

CAYMAN ISLANDS



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THE TERRORISM (AMENDMENT) LAW, 2016

(LAW 35 OF 2016)

THE TERRORISM (AMENDMENT) LAW, 2016

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CAYMAN ISLANDS

Law 35 of 2016.

I Assent

Helen Kilpatrick

Governor.

16th November, 2016

**A LAW TO AMEND THE TERRORISM LAW (2015 REVISION) IN
ORDER TO ENSURE ITS COMPLIANCE WITH INTERNATIONAL
STANDARDS; AND FOR INCIDENTAL AND CONNECTED PURPOSES**

ENACTED by the Legislature of the Cayman Islands.

1. This Law may be cited as the Terrorism (Amendment) Law, 2016. Short title

2. The Terrorism Law (2015 Revision), in this Law referred to as the “principal Law”, is amended in section 2 as follows - Amendment of section 2
of the Terrorism Law
(2015 Revision) -
definitions
 - (a) by deleting the definition of the word “property” and by substituting the following definition -

“ “property” includes money and all other property, real or personal, including things in action, tangible or intangible property, moveable or immoveable property and legal documents or instruments in any form evidencing title to or interest in property”; and
 - (b) by deleting the definition of the word “terrorism” and by substituting the following definition -

“ “terrorism” means -

- (a) an act whether committed in or outside of the Islands which causes or is likely to cause -
 - (i) loss of human life or serious bodily harm;
 - (ii) damage to property; or
 - (iii) prejudice to national security or disruption of public safety including disruption in the provision of emergency services or to any computer or electronic system or to the provision of services directly related to banking, communications, infrastructure, financial services, public utilities, transportation or other essential infrastructure,and is intended to -
 - (A) compel a government or an international organisation to do or refrain from doing any act; or
 - (B) intimidate the public or a section of the public,for the purpose of advancing a political, religious, racial or ideological cause; or
- (b) an offence under sections 3 to 7, 14 to 16 and 19 to 22;” and
- (c) by inserting the following definitions in their appropriate alphabetical sequence -
 - “ “terrorist” means a person who -
 - (a) has committed an offence under sections 3 to 7, 14 to 16 and 19 to 22; or
 - (b) is or has been concerned in the commission, preparation or instigation of acts of terrorism; and includes a person who has been, whether before or after the passing of this Law concerned in the commission, preparation or instigation of acts of terrorism;
 - “terrorist financing” means the financing of acts of terrorism, of terrorists and terrorist organisations and includes offences contrary to sections 19, 20, 21 and 22; and

“terrorist organisation” means any group of terrorists that -

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

3. The principal Law is amended by inserting after section 2, the following section -

Insertion of new section
- Governor’s power to delegate

“Governor’s power to delegate

“2A. The Governor may, to such extent and subject to such restrictions and conditions as the Governor may think necessary, delegate, or authorise the delegation of any of the Governor’s powers under this Law to any person, or class or description of persons, approved by the Governor.”.

4. The principal Law is amended in section 3(1) by deleting the word “is” where it appears for the first time.

Amendment of section 3
- terrorism

5. The principal Law is amended by repealing section 16 and the marginal note and by substituting the following section –

Repeal of section 16 and substitution - inciting terrorism overseas

“Inciting, organising, etc. and travelling for terrorism

16. (1) A person who -

- (a) incites another person to commit an act of terrorism;
- (b) participates as an accomplice in the commission of an act of terrorism;
- (c) organises or directs another person in the commission of an act of terrorism; or
- (d) intentionally makes a contribution to a group knowing that the contribution will or is likely to be used in furtherance of the group’s common purpose to commit an act of terrorism,

commits an offence.

(2) A person commits an offence if, for the purpose of committing, planning or participating in an act of terrorism that person -

- (a) being legally and ordinarily resident in the Islands, travels or attempts to travel to a country or territory other than the Islands;
- (b) being a tourist or transit passenger in the Islands, travels or attempts to travel from the Islands;
- (c) knowingly provides or collects, by any means, directly or indirectly, property within the Islands -
 - (i) with the intention that that property should be used; or
 - (ii) in the knowledge that that property will be used,to finance the travel of another person seeking to travel to a country or territory other than that person's country or territory of residence or nationality; or
- (d) organises, facilitates or recruits another person for the purpose of travel to a country or territory other than that person's country or territory of residence or nationality.

(3) Nothing in this section imposes criminal liability on any person acting on behalf of the Government or a public officer acting in an official capacity.”.

Repeal of section 18 and substitution - terrorist property

6. The principal Law is amended by repealing section 18 and by substituting the following section -

“18. (1) In this Law, “terrorist property” means property that is the proceeds of, or used in, or intended or allocated for use in, the financing of acts of terrorism, terrorists or terrorist organisations.

(2) In subsection (1) a reference to proceeds includes a reference to any property which wholly or partly, and directly or indirectly, represents the proceeds of the financing of acts of terrorism, terrorists or terrorist organisations.”.

7. The principal Law is amended by repealing section 19 and by substituting the following section -

Repeal of section 19 and substitution - soliciting terrorist property

“19. (1) A person who, by any means, directly or indirectly, knowingly provides or collects property, or attempts to do so, with the intention that the property should be used or in the knowledge that it will be used in whole or in part -

- (a) in order to carry out an act of terrorism;
- (b) by a terrorist to facilitate the first-mentioned person’s activities related to acts of terrorism or membership in a terrorist organisation; or
- (c) by a terrorist organisation,

commits an offence.

(2) An offence under subsection (1) is committed -

- (a) even if the act of terrorism referred to in subsection (1) does not occur or is not attempted;
- (b) even if the property is not -
 - (i) actually used to commit or to attempt the act of terrorism referred to in subsection (1); or
 - (ii) linked to a specific act of terrorism;
- (c) regardless of whether the property is from legitimate or illegitimate sources; and
- (d) regardless of the country or territory in which the act of terrorism is intended to or does occur.”.

8. The principal Law is amended by repealing section 20 and the marginal note and by substituting the following section -

Repeal of section 20 and substitution - use and possession

“Use and possession of terrorist property

20. (1) A person commits an offence if that person uses property for the purposes of terrorism.

(2) A person commits an offence if that person-

- (a) possesses terrorist property and

intends that it should be used, or has reasonable cause to suspect that it may be used, for the purposes of the financing of acts of terrorism, terrorists or terrorist organisations;

- (b) possesses or acquires terrorist property which that person knows or has reasonable cause to suspect has been used, directly or indirectly, in the commission of the financing of acts of terrorism, terrorists or terrorist organisations; or
- (c) acquires property as a result of, or in connection with acts of terrorism.”.

Amendment of section 21 - arranging for property to be used for terrorist purposes

9. The principal Law is amended in section 21 as follows -

- (a) in paragraph (a), by inserting the word “terrorist” before the word “property”; and
- (b) in paragraph (b), by deleting the word “terrorism” and by substituting the words “the financing of acts of terrorism, terrorists or terrorist organisations”.

Repeal of section 43 - terrorist: definition

10. The principal Law is amended by repealing section 43.

Amendment of Schedule 4A - freezing of funds, etc. of designated persons

11. The principal Law is amended in Schedule 4A as follows -

- (a) in paragraph 1, by inserting the following in the definition of “relevant Security Council resolutions” in their appropriate sequence -

- “(a) resolution 1267 (1999) adopted by the Security Council of the United Nations on 15th October, 1999;
- (b) resolution 2178 (2014) adopted by the Security Council Resolution on 24th September, 2014; and
- (c) any successor resolutions to the above resolutions adopted by the Security Council of the United Nations.”;

- (b) in paragraph 3 as follows -

- (i) by repealing paragraph (1) and substituting the following paragraph -

“(1) The Governor may, for purposes of this Schedule -

- (a) make a final designation of a person if the United Nations Security Council has advised that measures should be taken in relation to a person because of the risks of terrorist activities being carried on by that person; or
 - (b) propose to the United Nations Security Council that a final designation should be made in relation to a person because of the risks of terrorist activities being carried on by that person.”; and
- (ii) in subparagraph (4), by inserting after the word “terrorism” where it appears for the second time a comma and the words “terrorist financing”;
- (c) by repealing paragraphs 12(1) and (2) and substituting the following paragraphs -
- “12. (1) A person shall freeze, without delay, funds or economic resources owned, held or controlled by a designated person if the first-mentioned person knows, or has reasonable cause to suspect, that the designated person is dealing with such funds or economic resources.
- (2) In subparagraph (1) -
- “dealing with” includes -
- (a) in relation to funds, transferring, converting, disposing, moving or using; or
 - (b) in relation to economic resources, exchanging or using in exchange for funds, goods or services; and
- “freeze” means to prohibit the transfer, conversion, disposition, movement or use of any funds or economic resources that are owned or controlled by a designated person.”; and
- (d) in paragraph 37 as follows -

- (i) in subparagraph (1), by inserting after the word “kind,” the words “whether from a legitimate or illegitimate source;” and
- (ii) in subparagraph (2), by inserting after the word “kind,” the words “whether from a legitimate or illegitimate source and”.

Savings and transitional provisions

12. (1) Where -

- (a) prior to the date of commencement of this amending Law, an accused person is convicted following a trial of or a plea of guilty to an offence under the former Law; and
- (b) at the date of commencement of this amending Law, no judgment or sentence has been passed upon him in respect of the offence,

the accused person shall, for the purpose of the judgment or sentence, be dealt with in all respects as if this amending Law had not come into force and the provisions of the former Law are to apply accordingly.

(2) Where, at the date of commencement of this amending Law, any trial or any proceedings in respect of an offence are pending before a court, the trial or proceedings shall, after the commencement, be dealt with in all respects as if the amending Law had not come into force and the provisions of the former Law are to apply accordingly.

(3) In this section “former Law” means the principal Law in force immediately before the date of commencement of this amending Law.

Passed by the Legislative Assembly the 24th day of October, 2016.

Juliana Connolly

Speaker.

Zena Merren-Chin

Clerk of the Legislative Assembly.