

PREVENTION AND SUPPRESSION OF TERRORISM

SAMOA

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2002, No. 6

AN ACT to provide for the prevention and suppression of terrorist and to give effect to Samoa's international treaty obligations and for related purposes.

[28th March 2002]

BE IT ENACTED by the Legislative Assembly of Samoa in Parliament assembled as follows:-

**PART I
PRELIMINARY**

1. Short title and commencement-(1) This Act may be cited as the Prevention and Suppression of Terrorism Act 2002.

(2) This Act shall come into force on such day as the Prime Minister nominates by publication of a notice to that effect in the Savali.

2. Interpretation – In this Act unless the context otherwise requires:

“aircraft” includes aircraft of any type other than military aircraft:

“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 injury or substantial material damage; or
- (b) A weapon or device that is designed, or has the capability, to cause death, serious bodily injury 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.

“Funds” means assets of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to or interest in, such assets, including but not limited to, bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts and letters of credit:

“Infrastructure facility” means any publicly or privately owned facility providing or distributing services for the benefit of the public, such as water, sewage, energy, fuel, communications, financial transactions:

“Internationally protected person” means -

- (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 a foreign State, as well as members of the person’s family who accompany the person; and
- (b) Any representative or official of a State or any official or other agent of an international organization of an intergovernmental character who at the time when and in the place where a crime against the person, the person’s premises, the person’s private accommodation or the person’s means of transport is committed, is

entitled pursuant to international law to special protection from any attack on the person, the person's freedom or dignity, as well as members of the person's family forming part of the person's household.

“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:

“Proceeds” means any funds derived from or obtained, directly or indirectly, through the commission of an offence set out in this Act:

“Public transportation system” means all facilities, conveyances and instrumentabilities, whether publicly or privately owned, that are used in or for publicly available services for the transportation of persons or cargo:

“Ship” means any vessel of any type whatsoever (other than a warship) not attached to the sea – bed, including dynamically supported craft, submersibles, or any other floating craft:

“State or government facility” means 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 or by employees or officials of an intergovernmental organization in connection with their official duties.

PART II TERRORIST BOMBING

3. Terrorist Bombing-(1) Every person commits the offence of terrorist bombing 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, any vehicle or an infrastructure facility -

- (a) With the intent to cause death or bodily injury; or
- (b) With the intent to cause extensive damage to such a place, facility or system where such damage results in or is likely to result in significant economic loss; or
- (c) With the intent to cause public alarm, fear or panic.

(2) Every person who commits the offence of terrorist bombing under subsection (1)(a) is liable to imprisonment for life.

(3) Every person who commits the offence of terrorist bombing under subsection (1)(b) is liable to imprisonment for a term not exceeding 15 years.

(4) Every person who commits the offence of terrorist bombing under subsection (1)(c) is liable to imprisonment for a term not exceeding 15 years.

4. Attempt of terrorist bombing – Every person who attempts to commit the offence of terrorist bombing as set out in section 3 is liable to imprisonment for a term not exceeding 12 years.

5. Participation in a terrorist bombing-(1) Every person commits an offence if -

- (a) The person participates as an accomplice in an offence as set out in sections 3 or 4; or
- (b) Organizes or directs others to commit an offence as set out in sections 3 or 4; or
- (c) In any other way contributes to the commission of an offence as set out in sections 3 or 4 by a person or group of persons.

(2) For the purpose of this section such contribution under subsection (1)(c) shall be intentional and either be made with the aim of furthering the general criminal activity or purpose of the person or group or be made in the knowledge of the intention of the person or group to commit the offence or offences concerned.

(3) For the purpose of this section, 'participation' shall include the transportation or carriage or wearing of a package, bag, container receptacle or thing whether or not the person transporting or carrying or wearing such object knows that such object contains an explosive or other lethal device.

(4) Every person who commits an offence under this section is liable to imprisonment for a term not exceeding 15 years.

PART III HOSTAGE - TAKING

6. Hostage-taking-(1) Every person who seizes or detains and threatens to kill or injure or to continue to detain another person (hereinafter referred to as "the hostage") in order to compel a third party, namely, a State, an international intergovernmental organization, a natural or juridical person, or a group of persons, to do or refrain from doing any act as an explicit or implicit condition for the release of the hostage commits the offence of hostage-taking.

(2) Every person who commits the offence of hostage-taking is liable to imprisonment for a term not exceeding 15 years.

7. Attempted hostage-taking-(1) Every person who -
(a) Attempts to commit the offence of hostage-taking, or
(b) Participates as an accomplice of any person who commits or attempts to commit the offence of hostage-taking,
is guilty of the offence of attempted hostage-taking.

(2) Every person who commits an offence under this section is liable to imprisonment for a term not exceeding 12 years.

**PART IV
CRIMES AGAINST INTERNATIONALLY
PROTECTED PERSONS**

8. Attack against an Internationally Protected Person-

(1) Every person who -

- (a) Murders, or
- (b) Kidnaps, or
- (c) Assaults,

an Internationally Protected Person is guilty of an offence.

(2) Every person who commits an offence under this section is liable to, in the case of an offence under subsections (1)(a), imprisonment for life, and, in the case of an offence under subsection (1)(b) or (c), imprisonment for a term not exceeding 15 years.

9. Attack against premises of an Internationally Protected Person-(1) Every person who enters the official premises or the private accommodation or the means of transport of an Internationally Protected Person with the intention of murdering or kidnapping or assaulting an Internationally Protected Person is guilty of an offence.

(2) Every person who commits an offence under this section is liable to imprisonment for a term not exceeding 15 years.

10. Attempted attack against an Internationally Protected Person-(1) Every person who -

- (a) Attempts to commit an offence under sections 8 or 9, or
- (b) Participates as an accomplice of any person who commits or attempts to commit an offence under sections 8 or 9,

is guilty of an offence.

(2) Every person who commits an offence under this section is liable to imprisonment for a term not exceeding 12 years.

11. Threat of attack against an Internationally Protected Person-(1) Every person who intentionally threatens to commit an offence under sections 8 or 9 is guilty of an offence.

(2) Every person who commits an offence under this section is liable to imprisonment for a term not exceeding 5 years.

PART V AVIATION SAFETY

12. Unlawful seizure of an aircraft-(1) Every person who unlawfully, by force or threat of force, or by any other form of intimidation, seizes or exercises control of, an aircraft is guilty of an offence.

(2) Every person who commits an offence under this section is liable to imprisonment for a term not exceeding 15 years.

13. Attempt to unlawfully seize an aircraft-(1) Every person who -

- (a) Attempts to commit an offence under section 12, or
- (b) Participates as an accomplice of any person who commits or attempts to commit an offence under section 12,

is guilty of an offence.

(2) Every person who commits an offence under this section is liable to imprisonment for a term not exceeding 12 years.

14. Violence at an airport-(1) Every person who unlawfully and intentionally, using any device, substance or weapon -

(a) Performs or threatens to perform an act of violence against a person at an airport which causes or is likely to cause serious injury or death, or
(b) Destroys or seriously damages the facilities of an airport or aircraft, or
(c) Disrupts the services of an airport,
is guilty of an offence.

(2) Every person who commits an offence under this section is liable to imprisonment for a term not exceeding 12 years.

15. Attempted violence at an airport-(1) Every person who -

(a) Attempts to commit an offence under section 14, or
(b) Participates as an accomplice of any person who commits or attempts to commit an offence under section 14,
is guilty of an offence.

(2) Every person who commits an offence under this section is liable to imprisonment for a term not exceeding 10 years.

16. Threat of aircraft seizure or violence-(1) Every person who intentionally threatens to commit an offence under sections 12 to 15 is guilty of an offence.

(2) Every person who commits an offence under this section is liable to imprisonment for a term not exceeding 15 years.

PART VI MARITIME SAFETY

17. Seizure of a ship-(1) Every person who unlawfully and intentionally -

(a) Seizes or exercises control over a ship by force or threat of force or by any other form of intimidation; or

- (b) Performs or threatens to perform an act of violence against a person on board a ship if that act is likely to endanger the safe navigation of that ship or any other ship; or
- (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 or any other ship; or
- (d) Places or causes to be placed on or attached to a ship, by any means whatsoever, an explosive or other lethal device; or
- (e) Destroys or damages any maritime navigational facility or interferes with its operation; or
- (f) Communicates information which the person knows to be false, thereby endangering the safe navigation of a ship; or
- (g) Injures or kills any person in connection with the commission of any of the offences set out in this subsection;

is guilty of an offence.

(2) Every person who commits an offence under this section is liable to imprisonment for a term not exceeding 15 years.

18. Attempt to seize a ship-(1) Every person who -

- (a) Attempts to commit an offence under section 17, or
- (b) Participates as an accomplice of any person who commits or attempts to commit an offence under section 17,

is guilty of an offence.

(2) Every person who commits an offence under this section is liable to imprisonment for a term not exceeding 12 years.

19. Threat to a ship-(1) Every person who intentionally threatens to commit an offence under section 17 is guilty of an offence.

(2) Every person who commits an offence under this section is liable to imprisonment for a term not exceeding 5 years.

**PART VII
FINANCING OF TERRORIST ACTS**

20. Financing of terrorist acts-(1) Every person who, by any means, directly or indirectly, knowingly or without due inquiry, provides or collects funds or proceeds with the intention that such funds or proceeds be used, or in the knowledge that such funds or proceeds are to be used, in full or in part, in order -

- (a) To carry out an act which constitutes an offence under this Act, or
- (b) To carry out any other act intended to cause death or bodily injury to any person not taking an active part in the hostilities of armed conflict, where the purpose of such act, by its nature or context, is intended to intimidate a population, or to compel a State or Government or an International Organization to do or to abstain from doing an act;

is guilty of an offence.

(2) Every person who commits an offence under this section is liable to imprisonment for a term not exceeding 15 years.

21. Seizure of funds intended or used to finance a terrorist act – Notwithstanding any other Act or law-(1) Where it is found by a Court that any funds or proceeds have been provided or collected for the purpose of committing an offence under this Act, the Court shall order that such funds or proceeds be forfeited to the Independent State of Samoa.

(2) Upon application by the Attorney General a Court may order that any funds or proceeds suspected on reasonable grounds of being funds or proceeds subject to section 20 or subsection (1) of this section be frozen pending a determination by the Court as to whether such funds or proceeds have been provided or collected for the purpose of committing an offence under this Act.

(3) Where a Court has made an order under this section any person or juridical person holding or having control of any funds or proceeds subject to this section shall comply with any order of the Court.

(4) Any person or juridical person who knowingly fails to comply with a Court Order made under this section shall be guilty of an offence and shall be liable to a fine not exceeding 1000 penalty units or to imprisonment for a term not exceeding 5 years, or to both a fine and imprisonment.

(5) Where a person or juridical person knowingly fails to comply with a Court Order made under this section and as a result funds or proceeds subject to this section are not frozen or forfeited to the Independent State of Samoa, as the case may be, the Court, in addition to imposing a penalty or penalties under subsection (4), may order that any property, real or personal, up to the value of the funds or proceeds subject to this section owned by such person or juridical person be forfeited to the Independent State of Samoa.

(6) Where any funds or proceeds subject to this section are held or controlled by a juridical person, any manager, company director or person howsoever called who has authority over such funds or proceeds shall also be personally liable under this section for any act or failure to act by the juridical person unless the person can establish to the satisfaction of a Court that the person had no knowledge and no duty of inquiry concerning such funds or proceeds.

(7) Any order, prosecution, forfeiture or penalty imposed upon any person under subsection (6) shall not excuse any juridical person from any order, prosecution, forfeiture or penalty which may be imposed under this section.

(8) No claim may be made in respect of any interest which accrues on any funds frozen by or forfeit to the Independent State of Samoa pursuant to a Court Order under this section.

22. Assisting the financing of terrorist acts – Notwithstanding any other Act or law-(1) Every person who knowingly or with due inquiry assists in any way the provision

of or collection of funds or proceeds where such funds or proceeds are used or are to be used to carry out an act which constitutes an offence under this Act is guilty of an offence.

(2) Every person who knowingly or without due inquiry assists any person or any juridical person to -

- (a) Conceal the whereabouts of any funds or proceeds subject to Part VI of this Act, or
- (b) Transfer any funds or proceeds subject to Part VI of this Act out of the jurisdiction or control of any Court of the Independent State of Samoa, or
- (c) Avoid compliance with any Court Order made under Part VI of this Act,

is guilty of an offence.

(3) Any person or juridical person who commits an offence under this section shall be liable to a fine not exceeding 1000 penalty units or to imprisonment for a term not exceeding 5 years, or to both a fine and imprisonment.

(4) Where a juridical person is found guilty of an offence under this section any manager, company director or person howsoever called who has authority over any funds or proceeds subject to this section shall also be personally liable under this section for any act or failure to act by the juridical person unless the person can establish to the satisfaction of a Court that the person had no knowledge and no duty of inquiry concerning such funds or proceeds.

PART VIII ARREST AND EXTRADITION OF SUSPECTED FOREIGN TERRORISTS

23. Application of this Part – Part VIII of this Act shall apply notwithstanding the provisions of the Extradition Act 1974 or any other Act or law.

24. Arrest and extradition of suspected foreign terrorists-(1) Where a police officer suspects on reasonable grounds -

- (a) That a foreign national is wanted by a Commonwealth or Foreign Country to face a charge or charges in that country concerning a terrorist act, or
 - (b) That a foreign national is unlawfully at large after conviction for committing a terrorist act,
- the police officer, using reasonable force, may arrest the person and without undue delay bring the person before the Supreme Court.

(2) For the purposes of this Part a terrorist act shall include any offence provided for under this Act or an offence determined by the Supreme Court to be equivalent to any offence provided for under this Act.

(3) Where the Supreme Court is satisfied that -

- (a) The provisions of section 6 of the Extradition Act 1974 do not apply, and
 - (b) There is reasonable evidence available to the Court that the person should face trial for committing a terrorist act or is unlawfully at large after conviction for committing a terrorist act,
- the Court shall order that the person remain in custody and be returned to the Commonwealth or Foreign Country wishing to put the person on trial for committing a terrorist act or be returned to the Commonwealth or Foreign Country wishing to regain the custody of the person following the persons's conviction for committing a terrorist act, as the case may be.

PART IX EXTRA-TERRITORIAL JURISDICTION OF SUPREME COURT

25. Extra – territorial jurisdiction – Notwithstanding any other Act or law the Supreme Court shall have jurisdiction to hear and determine any matter under this Act irrespective of whether any act or event takes place inside or outside of Samoa.
