

# Convention on the Suppression of Terrorist Financing Act (No. 25 of 2005)

AN ACT TO GIVE EFFECT TO THE CONVENTION ON THE SUPPRESSION OF TERRORIST FINANCING; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

## Short title

1. This Act may be cited as the Convention on the Suppression of Terrorist Financing Act, No. 25 of 2005.

## Convention States

2. The Minister may, from time to time, by Order published in the Gazette certify the States which are parties to the Convention. A State in respect of which an Order is made under this section is hereinafter referred to as a "Convention State".

## Offences

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(1) Any person who, by any means, directly or indirectly, unlawfully and willfully provides or collects funds, with the intention that such funds should be used, or in the knowledge that they are to be used or having reason to believe that they are likely to be used, in full or in part, in order to commit,-

(a) an act which constitutes an offence within the scope of, or within the definition of any one of the Treaties specified in Schedule I hereto ;

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

(2) Any person who-

(a) attempts to commit;

(b) aids or abets the commission of ; or

(c) acting with a common purpose with another person

(3) Where an offence specified in subsection (1) or subsection (2) of this section is committed by a body of persons, then, every member, Director, Manager, Secretary, officer or servant of such body of persons shall be guilty of such offence, unless it can be proved that the offence was committed without their knowledge or that they exercised all due diligence to prevent the commission of such offence.

(4) A person guilty of an offence under subsection (1) or subsection (2) of this section, shall on conviction after trial on indictment by the High Court, be punished with imprisonment for a term not

less than fifteen years and not exceeding twenty years, and also be liable to a fine.

### Freezing and seizure

4.

(1) On indictment to any person in the High Court, for an offence under this Act, all funds collected in contravention of the provisions of section 3, shall, with effect from the date of filing of such indictment-

(a) if such funds are lying in an account with any Bank, be subject to an order of freezing ; or

(b) if such funds are in the possession or control of any person be liable to seizure ;

(2) The freezing or seizure of funds in terms of subsection (1) shall be in force until the conclusion of the trial.

(3) On the filing of indictment, the Attorney-General shall notify the Central Bank of the freezing or seizure as the case may be.

(4) The Central Bank shall thereupon take steps to give adequate publicity to the order of freezing or seizure as the case may be, as it shall think fit.

### Forfeiture

5.

(1) On the conviction of any person under subsection (4) of section 3, the Court may Order that any funds collected in pursuance of subsection (1) of section 3 shall be forfeited to the State.

(2) Any funds forfeited to the State under subsection (1), shall vest absolutely in the State. Such vesting shall take effect-

(a) where no appeal is preferred to the Court of Appeal against the Order of forfeiture, on the expiration of the period within which an appeal may be preferred to the Court of Appeal against such Order of forfeiture;

(b) where an appeal had been preferred to the Court of Appeal against such Order of forfeiture, and no appeal is preferred to the Supreme Court against the Order of the Court of Appeal affirming or upholding such Order of forfeiture, on the expiration of the period within which an Appeal may be preferred to the Supreme Court from such Order of the Court of Appeal;

(c) where an appeal had been preferred, to the Court of Appeal against such Order of forfeiture, and an appeal has been preferred to the Supreme Court from the determination of the Court of Appeal on the first mentioned' appeal, upon the determination of the Supreme Court affirming or upholding the Order of forfeiture.

(3) Where the Court is satisfied on the evidence adduced at a trial for an offence under subsection (1)

of section 3, that any funds standing to the credit of any account in any bank, are the proceeds of such offence, it may, by written order prohibit the Manager of such bank from permitting or allowing the withdrawal of any funds from the account, until the conclusion of the trial.

### High Court to try offences under this Act

6.

(1) The High Court of Sri Lanka in Colombo or the High Court established under Article 154P of the Constitution for the Western Province, in Colombo, shall, notwithstanding anything to the contrary in any other law, have exclusive jurisdiction to try offences under this Act.

(2) Where an act constituting an offence under this Act is committed outside Sri Lanka, the High Court referred to in subsection (1) shall have jurisdiction to try such offence as if it were committed within Sri Lanka, if-

(a) the person who committed such act is present in Sri Lanka;

(b) such act is committed by a citizen of Sri Lanka, or by a national of another State which is a party to the convention, or by a stateless person who has his habitual residence in Sri Lanka ;

(c) such act is committed against, or on board, a ship or aircraft registered in Sri Lanka at the time of the commission of the offence ;

(d) such act is committed against, or on board a ship or aircraft registered under the laws of another State which is a party to the convention, at the time of the commission of the offence ;

(e) the person in relation to whom the offence is alleged to have been committed is a citizen of Sri Lanka ;

(f) such act is committed in order to compel the Government of Sri Lanka, to do, or abstain from doing, any act;

(g) such act is committed against a State or a government facility of that State situated in another country, including any diplomatic or consular premises of such State; or

(h) such act is committed against any property owned, leased or used by the Government of Sri Lanka including an embassy or other diplomatic or consular premises of Sri Lanka.

### Rights of certain persons arrested for offences under this Act

7. Where a person who is not a citizen of Sri Lanka is arrested for an offence under this Act, such person shall be entitled-

(a) to communicate without delay, with the nearest appropriate representative of the State of which he is a national or which is otherwise entitled to protect his rights, or if he is a stateless person, with the nearest appropriate representative of the State in the territory of which he was habitually resident ; and

- (b) to be visited by a representative of that State ; and
- (c) be informed of his rights under paragraphs (a) and (b).

#### **Minister to notify requesting State, of measures taken against persons for whose extradition request is made**

8. Where a request is made to the Government of Sri Lanka, by or on behalf of the Government of a Convention State for the extradition of any person accused or convicted of an offence under section 3 or of an offence specified in Schedule II to this Act, the Minister shall on behalf of the Government of Sri Lanka, forthwith notify the Government of the requesting State of the measures which the Government of Sri Lanka has taken, or proposes to take, for the prosecution or extradition of that person for that offence.

#### **Assistance to Convention States & c.,**

9.

(1) The provisions of the Mutual Assistance in Criminal Matters Act, No. 25 of 2002 shall, wherever it is necessary for the investigation and prosecution of an offence under section 3 or of an offence specified in Schedule II to this Act, be applicable in respect of the providing of assistance as between the Government of Sri Lanka and other States who are either Commonwealth countries specified by the Minister by Order under section 2 of the aforesaid Act or non- Commonwealth countries with which the Government of Sri Lanka has entered into an agreement in terms of the aforesaid Act.

(2) In the case of a country which is neither a Commonwealth country specified by the Minister by Order under section 2 of the aforesaid Act nor a non-Common wealth country with which the Government of Sri Lanka has entered into an agreement in terms of the aforesaid Act, then it shall be the duty of the Government to afford all such assistance to, and may through the Minister request all such assistance from, a Convention state, as may be necessary for the investigation and prosecution of an offence under section 3 or of an offence specified in Schedule II of this Act to the extent required for the discharge of its obligations under the United Nations Convention (including assistance relating to the taking of evidence and statements, the serving of process and the conduct of searches).

(3) The grant of assistance to a Convention state may be made subject to such terms and conditions as the Minister thinks fit.

#### **Existing extradition arrangements with Convention States deemed to provide for offences in Schedule II**

10. Where there is an extradition arrangement made by the Government of Sri Lanka with any Convention State, in force on the date on which this Act comes into operation, such arrangement shall be deemed for the purposes for the Extradition Law, No. 8 of 1977, to include provision for extradition in respect of the offences specified in Schedule II to this Act.

## **Minister may treat Convention as an extradition arrangement between Sri Lanka and certain Convention States, in respect of offences in Schedule II**

11. Where there is no extradition arrangement made by the Government of Sri Lanka with any Convention State, the Minister may by Order published in the Gazette, treat the Convention, for the purposes of the Extradition Law, No.8 of 1977 as an extradition arrangement, made by the Government of Sri Lanka with the Convention State providing for extradition in respect of the offences specified in Schedule II to this Act.

## **Amendment to the Extradition Law, No. 8 of 1977**

12. The Extradition Law, No. 8 of 1977 is hereby amended by the insertion immediately before Part B of the Schedule to that Law, of the following item :-

"(46) An offence within the scope of the Convention on the Suppression of Terrorist Financing Act, No. 25 of 2005."

## **Offences under this Act not to be political offences &c, for the purposes of the Extradition Law**

13. Notwithstanding anything in the Extradition Law, No. 8 of 1977, an offence specified in the Schedule to that Law and in Schedule II to this Act, shall for the purposes of that law be deemed not to be an offence of a political character or an offence connected with a political offence or an offence inspired by political motives, for the purposes only of the extradition of any person accused or convicted of any such offence, as between the Government of Sri Lanka and any Convention State, or of affording assistance to a Convention State under section 9.

## **Measures to be taken for the prevention of any offence under this Act or the offence of money laundering**

14. For the furtherance of international co-operation in the prevention of the offences specified in section 3, the Minister in charge of the subject of Foreign Affairs may, in consultation with the Minister to whom the subject of money laundering is assigned, make such regulations, issue such directions or take such action as is provided for by any other written law for the time being in force for the purpose of preventing and combating the commission of an offence under this Act or the offence of money laundering.

## **Minister to issue directions**

15. The Minister may from time to time issue such general or special directions as are necessary for the implementation of the principles and provisions of the Convention to such extent as they are embodied in this Act.

## Regulations

16.

(1) The Minister may make regulations for the purpose of giving effect to the principles and provisions of this Act or any matter in respect of which regulations are required or authorized under this Act to be made.

(2) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in such regulation.

(3) Every regulation made by the Minister, shall as soon as convenient after its publication in the Gazette, be brought before Parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of such disapproval, but without prejudice to anything previously done thereunder.

(4) A Notification of the date of disapproval shall be published in the Gazette.

## Sinhala text to prevail in case of inconsistency

17. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.