

THE ANTI-TERRORISM ACT, 2007

ARRANGEMENTS OF SECTIONS

Section

PART I

PRELIMINARY

1. Short title
2. Interpretation
3. Jurisdiction of High Court
4. Non-application of section 26 (2) of Penal Code, Cap. 87

PART II

TERRORIST OFFENCES

5. Prohibition of terrorism
6. Weapons and terrorism training
7. Directing terrorist organisation
8. Possession of article for terrorist purposes
9. Collection of information for terrorist purposes
10. Incitement of offences
11. Aiding, abetting, conspiracy, etc of terrorist act
12. Hoaxes
13. Harboursing, concealing, etc of terrorist
14. Attempts to commit act of terrorism
15. Causing damage to public place, facility, etc

PART III

DECLARED TERRORIST ORGANISATIONS

16. Declared terrorist organisations
17. Membership
18. Support and meetings

PART IV

TERRORIST PROPERTY

19. Meaning of "terrorist property"

*Copies of this Act can be obtained from the Government Printer,
P.O. Box 30136, 10101 Lusaka. Price K11,750 each.*

- Cap. 96 "declared terrorist organisation" has the meaning assigned to it in section *sixteen*;
- Cap. 115 "Drug Enforcement Commission" has the meaning assigned to it in the Narcotic Drugs and Psychotropic Substances Act;
- Cap. 387 "explosive" has the meaning assigned to it under the Explosives Act;
- Cap. 387 "financial institution" has the meaning assigned to it in the Banking and Financial Services Act;
- Cap. 387 "financial service provider" has the meaning assigned to it in the Banking and Financial Services Act;
- Cap. 110 "firearm" has the meaning assigned to it under the Firearms Act and includes an air gun or air pistol;
- Cap. 123 "immigration officer" means an officer having functions under the Immigration and Deportation Act;
- Cap. 466 "inland waters" means such waters as may be declared to be inland waters by the President under the Inland Waters Shipping Act;
- Cap. 30 "legal practitioner" has the meaning assigned to it in the Legal Practitioners Act;
- Cap. 107 "organisation" includes any association or combination of persons;
- Cap. 107 "police officer" has the meaning assigned to it in the Zambia Police Act;
- Cap. 107 "premises" includes a vehicle, an offshore installation, a tent or moveable structure;
- Cap. 107 "property" includes property wherever situated, whether real or personal, heritable or moveable, things in action and other intangible or incorporeal property;
- Cap. 107 "record" includes—
- (a) a photographic record;
 - (b) an electronic or magnetic record; and
 - (c) any computer, disk, tape, apparatus or thing in or on which a record is stored; and
- Cap. 107 "terrorism and terrorist act" means an act or omission in or outside Zambia and is intended, or by its nature and context, may reasonably be regarded as being intended to intimidate or threaten the public or a section of the public or compel a government or an international organisation to do, or refrain from doing, any act, and is made for the purpose of advancing a political, ideological or religious cause and which—
- (a) constitutes an offence within the scope of a counter terrorism convention listed in the Fifth Schedule;
 - (b) causes or is intended to cause death or serious bodily harm to a person;
 - (c) causes or is intended to cause serious damage to private or public property;
 - (d) endangers a person's life;
 - (e) creates a serious risk to the health or safety of the public or a section of the public;

(b) where it is not reasonably practicable—

(i) to allow an officer or person

full and free access to the record using facilities of, or in the custody or under the control of, the person on whom the requirement is imposed; or

(ii) to produce or deliver up a documentary or a hard copy version of the record.

(5) A power conferred by or under this Act to inspect any record shall, in relation to an electronic or magnetic record, be construed as a power to require full and free access to the record using the facilities of the person having custody or control of the record, and any neglect or failure by that person to afford such access shall be deemed to constitute obstruction of the officer or person exercising the power.

(6) A power conferred by or under this Act to seize and retain a record includes, in relation to an electronic or magnetic record, a power to seize any computer, disk, tape or other thing on which the record is stored.

Jurisdiction
of High Court

3. (1) Subject to the other provisions of this Act, the High Court has jurisdiction to try any offences under this Act.

(2) Any person who commits an offence outside Zambia is deemed to have committed that offence in Zambia if—

(a) that person is a Zambian citizen;

(b) that person is not a Zambian citizen but is ordinarily resident in Zambia;

(c) that person, after the commission of the offence, is present in Zambia; or

(d) that person has committed the offence against a Zambian citizen or against a person who is ordinarily resident in Zambia.

Non
application of
section 26 (2)
of Penal Code
Cap. 87

4. Subsection (2) of section *twenty-six* of the Penal Code does not apply to this Act.

PART II

TERRORIST OFFENCES

Prohibition
of terrorism

5. (1) A person shall not commit any terrorist act.

(2) Any person who contravenes subsection (1) commits an offence and is liable, upon conviction, to imprisonment for a minimum of twenty years and a maximum of life imprisonment.

14. A person who conspires in or attempts to commit an act of terrorism commits an offence and is liable, upon conviction, to imprisonment for life.

Attempts to commit act of terrorism, etc

15. (1) A person who unlawfully and intentionally delivers, places, discharges or detonates an explosive or other lethal device in, into or against a place of public use, a Government facility, a public transportation system or an infrastructure facility with—

Causing damage to public place, facility, etc

- (a) intention to cause death or serious bodily harm; or
- (b) intention to cause extensive destruction to the place, facility or system, where destruction results in or is likely to result in major economic loss;

commits an offence and is liable, upon conviction, to imprisonment for life.

(2) A person commits an offence under this section if that person—

- (a) participates as an accomplice in an offence under subsection (1);
- (b) organises or directs others to commit an offence under subsection (1); or
- (c) in any way contributes to the commission of one or more offences under this section through a group of persons acting with a common purpose;

and is liable, upon conviction, to imprisonment for life.

(3) In this section —

“energy” has the meaning assigned to it in the Energy Regulation Act;

Cap. 436

“explosive or other lethal device” means—

- (a) an explosive or incendiary weapon, or device that is designed, or has the capability, to cause death, serious bodily harm or substantial material damage; or
- (b) a weapon or device that is designated, or has the capability, to cause death, serious bodily harm or substantial material damage through the release, dissemination or impact of toxic chemicals; biological agents or toxins or similar substances or radiation or radioactive material;

Cap. 436

"fuel" has the meaning assigned to it in the Energy Regulation Act;

"Government facility" includes any permanent or temporary facility or conveyance that is used or occupied by representatives of the State, members of Government, the Legislature, the Judiciary, any officer or employees of the State or any other public authority or entity, or officers or employees of an intergovernmental organisation in connection with their official duties;

"infrastructure facility" means any publicly or privately owned facility providing or distributing services for the benefit of the public, such as water, sewerage, energy, fuel or communications; and

"place of public use" means those parts of any building, land, street, waterway or other location that are accessible or open to members of the public, whether continuously, periodically or occasionally, and encompasses any commercial, business, cultural, historical, educational, religious, governmental, entertainment, recreational or similar place that is so accessible or open to the public.

PART III

DECLARED TERRORIST ORGANISATION

Declared
terrorist
organisations

16. (1) For the purposes of this Act, an organisation is a declared terrorist organisation if—

- (a) the Minister has, by notice, under this section, declared the organisation to be engaged in terrorism;
- (b) the organisation operates under the same name as an organisation referred to in paragraph (a); or
- (c) the organisation has been declared by the Security Council of the United Nations Organisation or the African Union to be a terrorist organisation.

(2) Paragraph (b) of subsection (1) has effect subject to the terms of any notice published under this section.

(3) The Minister may, where the Minister has reasonable grounds to believe that an organisation is engaged in terrorism, by notice published in the Gazette declare that the specified organisation is engaged in terrorism.

(5) A person convicted of an offence under this section is liable to imprisonment for life.

PART IV

TERRORIST PROPERTY

Meaning of
"terrorist
property"

19. (1) In this part, "terrorist property" means—

- (a) money or other property which has been, is being or is intended to be used for the purposes of terrorism;
- (b) money or other property owned or controlled by or on behalf of a terrorist organisation;
- (c) proceeds of the commission of acts of terrorism; and
- (d) proceeds of acts carried out for the purposes of terrorism.

(2) In this section—

- (a) a reference to proceeds of an act includes a reference to any property which wholly or partly, and whether directly or indirectly, represents the proceeds of the act, including payments or other rewards in connection with its commission; and
- (b) a reference to an organisation's resources includes a reference to any money or other property which is applied or made available, or is to be applied or made available, for use by the organisation.

Fundraising
and other
support

20. (1) A person who—

- (a) invites another to provide or make available money or other property; and
- (b) intends that any money or other property should be used for the purposes of terrorism;

commits an offence and is liable, upon conviction, to imprisonment for life.

(2) A person who—

- (a) provides or makes available money or other property; and
- (b) knows that the money or other property shall or may be used for the purposes of terrorism;

commits an offence and is liable, upon conviction, to imprisonment for life.

- (a) a financial service or any service for the safe keeping any property;
- (b) any forged or falsified document;
- (c) access to any premises, vehicle, vessel, aircraft or place;
- (d) access to any communications equipment or capability; or
- (e) any services, skill or expertise of any kind;

intending that the same should be used, or having reasonable cause to suspect that it will be used, for the purposes of terrorism, commits an offence and is liable, upon conviction, to imprisonment for life.

Co-operation
with
authorised
officer

24 (1) Subject to subsection (2), a person does not commit an offence under any of the provisions of this Part by involvement in a transaction or arrangement relating to money or other property if, as soon as practicable after becoming involved in the transaction or arrangement, and on that person's own initiative, the person discloses to an authorised officer—

- (a) the person's suspicion or belief that the money or other property is terrorist property; and
- (b) the information on which that person's suspicion or belief is based.

(2) Subsection (1) does not apply to a person if—

- (a) an authorised officer forbids the person to continue the person's involvement in the transaction or arrangement to which the disclosure relates; and
- (b) the person continues that person's involvement.

(3) It is a defence for a person charged with an offence under sections *twenty* to *twenty-two* to satisfy the court on a balance of probabilities that—

- (a) the person intended to make a disclosure of the kind referred to under subsection (1); and
- (b) there is a reasonable excuse for the person's failure to make a disclosure.

(4) Where a person is in employment and the person's employer has established a procedure for the making of disclosures that may be made to an authorised officer under subsection (1), this section shall have effect in relation to that person as if a reference in this section to disclosure to a police officer included a reference to disclosure in accordance with the procedure.

(5) A person shall not be subject to any liability for making a disclosure in accordance with this Act and no action, claim or demand shall be taken, made against or of, the person for making the disclosure.

(6) This section has effect despite any duty of secrecy or confidentiality or any other restriction on disclosure, whether or not imposed by any written law, applicable to a person.

(7) Any person who makes a disclosure in accordance with this Act—

(3) An order made under this section may—

- (a) prohibit any person from making money or other property available to or for the benefit of the organisation or suspect;
- (b) provide for the granting of authority to make money or other property available to any person and on such conditions as may be specified in the order;
- (c) require a person to provide such information or produce such documents or records as may be reasonably required for the investigation of an offence under this Act; or
- (d) include such other condition as the court may impose.

(4) The court may appoint a suitable person to manage the assets of an organisation or suspect during the period of operation of an order made under this section.

(5) The Attorney-General shall—

- (a) cause notice of an order made under this section to be published in the next issue of the Gazette and in two daily newspapers of general circulation in the area;
- (b) give notice of the order to—
 - (i) any bank, financial institution or other business person; and
 - (ii) any other person who the Attorney-General knows or suspects may hold or be vested with property belonging to or held on behalf of the organisation or suspect.

(6) An order under this section shall lapse upon the expiry of thirty days from the date of the order unless the High Court, after hearing the parties, otherwise directs.

(7) A person who is aggrieved by the exercise by the Attorney-General of any powers under this section may bring an action in the High Court against the Attorney-General for damages or any other legal remedy.

Seizure and
detention
of terrorist
money

27. (1) An authorised officer who has reasonable grounds to suspect that any money which is being imported into or exported from Zambia, or is being brought to any place in Zambia for the purpose of being exported from Zambia, is terrorist property, may seize the money.

functions of office for the purposes of this section.

(9) For the purpose of this section, "money" means—

- (a) coins and notes in any currency;
- (b) postal orders;
- (c) travellers' cheques;
- (d) bankers' drafts;
- (e) such other kinds of negotiable or monetary instrument as may be prescribed by rules made under this Act; and
- (f) a deposit in a bank or other financial institution traceable to money in any of the forms mentioned in paragraphs (a) to (e).

Forfeiture of
terrorist
property

28. (1) The court before which a person is convicted of an offence under this Act or an offence under any other Act that constitutes an act of terrorism within the meaning of this Act, may make a forfeiture order in accordance with the provisions of this section.

(2) Where a person is convicted of an offence under section *five or six*, of this Act the court may order the forfeiture of anything which the court considers was in the person's possession for purposes connected with the offence.

(3) Where a person is convicted of an offence under subsection (1) or (2) of section *twenty* or under section *twenty-one* the court may order the forfeiture of any money or other property—

- (a) which, at the time of the offence, the person had in possession or under that person's control; and
- (b) which, at that time, the person intended should be used for the purposes of terrorism.

(4) Where a person is convicted of an offence under subsection (2) of section *twenty*, the court may order the forfeiture of any money or other property—

- (a) which, at the time of the offence, the person had in that person's possession or under that person's control; and
- (b) which, at that time, the person knew would or might be used for the purposes of terrorism.

(5) Where a person is convicted of an offence under section *twenty-two*, the court may order the forfeiture of the money or other property—

374 [No. 21 of 2007 Anti-Terrorism

Detention
orders

30. Any authorised officer may arrest without warrant any person who has committed or is committing or whom the authorised officer has reasonable grounds for suspecting to have committed or to be committing an offence under this Act.

Powers of
arrest

31. (1) Subject to subsection (2), an authorised officer may, for the purpose of preventing the commission of an offence under this Act or preventing interference in the investigation of an offence under this Act, apply *ex parte*, to a judge of the High Court for a detention order.

(2) An authorised officer shall before making an application under subsection (1), obtain the prior written consent of the Attorney-General.

(3) A Judge to whom an application is made under subsection (1) may make an order for the detention of the person named in the application if the judge is satisfied that the written consent of the Attorney-General has been obtained as required by section (2) and that there are reasonable grounds to believe or suspect that—

(a) the person is preparing to commit an offence under this Act; or

(b) is interfering, or is likely to interfere with, an investigation into an offence under this Act.

(4) An order under subsection (3) shall be for a period not exceeding fourteen days in the first instance and may, on application made by an authorised officer, be extended for a further period, provided that the maximum period of detention under the order does not exceed thirty days.

(5) An order under subsection (3) shall specify the place at which the person named in the order is to be detained and the conditions subject to which the person is to be detained including conditions relating to access to a government medical officer and the video recording of the person in detention so as to constitute an accurate continuous and uninterrupted record of the person's detention for the whole period of that person's detention.

Powers of
investigation

32. (1) Subject to this Part, the special powers conferred by this Act for the purposes of a terrorist investigation are available by means of a warrant issued by a judge of the High Court on application by an authorised officer.

(2) A judge may issue a warrant authorising a police officer of or above the rank of inspector—

within forty-eight hours of doing so and the judge shall make such orders as the judge thinks fit in respect of the matter.

(3) Where a seizure is effected under this section, a list of all the articles seized shall be prepared and signed by the authorised officer who effected the seizure and shall forthwith be delivered—

(a) to the person on whom the search is made; or

(b) to the owner of the premises, place, vessel, aircraft or vehicle searched.

Power to
intercept
communication
and
admissibility
of
intercepted
communications

34. (1) Subject to subsection (2), an authorised officer may, for the purpose of obtaining evidence of the commission of an offence under this Act, apply, *ex parte*, to a Judge of the High Court, for an interception of communications order.

(2) An authorised officer shall, before making an application under subsection (1), obtain the prior written consent of the Attorney-General.

(3) A judge to whom an application is made under subsection (1) may make an order—

(a) requiring a communications service provider to intercept and retain a specified communication or communications of a specified description received or transmitted, or about to be received or transmitted by that communications service provider; or

(b) authorising the authorised officer to enter any premises and to install on such premises, any device for the interception and retention of a specified communication or communications of a specified description and to remove and retain such device;

if the judge is satisfied that the written consent of the Attorney-General has been obtained as required by subsection (2) and that there are reasonable grounds to believe that material information relating to—

(i) the commission of an offence under this Act; or

(ii) the whereabouts of the person suspected by the authorised officer to have committed the offence;

is contained in that communication or communications of that description.

(4) Any information contained in a communication—

(a) intercepted and retained pursuant to an order under subsection (3);

(4) An order made under subsection (3) may—

- (a) order the examination, on oath or not, of a person named in the order;
- (b) order the person to attend at the place fixed by the judge, or by the judge designated under paragraph (d), as the case may be, for the examination and to remain in attendance until excused by the presiding judge;
- (c) order the person to bring to the examination any document or thing in that person's possession or control, and produce it to the presiding judge;
- (d) designate another judge as the judge before whom the examination is to take place; and
- (e) include any other terms or conditions that the judge considers desirable, including terms or conditions for the protection of the interests of the person named in the order and of third parties or for the protection of any ongoing investigation.

(5) An order made under subsection (3) may be executed anywhere in Zambia.

(6) The judge who made the order under subsection (3), or another judge of the same court, may vary its terms and conditions.

(7) A person named in an order made under subsection (3) shall answer questions put to the person by the Attorney-General or the Attorney-General's representative, and shall produce to the presiding judge documents or things that the person was ordered to bring, but may refuse to do so if answering a question or producing a document or thing would disclose information that is protected by the law relating to non-disclosure of information or privilege.

(8) The presiding judge shall rule on an objection or other issue relating to a refusal to answer a question or to produce a document or thing.

(9) A person shall not be excused from answering a question or producing a document or thing under subsection (7) on the ground that the answer or document or thing may tend to incriminate the person or subject to any proceedings or penalty, but —

- (a) no answer given or document or thing produced under subsection (7) shall be used or received against the person in any criminal proceedings against that person, other than in a prosecution for perjury or giving false

evidence; and

- (b) no evidence derived from the evidence obtained from the person shall be used or received against the person in any criminal proceedings against that person, other than in a prosecution for perjury or giving false evidence.

(10) A person has the right to retain and instruct a legal practitioner at any stage of the proceedings under this section.

(11) The presiding judge, if satisfied that any document or thing produced during the course of the examination is likely to be relevant to the investigation of any offence under this Act, shall order that the document or thing shall be given into the custody of the police officer or someone acting in the police officer's behalf.

36. The Second Schedule shall have effect with respect to obtaining financial information for the purposes of a terrorist investigation.

Power to
obtain
financial
information

37. (1) The Third Schedule shall have effect to confer powers to examine persons arriving in or leaving Zambia and for related purposes.

Port and
border
controls

(2) The powers conferred by the Third Schedule shall be exercised notwithstanding any right conferred by the Immigration and Deportation Act.

Cap. 123

38. (1) A person who, knowing or having reasonable cause to suspect that an authorised officer is conducting a terrorist investigation—

Disclosure
of
information,
etc

- (a) discloses to another person anything which is likely to prejudice the investigation; or

- (b) interferes with material which is likely to be relevant to the investigation;

commits an offence and is liable, upon conviction, to imprisonment for a period of twenty years.

(2) A person who, knowing or having reasonable cause to suspect that a disclosure has been or will be made under section *twenty-four*—

- (a) discloses to another person anything which is likely to prejudice an investigation resulting from the disclosure under that section; or

- (b) interferes with material which is likely to be relevant to an investigation resulting from the disclosure under that section;

(5) This section has effect notwithstanding any provision of the Immigration and Deportation Act.

Cap. 123

(6) A person who is the subject of an exclusion order may apply to the High Court for review of the order.

40. (1) A person who is subject to an exclusion order and who fails to comply with the order at a time after the person has been, or has become liable to be, excluded under this Act commits an offence and is liable, upon conviction, to imprisonment for a period of not less than ten years but not exceeding twenty years.

Offences in connection with exclusion orders

(2) A person who—

(a) is knowingly involved in arrangements for securing or facilitating the entry into Zambia of a person whom that person knows, or has reasonable grounds for believing, to be the subject of an exclusion order; or

(b) harbours such a person in Zambia;

commits an offence and is liable to imprisonment for a period of not less than ten years but not exceeding twenty years

PART VII

MUTUAL ASSISTANCE AND EXTRADITION

41. (1) The Attorney-General may, at the request of a competent authority of a foreign State, disclose to that authority any information in the Attorney-General's possession relating to any of the following:

Exchange of information

- (a) the actions or movements of persons suspected of involvement in acts of terrorism;
- (b) the use of forged or falsified travel papers by persons involved in acts of terrorism;
- (c) traffic in weapons and sensitive materials by persons suspected of involvement in acts of terrorism;
- (d) the use of communications technologies by persons suspected of involvement in acts of terrorism; and
- (e) the commission of offences by any person against this Act;

if the disclosure is not prohibited by any provision of law and will not be prejudicial to national security or to public safety.

and retain a record includes, in relation to an electronic or magnetic record, a power to seize any disk, computer or other thing on which the record is stored:

Provided that, where a person having custody or control of a computer, magnetic tape or other thing on which a record is stored captures the record on a disk or other more portable object from which the officer executing the order is capable of obtaining ready access to the record, the power shall be exercised in relation to the more portable object.

43. (1) The Attorney-General may make a request to any foreign State—

Requests to
foreign
States

(a) to provide evidence or information relevant to an offence under this Act; or

(b) for the tracking, attachment or forfeiture of terrorist property located in that State.

(2) Where the foreign State to which a request for assistance is made under subsection (1) requires the request to be signed by an appropriate competent authority, the Attorney-General shall, for the purposes only of making such a request, be considered as the appropriate competent authority.

(3) The Attorney-General may, in respect of any proceedings for an offence under this Act, apply to the High Court for an order directed to any person resident in a foreign State to deliver oneself or any document, record, material or thing in that person's possession or under that person's control to the jurisdiction of the court or, subject to the approval of the foreign State, to the jurisdiction of a court of the foreign State for the purpose of giving evidence in relation to those proceedings.

(4) Evidence taken, pursuant to a request under this section, in any proceedings in a court of a foreign State may, if it is authenticated, be admitted in evidence in any proceedings to which it relates.

(5) For the purposes of subsection (4), a document is authenticated if—

(a) it purports to be signed or certified by a judge, magistrate or officer in or of a foreign State; and

(b) it purports to be authenticated by the oath or affirmation of a witness or to be sealed with an official or public seal of a Minister,

Department of State or Department, or officer in or of the Government of the foreign State.

property forfeited under section *twenty-eight*, or the value thereof, be returned or remitted to the requesting State.

45. (1) Where Zambia is a party to a counter-terrorism convention and there is in force an extradition agreement between the Government of Zambia and another State which is a party to that convention, the extradition agreement shall be deemed, for the purposes of the Extradition Act to include provision for extradition in respect of offences falling within the scope of that convention.

Counter-
terrorism
convention
as basis of
extradition

(2) Where Zambia is a party to a counter-terrorism convention and there is no extradition agreement in force between the Government of Zambia and another State which is a party to that convention, the Minister responsible for foreign affairs may, by order published in the Gazette, deem the counter-terrorism convention, for the purposes of the Extradition Act, to be an extradition agreement between the Government of Zambia and that State, providing for extradition in respect of offences falling within the scope of that convention.

(3) Where a citizen of Zambia has been arrested in another country under a law of that country relating to terrorism, the Attorney-General shall employ all due diligence to ascertain the circumstances of the case and, if necessary, take such action as the circumstances of the case may require.

PART VIII

GENERAL

46. (1) A power to search premises conferred by virtue of this Act shall be taken to include power to search a container.

Powers to
stop and
search

(2) A power conferred by virtue of this Act to stop a person includes power to stop a vehicle.

(3) Any search of a person carried out pursuant to this Act shall be carried out by a person of the same sex as the person being searched.

47. (1) A document which purports to be—

Evidence

(a) a notice or direction given or order made by the Minister or the Attorney-General for the purposes of a provision of this Act; and

(b) signed by the Attorney-General or on the Attorney-

(a) the giving of notice to persons affected by an application under this Part; and

(b) the joinder of those persons as parties to the proceedings.

50. (1) The Minister may, by statutory instrument, make Regulations regulations for or with respect to any matter which by this Act is required or permitted to be prescribed or which is necessary or expedient to be prescribed for carrying out or giving effect to the provisions of this Act.

(2) The Minister may, by statutory instrument, amend the Schedules to this Act.

FIRST SCHEDULE

(Section 28 (8))

FORFEITURE ORDERS

1. In this Schedule—

Interpretation

“forfeited property” means the money or other property to which a forfeiture orders applies; and

“receiver” includes the Official Receiver acting

as receiver or manager of property and a person who acts as a trustee, liquidator, receiver or manager under the applicable bankruptcy or insolvency law.

2. (1) Where a court makes a forfeiture order, it may make such other provision as appears to it to be necessary for giving effect to the order, and in particular may—

Implementation of forfeiture orders

(a) require any of the forfeited property to be paid or handed over to the Registrar of the court;

(b) appoint a receiver to take possession, subject to such conditions and exceptions as may be specified by the court, of any of the forfeited property, to realize it in such manner as the court may direct and to pay the proceeds to the Registrar of the court;

(c) direct a specified part of any forfeited money, or of the proceeds of the sale, disposal or realization of any forfeited property, to be paid by the Registrar of the court to the Treasury.

(3) In sub-paragraph (1) of paragraph 2, a reference to the proceeds of a sale, disposal or realization of property is a reference to the proceeds after deduction of the costs of sale, disposal or realization.

subparagraph (3) shall apply in relation to the property in question.

(3) If property subject to a forfeiture order is sold, the proceeds of the sale—

(a) shall cease to be subject to the forfeiture order and any ancillary order; and

(b) shall be dealt with in the insolvency proceedings as if the forfeiture order had never been made.

(4) Where—

(a) subparagraph (3) would, but for this subparagraph, apply in relation to any property; and

(b) any person acting in pursuance of the forfeiture order or any ancillary order has entered into a contract for the sale of the property, or has incurred any other obligations in relation to it;

that subparagraph shall not take effect in relation to the property, or the proceeds of its sale, unless the obligations have been discharged.

(5) Where, by virtue of subparagraph (3), any money or other property falls to be dealt with in insolvency proceedings, the Minister shall be taken to be a creditor in those proceedings to the amount or value of that property but, notwithstanding any provision contained in or made under any other enactment, the debt shall rank after the debts of all other creditors and shall not be paid until the other creditors have been paid in full.

(6) Where by virtue of subparagraph (3), any property ceases to be subject to a forfeiture order in consequence of the making of a bankruptcy order or an award of sequestration and subsequently the bankruptcy order is annulled or the award of sequestration is recalled or reduced, the property shall become subject to the forfeiture order and any ancillary order.

(7) Where any property referred to in subparagraph (6) is money, or has been converted into money—

(a) the court which ordered the annulment, or which recalled or reduced the award of sequestration, shall make an order specifying, for the purposes of paragraph (b) property comprised in the estate of the bankrupt or debtor to the amount or value of the property in question; and

(b) the property specified under paragraph (a) shall become subject to a forfeiture order and any applicable ancillary orders, in place of the property in question.

SECOND SCHEDULE

(Section 36)

FINANCIAL INFORMATION

1. (1) Where an order has been made under this Schedule in relation to a terrorist investigation, a police officer of or above the rank of inspector named in the order may require a bank, financial service provider or a financial institution to provide customer information for the purposes of the investigation. Orders

(2) The information shall be provided in such manner and within such time as may be specified in the order.

(3) No customer information affecting money belonging to a client, held by a legal practitioner, shall be the subject of an *ex parte* order under this Schedule.

(4) A bank, financial service provider or a financial institution which fails to comply with a requirement under an order commits an offence and is liable to a penalty not exceeding five hundred thousand penalty units.

(5) It is a defence for an institution charged with an offence under subparagraph (3) to satisfy the court, on a balance of probabilities—

(a) that the information required was not in the institution's possession; or

(b) that it was not reasonably practicable for the institution to comply with the requirement.

2. (1) An order under this Schedule shall be made by the High Court on the application of a police officer above the rank of inspector or the Attorney-General. Procedure

(2) Rules of court may make provision with respect to the procedure for an application for an order under this Schedule.

3. An order under this Schedule shall be made if the court is satisfied that— Criteria for making order

(a) the order is sought for the purposes of a terrorist investigation within the meaning of Part V;

(b) the tracing of terrorist property is desirable for the purposes of the investigation; and

(c) the order will enhance the effectiveness of the investigation.

(a) to be customer information for the purpose of this Schedule;
or

(b) to cease to be customer information for the purposes of this Schedule.

6. (1) Where an offence under subparagraph (4) of paragraph 1 is committed by an institution and it is proved that the offence—

offence by
body
corporate,
etc

(a) was committed with the consent or connivance of an officer of the institution, or

(b) was attributable to neglect on the part of an officer of the institution;

the officer and the institution shall be guilty of the offence.

(2) Where a person is convicted of an offence under subparagraph (4) of paragraph 1 by virtue of this paragraph, the person is liable to imprisonment for a term not exceeding two years or to a fine not exceeding two hundred thousand penalty units, or to both.

(3) In the case of an institution which is a body corporate, in this paragraph "officer" includes B

(a) a director, manager or Secretary;

(b) a person purporting to act as a director, manager or Secretary; and

(c) if the affairs of the body are managed by its members, a member.

(4) In the case of an institution which is a partnership, in this paragraph A officer means a partner.

(5) In the case of an institution which is an unincorporated association other than a partnership, in this paragraph "officer" means a person concerned in the management or control of the association.

THIRD SCHEDULE

(Section 37)

PORT AND BORDER CONTROLS

1. (1) In this Schedule—

Interpretation

"examining officer" means—

(a) a police officer;

(b) an officer from the Anti-Corruption Commission;

(b) detain a person.

(2) For the purpose of detaining a person under this paragraph, an examining officer may authorize the person's removal from a ship, aircraft or vehicle.

(3) A person detained under this paragraph shall, unless detained under any other power be released not later than the end of the period of six hours beginning with the time when the examination begins.

5. An examining officer may search a ship, aircraft, or conveyance which the officer has reasonable grounds to believe is carrying or harbouring any terrorist or thing likely to be used for terrorist purposes.

Searching of
vessels and
aircraft

6. An examining officer who questions a person under paragraph 2 may, for the purpose of determining whether the person is a terrorist—

Search of
persons

(a) search the person;

(b) search anything which the person has or which belongs to the person and which is on a ship or aircraft;

(c) search anything which the person has, or which belongs to the person and which the examining officer reasonably believes has been, or is about to be, on a ship or aircraft; and

(d) search a ship or aircraft for anything falling within paragraph (b).

7. (1) An examining officer may examine goods to which this paragraph applies for the purpose of determining whether the goods have been used in the commission, preparation or instigation of acts of terrorism.

Examining of
goods

(2) This paragraph applies to goods which have arrived in or are about to leave Zambia on a ship, aircraft or vehicle.

(3) In this paragraph, "goods" includes—

(a) property of any description; and

(b) containers.

(4) An examining officer may board a ship or aircraft or enter a vehicle for the purpose of exercising any of the officer's powers under this paragraph.

8. (1) This paragraph applies to anything which—

Detention of
property

(d) require the port manager to display, in specified locations in control areas, a notice containing specified information about the provisions of this Schedule in such form as may be prescribed.

(2) Where a port manager receives notice under subparagraph (1), the port manager shall take all reasonable steps to comply with any requirement set out in the notice.

11. (1) The Minister may, by order, make provision requiring a person who disembarks in Zambia from a ship or aircraft, if required to do so by an examining officer, to complete and produce to the officer a card containing such information in such form as the order may specify.

Information cards

(2) An order under this paragraph may require an owner or agent of a ship or aircraft employed to carry passengers for reward to supply the passengers with cards in the form required by virtue of subparagraph (1).

12. (1) This paragraph applies to a ship, vehicle or aircraft which arrives or is expected to arrive in Zambia.

Information from owner of vessel or aircraft

(2) An examining officer may request an owner or agent of a ship, vehicle or aircraft to provide such information as the officer may require for the purposes of this Act.

(3) An owner or agent shall comply with a request made under subparagraph (2) within such period as the order may specify.

(4) A request to an owner or agent may relate—

(a) to a particular ship, vehicle or aircraft;

(b) to any passenger or member of the crew;

(c) to all ships, vehicles or aircraft of the owner or agent; or

(d) to a specified ship, vehicle or aircraft.

(5) A passenger or member of the crew on a ship, vehicle or aircraft shall give the captain of the ship or aircraft any information required for the purpose of enabling the owner or agent to comply with a request under this paragraph.

(6) Subparagraphs (2) and (5) shall not require the provision of information which is required to be provided under or by virtue of any provision made by or under the Immigration and Deportation Act .

Cap. 123

5. (1) A person in respect of whom directions for removal may be given under paragraph 4 may be detained pending the giving of such directions and pending removal in pursuance of the directions.

Detention
pending
removal

(2) An examining officer may arrest, without warrant, a person liable to be detained under this paragraph.

(3) A captain of a ship or aircraft, if so required by an examining officer, shall prevent any person on board the ship or aircraft from disembarking in Zambia.

(4) Where a captain of a ship or aircraft is required to prevent a person from disembarking, the captain may for that purpose detain the person in custody on board the ship or aircraft.

(5) A captain of a ship or aircraft who fails to take reasonable steps to comply with a requirement imposed under this Act commits an offence and is liable to imprisonment for a term not exceeding two years or to a fine not exceeding eighty thousand penalty units or to both.

(6) An examining officer may remove a person from a vehicle for detention under this Act.

6. (1) If a magistrate is satisfied that there are reasonable grounds for suspecting that a person who is the subject of an exclusion order is to be found on any premises, the magistrate may grant a search warrant authorising any police officer to enter the premises for the purpose of searching for and arresting that person.

Provisions
supplementary
to detention

(2) A person detained under this Schedule shall be deemed to be in legal custody at any time when the person is detained in police custody in Zambia otherwise than on board a ship, vehicle or aircraft.

(3) Where a person is detained under this Schedule, any examining officer may take all such steps as may be reasonably necessary for identifying the person.

FIFTH SCHEDULE

(Section 2 (1))

COUNTER TERRORISM CONVENTIONS

1. The Tokyo Convention on Offences and Certain Other Acts Committed on Board Aircraft of 1963;
2. The Convention for the Suppression of Unlawful Seizure of Aircraft of 1970;