

CHAPTER 11:21
SUPPRESSION OF FOREIGN AND INTERNATIONAL TERRORISM ACT

Act 5/2007

(The Act will come into operation on a date to be fixed by the President.)

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AN ACT to provide for the suppression of foreign and international terrorism, including mercenary activities; to repeal the Foreign Subversive Organisations Act [Chapter 11:05]; and to provide for matters connected therewith or incidental thereto.

[Date of commencement : Not yet in force]

WHEREAS in 1989 the United Nations adopted the Convention against the Recruitment, Use, Financing and Training of Mercenaries;

AND WHEREAS in 1992 Zimbabwe signed and ratified the Organisation of African Unity Convention for the Elimination of Mercenarism in Africa;

AND WHEREAS in 1999 the Organisation of African Unity adopted the Convention on Prevention and Combating of Terrorism;

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

AND WHEREAS it is necessary to make provision in the domestic law of Zimbabwe for the suppression of foreign and international terrorism, including, or in addition to, mercenarism;

AND WHEREAS, notwithstanding any provision of this Act or any other law, Zimbabwe recognises that 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 Co-operation among States in accordance with the said Charter, shall not, for any reason, including for the purposes of extradition or prosecution, be considered a terrorist activity;

NOW, THEREFORE, be it enacted by the President and the Parliament of Zimbabwe as follows: □ PART

I

PRELIMINARY

1 Short title and date of commencement

(1) This Act may be cited as the Suppression of Foreign and International Terrorism Act [*Chapter 11:21*].

(2) This Act shall come into operation on a date to be fixed by the President by statutory instrument:

Provided that the President may fix different dates of commencement for different provisions of this Act.

2 Interpretation

(1) In this Act □

“designate”, in relation to an organisation, means designate it as a foreign or international terrorist organisation in terms of section 8;

“foreign or international terrorist organisation” means any association of persons formed with a view to—

- (a) overthrowing or taking over the government of any foreign State by unlawful means or usurping the functions of such government; or
- (b) conducting a campaign or assisting any campaign against the lawfully established government of any foreign State with a view to securing any of the objects or purposes described in paragraph (a); or
- (c) engaging in foreign or international terrorist activity; whether or not such organisation is designated, and includes any branch, section or committee of the organisation and any local, regional or subsidiary association forming part of such organisation;

“foreign or international terrorist” means a person who engages in foreign or international terrorist activity;

“foreign or international terrorist activity” means □

- (a) the doing of any act inside or outside Zimbabwe against the government of any foreign State which, if committed against the Government of Zimbabwe, would constitute an act of insurgency, banditry, sabotage or terrorism; or
- (b) engaging in mercenary activity;

“law enforcement agency” means the Police Force (including a member of the Police Constabulary as defined in section 2 (“Interpretation”) of the Police Act [*Chapter 11:10*]) or an intelligence service maintained by the Government, or any agency assigned by an enactment to maintain and enforce the law;

“leader”, in relation to a foreign or international terrorist organisation, means a person who directs at any level the activities of such organisation;

“member”, in relation to a foreign or international terrorist organisation, includes a person who professes to be a member of such organisation;

“mercenary activity” means the following—

- (a) the doing of any act aimed at overthrowing a government or undermining the constitutional order, sovereignty or territorial integrity of a foreign State; or
- (b) personal involvement or the rendering of private military-related assistance in an armed conflict between two or more States or within a State;

“Minister” means the Minister of Home Affairs or any other Minister to whom the President may, from time to time, assign the administration of this Act;

“office-bearer”, in relation to a foreign or international terrorist organisation, means a member of the governing body of—

- (a) the organisation; or

- (b) any branch, section or committee of the organisation; or
 - (c) any local, regional or subsidiary association forming part of such organisation;
- “officer”, in relation to a foreign or international terrorist organisation, means any person working for the organisation or for any branch, section or committee of the organisation, or for any local, regional or subsidiary association forming part of such organisation;

“official” means□

- (a) a member of any law enforcement agency; or
- (b) an ancillary member of the Police Force as defined in section 2 (“Interpretation”) of the Police Act [*Chapter 11:10*]; or
- (c) a member of the Defence Forces; or
- (d) a provincial or district administrator or an assistant provincial or district administrator or any other employee of the State acting in that capacity;

“private military-related assistance” means military services or military-related services provided by an individual, company or association, in the form of—

- (a) advice or training; or
- (b) personnel, financial, logistical, intelligence or operational support; or (c) personnel recruitment; or
- (d) medical or para-medical services; or
- (e) procurement of equipment; or
- (f) security services for the protection of individuals involved in armed conflict or their property;

“promoter”, in relation to a foreign or international terrorist organisation, means any person who organises or sets up or helps to organise or set up or advocates or urges the setting up of the organisation.

(2) Any word or expression which has not been defined in subsection (1) and to which a meaning has been assigned in any provision of the Public Order and Security Act [*Chapter 11:17*] or the Criminal Law Code shall have the same meaning when used in this Act.

PART II

FOREIGN OR INTERNATIONAL TERRORIST ACTIVITY AND RELATED OFFENCES

3 Engaging or participating in foreign or international terrorist activity

(1) Any person who, whether or not he or she is a member of a foreign or international terrorist organisation, engages or participates in any foreign or international terrorist activity shall be guilty of an offence and liable to imprisonment for life or any shorter period.

(2) Subsection (1) does not apply to any person who, but for this subsection, would be regarded as engaging in mercenary activity within the meaning of “foreign or international terrorist activity” if such person—

- (a) participates in an armed conflict as a member of a lawfully constituted disciplined force of a State or international organisation with which Zimbabwe has diplomatic relations;
- (b) provides private military-related assistance to or on behalf of a State or an international organisation with which Zimbabwe has diplomatic relations.

4 Training as foreign or international terrorist

(1) Any person who attends or undergoes any course of training, whether inside or outside Zimbabwe, for the purpose of enabling him or her to engage or participate in any foreign or international terrorist activity shall be guilty of an offence and liable to imprisonment for life or any shorter period.

(2) If it is proved in a prosecution for an offence under subsection (1) that the accused person attended or underwent a course of training the effect of which was to enable that person to engage or participate in any foreign or international terrorist activity, it shall be presumed, unless the contrary is proved on a balance of probabilities, that he or she did so for that purpose.

5 Recruiting or training foreign or international terrorists

Any person who intentionally□

- (a) recruits, assists or encourages any other person to undergo training inside or outside Zimbabwe in order to engage or participate in any foreign or international terrorist activity; or
- (b) provides training to any person, whether inside or outside Zimbabwe, in order to engage or participate in any foreign or international terrorist activity; shall be guilty of an offence and liable to imprisonment for life or any shorter period.

6 Possessing weaponry for purposes of foreign or international terrorist activity

(1) Any person who has any weaponry in his or her possession or under his or her control with the intention that such weaponry will be used for the purposes of foreign or international terrorist activity shall be guilty of an offence and liable to imprisonment for life or any shorter period.

(2) If it is proved in a prosecution under subsection (1) that□

- (a) the accused person is a member, leader, promoter, officer or office-bearer of a foreign or international terrorist organisation; and
- (b) the accused person was in unlawful possession of any weaponry; and
- (c) the weaponry consists of any weapon, firearm or ammunition
 - (i) referred to in section 24 (“Special provisions relating to certain types of weapons and ammunition”) of the Firearms Act [*Chapter 10:09*]; or
 - (ii) for the purchase, acquisition or possession of which the accused person has no good ostensible reason; or
 - (iii) that was part of a cache or was found in the possession of the accused person in such a quantity as cannot be accounted for by reason of personal use alone;

it shall be presumed, unless the contrary is proved on a balance of probabilities, that the accused person possessed the weaponry with the intention that it should be used for the purposes of foreign or international terrorist activity.

(3) A person charged with an offence under subsection (1) may be found guilty of

- (a) contravening section 27 (“Possessing weaponry for insurgency, banditry, sabotage or terrorism”) of the Criminal law Code; or
- (b) contravening section 28 (“Possession of dangerous weapons”) of the Criminal law Code; or
- (c) contravening section 4 (“Penalty for purchasing firearms or ammunition without firearm certificate”) of the Firearms Act [*Chapter 10:09*]; if such are the facts proved.

7 Harbours, concealing or failing to report foreign or international terrorist

(1) Any person who, knowing that another person is a foreign or an international terrorist, intentionally harbours or conceals that other person shall be guilty of an offence and liable to a fine not exceeding level fourteen or to imprisonment for a period not exceeding ten years or to both such fine and such imprisonment.

(2) Any person who becomes aware of the presence in Zimbabwe of another person whom he or she knows to be a foreign or an international terrorist and who

- (a) fails, within the period prescribed in subsection (3), to report to an official the presence of that other person in Zimbabwe and any information which is in his or her power to give in relation to that other person; or
- (b) upon being questioned by an official, intentionally
 - (i) omits or refuses to disclose to the official any information which is in his or her power to give in relation to that other person; or
 - (ii) gives the official false information in relation to that other person;

shall be guilty of an offence and liable to a fine not exceeding level ten or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

(3) A person shall make a report in terms of subsection (2)(a) within seventy-two hours or as soon as is reasonably practicable after he or she becomes aware of the presence in Zimbabwe of the foreign or international terrorist concerned.

PART III

FOREIGN OR INTERNATIONAL TERRORIST ORGANISATIONS

8 Identification of foreign or international terrorist organisations

(1) The Minister may, after consultation with the Minister responsible for foreign affairs, designate by notice in a statutory instrument any organisation to be a foreign or an international terrorist organisation for the purposes of this Act.

(2) In any prosecution for an offence against this Act involving an organisation that is alleged to be a foreign or international terrorist organisation but which is not designated, the State shall bear the burden of proving, beyond a reasonable doubt, that the organisation is a foreign or international terrorist organisation.

(3) The designation of an organisation shall have effect as if the organisation is declared to be an unlawful organisation in terms of section 3 (“Declaration of organization to be unlawful”) of the Unlawful Organisations Act [*Chapter 11:13*] and that Act shall apply, subject to the substitution of references to the President by the Minister and any other changes that may be necessary, to such organisation.

(4) Any designated organisation or any person affected by the organisation’s designation may apply to the Minister in the prescribed manner for the Minister to revoke the designation of the organisation.

9 Promoting, directing or belonging to designated foreign or international terrorist organisations

Any person who is a promoter of a designated foreign or international terrorist organisation, or is or becomes a leader, office-bearer, officer or member of a designated foreign or international terrorist organisation, shall be guilty of an offence and liable—

- (a) in the case of a promoter, leader, office-bearer or officer of a designated foreign or international terrorist organisation, to imprisonment for a period not exceeding ten years;

- (b) in the case of a member of a designated foreign or international terrorist organisation, to a fine not exceeding level fourteen or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

10 Soliciting support for designated foreign or international terrorist organisations

Any person who, without being a promoter, leader, office-bearer, officer or member of a designated foreign or international terrorist organisation—

- (a) solicits, invites or encourages moral or material support for the designated foreign or international terrorist organisation; or
- (b) arranges, manages or assists in arranging or managing a meeting which he or she knows is—
- (i) to support the designated foreign or international terrorist organisation; or
 - (ii) to further the activities of the designated foreign or international terrorist organisation; or
 - (iii) to be addressed by a person who belongs or professes to belong to the designated foreign or international terrorist organisation;

shall be guilty of an offence and liable to a fine not exceeding level fourteen or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment. **PART III**

ASSISTING FOREIGN OR INTERNATIONAL TERRORISTS AND TERRORIST ORGANISATIONS

11 Supplying weaponry to foreign or international terrorists or terrorist organisations

Any person who supplies weaponry to a foreign or international terrorist or foreign or international terrorist organisation, knowing that the weaponry will be used for the purpose of foreign or international terrorist activity, or realising that there is a real risk or possibility that the weaponry will be so used, shall be guilty of an offence and liable to imprisonment for life or any shorter period.

12 Collection or supplying of information for purposes of foreign or international terrorist activity

Any person who—

- (a) obtains any information with the intention that it will be used for the purpose of foreign or international terrorist activity; or
- (b) supplies any information to a foreign or international terrorist or foreign or international terrorist organisation, knowing that the information will be used for the purpose of foreign or international terrorist activity, or realising that there is a real risk or possibility that it will be so used; shall be guilty of

an offence and liable to a fine not exceeding level fourteen or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

13 Materially assisting foreign or international terrorists or terrorist organisations

Any person who, whether or not he or she is a promoter, leader, office-bearer, officer or member of a foreign or international terrorist organisation—

- (a) receives or holds money or other property on behalf of any foreign or international terrorist or foreign or international terrorist organisation; or
- (b) provides money or other property to any foreign or international terrorist or foreign or international terrorist organisation; or
- (c) enters into or becomes concerned in an arrangement—
- (i) as a result of which money or other property is made available to a foreign or international terrorist or foreign or international terrorist organisation; or
 - (ii) which facilitates the retention or control of money or other property by a foreign or international terrorist or foreign or international terrorist organisation by means of concealment, removal from the jurisdiction, transfer to nominees or in any other way;

knowing or realising that there is a real risk or possibility that the property or money will be used by the foreign or international terrorist or foreign or international terrorist organisation for the purposes of foreign or international terrorist activity shall be guilty of an offence and liable to a fine not exceeding level fourteen or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

PART V

GENERAL

14 Extra-territorial operation of sections 3, 4, 5, 6, 9, 10, 11, 12 and 13

For the avoidance of doubt it is declared that sections 3, 4, 5, 6, 9, 10, 11, 12 and 13 shall have extraterritorial operation.

15 Application of certain provisions of Part V of Cap.9:23 and Part VI of Cap. 11:17

Sections 34 (“Attorney-General to authorise prosecutions under Chapter III”), of the Criminal Law Code and sections 39 (“Powers of search, seizure and forfeiture generally”) and 40 (“Special jurisdiction of magistrates”) of the Public Order and Security Act [*Chapter 11:17*] (No. 1 of 2002) shall apply with such necessary changes that

may be necessary, to proceedings instituted in terms of this Act, powers of search, seizure and forfeiture and the special jurisdiction of magistrates over any offence committed under this Act.

16 Application of Cap. 9:17 and Cap. 24: 24 to property referred to in section 13 Where

any property that may be the subject-matter of an offence under section 13□

- (a) consists of money, the Bank Use Promotion and Suppression of Money Laundering Act [*Chapter 24:24*] (No. 2 of 2004) shall apply to such property as if the offence were a cash detainable offence in terms of that Act;
- (b) consists of property other than money, the Serious Offences (Confiscation of Profits) Act [*Chapter 9:17*] shall apply to such property as if it were tainted property in terms of that Act.

17 Regulations

(1) The Minister may make regulations providing for all matters which by this Act are required or permitted to be prescribed or which, in his or her opinion, are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) The Minister, with the consent of the President, may by regulations make such provision (including provision for the apprehension, trial and punishment of persons offending against the regulations) as appears to him or her necessary or expedient for giving effect within or outside Zimbabwe to any resolution that the Security Council of the United Nations has passed under Article 41 of the Charter of the United Nations (being the Article which relates to measures not involving the use of armed force) calling upon Member States of the United Nations to apply any measures regarding any foreign or international terrorist activity.

18 Repeal of Cap.11:17

The Foreign Subversive Organisations Act [*Chapter 11:05*] is repealed.