, instructs or commands, counsels or procures another person. 50

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

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- (2) Enigiemand wat versuim om aan die bepalings van subartikel (1)(a) of (b) te voldoen, is aan 'n misdryf skuldig.
- (3) By ontvangs van 'n rapportering bedoel in subartikel (1), moet die betrokke polisiebeampte die rapport boekstaaf op die wyse wat deur die Nasionale Kommissaris bepaal is, en dadelik 'n ontvangserkenning van bedoelde rapport aan die persoon wat die rapport gemaak het, verskaf. 5
- (4) (a) Die Nasionale Kommissaris moet by die inwerkingtreding van hierdie Wet, die bepaling bedoel in subartikel (3) in die *Staatskoerant* publiseer.
- (b) Enige bepaling uitgereik kragtens subartikel (3) moet in die Parlement ter tafel gelê word. 10
- (5) 'n Persoon ten opsigte van wie ingevolge subartikel (1) vereis word om verslag te doen aangaande 'n vermoede dat enige ander persoon die opset het om 'n misdryf bedoel in artikel 4 te pleeg, of gepleeg het, kan met die transaksie ten opsigte waarvan verslag gedoen moet word, voortgaan en dit sluit, tensy ingevolge subartikel (6) gelas om nie met die transaksie voort te gaan nie. 15
- (6) Indien 'n polisiebeampte, deur die Nasionale Kommissaris daartoe gemagtig, na oorleg met 'n persoon van wie vereis word om 'n verslag ingevolge subartikel (5) te doen, redelike gronde het om te vermoed dat 'n transaksie of voorgenome transaksie beoog in daardie subartikel moontlik 'n misdryf soos bedoel in artikel 4 kan uitmaak, kan daardie polisiebeampte die persoon skriftelik gelas om vir 'n tydperk deur die polisiebeampte bepaal, wat nie langer as vyf dae mag wees nie, nie voort te gaan met die sluiting van daardie transaksie of enige ander transaksie ten opsigte van die eiendom wat deur daardie transaksie geraak word nie. 20
- (7) Vir die doeleindes van die berekening van die tydperk van vyf dae in subartikel (6) word Saterdag, Sondag en afgekondigde openbare vakansiedae nie in aanmerking geneem nie. 25
- (8) Subartikel (6) is nie van toepassing nie op die sluiting van 'n transaksie waarop die reëls van 'n beurs wat ingevolge die Wet op Beheer van Aandelebeurse, 1985 (Wet No. 1 van 1985), of die Wet op Beheer van Finansiële Markte, 1989 (Wet No. 55 van 1989), gelisensieer is, van toepassing is. 30

Misdrywe met betrekking tot vals dreigemente

- 13.** (1) (a) Enigiemand wat met die opset om by 'n persoon te enige plek in die wêreld die vals geloof te wek dat 'n stof, voorwerp of toestel, 'n gevaarlike stof, voorwerp of 'n springstof- of ander dodelike toestel is, of waarskynlik is, of 'n gevaarlike stof of ander gevaarlike voorwerp, of apparaat, of 'n wapen van massavernietiging is (of bevat)— 35
- (i) daardie stof, voorwerp of toestel op enige plek plaas; of
- (ii) daardie stof, voorwerp of toestel van een plek na 'n ander plek per pos, spoor of enige ander wyse hoegenaamd stuur;
- is aan 'n misdryf skuldig.
- (b) Enigiemand wat, direk of indirek, enige inligting, waarvan hy of sy kennis dra, of redelikerwys kennis behoort te dra, of vermoed, of glo dat dit vals is, kommunikeer, met die opset om by 'n persoon te enige plek ter wêreld die geloof te wek dat daar waarskynlik 'n gevaarlike stof of ander gevaarlike voorwerp, of springstof- of ander dodelike toestel, op enige plek teenwoordig is (hetsy ten tyde van die kommunikasie of later), is aan 'n misdryf skuldig. 40
- (2) Vir doeleindes van hierdie artikel sluit "stof" enige bakteriologiese agens en enige ander natuurlike of kunsmatige stof (wat ookal die vorm, oorsprong, of metode van vervaardiging behels), in. 45

Dreigement, poging, sameswering en aanstigting van ander persoon om misdryf te pleeg 50

- 14.** Enigiemand wat—
- (a) dreig;
- (b) poog;
- (c) saamsweer met 'n ander persoon;
- (d) 'n ander persoon hulp verleen, aanstig, uitlok, aanmoedig, aanraai, beveel, raadgee, of verkry, 55
- om 'n oortreding ingevolge hierdie Hoofstuk te pleeg, is aan 'n misdryf skuldig.

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CHAPTER 3

PROVISIONS RELATING TO OFFENCES AND PENALTIES

PART 1

Provisions relating to offences

- Jurisdiction in respect of offences** 5
15. (1) A court of the Republic has jurisdiction in respect of any specified offence as defined in paragraph (a) of the definition of “**specified offence**”, if—
- (a) the accused was arrested in the territory of the Republic, or in its territorial waters or on board a ship or aircraft registered or required to be registered in the Republic; or 10
 - (b) the offence was committed—
 - (i) in the territory of the Republic;
 - (ii) on board a vessel, a ship, an off-shore installation, or a fixed platform, or an aircraft registered or required to be registered in the Republic at the time the offence was committed; 15
 - (iii) by a citizen of the Republic or a person ordinarily resident in the Republic;
 - (iv) against the Republic, a citizen of the Republic or a person ordinarily resident in the Republic;
 - (v) on board an aircraft in respect of which the operator is licensed in terms of the Air Services Licensing Act, 1990 (Act No. 115 of 1990), or the International Air Services Act, 1993 (Act No. 60 of 1993); 20
 - (vi) against a government facility of the Republic abroad, including an embassy or other diplomatic or consular premises, or any other property of the Republic; 25
 - (vii) when during its commission, a national of the Republic is seized, threatened, injured or killed;
 - (viii) in an attempt to compel the Republic to do or to abstain or to refrain from doing any act; or
 - (c) the evidence reveals any other basis recognised by law. 30
- (2) Any act alleged to constitute an offence under this Act and which is committed outside the Republic by a person other than a person contemplated in subsection (1), shall, regardless of whether or not the act constitutes an offence or not at the place of its commission, be deemed to have been committed also in the Republic if that—
- (a) act affects or is intended to affect a public body, any person or business in the Republic; 35
 - (b) person is found to be in the Republic; and
 - (c) person is for one or other reason not extradited by the Republic or if there is no application to extradite that person.
- (3) Any offence committed in a country outside the Republic as contemplated in subsection (1) or (2), is, for the purpose of determining the jurisdiction of a court to try the offence, deemed to have been committed— 40
- (a) at the place where the accused is ordinarily resident; or
 - (b) at the accused person’s principal place of business.
- (4) Where a person is charged with conspiracy or incitement to commit an offence or as an accessory after that offence, the offence is deemed to have been committed not only at the place where the act was committed, but also at every place where the conspirator, inciter or accessory acted or, in case of an omission, should have acted. 45
- (5) Whenever the National Commissioner receives information from an appropriate government body of a foreign State that a person who is alleged to have committed or is convicted of or is sentenced in respect of any Convention offence in respect of which— 50
- (a) a court in the Republic has jurisdiction as referred to in subsection (1); or

HOOFTUK 3**BEPALINGS MET BETREKKING TOT MISDRYWE EN STRAWWE***Deel 1**Maatreëls met betrekking tot misdrywe***Jurisdiksie ten opsigte van misdrywe**

5

15. (1) 'n Hof van die Republiek beskik oor jurisdiksie ten opsigte van enige gespesifiseerde misdryf soos omskryf in paragraaf (a) van die omskrywing van "gespesifiseerde misdryf", indien—

- (a) die beskuldigde binne die grondgebied of binne die gebiedswaters van die Republiek of aan boord van 'n skip of vliegtuig wat in die Republiek geregistreer is, of vereis word in die Republiek geregistreer te wees, gearrester is; of 10
- (b) die misdryf gepleeg is—
 - (i) binne die grondgebied van die Republiek;
 - (ii) aan boord van 'n vaartuig, skip, 'n installasie in die see bo die vastelandsplat, of 'n vaste platform, of 'n vliegtuig geregistreer in die Republiek ten tyde van die pleging van die misdryf; 15
 - (iii) deur 'n burger van die Republiek, of 'n persoon wat normaalweg in die Republiek woonagtig is;
 - (iv) teen die Republiek, 'n burger van die Republiek of 'n persoon wat normaalweg in die Republiek woonagtig is; 20
 - (v) aan boord van 'n vliegtuig waarvan die lugdiens ingevolge die Wet op die Lisensiering van Lugdienste, 1990 (Wet No. 115 van 1990) of die Wet op Internasionale Lugdienste, 1993 (Wet No. 60 van 1993) geregistreer is;
 - (vi) teen 'n regeringsfasiliteit van die Republiek in die buiteland, insluitende 'n ambassade, of ander diplomatieke of konsulêre perseel, of enige ander eiendom van die Republiek; 25
 - (vii) en ten tyde van die pleg daarvan 'n burger van die Republiek gevange geneem, gedreig, beseer of gedood word;
 - (viii) in 'n poging om die Republiek te verplig om iets te doen, of om iets nie te doen nie, of na te laat om iets te doen; of 30
- (c) die getuienis enige ander basis van jurisdiksie wat deur die reg erken word, openbaar.

(2) Enige handeling wat na bewering 'n misdryf ingevolge hierdie Wet uitmaak, en wat buite die Republiek gepleeg is deur 'n ander persoon as 'n persoon bedoel in subartikel (1), sal ongeag of die handeling daar waar dit gepleeg is, 'n misdryf uitmaak al dan nie, geag word ook in die Republiek gepleeg te wees, indien daardie— 35

- (a) handeling, 'n openbare liggaam, persoon of besigheid in die Republiek raak, of bedoel is om dit te raak;
- (b) persoon bevind word in die Republiek te wees; en 40
- (c) persoon om die een of ander rede nie deur die Republiek uitgeweer word nie, of indien daar geen aansoek om die uitlewering van daardie persoon ontvang word nie.

(3) Enige misdryf gepleeg in 'n land buite die Republiek, soos bedoel in subartikel (1) of (2), word, vir doeleindes van die vasstelling van jurisdiksie van 'n hof om 'n misdryf aan te hoor, geag gepleeg te wees— 45

- (a) by die plek waar die beskuldigde normaalweg woonagtig is; of
- (b) by die beskuldigde persoon se vernaamste plek van besigheid.

(4) Indien 'n persoon vir sameswering of aanhitsing om 'n misdryf te pleeg, of as 'n begunstiger by daardie misdryf aangekla word, word die misdryf geag gepleeg te wees nie slegs by die plek waar die handeling gepleeg is nie, maar ook by elke plek waar die samesweerder, aanstigter of medepligtige opgetree het, of in die geval van 'n late, moes opgetree het. 50

(5) Wanneer die Nasionale Kommissaris inligting van 'n toepaslike owerheidsliggaam van 'n vreemde Staat ontvang dat 'n persoon wat na bewering 'n Konvensiemisdryf gepleeg het of ten opsigte daarvan skuldig bevind of gevonniss is, ten opsigte waarvan— 55

- (a) 'n hof in die Republiek jurisdiksie het, soos bedoel in subartikel (1); of

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(b) any court in a foreign State may have jurisdiction, may be present in the Republic, the National Commissioner must cause such measures to be taken as he or she may deem necessary to investigate the matter.

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

(7) The National Director must, upon an arrest contemplated in subsection (6), promptly be notified thereof by the police official effecting such arrest. 10

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

- (a) of the fact that the person is in custody;
- (b) of the circumstances that justify the person's detention; and 15
- (c) whether he or she intends to prosecute the person,

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

(9) The provisions of this section must be exercised subject to the provisions of the Extradition Act, 1962 (Act No. 67 of 1962). 20

Consent of National Director to institute proceedings and reporting obligations

16. (1) No prosecution under Chapter 2 may be instituted without the written authority of the National Director.

(2) The National Director must communicate the final outcome of the proceedings promptly to— 25

- (a) the Secretary General of the United Nations, so that he or she may transmit the information to other members of the United Nations, if a person is prosecuted for an offence referred to in section 4, 5, 7 or 8;
- (b) the Council of the International Civil Aviation Organization, if a person is prosecuted for an offence referred to in section 9; or 30
- (c) the Secretary General of the International Maritime Organization, if a person is prosecuted for an offence referred to in section 6 or 10.

Evidential matters and exclusions

17. (1) If in any proceedings in a court of law any question arises as to whether or not any person is an internationally protected person, or is pursuant to international law entitled to special protection from any attack on his or her person, freedom or dignity, a certificate under the hand or issued under the authority of the Director General of the Department of Foreign Affairs, stating any fact relating to that question, is *prima facie* evidence of that fact. 35

(2) A person commits an offence under section 2, 3, 4, 11, 12(2) or 14 (in so far as it relates to the aforementioned sections), notwithstanding whether the terrorist activity occurs or not. 40

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

- (a) the actions of the accused actually enhance the ability of any person to commit a specified offence; or 45
- (b) the accused knows or ought reasonably to have known or suspected the specific offence that may be committed.

(4) Nothing in section 4 makes it an offence to provide or collect funds intending that they be used, or knowing or while a person ought reasonably to have known or suspected that they are to be used, for the purpose of advocating democratic government or the protection of human rights. 50

(5) If a person reports the presence of a person referred to in section 11, as soon as possible in accordance with section 12, he or she shall not be liable for prosecution, under section 11. 55

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- (b) enige hof in 'n vreemde Staat jurisdiksie kan hê;
in die Republiek teenwoordig kan wees, moet die Nasionale Kommissaris sodanige stappe laat doen wat hy of sy noodsaaklik ag om die aangeleentheid te ondersoek.
- (6) Indien dit op redelike gronde uit die ondersoek bedoel in subartikel (5) blyk dat uitlewering of strafregtelike vervolging ingestel kan word teen bedoelde persoon, mag daardie persoon gearrester word, soos beoog in artikel 40(1) van die Strafproseswet, 1977 (Wet No. 51 van 1977), ten einde sy of haar teenwoordigheid by bedoelde verrigtinge te verseker. 5
- (7) Die Nasionale Direkteur moet spoedig, na enige arrestasie bedoel in subartikel (6), deur die polisiebeampte wat bedoelde arrestasie uitvoer, daarvan in kennis gestel word. 10
- (8) By ontvangs van 'n kennisgewing ingevolge subartikel (7), moet die Nasionale Direkteur spoedig enige vreemde Staat wat jurisdiksie oor die betrokke misdryf kan hê, direk, of deur die Sekretaris-generaal van die Verenigde Nasies in kennis stel—
- (a) van die feit dat die persoon in aanhouding verkeer; 15
- (b) van die omstandighede waarop die aanhouding gegrond is; en
- (c) of hy of sy beoog om die persoon te vervolg,
met die oog op die oorhandiging van bedoelde persoon aan 'n vreemde Staat, vir vervolging deur daardie Staat, sou die Nasionale Direkteur weier om vervolging in te stel.
- (9) Die bepalings van hierdie artikel moet uitgeoefen word behoudens die bepalings van die Wet op Uitlewering, 1962 (Wet No. 67 van 1962). 20

Toestemming van die Nasionale Direkteur om verrigtinge in te stel en rapporteringspligte

- 16.** (1) Geen vervolging mag ingevolge Hoofstuk 2 ingestel word sonder 'n geskrewe magtiging van die Nasionale Direkteur nie. 25
- (2) Die Nasionale Direkteur moet die finale uitslag van die verrigtinge spoedig rapporteer aan—
- (a) die Sekretaris-generaal van die Verenigde Nasies sodat hy of sy die die inligting aan ander lede van die Verenigde Nasies kan meedeel, indien 'n persoon vervolg word vir 'n misdryf bedoel in artikels 4, 5, 7 of 8; 30
- (b) die Raad van die Internasionale Lugvaartorganisasie, indien 'n persoon vervolg word vir 'n misdryf bedoel in artikel 9; of
- (c) die Sekretaris-generaal van die Internasionale Maritieme Organisasie, indien 'n persoon vervolg word vir 'n misdryf bedoel in artikel 6 of 10.

Bewysaangeleentheid en uitsluitings 35

- 17.** (1) Indien die vraag by enige verrigtinge in 'n geregshof opduik, of 'n persoon ooreenkomstig die volkereg geregtig is op spesiale beskerming teen enige aanval op sy of haar persoon, vryheid of waardigheid sal 'n sertifikaat, gelewer onder die hand van, of op gesag van die Direkteur-generaal van die Departement van Buitelandse Sake, wat enige feit met betrekking tot daardie vraag stel, *prima facie* getuienis van daardie feit daarstel. 40
- (2) 'n Persoon pleeg 'n misdryf ingevolge artikels 2, 3, 4, 11, 12(2) of 14 (in soverre dit betrekking het op die voorgemelde artikels), ongeag of die terroriste-aktiwiteit plaasgevind het al dan nie.
- (3) 'n Persoon pleeg 'n misdryf ingevolge artikels 3, 4, 11 of 14 (in soverre dit betrekking het op die voorgemelde artikels), ongeag of— 45
- (a) die handeling van die beskuldigde werklik die vermoë van enige persoon om 'n gespesifiseerde misdryf te pleeg, verbeter;
- (b) die beskuldigde kennis daarvan gedra het, of redelikerwys daarvan kennis moes dra, of vermoed het welke spesifieke gepleeg kan word, 50
al dan nie.
- (4) Niks in artikel 4 maak dit 'n misdryf om fondse te verskaf of in te samel met die doel dat dit gebruik word, of terwyl 'n persoon kennis dra, of redelikerwys kennis moes dra, of vermoed dat dat dit gebruik gaan word vir doeleindes van die voorspraak van demokratiese regering of die beskerming van menseregte nie. 55
- (5) Indien 'n persoon die teenwoordigheid van 'n persoon bedoel in artikel 11 so spoedig moontlik ooreenkomstig artikel 12 aanmeld, sal hy of sy nie ingevolge artikel 11 vervolg mag word nie.

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- (6) A person charged with committing an offence under section 4 may raise as a defence—
- (a) the fact that he or she had performed any act in connection with the property in question, or allowed or facilitated the performance of any act in connection with that property, solely for the purpose of preserving the value of that property; or
 - (b) that he or she acted in good faith and reported his or her suspicion in accordance with section 12 of this Act, or section 29 of the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001), as the case may be.
- (7) No action, whether criminal or civil, lies against a person complying in good faith with section 12(1).
- (8) A person who has made, initiated or contributed to a report in terms of section 12(1) concerning a suspicion that any other person intends to commit or has committed an offence referred to in section 4 is competent, but not compellable, to give evidence in criminal proceedings arising from the report.
- (9) No evidence concerning the identity of a person who has made, initiated or contributed to a report in terms of section 12(1) concerning a suspicion that any other person intends to commit or has committed an offence referred to in section 4, is admissible as evidence in criminal proceedings unless that person testifies at those proceedings.
- (10) A person who acts reasonably in taking or omitting to take measures to comply with section 4(2) shall not be liable in any civil action arising from having taken or omitted to have taken those measures, if the person proves that he or she took all reasonable steps to satisfy himself or herself that the relevant property was not owned, controlled or possessed by, or on behalf of or for the benefit of or at the direction of, an entity referred to in the said section 4(2).
- (11) A person is guilty of an offence under section 13(1)(a) or (b), whether or not he or she has any particular person in mind as the person in whom he or she intends to induce the belief in question.

PART 2

Penalties and matters relating to penalties

Penalties

- 18.** (1) Any person who is convicted of an offence referred to in—
- (a) section 2, 5, 6, 7, 8, 9 or 10 is liable—
 - (i) in the case of a sentence to be imposed by a High Court, to a fine or to imprisonment for a period up to imprisonment for life;
 - (ii) in the case of a sentence to be imposed by a regional court, to a fine or to imprisonment for a period not exceeding 18 years;
 - (iii) in the case of a sentence to be imposed by any magistrate's court, to a fine or to imprisonment for a period not exceeding five years;
 - (b) section 3 or 11 is liable—
 - (i) in the case of a sentence to be imposed by a High Court or a regional court, to a fine or to imprisonment for a period not exceeding 15 years;
 - (ii) in the case of a sentence to be imposed by any magistrate's court, to any penalty which may lawfully be imposed by that court;
 - (c) section 4, is liable—
 - (i) in the case of a sentence to be imposed by a High Court or a regional court, to a fine not exceeding R100 million or to imprisonment for a period not exceeding 15 years;
 - (ii) in the case of a sentence to be imposed by any magistrate's court, to a fine not exceeding R250 000,00, or to imprisonment for a period not exceeding five years;
 - (d) section 13(1)(a) or (b), is liable—
 - (i) in the case of a sentence to be imposed by a High Court or a regional court, to a fine or to imprisonment for a period not exceeding 10 years;

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- (6) 'n Persoon wat aangekla word vir die pleging van 'n misdryf ingevolge artikel 4, mag as 'n verweer opper—
- (a) die feit dat hy of sy die betrokke eiendom gebruik het of dit hanteer het, of die gebruik of die hantering van daardie eiendom toegelaat het of dit vergemaklik het, of enige handeling ten opsigte daarvan verrig het, slegs vir die behoud van die waarde van die eiendom; 5
- (b) dat hy of sy te goeder trou opgetree het en sy of haar vermoede in ooreenstemming met artikel 12 van hierdie Wet, of artikel 29 van die Finansiële Intelligensiesentrumwet, 2001 (Wet No. 38 van 2001), na gelang van die geval, gerapporteer het. 10
- (7) Geen aksie, hetsy strafregtelik of siviel, mag ingestel word teen 'n persoon wat te goeder trou aan artikel 12(1) uitvoering gee nie.
- (8) 'n Persoon wat ingevolge artikel 12(1) verslag gedoen het aangaande 'n vermoede dat enige ander persoon die opset het om 'n misdryf bedoel in artikel 4 te pleeg, of gepleeg het, of sodanige verslag geïnisieer of daartoe bygedra het, is bevoeg, maar nie verplig nie, om te getuig in strafregtelike verrigtinge wat uit die verslag voortspruit. 15
- (9) Geen getuienis rakende die identiteit van 'n persoon wat ingevolge artikel 12(1) aangaande 'n vermoede dat enige ander persoon die opset het om 'n misdryf bedoel in artikel 4 te pleeg, of dit gepleeg het, verslag gedoen het of 'n verslag geïnisieer of daartoe bygedra het, is toelaatbaar as getuienis in strafregtelike verrigtinge nie tensy daardie persoon by daardie verrigtinge getuig. 20
- (10) Enige persoon wat redelikerwys optree ten einde maatreëls te tref, of versuim om maatreëls te tref, om aan artikel 4(2) te voldoen, sal nie in enige siviele aksie wat voortspruit uit maatreëls wat getref is, of versuim is om getref te word, aanspreeklik wees, indien bedoelde persoon bewys lewer dat hy of sy alle redelike stappe geneem het ten einde homself of haarself tevrede te stel dat die betrokke eiendom nie die eiendom is, onder die beheer is of in besit is, deur of ten behoeve van of onder die beheer van 'n entiteit bedoel in die gemelde artikel 4(2) nie. 25
- (11) 'n Persoon is aan 'n misdryf bedoel in artikel 13(1)(a) of (b) skuldig, ongeag daarvan, of hy of sy die opset gehad het om die bedoelde geloof by 'n bepaalde persoon te wek, al dan nie. 30

DEEL 2

Strawwe en aangeleenthede met betrekking tot strawwe

Strawwe

18. (1) Enigiemand wat skuldig bevind word aan 'n misdryf bedoel in— 35
- (a) artikels 2, 5, 6, 7, 8, 9 of 10, is strafbaar—
- (i) in die geval van 'n vonnis wat deur 'n Hoë Hof opgelê moet word, tot 'n boete of lewenslange gevangenisstraf;
- (ii) in die geval van 'n vonnis wat deur 'n streekhof opgelê moet word, tot 'n boete of gevangenisstraf wat nie 'n tydperk van 18 jaar mag oorskry nie; 40
- (iii) in die geval van 'n vonnis wat deur 'n landdroshof opgelê moet word tot 'n boete of gevangenisstraf wat nie 'n tydperk van vyf jaar mag oorskry nie;
- (b) artikels 3 of 11, is strafbaar—
- (i) in die geval van 'n vonnis wat deur 'n Hoë Hof of streekhof opgelê moet word, tot 'n boete of gevangenisstraf vir 'n tydperk wat nie 15 jaar mag oorskry nie; 45
- (ii) in die geval van 'n vonnis wat deur enige landdroshof opgelê moet word, tot enige straf wat wettiglik deur daardie hof opgelê kan word;
- (c) artikel 4, is strafbaar— 50
- (i) in die geval van 'n vonnis wat deur 'n Hoë Hof of streekhof opgelê moet word, tot 'n boete wat nie R100 miljoen mag oorskry nie, of gevangenisstraf vir 'n tydperk wat nie 15 jaar mag oorskry nie,
- (ii) in die geval van 'n vonnis wat deur enige landdroshof opgelê moet word, tot 'n boete wat nie R250 000 mag oorskry nie, of gevangenisstraf wat nie 'n tydperk van vyf jaar mag oorskry nie; 55
- (d) artikel 13(1)(a) of (b), is strafbaar—
- (i) in die geval van 'n vonnis wat deur 'n Hoë Hof of streekhof opgelê moet word, tot 'n boete of gevangenisstraf vir 'n tydperk wat nie 10 jaar mag oorskry nie; 60

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- (ii) in the case of a sentence to be imposed by any magistrate's court, to any penalty which may lawfully be imposed by that court;
- (e) section 12(2), is liable—
- (i) in the case of a sentence to be imposed by a High Court or a regional court, to a fine or to imprisonment for a period not exceeding five years; 5
- (ii) in the case of a sentence to be imposed by any magistrate's court, to any penalty which may lawfully be imposed by that court;
- (f) section 14, is liable to the punishment laid down in paragraph (a), (b), (c) (d) or (e) for the offence which that person threatened, attempted or conspired to commit or aided, abetted, induced, instigated, instructed, commanded, counseled or procured another person to commit. 10
- (2) (a) The court, in imposing a sentence on a person who has been convicted of an offence under section 13(1)(a) or (b), may order that person to reimburse any party incurring expenses incidental to any emergency or investigative response to that conduct, for those expenses. 15
- (b) A person ordered to make reimbursement under paragraph (a), shall be jointly and severally liable for such expenses with each other person, if any, who is ordered to make reimbursement under that paragraph for the same expenses.
- (c) An order of reimbursement under paragraph (a), shall, for the purposes of enforcement, be treated as a civil judgment. 20

Declarations of forfeiture on conviction

19. (1) Whenever any person is convicted of an offence under this Act, the court in passing sentence must, in addition to any punishment which that court may impose in respect of the offence, declare any property which is reasonably believed to have been used— 25
- (a) in the commission of the offence; or
- (b) for the purpose of or in connection with the commission of the offence, and which was seized under any power exercised under section 22, or is in the possession or custody or under the control of the convicted person, to be forfeited to the State. 30
- (2) The court which makes a declaration of forfeiture of property referred to in subsection (1), must order the registrar of the High Court concerned or clerk of the Magistrate's Court for the district concerned to forthwith publish such declaration calling upon interested parties through the media and by notice in the *Gazette*. 35
- (3) Anything forfeited under subsection (1) must, if it was seized under any power exercised under section 22, be kept or, if it is in the possession or custody or under the control of the convicted person, be seized and kept— 35
- (a) for a period of 45 days after the date of the notice published in the *Gazette*; or
- (b) if any person referred to in section 20(1) has, within the period contemplated in paragraph (a), made an application to the court concerned regarding his or her interest in such thing, until a final decision has been rendered in respect of any such application. 40

Interests of third parties

20. (1) A declaration of forfeiture in terms of section 19(1) does not affect any interest, which any person other than the convicted person may have in the property in question, if the former person proves— 45
- (a) that he or she acquired the interest in that property in good faith and for consideration, whether in cash or otherwise; and
- (b) that—
- (i) the circumstances under which he or she acquired the interest in that property were not of such a nature that he or she knew or ought reasonably to have known or suspected that it was property used as contemplated in section 19(1); or 50
- (ii) he or she could not prevent the use of that property as contemplated in that section. 55
- (2) (a) Subject to the provisions of subsection (1), the court concerned or, if the judge or judicial officer concerned is not available, any judge or judicial officer of that court, may at any time within a period of three years from the date of the declaration of forfeiture, on the application of any person, other than the convicted person, who claims

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- (ii) in die geval van 'n vonnis wat deur enige landdroshof opgelê moet word, tot enige straf wat wettiglik deur daardie hof opgelê kan word;
- (e) artikel 12(2), is strafbaar—
- (i) in die geval van 'n vonnis wat deur 'n Hoë Hof of streekhof opgelê moet word, tot 'n boete of gevangenisstraf vir 'n tydperk wat nie vyf jaar mag oorskry nie; 5
- (ii) in die geval van 'n vonnis wat deur enige landdroshof opgelê moet word, tot enige straf wat wettiglik deur daardie hof opgelê kan word;
- (f) artikel 14, is strafbaar met die straf bepaal in paragrawe (a), (b), (c), (d) of (e), vir die misdryf wat daardie persoon gedreig, gepoog of saamgesweer het om te pleeg, of hulp verleen het of aangemoedig of aangestig, aangeraai, beveel of verkry het om te pleeg. 10
- (2) (a) Die hof, by oplegging van 'n vonnis aan 'n persoon wat skuldig bevind is aan 'n misdryf vir die oortreding van artikel 13(1)(a) of (b), mag gelas dat daardie persoon enige party wat uitgawes moes aangaan as gevolg van enige nood- of ondersoekaksies wat daardie optrede tot gevolg gehad het, moet vergoed. 15
- (b) 'n Persoon wat gelas is om vergoeding te betaal, ingevolge paragraaf (a), sal met enige ander persoon, indien enige, wat ingevolge dieselfde paragraaf gelas is tot vergoeding, gesamentlik en afsonderlik aanspreeklik wees vir dieselfde uitgawes.
- (c) 'n Vergoedingsbevel ingevolge paragraaf (a) sal vir doeleindes van afdwinging as 'n siviele vonnis geag word. 20

Verbeurdverklaring by skuldigbevinding

19. (1) Wanneer iemand aan 'n misdryf ingevolge hierdie Wet skuldig bevind word, moet die hof by vonnisoplegging, benewens enige straf wat daardie hof ten opsigte van die misdryf mag oplê, enige eiendom wat redelikerwys geglo word gebruik is— 25
- (a) in die pleging van die misdryf; of
- (b) vir doeleindes van of in verband met die pleging van die misdryf.
- en waarop ingevolge enige bevoegdheid uitgeoefen ingevolge artikel 22 beslag gelê is, of in die besit van of onder die toelig of beheer van die persoon wat skuldig bevind is, aan die Staat verbeurd verklaar. 30
- (2) Die hof wat die verbeurdverklaring bedoel in subartikel (1) maak, moet die Griffier van die betrokke Hoë Hof, of die klerk van die Landdroshof van die betrokke distrik, gelas om sonder versuim die bedoelde verklaring te publiseer en 'n beroep deur die media en kennisgewing in die *Staatskoerant* te doen op belanghebbende partye.
- (3) Enigiets kragtens subartikel (1) verbeur moet, indien dit kragtens artikel 22 in beslag geneem is, gehou word of indien dit in die besit of bewaring of onder die beheer van die veroordeelde is, in beslag geneem en gehou word— 35
- (a) vir 'n tydperk van 45 dae vanaf die datum van publikasie van die kennisgewing in die *Staatskoerant*; of
- (b) indien iemand in artikel 20(1) bedoel binne die tydperk in paragraaf (a) beoog 'n aansoek by die betrokke hof aangaande sy of haar belang in so iets gedoen het, totdat daar tot 'n finale beslissing ten opsigte van so 'n aansoek gemaak is. 40

Belange van derde partye

20. (1) 'n Verbeurdverklaring ingevolge artikel 19(1), raak nie 'n belang wat iemand anders as die veroordeelde in die betrokke eiendom, het nie, indien hy of sy bewys— 45
- (a) dat hy of sy die belang in daardie eiendom te goeder trou en teen vergoeding, hetsy in kontant of andersins, verkry het; en
- (b) dat—
- (i) die omstandighede waaronder hy of sy die belang in daardie eiendom verkry het, nie van so 'n aard was dat hy of sy geweet het of dit redelikerwys van hom of haar verwag kon word om te weet of te vermoed dat dit eiendom soos bedoel in artikel 19 was nie; of
- (ii) hy of sy nie gebruik van die eiendom, soos bedoel in daardie artikel kon verhoed het nie. 50
- (2) (a) Behoudens die bepalings van subartikel (1) kan die betrokke hof of, indien die betrokke regter of regterlike amptenaar nie beskikbaar is nie, enige regter of regterlike amptenaar van daardie hof te eniger tyd binne 'n tydperk van drie jaar vanaf die datum van die verbeurdverklaring, op aansoek van iemand anders as die veroordeelde wat 55

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that he or she has any interest in the property in question, inquire into and determine any such interest.

(b) If a court referred to in paragraph (a) finds—

- (i) that the property is wholly owned by the applicant, the court must set aside the declaration of forfeiture in question and direct that the property be returned to the applicant or, if the State has disposed of it, direct that the applicant be compensated by the State in an amount equal to the value of the property disposed of; or 5
- (ii) that the applicant has an interest in the property—
 - (aa) the court must direct that the property be sold by public auction and that the applicant be paid out of the proceeds of the sale an amount equal to the value of his or her interest therein, but not exceeding the proceeds of the sale; or 10
 - (bb) if the State has disposed of the property, the court must direct that the applicant be compensated by the State in an amount equal to the value of his or her interest therein. 15

(3) Any person aggrieved by a determination made by the court under subsection (2), may appeal against the determination as if it were a conviction by the court making the determination, and such appeal may be heard either separately or jointly with an appeal against the conviction as a result of which the declaration of forfeiture was made, or against a sentence imposed as a result of such conviction. 20

Evidence in respect of declarations of forfeiture and certain interests

21. In order to make a declaration of forfeiture under section 19(1) or to determine any interest under section 20(2), the court may refer to the evidence and proceedings at the trial or hear such further evidence, either orally or by affidavit, as it may deem fit. 25

CHAPTER 4

INVESTIGATING POWERS AND FREEZING ORDERS

Investigating powers

22. (1) Whenever the National Director has reason to believe that—
- (a) any person may be in possession of information relevant to— 30
 - (i) the commission or intended commission of an alleged offence under Chapter 2; or
 - (ii) any property which—
 - (aa) may have been used in the commission, or for the purpose of or in connection with the commission, of an offence under this Act; 35
 - (bb) may have facilitated the commission of an offence under this Act, or enabled any entity to commit such an offence, or provided financial or economic support to an entity in the commission of such an offence; or
 - (cc) may afford evidence of the commission or intended commission of an offence referred to in subparagraph (i); 40
 - (b) there may be in any building, receptacle or place, or in the possession, custody or control of any entity any property referred to in paragraph (a)(ii); or
 - (c) any entity may be in possession, custody or control of any documentary material relevant— 45
 - (i) to an alleged offence referred to in paragraph (a)(i); or
 - (ii) in respect of any property referred to in paragraph (a)(ii) or (b),

he or she may, prior to the institution of any civil or criminal proceeding, under written authority direct that a Director of Public Prosecutions shall have, in respect of a specific investigation, the power to institute an investigation in terms of the provisions of Chapter 5 of the National Prosecuting Authority Act, 1998 (Act No. 32 of 1998), relating to the commission or intended commission of an alleged offence referred to in paragraph 50

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daarop aanspraak maak dat hy of sy 'n belang in die betrokke eiendom het, ondersoek instel na so 'n belang en dit bepaal.

(b) Indien 'n hof in paragraaf (a) bedoel, bevind—

- (i) dat die eiendom geheel die eiendom van die applikant is, moet die hof die betrokke verbeurdverklaring tersyde stel en gelas dat die eiendom, aan die applikant terugbesorg word of, indien die Staat daarvoor beskik het, gelas dat die applikant deur die Staat vergoed word tot 'n bedrag gelykstaande aan die waarde van die eiendom waarvoor beskik is; of 5
- (ii) dat die applikant 'n belang in die eiendom het—
 - (aa) moet die hof gelas dat die eiendom per openbare veiling verkoop word en dat die applikant uit die opbrengs van die verkoping 'n bedrag betaal word wat gelyk is aan die waarde van sy of haar belang daarin, maar wat nie die opbrengs van die verkoping oorskry nie; of 10
 - (bb) indien die Staat oor die betrokke eiendom beskik het, moet die hof gelas dat die applikant deur die Staat vergoed word met 'n bedrag wat gelyk is aan die waarde van sy belang daarin. 15

(3) Enigiemand wat hom of haar veronreg voel deur 'n bepaling wat die hof kragtens subartikel (2) gedoen het, kan teen die bepaling appelleer asof dit 'n skuldigbevinding was deur die hof wat die bepaling gedoen het, en so 'n appèl kan óf afsonderlik van óf saam met 'n appèl teen die skuldigbevinding as gevolg waarvan die verbeurdverklaring gemaak is, of teen 'n vonnis wat ten gevolge van so 'n skuldigbevinding opgelê is, verhoor word. 20

Getuienis ten opsigte van verbeurdverklarings en sekere belange

21. Ten einde 'n verbeurdverklaring kragtens artikel 19(1) te maak of 'n belang ingevolge artikel 20(2) te bepaal, kan die hof die getuienis en verrigtinge by die verhoor raadpleeg of die verdere getuienis, hetsy mondeling of by beëdigde verklaring, aanhoor wat die hof goedvind. 25

HOOFSTUK 4

ONDERSOEKBEVOEGDHEDE EN BEVRIESINGSBEVELE 30

Ondersoekbevoegdheid

22. (1) Wanneer die Nasionale Direkteur rede het om te glo dat—

- (a) enige persoon in besit van inligting mag wees wat ter sake is tot—
 - (i) die pleging of beoogde pleging van 'n beweerde misdryf ingevolge Hoofstuk 2; of 35
 - (ii) enige eiendom wat—
 - (aa) gebruik kon gewees het in die pleging van of vir die doeleindes van, of in verband met die pleging van 'n misdryf ingevolge hierdie Wet; 40
 - (bb) die pleging van 'n misdryf ingevolge hierdie Wet kon fasiliteer, of enige entiteit in staat gestel het om bedoelde misdryf te pleeg, of finansiële of ekonomiese steun aan 'n entiteit vir die pleging van bedoelde misdryf voorsien het; of
 - (cc) getuienis mag bied van die pleging of beoogde pleging van 'n misdryf bedoel in subparagraaf (i);
- (b) daar in enige gebou, houer of plek, of in die besit, bewaring of beheer van enige entiteit soos bedoel in paragraaf (a)(i) eiendom is soos bedoel in paragraaf (a)(ii); of
- (c) enige entiteit in besit mag wees van, of toesig of beheer mag hê oor enige dokumentêre materiaal wat ter sake is—
 - (i) tot sodanige beweerde misdryf, bedoel in paragraaf (a)(i); of 50
 - (ii) ten opsigte van enige eiendom bedoel in paragraaf (a)(ii) of (b),

kan hy of sy, voor die instelling van enige siviele of strafregtelike verrigtinge, onder skriftelike magtiging gelas dat 'n Direkteur van Openbare Vervolgings ten opsigte van 'n besondere ondersoek, bevoeg is om 'n ondersoek in te stel ingevolge die bepalings van Hoofstuk 5 van die Wet op die Nasionale Vervolgingsgesag, 1998 (Wet No. 32 van 1998), met betrekking tot die pleging of beoogde pleging van 'n beweerde misdryf 55

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(a)(i) or any property contemplated in paragraph (a)(ii), or to any property referred to in paragraph (b), or to the possession, custody or control of any documentary material referred to in paragraph (c).

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

(a) the **“head of the Directorate of Special Operations”** or an **“Investigating Director”** shall be construed as a reference to a Director of Public Prosecutions authorized under subsection (1): Provided that for purposes of section 28(2)(a) of the said Act, a Director of Public Prosecutions, may only designate a Deputy Director of Public Prosecutions; 5

(b) a **“special investigator”** shall be construed as to include a **“police official”**. 10

(3) If any property, contemplated in subsection (1)(a)(ii), seized under any power exercised under subsection (1), consists of cash or funds standing to the credit of a bank account, the Director of Public Prosecutions who has instituted the investigation under that subsection, shall cause the cash or funds to be paid into a banking account which shall be opened with any bank as defined in section 1 of the Banks Act, 1990 (Act No. 94 of 1990), and the Director of Public Prosecutions shall forthwith report to the Financial Intelligence Centre established in terms of section 2(1) of the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001), the fact of the seizure of the cash or funds and the opening of the account. 15

Freezing order 20

23. (1) A High Court may, on *ex parte* application by the National Director to a judge in chambers, make an order prohibiting any person from engaging in any conduct, or obliging any person to cease any conduct, concerning property in respect of which there are reasonable grounds to believe that the property is owned or controlled by or on behalf of, or at the direction of— 25

(a) any entity which has committed, attempted to commit, participated in or facilitated the commission of a specified offence; or

(b) a specific entity identified in a notice issued by the President under section 25.

(2) An order made under subsection (1) may include an order to freeze any such property. 30

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

Cordoning off, stop and search of vehicle and person

24. (1) If, on written request under oath to a judge in chambers by a police official of or above the rank of director, it appears to the judge that it is necessary in order to prevent any terrorist or related activity, the judge may issue a warrant for the cordoning off, and stopping and searching of vehicles and persons with a view to preventing such terrorist or related activity, in a specified area, and such warrant applies for the period specified therein, which period may not exceed 10 days. 35

(2) Under such warrant any police official who identifies himself or herself as such, may cordon off the specified area for the period specified and stop and search any vehicle or person in that area, for articles or things which could be used or have been used for or in connection with the preparation for or the commission or instigation of any terrorist or related activity. 40

(3) The police official may seize any article or thing contemplated in subsection (2), and Chapter 2 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), applies with the necessary changes required by the context in respect of any such article or thing. 45

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

(5) The provisions of this section shall not be construed as affecting the rights of any police official or law enforcement officer to use any other power in any other law in respect of cordoning off, search or seizure. 50

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bedoel in paragraaf (a)(i) of enige eiendom bedoel in paragraaf (a)(ii), of enige eiendom bedoel in paragraaf (b), of die besit van, of toesig of beheer oor enige dokumentêre materiaal bedoel in paragraaf (c).

(2) Vir doeleindes van subartikel (1), word enige verwysing in die bedoelde Hoofstuk 5, na—

(a) die “**hoof van die Direkoraat vir Spesiale Operasies**” of “**ondersoek-Direkteur**” uitgelê as ’n verwysing na ’n Direkteur van Openbare Vervolgings gemagtig ingevolge subartikel (1): Met dien verstande dat vir doeleindes van artikel 28(2)(a) van gemelde Wet, ’n Direkteur van Openbare Vervolgings, slegs ’n Adjunk-direkteur van Openbare Vervolgings mag 10 aanwys;

(b) ’n “**spesiale ondersoeker**”, uitgelê om ’n polisiebeampte in te sluit.

(3) Indien enige eiendom bedoel in subartikel (1)(a)(ii), waarop beslag gelê is ingevolge enige bevoegdheid uitgeoefen ingevolge subartikel (1) bestaan uit kontant of fondse tot die krediet van ’n bankrekening, moet die Direkteur van Openbare Vervolgings wat die ondersoek ingevolge bedoelde subartikel ingestel het, die kontant of fondse in ’n bankrekening wat by enige bank, soos omskryf in artikel 1 van die Bankwet, 1990 (Wet No. 94 van 1990), geopen moet word, laat inbetaal, en die Direkteur van Openbare Vervolgings moet dadelik aan die Finansiële Intelligensiesentrum, ingestel ingevolge artikel 2(1) van die Wet op die Finansiële Intelligensiesentrum, 2001 (Wet No. 38 van 2001), die feit dat die kontant of fondse op beslag gelê is, en die opening van die rekening rapporteer. 15 20

Bevriesingsbevel

23. (1) Enige Hoë Hof mag, by wyse van ’n *ex parte* aansoek deur die Nasionale Direkteur voor ’n regter in kamers, ’n bevel uitreik wat enige persoon verbied om enige handeling te verrig of om ’n persoon te verplig om enige handeling te staak, met betrekking tot eiendom ten opsigte waarvan daar redelike gronde is om te glo dat die eiendom besit of beheer word deur, ten behoeve van, of in opdrag van— 25

(a) enige entiteit wat ’n gespesifiseerde misdryf gepleeg het, gepoog het om dit te pleeg, deelgeneem het aan of die pleging daarvan gefasiliteer het; of 30

(b) enige spesifieke entiteit geïdentifiseer in ’n kennisgewing deur die President ingevolge artikel 25 uitgereik.

(2) ’n Bevel bedoel in subartikel (1), mag ’n bevel insluit om bedoelde eiendom te bevries.

(3) ’n Hoë Hof mag kragtens subartikel (1) ’n tussentydse bevel uitreik in afwagting van sy finale beslissing ten opsigte van ’n aansoek vir sodanige bevel. 35

Afkordonering, voorkeer en deursoeking van voertuig en persoon

24. (1) Indien dit uit ’n skriftelike aansoek onder eed, voor ’n regter, deur ’n polisiebeampte met of bo die rang van direkteur, dit vir die regter blyk dat dit noodsaaklik is ten einde terroriste- of verwante aktiwiteite te verhoed, mag die regter ’n lasbrief uitreik vir die afkordonering, voorkeer en deursoeking van voertuie en persone met die oog op die voorkoming van sodanige terroriste- of verwante aktiwiteite in ’n bepaalde gebied, en sodanige lasbrief geld vir die tydperk daarin vermeld, welke tydperk nie 10 dae mag oorskry nie. 40

(2) Enige polisiebeampte wat hom of haar as sulks identifiseer, mag ingevolge bedoelde lasbrief die bepaalde gebied vir die bepaalde tydperk afkordoneer en enige voertuig of persoon voorkeer en deursoek vir goedere of voorwerpe wat gebruik kan word, of gebruik is vir of in verband met die voorbereiding vir of pleging van, of aanstigting van enige terroriste- of verwante aktiwiteite. 45

(3) Die polisiebeampte mag beslag lê op enige goedere of voorwerp bedoel in subartikel (2) en Hoofstuk 2 van die Strafproseswet, 1977 (Wet No. 51 van 1977), is van toepassing met die veranderinge wat deur die konteks genoodsaak is, ten opsigte van enige sodanige goedere of voorwerp. 50

(4) Artikel 29 van die Strafproseswet, 1977 (Wet No. 51 van 1977), is van toepassing ten opsigte van die bevoegdhede aan polisiebeamptes verleen ingevolge hierdie artikel. 55

(5) Die bepalinge van hierdie artikel moet nie uitgelê word op ’n wyse wat afbreuk doen aan die regte van enige polisiebeampte of wetstoepassingsbeampte om enige ander bevoegdheid in enige ander Wet ten opsigte van afkordonering, deursoeking en beslaglegging te gebruik nie.

Act No. 33, 2004 PROTECTION OF CONSTITUTIONAL DEMOCRACY AGAINST
TERRORIST AND RELATED ACTIVITIES ACT, 2004

CHAPTER 5

RESOLUTION OF UNITED NATIONS SECURITY COUNCIL

Notification by President in respect of entities identified by United Nations Security Council

25. The President must, by Proclamation in the *Gazette*, and other appropriate means of publication, give notice that the Security Council of the United Nations, under Chapter VII of the Charter of the United Nations, has identified a specific entity as being— 5

- (a) an entity who commits, or attempts to commit, any terrorist and related activity or participates in or facilitates the commission of any terrorist and related activity; or 10
- (b) an entity against whom Member States of the United Nations must take the actions specified in Resolutions of the said Security Council, in order to combat or prevent terrorist and related activities.

Parliamentary supervision 15

26. Every Proclamation issued under section 25 shall be tabled in Parliament for its consideration and decision and Parliament may thereupon take such steps as it may consider necessary.

CHAPTER 6

GENERAL PROVISIONS 20

Amendment and repeal of laws and transitional provisions

27. (1) The laws set out in the Schedule are hereby amended or repealed to the extent indicated in the fourth column of that Schedule.

(2) All criminal proceedings which immediately prior to the commencement of this Act were instituted in terms of the provisions of the Internal Security Act, 1982 (Act No. 74 of 1982), and which proceedings have not been concluded before the commencement of this Act, shall be continued and concluded, in all respects as if this Act had not been passed. 25

(3) An investigation, or prosecution or other legal proceedings, in respect of conduct which would have constituted an offence under the Internal Security Act, 1982, and which occurred after the commencement of that Act but before the commencement of this Act, may be conducted, instituted and continued as if this Act had not been passed. 30

(4) Notwithstanding the repeal or amendment of any provision of any law by this Act, such provision shall, for the purpose of the disposal of any criminal proceedings, investigation, prosecution or legal proceedings contemplated in subsection (2) or (3), remain in force as if such provision had not been repealed or amended. 35

Short title and commencement

28. This Act is called the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004, and shall come into operation on a date fixed by the President by proclamation in the *Gazette*. 40

HOOFSUK 5**RESOLUSIES VAN VEILIGHEIDSRAAD VAN VERENIGDE NASIES****Kennisgewing deur President ten opsigte van entiteite deur Veiligheidsraad van Verenigde Nasies geïdentifiseer**

25. Die President moet, by kennisgewing in die *Staatskoerant*, en deur enige ander 5
geskikte wyse van publikasie, kennis gee dat die Veiligheidsraad van die Verenigde
Nasies, ingevolge Hoofstuk VII van die Handves van die Verenigde Nasies 'n spesifieke
entiteit geïdentifiseer het as synde—

- (a) 'n entiteit wat terroriste- of verwante aktiwiteite pleeg of poog om dit te pleeg, 10
of daaraan deelneem of die pleging van terroriste- of verwante aktiwiteite
fasiliteer; of
- (b) 'n entiteit teen wie Ledestate van die Verenigde Nasies die stappe moet doen
wat in Resolusies van die bedoelde Veiligheidsraad bepaal is, ten einde
terroriste- en verwante aktiwiteite te bekamp.

Parlementêre toesig 15

26. 'n Afskrif van enige Proklamasie ingevolge artikel 25 uitgereik, moet in die
Parlement ter tafel gelê word vir oorweging daarvan en 'n besluit daaroor en die
Parlement mag daarna sodanige stappe doen as wat dit noodsaaklik ag.

HOOFSUK 6**ALGEMENE BEPALINGS** 20**Wysiging en herroeping van wette en oorgangsbepalings**

27. (1) Die Wette uiteengesit in die Bylae word hierby gewysig of herroep tot die mate
aangedui in die vierde kolom van die Bylae.

(2) Alle strafregtelike verrigtinge wat onmiddelik voor die inwerkingtreding van
hierdie Wet ingevolge die bepalinge van die Wet op Binnelandse Veiligheid, 1982 (Wet 25
No. 74 van 1982), ingestel is en wat nie afgehandel is voor die inwerkingtreding van
hierdie Wet nie, moet in alle opsigte voortgaan en afgehandel word asof hierdie Wet nie
aangeneem is nie.

(3) 'n Ondersoek, of vervolging of ander geregte like verrigtinge, ten opsigte van
gedrag wat 'n misdryf ingevolge die Wet op Binnelandse Veiligheid, 1982, kan daarstel 30
en wat plaasgevind het na die inwerkingtreding van daardie Wet, maar voor die
inwerkingtreding van hierdie Wet, mag uitgevoer, ingestel of voortgesit word, asof
hierdie Wet nie aangeneem is nie.

(4) Nieteenstaande die herroeping of wysiging deur hierdie Wet van enige bepaling
van enige ander Wet, sal bedoelde bepaling vir die doeleindes van die afhandeling van 35
enige strafregtelike verrigtinge, ondersoek, vervolging of geregte like verrigtinge,
bedoel in subartikel (2) of (3) van krag bly asof dit nie herroep of gewysig is nie.

Kort titel en inwerkingtreding

28. Hierdie Wet heet die Wet op Beskerming van Konstitusionele Demokrasie teen
Terroriste- en Verwante Aktiwiteite, 2004, en tree in werking op 'n datum deur die 40
President by proklamasie in die *Staatskoerant* bepaal.

**Act No. 33, 2004 PROTECTION OF CONSTITUTIONAL DEMOCRACY AGAINST
TERRORIST AND RELATED ACTIVITIES ACT, 2004**

SCHEDULE

SCHEDULE OF LAWS AMENDED OR REPEALED: SECTION 27

ACT NO.	YEAR	TITLE	EXTENT OF AMENDMENT OR REPEAL
67	1962	Extradition Act	<p>1. The insertion of the following new section:— "Extradition in respect of terrorist and related activities 22. (1) Notwithstanding the provisions of section 15, a request for extradition based on the offences referred to in section 4 or 5 of the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004, may not be refused on the sole ground that it concerns a political offence, or an offence connected with a political offence or an offence inspired by political motives, or that it is a fiscal offence.</p> <p>(2) The provisions of this section shall in no way affect the application of sections 11(6)(iv) or 12(2)(ii) of this Act.</p> <p>(3) Promptly, after being detained as contemplated in section 7 or 9 of this Act a person who is not a— (a) South African citizen; (b) person ordinarily resident in the Republic; or (c) citizen of any State, must be informed that he or she is entitled, and must be permitted— (i) to communicate without delay with the nearest appropriate representative of— (aa) the State of which the person is a citizen; (bb) if the person is not a citizen of any State, the State in whose territory the person ordinarily resides; or (cc) the State, if any, that is otherwise entitled to protect the person's rights; and (ii) to be visited by such representative."</p>
51	1977	Criminal Procedure Act	<p>1. The insertion in Schedule 5 of the following offences: "The offences referred to in section 4(2) or (3), 13 or 14 (in so far as it relates to the aforementioned sections) of the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004".</p> <p>2. The insertion in Schedule 6 of the following offences: "The offences referred to in section 2, 3(2)(a), 4(1), 5, 6, 7, 8, 9, 10 or 14 (in so far as it relates to the aforementioned sections) of the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004, section 2(1) and (2) of the Civil Aviation Offences Act, 1972 (Act No. 10 of 1972), section 26(1)(j) of the Non-Proliferation of Weapons of Mass Destruction Act, 1993(Act No. 87 of 1993) and section 56(1)(h) of the Nuclear Energy Act, 1999 (Act No. 46 of 1999)".</p>

WET OP BESKERMING VAN KONSTITUSIONELE DEMOKRASIE TEEN TERRORISTE- EN VERWANTE AKTIWITEITE, 2004 Wet No. 33, 2004

BYLAE

BYLAE VAN WETTE GEWYSIG OF HERROEP: ARTIKEL 27

WET NO.	JAAR	LANGTITEL	OMVANG VAN HERROEPING OF WYSIGING
67	1962	Wet op Uitlewering	<p>1. Die invoeging van die volgende nuwe artikel:—</p> <p>“Uitlewering ten opsigte van terroriste- en verwante aktiwiteite</p> <p>22. (1) Niteenstaande die bepalings van artikel 15, mag 'n versoek om uitlewering, gegrond op die misdrywe bedoel in artikel 4 of 5 van die Wet op Beskerming van Konstitusionele Demokrasie teen Terroriste- en Verwante Aktiwiteite, 2004, nie geweier word slegs op grond daarvan dat dit verband hou met 'n politieke misdryf, of misdryf wat met 'n politieke misdryf verbind word, of as misdryf wat deur politieke motiewe aangespoor is, of dat dit 'n fiskale misdryf is nie.</p> <p>(2) Die bepalings van hierdie artikel sal op geen wyse die aanwending van artikels 11(6)(iv) of 12(2)(ii) van hierdie Wet beïnvloed nie.</p> <p>(3) Spoedig, nadat 'n persoon, ooreenkomstig artikel 7 of 9 van die Wet op Uitlewering, 1962, in aanhouding geplaas is, moet 'n persoon wat nie—</p> <p>(a) 'n Suid-Afrikaanse burger is nie;</p> <p>(b) gewoonlik in die Republiek woonagtig is nie; of</p> <p>(c) 'n burger van enige Staat is nie,</p> <p>ingelig word dat hy of sy geregtig is daarop en toegelaat moet word om—</p> <p>(i) sonder versuim te kommunikeer met die naaste gepaste verteenwoordiger van—</p> <p>(aa) die Staat waarvan die persoon 'n burger is;</p> <p>(bb) indien die persoon nie 'n burger van enige Staat is nie, die Staat waarin die persoon gewoonlik woonagtig is; of</p> <p>(cc) die Staat, indien enige, wat andersins geregtig is om die persoon se regte te beskerm; en</p> <p>(ii) deur bedoelde verteenwoordiger besoek te word.”.</p>
51	1977	Strafproseswet	<p>1. Die invoeging in Bylae 5 van die volgende misdrywe:</p> <p>“Die misdrywe bedoel in artikel 4(2) of (3), 13 of 14 (in soverre dit betrekking het op die voormelde artikels) van die Wet op Beskerming van Konstitusionele Demokrasie teen Terroriste- en Verwante Aktiwiteite, 2004.”.</p> <p>2. Die invoeging in Bylae 6 van die volgende misdrywe:</p> <p>“Die misdrywe bedoel in artikels 2, 3(2)(a), 4(1), 5, 6, 7, 8, 9, 10 of 14 (in soverre dit betrekking het op die voormelde artikels) van die Wet op Beskerming van Konstitusionele Demokrasie teen Terroriste- en Verwante Aktiwiteite, 2004, artikel 2(1) en (2) van die Wet op Misdrywe teen Burgerlike Lugvaart, 1972 (Wet No. 10 van 1972), artikel 26(1)(j) van die Wet op die Nie-Proliferasie van Wapens van Grootsekaalse Vernietiging, 1993 (Wet No. 87 van 1993), en artikel 56(1)(h) van die Wet op Kernenergie, 1999 (Wet No. 46 van 1999).”.</p>

**Act No. 33, 2004 PROTECTION OF CONSTITUTIONAL DEMOCRACY AGAINST
TERRORIST AND RELATED ACTIVITIES ACT, 2004**

ACT NO.	YEAR	TITLE	EXTENT OF AMENDMENT OR REPEAL
74	1982	Internal Security Act	1. The repeal of the whole Act.
87	1993	Non-Proliferation of Weapons of Mass Destruction Act	<p>1. The amendment of section 26(1) of the Act by—</p> <p>(a) the substitution for paragraph (h) of the following paragraph: “(h) refuses or fails to comply to the best of his or her ability with any lawful requirement, request or order of an officer or employee of the Department, an inspector or a person authorized by the Council; [or]”.</p> <p>(b) the insertion of new paragraphs (j) and (k): “(j) intentionally uses, or threatens to use, a weapon of mass destruction against— (aa) a citizen of the Republic or a person ordinarily resident in the Republic, whether that person is in or outside the Republic; (bb) any person within the Republic; or (cc) any property that is owned, leased or used by any such citizen or resident of the Republic or by any public or private body or agency of the Republic, whether the property is within or outside of the Republic, or (k) threatens, attempts, conspires with any other person, or aids, abets, induces, incites, instigates, instructs or commands, counsels or procures another person, to commit an offence referred to in subparagraph (j),”</p> <p>(c) the insertion of a new subparagraph (v): “(v) in the case of an offence referred to in paragraph (j) or (k), to a fine or to imprisonment for a period up to imprisonment for life”.</p> <p>(d) The insertion of section 26A:</p> <p>“26A. No prosecution under section 26(1)(j) or (k) may be instituted without the written authority of the National Director of Public Prosecutions.”.</p>
105	1997	Criminal Law Amendment Act	<p>1. By the addition to Part 1 of Schedule 2 of the following item: “Any offence referred to in section 2, 5, 6, 7, 8, 9, 10 or 14 (in so far as it relates to the aforementioned sections) of the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004, when it is proved that the offence has— (a) endangered the life or caused serious bodily injury to or the death of, any person, or any number or group of persons; (b) caused serious risk to the health or safety of the public or any segment of the public; or (c) created a serious public emergency situation or a general insurrection”.</p> <p>2. By the addition to Part II of Schedule 2, of the following item: “Any offence referred to in section— (a) 2, 5, 6, 7, 8, 9, 10 or 14 (in so far as it relates to the aforementioned sections) of the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004, in circumstances other than those referred to in Part I; or (b) 4 or 13.”</p>

WET OP BESKERMING VAN KONSTITUSIONELE DEMOKRASIE TEEN TERRORISTE- EN VERWANTE AKTIWITEITE, 2004 Wet No. 33, 2004

WET NO.	JAAR	LANGTITEL	OMVANG VAN HERROEPING OF WYSIGING
74	1982	Wet op Binnelandse Veiligheid	1. Die herroeping van die hele Wet.
87	1993	Wet op die Nie-Proliferasie van Wapens van Grootsekaalse Vernietiging	<p>Die wysiging van artikel 26(1) van die Wet deur—</p> <p>(a) die vervanging van paragraaf (h) met die volgende paragraaf: “(h) weier of in gebreke bly om na sy of haar beste vermoë te voldoen aan 'n wettige vordering, versoek of bevel van 'n beamppte of werknemer van die Departement, 'n inspekteur of 'n gemagtigde van die Raad; [of]”;</p> <p>(b) die invoeging van nuwe paragrawe (j) en (k): “(j) opsetlik 'n wapen van grootsekaalse vernietiging gebruik of dreig om dit te gebruik teen— (aa) 'n burger van die Republiek of 'n persoon wie gewoonlik in die Republiek woonagtig is, hetsy daardie persoon binne of buite die Republiek is; (bb) enige persoon binne die Republiek; (cc) enige eiendom wat besit, verhuur of gebruik word deur enige so 'n burger of inwoner van die Republiek of deur enige openbare of privaat liggaam of agentskap van die Republiek, hetsy die eiendom binne of buite die Republiek geleë is, of (k) dreig, poog, saamsweer, hulp en bystand verleen, oorreed, aanstig, aanhits, opdrag gee, adviseer of verkry van 'n ander persoon, om 'n misdryf te pleeg soos bedoel in subparagraaf (j).”</p> <p>(c) die invoeging van 'n nuwe subparagraaf (v): “(v) in die geval van 'n misdryf soos bedoel in paragraaf (j) of (k), tot 'n boete of gevangenisstraf van 'n tydperk tot lewenslange gevangenisstraf”.</p> <p>(d) Die invoeging van artikel 26A; “26A. Geen vervolging ingevolge artikel 26(1) (j) of (k) mag ingestel word sonder die skriftelike magtiging van die Nasionale Direkteur van Openbare Vervolgings nie.”.</p>
105	1997	Strafregwysigingswet	<p>1. Deur die byvoeging in Deel 1 van Bylae 2 van die volgende item: “Enige misdryf bedoel in artikel 2, 5, 6, 7, 8, 9, 10 of 14 (in soverre dit betrekking het op die voormelde artikels) van die Wet op Beskerming van Konstitusionele Demokrasie teen Terroriste- en Verwante Aktiwiteite, 2004, indien dit bewys word dat die misdryf— (a) die lewe in gevaar gestel het of ernstige liggaamiike besering of dood van 'n persoon of enige aantal of groep persone veroorsaak het; (b) 'n ernstige risiko vir die gesondheid of die veiligheid van die publiek of enige gedeelte van die publiek veroorsaak het; (c) 'n ernstige openbare noodtoestand of algemene opstand veroorsaak het”.</p> <p>2. Deur die byvoeging in Deel 2 van Bylae 2, van die volgende item: “Enige misdryf bedoel in artikel— (a) 2, 5, 6, 7, 8, 9, 10 of 14 (in soverre dit betrekking het op die voormelde artikels) van die Wet op Beskerming van Konstitusionele Demokrasie teen Terroriste- en Verwante Aktiwiteite, 2004, in ander omstandighede as die bedoel in Deel 1; of (b) 4 of 13.”.</p>

**Act No. 33, 2004 PROTECTION OF CONSTITUTIONAL DEMOCRACY AGAINST
TERRORIST AND RELATED ACTIVITIES ACT, 2004**

ACT NO.	YEAR	TITLE	EXTENT OF AMENDMENT OR REPEAL
121	1998	Prevention of Organised Crime Act	<p>1. The substitution for the long title of the following long title: "To introduce measures to combat organised crime, money laundering and criminal gang activities; to prohibit certain activities relating to racketeering activities; to provide for the prohibition of money laundering and for an obligation to report certain information; to criminalise certain activities associated with gangs; to provide for the recovery of the proceeds of unlawful activity; for the civil forfeiture of criminal <u>[assets] property that [have] has</u> been used to commit an offence, <u>[or assets] property that [are]</u> is the proceeds of unlawful activity or property that is owned or controlled by, or on behalf of, an entity involved in terrorist and related activities; to provide for the establishment of a Criminal Assets Recovery Account; to amend the Drugs and Drug Trafficking Act, 1992; to amend the International Co-operation in Criminal Matters Act, 1996; to repeal the Proceeds of Crime Act, 1996; to incorporate the provisions contained in the Proceeds of Crime Act, 1996; and to provide for matters connected therewith."</p> <p>2. The amendment of the preamble by—</p> <p>(a) the insertion after the tenth paragraph of the following paragraph: <u>"AND WHEREAS effective legislative measures are necessary to prevent and combat the financing of terrorist and related activities and to effect the preservation, seizure and forfeiture of property owned or controlled by, or on behalf of, an entity involved in terrorist and related activities;"</u>; and</p> <p>(b) the substitution for the eleventh paragraph of the following paragraph: <u>"AND WHEREAS there is a need to devote such forfeited assets and proceeds to the combating of organised crime, [and] money laundering and the financing of terrorist and related activities;"</u>.</p> <p>3. The insertion in section 1—</p> <p>(a) after the definition of "enterprise" of the following definition: <u>" 'entity' has a corresponding meaning with the expression in section 1 of the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004;"</u>;</p> <p>(b) after the definition of "property" of the following definition: <u>" 'property associated with terrorist and related activities' means property which—</u> <u>(a) was acquired, collected, used, possessed, owned or provided for the benefit of, or on behalf of, or at the direction of, or under the control of an entity which commits or attempts to commit or facilitates the commission of a specified offence as defined in the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004; or</u></p>

WET OP BESKERMING VAN KONSTITUSIONELE DEMOKRASIE TEEN TERRORISTE- EN VERWANTE AKTIWITEITE, 2004 Wet No. 33, 2004

WET NO.	JAAR	LANGTITEL	OMVANG VAN HERROEPING OF WYSIGING
121	1998	Wet op die Voorkoming van Georganiseerde Misdaad	<p>1. Die vervanging van die langtitel met die volgende langtitel: "Ten einde maatreëls in te stel om georganiseerde misdaad, geldwassery en kriminele bende-aktiwiteite te bekamp; om sekere aktiwiteite met betrekking tot rampokkery te verbied; om voorsiening te maak vir 'n verbod op geldwassery en vir 'n verpligting om sekere inligting te rapporteer; om sekere aktiwiteite wat met bendes verband hou te kriminaliseer; om voorsiening te maak vir die verhaling van die opbrengs van misdaad; vir die siviele verbeurdverklaring van [<u>strafregtelike</u>] kriminele [<u>bates</u>] eiendom wat gebruik is om 'n misdaad te pleeg of [<u>bates</u>] eiendom wat die opbrengs van 'n onregmatige aktiwiteit is, of eiendom is wat besit of beheer word deur of ten behoewe van 'n entiteit wat betrokke is in terroriste- en verwante aktiwiteite; om voorsiening te maak vir die instelling van die Rekening vir die Verhaling van Kriminele Bates; tot wysiging van die Wet op Dwelmmiddels en Dwelmsmokkelary, 1992; tot wysiging van die Wet op Internasionale Samewerking in Strafregtelike Aangeleenthede, 1996; die Wet op die Opbrengs van Misdaad, 1996, te herroep; om die bepalings wat in die Wet op die Opbrengs van Misdaad, 1996, vervat is, te inkorporeer; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan."</p> <p>2. Die wysiging van die aanhef deur— (a) die invoeging na die tiende paragraaf van die volgende paragraaf: "EN AANGESIEN doeltreffende wetgewende maatreëls nodig is om die finansiering van terroriste- en verwante aktiwiteite te voorkom en te onderdruk en om die bewaring, beslaglegging en verbeurdverklaring van eiendom wat besit of beheer word deur of ten behoewe van 'n entiteit wat in terroriste-of verwante aktiwiteite teweeg te bring; en (b) die vervanging van die elfde paragraaf met die volgende paragraaf: "EN NADEMAAL daar 'n behoefte is om sodanige verbeurdverklaarde bates en opbrengs van misdaad tot die bekamping van georganiseerde misdaad, [<u>en</u>] geldwassery en die finansiering van terroriste- en verwante aktiwiteite aan te wend;"</p> <p>3. Die invoeging in artikel 1— (a) Na die woordskrywing van "<u>eiendomsinstandhoudingsbevel</u>", van die volgende woordskrywing: "<u>entiteit</u>", dieselfde as die ooreenstemmende uitdrukking in artikel 1 van die Wet op Beskerming van Konstitusionele Demokrasie teen Terroriste- en Verwante Aktiwiteite, 2004;"</p>

Act No. 33, 2004 PROTECTION OF CONSTITUTIONAL DEMOCRACY AGAINST
TERRORIST AND RELATED ACTIVITIES ACT, 2004

ACT NO.	YEAR	TITLE	EXTENT OF AMENDMENT OR REPEAL
			<p>(b) has provided financial or economic support to an entity in the commission or facilitation of an offence referred to in paragraph (a);”.</p> <p>4. The substitution in section 38 for subsection (2) of the following subsection: “(2) The High Court shall make an order referred to in subsection (1) if there are reasonable grounds to believe that the property concerned— (a) is an instrumentality of an offence referred to in Schedule 1; [or] (b) is the proceeds of unlawful activities; or (c) is property associated with terrorist and related activities.”.</p> <p>5. The substitution in section 50 for subsection (1) of the following subsection: “(1) The High Court shall, subject to section 52, make an order applied for under section 48(1) if the Court finds on a balance of probabilities that the property concerned— (a) is an instrumentality of an offence referred to in Schedule 1; [or] (b) is the proceeds of unlawful activities; or (c) is property associated with terrorist and related activities.”.</p> <p>6. The substitution for section 51 of the following section: “Notice of reasonable grounds that property is concerned in commission of offence or associated with terrorist and related activities 51. (1) The National Director may apply to a judge in chambers or a magistrate for an order notifying a person having an interest in or control over property that there are reasonable grounds to believe that such property is an instrumentality of an offence referred to in Schedule 1 or is property associated with terrorist and related activities. (2) The judge or magistrate shall make an order referred to in subsection (1) if the judge or magistrate is satisfied that there are reasonable grounds to believe that the property concerned is an instrumentality of an offence referred to in Schedule 1 or property associated with terrorist and related activities. (3) When a judge or magistrate makes an order under subsection (1), the registrar of the High Court concerned or clerk of the Magistrate’s Court for the district concerned shall issue a notice in the prescribed form to the person referred to in the order, informing him or her that there are reasonable grounds to believe that property in which he or she has an interest or over which he or she has control, is an instrumentality of an offence referred to in Schedule 1 or property associated with terrorist and related activities. (4) A notice issued under subsection (3) shall be served on the person concerned in the manner in which a summons whereby civil proceedings in the High Court are commenced is served.”.</p>

WET OP BESKERMING VAN KONSTITUSIONELE DEMOKRASIE TEEN TERRORISTE- EN VERWANTE AKTIWITEITE. 2004 Wet No. 33, 2004

WET NO.	JAAR	LANGTITEL	OMVANG VAN HERROEPING OF WYSIGING
			<p>(b) na die woordskrywing van “eiendom” van die volgende woordskrywing: “eiendom geassosieer met terroriste- en verwante aktiwiteite”, eiendom wat—</p> <p><u>(a) bekom is, ingesamel is, gebruik word, in besit is, besit word of voorsien word tot voordeel van, of ten behoewe van of in opdrag van of onder die beheer van ’n entiteit wat ’n gespesifiseerde misdryf, soos omskryf in die Wet op Beskerming van Konstitusionele Demokrasie teen Terroriste- en Verwante Aktiwiteite, 2004, pleeg, poog om dit te pleeg, of te fasiliteer; of</u></p> <p><u>(b) finansiële of ekonomiese ondersteuning aan ’n entiteit verleen het in die pleging of fasilitering van ’n misdryf of aktiwiteit bedoel in paragraaf (a);”.</u></p> <p>4. Die vervanging in artikel 38 van subartikel (2) deur die volgende subartikel: “(2) Die Hoë Hof verleen ’n bevel bedoel in subartikel (1), indien daar redelike gronde is om te glo dat die betrokke eiendom— (a) ’n misdadaansinstrument van ’n misdryf bedoel in Bylae (1) is; [of] (b) die opbrengs van onregmatige aktiwiteite is; of <u>(c) eiendom geassosieer met terroriste- en verwante aktiwiteite is.</u></p> <p>5. Die vervanging in artikel 50, van subartikel (1), met die volgende subartikel: “(1) Die Hoë Hof moet, behoudens artikel 52, ’n bevel verleen waarvoor kragtens artikel 48 (1) aansoek gedoen word, indien die Hof op ’n oorwig van waarskynlikhede bevind dat die betrokke eiendom— (a) ’n misdadaansinstrument van ’n misdryf bedoel in Bylae 1 is; [of] (b) die opbrengs van onregmatige aktiwiteite is. <u>of</u> <u>(c) eiendom geassosieer met terroriste- en verwante aktiwiteite is.”.</u></p> <p>6. Die vervanging van artikel 51, met die volgende artikel: Kennisgewing van redelike gronde dat eiendom by misdryf betrokke is, of met terroriste- en verwante aktiwiteite geassosieer word “51. (1) Die Nasionale Direkteur kan by ’n regter in kamers of ’n landdros aansoek doen om ’n bevel dat ’n persoon wat ’n belang in of beheer oor eiendom het in kennis gestel word dat daar redelike gronde is om te glo dat eiendom ’n misdadaansinstrument van ’n misdryf bedoel in Bylae 1, of eiendom geassosieer met terroriste- en verwante aktiwiteite is. (2) Die regter of landdros verleen ’n bevel bedoel in subartikel (1) indien die regter of landdros oortuig is dat daar redelike gronde is om te glo dat die betrokke eiendom ’n misdadaansinstrument van ’n misdryf bedoel in Bylae 1, of eiendom geassosieer met terroriste- en verwante aktiwiteite is. (3) Wanneer die regter of landdros ’n bevel kragtens subartikel (1) verleen, reik die griffier van die afdeling van die Hoë Hof of die klerk van die Landdroshof van die betrokke distrik aan die persoon bedoel in die bevel ’n kennisgewing in die voorgeskrewe vorm uit, wat hom of haar in kennis stel dat daar redelike gronde bestaan om te glo dat eiendom waarin hy of sy ’n belang het of waaroor hy of sy beheer het, ’n misdadaansinstrument van ’n misdryf bedoel in Bylae 1, of eiendom geassosieer met terroriste- en verwante aktiwiteite is. (4) ’n Kennisgewing kragtens subartikel (3) word beteken op die wyse waarop ’n dagvaarding waarmee ’n siviele geding in die Hoë Hof begin word, beteken word.”.</p>

Act No. 33, 2004 PROTECTION OF CONSTITUTIONAL DEMOCRACY AGAINST
TERRORIST AND RELATED ACTIVITIES ACT, 2004

ACT NO.	YEAR	TITLE	EXTENT OF AMENDMENT OR REPEAL
			<p>7. The substitution in section 52—</p> <p>(a) for subsection (2A) of the following subsection: “(2A) The High Court may make an order under subsection (1), in relation to the forfeiture of an instrumentality of an offence referred to in Schedule 1 or <u>property associated with terrorist and related activities</u>, if it finds on a balance of probabilities that the applicant for the order had acquired the interest concerned legally, and—</p> <p>(a) neither knew nor had reasonable grounds to suspect that the property in which the interest is held is an instrumentality of an offence referred to in Schedule 1 or <u>property associated with terrorist and related activities</u>; or</p> <p>(b) where the offence concerned had occurred before the commencement of this Act, the applicant has since the commencement of this Act taken all reasonable steps to prevent the use of the property concerned as an instrumentality of an offence referred to in Schedule 1 or <u>property associated with terrorist and related activities</u>.”.</p> <p>(b) for subsection (3) of the following subsection: “(3) (a) If an applicant for an order under subsection (1) adduces evidence to show that he or she did not know or did not have reasonable grounds to suspect that the property in which the interest is held, is an instrumentality of an offence referred to in Schedule 1 or <u>property associated with terrorist and related activities</u>, the State may submit a return of the service on the applicant of a notice issued under section 51 (3) in rebuttal of that evidence in respect of the period since the date of such service.</p> <p>(b) If the State submits a return of the service on the applicant of a notice issued under section 51 (3) as contemplated in paragraph (a), the applicant for an order under subsection (1) must, in addition to the facts referred to in subsection (2) (a) and (2) (b) (i), also prove on a balance of probabilities that, since such service, he or she has taken all reasonable steps to prevent the further use of the property concerned as an instrumentality of an offence referred to in Schedule 1 or <u>property associated with terrorist and related activities</u>.”.</p> <p>(c) for subsection (4) of the following subsection: “(4) A High Court making an order for the exclusion of an interest in property under subsection (1) may, in the interest of the administration of justice or in the public interest, make that order upon the conditions that the Court deems appropriate including a condition requiring the person who applied for the exclusion to take all reasonable steps, within a period that the Court may determine, to prevent the future use of the property as an instrumentality of an offence referred to in Schedule 1 or <u>property associated with terrorist and related activities</u>.”</p> <p>8. The substitution in section 54 for subsection (8A) of the following subsection: “(8A) The High Court may make an order under subsection (1), in relation to the forfeiture of an instrumentality of an offence referred to in Schedule 1 or <u>property associated with terrorist and related activities</u>, if it finds on a balance of probabilities that the applicant for the order had acquired the interest concerned legally, and—</p> <p>(a) neither knew nor had reasonable grounds to suspect that the property in which the interest is held is an instrumentality of an offence referred to in Schedule 1 or <u>property associated with terrorist and related activities</u>; or</p> <p>(b) where the offence concerned had occurred before the commencement of this Act, the applicant has since the commencement of this Act taken all reasonable steps to prevent the use of the property concerned as an instrumentality of an offence referred to in Schedule 1 or <u>property associated with terrorist and related activities</u>.”.</p>

WET OP BESKERMING VAN KONSTITUSIONELE Wet No. 33, 2004
DEMOKRASIE TEEN TERRORISTE- EN VERWANTE AKTIWITEITE. 2004

WET NO.	JAAR	LANGTITEL	OMVANG VAN HERROEPING OF WYSIGING
			<p>7. Die vervanging in artikel 52—</p> <p>(a) van subartikel (2A) met die volgende subartikel: “(2A) Die Hoë Hof kan, ten opsigte van die verbeuring van ’n misdadinstrument van ’n misdryf bedoel in Bylae 1, of eiendom geassosieer met terroriste- en verwante aktiwiteite, ’n bevel kragtens subartikel (1) verleen indien hy op ’n oorwig van waarskynlikhede bevind dat die applikant om so ’n bevel die betrokke belang regmatig verkry het, en—</p> <p>(a) nóg geweet het nóg redelike gronde gehad het om te vermoed dat die eiendom waarin die belang gehou word ’n misdadinstrument bedoel in Bylae 1, of eiendom geassosieer met terroriste- en verwante aktiwiteite is; of</p> <p>(b) waar die betrokke misdaad plaasgevind het voor die inwerkingtreding van hierdie Wet, die applikant sedert die inwerkingtreding van hierdie Wet alle redelike stappe gedoen het ten einde die gebruik van die betrokke eiendom as ’n misdadinstrument bedoel in Bylae 1, of eiendom geassosieer met terroriste- en verwante aktiwiteite te voorkom.”</p> <p>(b) subartikel (3) met die volgende subartikel: “(3) (a) Indien ’n applikant om ’n bevel kragtens subartikel (1) getuienis aanbied om aan te toon dat hy of sy nie geweet het of redelike gronde gehad het om te vermoed dat die eiendom waarin die belang gehou word ’n misdadinstrument van ’n misdryf bedoel in Bylae 1, of eiendom geassosieer met terroriste- en verwante aktiwiteite, is nie, kan die Staat ’n relaas van betekening op die applikant, van ’n kennisgewing wat kragtens artikel 51 (3) uitgereik is, voorlê ten einde daardie getuienis te weerlê ten opsigte van die tydperk na die datum van sodanige betekening.</p> <p>(b) Indien die Staat ’n relaas van betekening op die applikant van ’n kennisgewing wat kragtens artikel 51 (3) uitgereik is, soos in paragraaf (a) beoog voorlê, moet die applikant om ’n bevel kragtens subartikel (1), benewens die feite bedoel in subartikel (2)(a) en (2)(b)(i), ook op ’n oorwig van waarskynlikhede bewys dat hy of sy sedert sodanige betekening alle redelike stappe gedoen het om die verdere gebruik van die betrokke eiendom as ’n misdadinstrument van ’n misdryf bedoel in Bylae 1, of eiendom geassosieer met terroriste- en verwante aktiwiteite, te voorkom.”</p> <p>(c) subartikel (4), met die volgende subartikel: “(4) ’n Hoë Hof wat ’n bevel verleen vir die uitsluiting van ’n belang in eiendom kragtens subartikel (1), kan, in die belang van die regspleging of die openbare belang, daardie bevel verleen op die voorwaardes wat die Hof geskik ag, met inbegrip van ’n voorwaarde wat van die persoon wat om die uitsluiting aansoek gedoen het, vereis om alle redelike stappe te doen, binne ’n tydperk wat die Hof mag bepaal, om die toekomstige gebruik van die eiendom as ’n misdadinstrument van ’n misdryf bedoel in Bylae 1, of eiendom geassosieer met terroriste- en verwante aktiwiteite, te voorkom.”</p> <p>8. Die vervanging in artikel 54 van subartikel (8A) met die volgende subartikel: “(8A) Die Hoë Hof kan, ten opsigte van die verbeuring van ’n misdadinstrument bedoel in Bylae 1, of eiendom geassosieer met terroriste- en verwante aktiwiteite, ’n bevel kragtens subartikel (1) verleen indien hy op ’n oorwig van waarskynlikhede bevind dat die applikant om so ’n bevel die betrokke belang regmatig verkry het, en—</p> <p>(a) nóg geweet het nóg redelike gronde gehad het om te vermoed dat die eiendom waarin die belang gehou word ’n misdadinstrument bedoel in Bylae 1, of eiendom geassosieer met terroriste- en verwante aktiwiteite is; of</p> <p>(b) waar die betrokke misdaad plaasgevind het voor die inwerkingtreding van hierdie Wet, die applikant sedert die inwerkingtreding van hierdie Wet alle redelike stappe gedoen het ten einde die gebruik van die betrokke eiendom as ’n misdadinstrument bedoel in Bylae 1, of eiendom geassosieer met terroriste- en verwante aktiwiteite, te voorkom.”</p>

Act No. 33, 2004 PROTECTION OF CONSTITUTIONAL DEMOCRACY AGAINST
TERRORIST AND RELATED ACTIVITIES ACT, 2004

ACT NO.	YEAR	TITLE	EXTENT OF AMENDMENT OR REPEAL
			<p>9. The substitution in section 68 for paragraph (b) of the following paragraph: “(b) to advise Cabinet in connection with the rendering of financial assistance to law enforcement agencies in order to combat organised crime, money laundering, criminal gang activities, the financing of terrorist and related activities and crime in general; and”.</p> <p>10. The insertion in Schedule 1 after item 32 of the following item: “32A Any specified offence as defined in the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004;”</p>
46	1999	Nuclear Energy Act	<p>1. The insertion of the following new section 34A.: Prohibitions relating to nuclear material “34A. (1) For purposes of this section, “international organisation”, has the meaning ascribed to it in section 1 of the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004. (2) No person may— (a) intentionally and without lawful authority, receive, possess, use, transfer, alter, dispose of or disperse, nuclear material which causes or is likely to cause death or serious bodily injury to any person or substantial damage to property; (b) intentionally obtain nuclear material by means of theft or robbery; (c) intentionally obtain nuclear material by means of embezzlement or fraud; (d) intentionally demand nuclear material by threat or use of force, or by any other form of intimidation; (e) intentionally threaten to— (i) use nuclear material to cause death or serious injury to any person or substantial damage to property; (ii) commit an act described in paragraph (b) in order to compel a natural or legal person, international organisation or State to do or to refrain from doing any act; (f) use any nuclear material or device or use or damage a nuclear installation or nuclear plant in a manner which release or risk the release of radio-active material, with the intent to— (i) cause death or serious bodily injury; (ii) cause substantial damage to property or the environment; or (iii) to compel a natural or juristic person, an international organisation or a State to do, to abstain or refrain from doing an act; or (g) attempt, conspire with any other person, or aid, abet, induce, incite, instigate, instruct or command, counsel or procure another person, to commit an offence referred to in paragraphs (a) to (f).”</p>

WET OP BESKERMING VAN KONSTITUSIONELE DEMOKRASIE TEEN TERRORISTE- EN VERWANTE AKTIWITEITE, 2004 Wet No. 33, 2004

WET NO.	JAAR	LANGTITEL	OMVANG VAN HERROEPING OF WYSIGING
			<p>9. Die <u>vervanging</u> in artikel 68 van paragraaf (b) met die volgende paragraaf: “(b) die Kabinet te adviseer in verband met die verlening van finansiële bystand aan wetstoepassingsagente ten einde georganiseerde misdaad, <u>geldwassery</u>, kriminele bende-aktiwiteite, <u>die finansiering van terroriste- en verwante aktiwiteite en misdaad in die algemeen te bekamp</u>; en”.</p> <p>10. Die invoeging in Bylae 1, na item 32 van die volgende item: “32A. Enige gespesifiseerde misdryf soos omskryf in die die Wet op Beskerming van Konstitusionele Demokrasie teen Terroriste- en Verwante Aktiwiteite, 2004;”.</p>
46	1999	Wet op Kemenergie	<p>1. Die invoeging van die volgende nuwe artikel 34A: Verbod met betrekking tot kernmateriaal “34A. (1) Vir doeleindes van hierdie artikel beteken <u>‘internasionale organisasie’</u> dieselfde as die omskrywing wat daaraan gegee word in artikel 1 van die <u>Wet op Beskerming van Konstitusionele Demokrasie teen Terroriste- en Verwante Aktiwiteite, 2004.</u> (2) <u>Geen persoon mag—</u> (a) <u>opsetlik en sonder wettige magtiging enige kernmateriaal ontvang, besit, gebruik, oordra, verander, daaroor beskik, of dit versprei en daardeur die dood of ernstige liggaamlike besering van enige persoon of omvangryke skade aan eiendom veroorsaak of waarskynlik kan veroorsaak nie;</u> (b) <u>opsetlik kernmateriaal by wyse van diefstal of roof bekom nie;</u> (c) <u>opsetlik kernmateriaal by wyse van verduistering of bedrog bekom nie;</u> (d) <u>opsetlik kernmateriaal deur middel van ’n dreigement van of gebruik van geweld of enige vorm van intimidasie bekom nie;</u> (e) <u>opsetlik dreig om:</u> (i) <u>kernmateriaal te gebruik om die dood of ernstige besering van enige persoon of omvangryke skade aan eiendom te veroorsaak nie;</u> (ii) <u>’n handeling bedoel in paragraaf (b) uit te voer ten einde ’n natuurlike of regspersoon of ’n internasionale organisasie of Staat te verplig om ’n handeling te verrig of om te weerhou om dit te verrig nie;</u> (f) <u>enige kernmateriaal of toestel gebruik, of ’n kerninstallasie of -aanleg beskadig op ’n wyse wat die vrystelling van radio-aktiewe of die risiko van sodanige vrystelling veroorsaak, met die opset om:</u> (i) <u>dood of ernstige liggaamlike leed te veroorsaak nie;</u> (ii) <u>omvangryke skade aan eiendom of die omgewing veroorsaak nie; of</u> (iii) <u>’n natuurlike of regspersoon, ’n internasionale organisasie of ’n Staat te verplig om ’n handeling te verrig of te weerhou om dit te verrig nie; of</u> (g) <u>poog of saamsweer met enige ander persoon, of ’n ander persoon hulp verleen, aanstig, uitlok, aanmoedig, aanraai, beveel, raadgee, of verkry om ’n misdryf bedoel in paragrawe (a) tot (f) te pleeg nie.”</u></p>

**Act No. 33, 2004 PROTECTION OF CONSTITUTIONAL DEMOCRACY AGAINST
TERRORIST AND RELATED ACTIVITIES ACT, 2004**

ACT NO.	YEAR	TITLE	EXTENT OF AMENDMENT OR REPEAL
			<p>2. <u>The insertion in section 56(1) of the following new paragraph: “(h) performing any act prohibited under section 34A.”.</u></p> <p>3. <u>The insertion of the following new paragraph in section 56(2): “(d) subsection (1)(h), to a fine or to imprisonment for a period up to imprisonment for life”.</u></p> <p>4. <u>The insertion of the following new section 56A:</u> “Consent of National Director to institute proceedings and reporting obligations 56A. (1) No prosecution under section 56(1)(h) may be instituted without the written authority of the National Director of Public Prosecutions. (2) The National Director must communicate the final outcome of the proceedings promptly to the Director General of the International Atomic Energy Agency if a person is prosecuted for an offence referred to in subsection (1), except where— (a) the offence was committed in the Republic; (b) the offence involved nuclear material used for peaceful purposes in domestic use, storage or transport; and (c) both the alleged offender and the nuclear material remained in the territory of the Republic.”.</p>
38	2001	Financial Intelligence Centre Act	<p>1. <u>The substitution for the long title of the following long title: “To establish a Financial Intelligence Centre and a Money Laundering Advisory Council in order to combat money laundering activities and the financing of terrorist and related activities; to impose certain duties on institutions and other persons who might be used for money laundering purposes and the financing of terrorist and related activities; to amend the Prevention of Organised Crime Act, 1998, and the Promotion of Access to Information Act, 2000; and to provide for matters connected therewith.”.</u></p> <p>2. <u>The insertion in section 1—</u> <u>(a) after the definition of “Director” of the following definition: “‘entity’ has a corresponding meaning with the definition in section 1 of the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004; and</u> <u>(b) after the definition of “supervisory body” of the following definition: “‘offence relating to the financing of terrorist and related activities’ means an offence under section 4 of the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004;”</u></p> <p>3. <u>The substitution in section 3 for subsection (1) of the following subsection:</u> <u>“(1) The principal objective of the Centre is to assist in the identification of the proceeds of unlawful activities and the combating of money laundering activities and the financing of terrorist and related activities.”.</u></p> <p>4. <u>The substitution for the heading to Chapter 3 of the following heading:</u> “CONTROL MEASURES FOR MONEY LAUNDERING [CONTROL MEASURES] AND FINANCING OF TERRORIST AND RELATED ACTIVITIES”.</p>

WET OP BESKERMING VAN KONSTITUSIONELE DEMOKRASIE TEEN TERRORISTE- EN VERWANTE AKTIWITEITE, 2004 Wet No. 33, 2004

WET NO.	JAAR	LANGTITEL	OMVANG VAN HERROEPING OF WYSIGING
			<p>2. Die invoeging in subartikel 56(1) van die volgende nuwe paragraaf: <u>“(h) die verrigting van enige handeling wat ingevolge artikel 34A verbied is.”.</u></p> <p>3. Die invoeging van die volgende nuwe paragraaf in artikel 56(2): <u>“(d) subartikel (1)(h), is strafbaar met ’n boete, of met gevangenisstraf vir ’n tydperk tot lewenslange gevangenisstraf.”.</u></p> <p>4. Die invoeging van die volgende nuwe artikel 56A: Toestemming van die Nasionale Direkteur om verrigtinge in te stel en rapporteringsverpligtinge <u>“56A. (1) Geen vervolging mag ingevolge artikel 56(1)(h) ingestel word sonder die skriftelike magtiging van die Nasionale Direkteur van Openbare Vervolgings nie.</u> <u>(2) Die Nasionale Direkteur moet die finale uitslag van die verrigtinge spoedig aan die Direkteur-generaal van die Internasionale Atoomenergie-agentskap rapporteer, indien ’n persoon vervolg word vir ’n misdryf bedoel in subartikel (1), behalwe waar—</u> <u>(a) die misdryf in die Republiek gepleeg is;</u> <u>(b) die misdryf betrekking het op kernmateriaal wat gebruik word vir vreedsame doeleindes vir plaaslike gebruik, berging of vervoer; en</u> <u>(c) beide die beweerde oortreder en die kernmateriaal in die gebied van die Republiek gebly het.”.</u></p>
38	2001	Wet op Finansiële Intelligensiesentrum	<p>1. Die vervanging van die langtitel deur die volgende langtitel: <u>“Om ’n Finansiële Intelligensiesentrum en ’n Geldwassery-adviesraad in te stel ten einde geldwassery-aktiwiteite en die finansiering van terroriste- en verwante aktiwiteite te bekamp; om sekere verpligtings in te stel op instellings en ander persone wat vir geldwasserydoeleindes en die finansiering van terroriste- en verwante aktiwiteite gebruik sou kon word; om die Wet op die Voorkoming van Georganiseerde Misdaad, 1998, en die Wet op die Bevordering van Toegang tot Inligting, 2000, te wysig; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.”.</u></p> <p>2. Die invoeging in artikel 1— <u>(a) na die woordskrywing van “enkeltransaksie” van die volgende omskrywing: “entiteit” dieselfde as die ooreenstemmende omskrywing in die Wet op Beskerming van Konstitusionele Demokrasie teen Terroriste- en Verwante Aktiwiteite, 2004;”.</u> <u>(b) na die woordskrywing van “Minister”, van die volgende woordskrywing: “misdryf met betrekking tot die finansiering van terroriste- en verwante aktiwiteite”, ’n misdryf ingevolge artikel 4 van die Wet op Beskerming van Konstitusionele Demokrasie teen Terroriste- en Verwante Aktiwiteite, 2004;”.</u></p> <p>3. Die vervanging in artikel 3, van subartikel (1) deur die volgende subartikel: <u>“(1) Die vernaamste oogmerk van die Sentrum is om bystand te verleen met die identifisering van die opbrengs van onregmatige aktiwiteite en die bekamping van geldwassery-aktiwiteite en die finansiering van terroriste- en verwante aktiwiteite.”.</u></p> <p>4. Die vervanging van die opskrif van Hoofstuk 3 deur die volgende opskrif: “BEHEERMAATREËLS TEN OPSIGTE VAN GELDWASSERY EN DIE FINANSIERING VAN TERRORISTE- EN VERWANTE AKTIWITEITE”</p>

Act No. 33, 2004 PROTECTION OF CONSTITUTIONAL DEMOCRACY AGAINST
TERRORIST AND RELATED ACTIVITIES ACT, 2004

ACT NO.	YEAR	TITLE	EXTENT OF AMENDMENT OR REPEAL
			<p>5. The insertion after section 28 of the following section: “Property associated with terrorist and related activities 28A. (1) An accountable institution which has in its possession or under its control property owned or controlled by or on behalf of, or at the direction of —</p> <p>(a) any entity which has committed, or attempted to commit, or facilitated the commission of a specified offence as defined in the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004; or</p> <p>(b) a specific entity identified in a notice issued by the President, under section 25 of the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004,</p> <p>must within the prescribed period report that fact and the prescribed particulars to the Centre.</p> <p>(2) The Director may direct an accountable institution which has made a report under subsection (1) to report—</p> <p>(a) at such intervals as may be determined in the direction, that it is still in possession or control of the property in respect of which the report under subsection (1) had been made; and</p> <p>(b) any change in the circumstances concerning the accountable institution’s possession or control of that property.”.</p> <p>6. The substitution in section 29 for subsection (1) of the following subsection:</p> <p>“(1) A person who carries on a business or is in charge of or manages a business or who is employed by a business and who knows or ought reasonably to have known or suspected that—</p> <p>(a) the business has received or is about to receive the proceeds of unlawful activities or property which is connected to an offence relating to the financing of terrorist and related activities;</p> <p>(b) a transaction or series of transactions to which the business is a party—</p> <p>(i) facilitated or is likely to facilitate the transfer of the proceeds of unlawful activities or property which is connected to an offence relating to the financing of terrorist and related activities;</p> <p>(ii) has no apparent business or lawful purpose;</p> <p>(iii) is conducted for the purpose of avoiding giving rise to a reporting duty under this Act; [or]</p> <p>(iv) may be relevant to the investigation of an evasion or attempted evasion of a duty to pay any tax, duty or levy imposed by legislation administered by the Commissioner for the South African Revenue Service; or</p> <p>(v) relates to an offence relating to the financing of terrorist and related activities; or</p> <p>(c) the business has been used or is about to be used in any way for money laundering purposes or to facilitate the commission of an offence relating to the financing of terrorist and related activities,</p> <p>must, within the prescribed period after the knowledge was acquired or the suspicion arose, report to the Centre the grounds for the knowledge or suspicion and the prescribed particulars concerning the transaction or series of transactions.”.</p>

WET OP BESKERMING VAN KONSTITUSIONELE Wet No. 33, 2004
DEMOKRASIE TEEN TERRORISTE- EN VERWANTE AKTIWITEITE, 2004

WET NO.	JAAR	LANGTITEL	OMVANG VAN HERROEPING OF WYSIGING
			<p>5. Die invoeging na artikel 28 van die volgende artikel: "Eiendom geassosieer met terroriste- en verwante aktiwiteite "28A. (1)'n Verantwoordingspligtige instelling wat eiendom besit of beheer wat besit of beheer word deur of ten behoeve van— <u>(a) enige entiteit wat 'n gespesifiseerde misdryf ingevolge die Wet op Beskerming van Konstitusionele Demokrasie teen Terroriste- en Verwante Aktiwiteite, 2004, gepleeg het, gepoog het om dit te pleeg, of gefasiliteer het;</u> <u>(b) 'n spesifieke entiteit geïdentifiseer in 'n kennisgewing deur die President ingevolge artikel 25 van die Wet op Beskerming van Konstitusionele Demokrasie teen Terroriste- en Verwante Aktiwiteite, 2004, uitgereik, moet binne die voorgeskrewe tydperk daardie feit en die voorgeskrewe besonderhede aan die Sentrum rapporteer.</u> <u>(2) Die Direkteur mag 'n verantwoordingspligtige instelling wat 'n rapport ingevolge subartikel (1) maak, gelas om—</u> <u>(a) periodiek soos in die lasgewing bepaal, te rapporteer dat dit steeds in besit of beheer van die eiendom waaroor die rapport in subartikel (1) gemaak is; en</u> <u>(b) enige verandering in die omstandighede met betrekking tot die besit of beheer van daardie eiendom deur die verantwoordingspligtige instelling te rapporteer."</u></p> <p>6. Die vervanging in artikel 29 van subartikel (1), met die volgende subartikel: <u>"(1) 'n Persoon wat 'n besigheid bedryf, of in beheer is van 'n besigheid, of 'n besigheid bestuur of wat by 'n besigheid in diens is en wat weet of redelikerwys behoort te weet of vermoed dat—</u> <u>(a) die besigheid die opbrengs van onregmatige aktiwiteite of eiendom wat verband hou met 'n misdryf met betrekking tot die finansiering van terroriste- en verwante aktiwiteite, ontvang het of op die punt staan om dit te ontvang;</u> <u>(b) 'n transaksie of reeks transaksies waartoe die besigheid 'n party is—</u> <u>(i) die oordrag van die opbrengs van onregmatige aktiwiteite, of eiendom wat verband hou met 'n misdryf met betrekking tot die finansiering van terroriste- en verwante aktiwiteite, vergemaklik het of dit waarskynlik sal vergemaklik;</u> <u>(ii) geen klaarblyklike besigheids- of wettige doel dien nie;</u> <u>(iii) uitgevoer word met die oog daarop om te voorkom dat 'n verslagdoeningsplig kragtens hierdie Wet ontstaan; [of]</u> <u>(iv) tersaaklik kan wees by die ondersoek van 'n ontduiking of poging tot 'n ontduiking van 'n plig om enige belasting, reg of heffing te betaal wat opgelê is by wetgewing wat deur die Kommissaris vir die Suid-Afrikaanse Inkomstediens geadministreer word; of</u> <u>(v) verband hou met 'n misdryf met betrekking tot die finansiering van terroriste- en verwante aktiwiteite; of</u> <u>(c) die besigheid op enige wyse vir geldwassery-doeleindes of vir die vergemakliking van die pleging van 'n misdryf met betrekking tot die finansiering van terroriste- of verwante aktiwiteite, gebruik is of op die punt staan om daarvoor gebruik te word,</u> moet, binne die voorgeskrewe tydperk nadat die kennis bekom is of die vermoede ontstaan het, die gronde vir die kennis of vermoede en die voorgeskrewe besonderhede rakende die transaksie of reeks transaksies aan die Sentrum rapporteer.</p>

Act No. 33, 2004 PROTECTION OF CONSTITUTIONAL DEMOCRACY AGAINST
TERRORIST AND RELATED ACTIVITIES ACT, 2004

ACT NO.	YEAR	TITLE	EXTENT OF AMENDMENT OR REPEAL
			<p>7. The substitution in section 34 for subsection (1) of the following subsection: “(1) If the Centre, after consulting an accountable institution, a reporting institution or a person required to make a report in terms of section 28, 28A or 29, has reasonable grounds to suspect that a transaction or a proposed transaction may involve the proceeds of unlawful activities or property which is connected to an offence relating to the financing of terrorist and related activities or may constitute money laundering or [may constitute] a transaction contemplated in section 29(1)(b) it may direct the accountable institution, reporting institution or person in writing not to proceed with the carrying out of that transaction or proposed transaction or any other transaction in respect of the funds affected by that transaction or proposed transaction for a period as may be determined by the Centre, which may not be more than five days, in order to allow the Centre— (a) to make the necessary inquiries concerning the transaction; and (b) if the Centre deems it appropriate, to inform and advise an investigating authority or the National Director of Public Prosecutions.”.</p> <p>8. The substitution in section 35(1) for paragraphs (a) and (b) of the following paragraphs, respectively: “(a) that person has transferred or may transfer the proceeds of unlawful activities or property which is connected to an offence relating to the financing of terrorist and related activities to the accountable institution or is using or may use the accountable institution for money laundering purposes or for the financing of terrorist acts or for the purpose of any transaction contemplated in section 29(1)(b); or (b) that account or other facility has received or may receive the proceeds of unlawful activities or property which is connected to an offence relating to the financing of terrorist and related activities or is being or may be used for money laundering purposes or for the financing of terrorist or related activities or for the purpose of any transaction contemplated in section 29(1)(b).”.</p> <p>9. The substitution in section 40(1) for paragraph (b) of the following paragraph: “(b) an entity outside the Republic performing similar functions to those of the Centre, or an investigating authority outside the Republic which may, at the initiative of the Centre or on written request, obtain information which the Centre reasonably believes is relevant to the identification of the proceeds of unlawful activities or the combating of money laundering or financing of terrorist and related activities or similar offences in the country in which that entity is established;”.</p>
70	2002	Regulation of Interception of Communications and Provision of Communication-related Information Act	<p>1. In the Schedule to— (a) substitute for item 2, the following item: “2. any offence [relating to terrorism] referred to in paragraph (a) of the definition of “specified offence” of the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004.”; and (b) delete item 3.</p>

WET OP BESKERMING VAN KONSTITUSIONELE Wet No. 33, 2004
DEMOKRASIE TEEN TERRORISTE- EN VERWANTE AKTIWITEITE, 2004

WET NO.	JAAR	LANGTITEL	OMVANG VAN HERROEPING OF WYSIGING
			<p>7. Die vervanging in artikel 34 van subartikel (1), met die volgende subartikel: “(1) Indien die Sentrum, na oorleg met 'n verantwoordingspligtige instelling, verslagdoeningsinstelling of persoon van wie vereis word om ingevolge artikel 28, 28A of 29 verslag te doen, redelike gronde het om te vermoed dat 'n transaksie of voorgenome transaksie moontlik die opbrengs van <u>onregmatige aktiwiteite, of eiendom wat verband hou met 'n misdryf met betrekking tot die finansiering van terroriste- en verwante aktiwiteite</u>, kan betrek of geldwassery of 'n transaksie beoog in artikel 29(1)(b) kan uitmaak, kan hy die verantwoordingspligtige instelling, verslagdoeningsinstelling of persoon skriftelik gelas om, vir 'n tydperk deur die Sentrum bepaal, wat nie langer as vyf dae mag wees nie, nie voort te gaan met die sluiting van daardie transaksie of voorgenome transaksie of enige ander transaksie ten opsigte van die fondse wat deur daardie transaksie of voorgenome transaksie geraak word nie, ten einde die Sentrum in staat te stel— (a) om die nodige navrae rakende die transaksie te rig; en (b) om, indien die Sentrum dit gepas ag, 'n ondersoekowerheid of die Nasionale Direkteur van Openbare Vervolgings van inligting te voorsien en van raad te dien.”.</p> <p>8. Die vervanging in artikel 35(1) van paragrawe (a) en (b), met onderskeidelik die volgende paragrawe: (a) daardie persoon die opbrengs van <u>onregmatige aktiwiteite, of eiendom wat verband hou met 'n misdryf met betrekking tot die finansiering van terroriste- en verwante aktiwiteite</u>, na die verantwoordingspligtige instelling oorgeplaas het of kan oorplaas of die verantwoordingspligtige instelling vir geldwassery-doeleindes of vir die doel van enige transaksie in artikel 29(1)(b) beoog, gebruik of kan gebruik; of (b) daardie rekening of ander fasiliteit die opbrengs van <u>onregmatige aktiwiteite, of eiendom wat verband hou met 'n misdryf met betrekking tot die finansiering van terroriste- en verwante aktiwiteite</u>, ontvang het of kan ontvang, of vir geldwassery-doeleindes of vir die doel van enige transaksie in artikel 29(1)(b) beoog, gebruik word of gebruik kan word.</p> <p>9. Die vervanging in artikel 40(1) van paragraaf (b) deur die volgende paragraaf: “(b) 'n entiteit buite die Republiek wat werksaamhede soortgelyk aan dié van die Sentrum verrig, of 'n ondersoekowerheid buite die Republiek wat op inisiatief van die Sentrum of op skriftelike versoek inligting kan bekom wat die Sentrum redelikerwys van mening is betrekking het op die identifisering van die opbrengs van <u>onregmatige aktiwiteite of die bekamping van geldwassery-aktiwiteite of finansiering van terroriste- en verwante aktiwiteite of soortgelyke misdrywe in die land waarin daardie entiteit gevestig is;</u>”.</p>
70	2002	Wet op die Reëling van die Onderskepping van Kommunikasies en Verstrekking van Kommunikasieverwante Inligting	<p>1. In die Bylae om— (a) item 2 met die volgende item te vervang: “2. enige misdryf [met betrekking tot terrorisme] bedoel in paragraaf (a) van die omskrywing van “gespesifiseerde misdryf” in die <u>Wet op Beskerming van Konstitusionele Demokrasie teen Terroriste- en Verwante Aktiwiteite, 2004.</u>”; (b) item 3 te skrap.</p>