

PREVENTION OF TERRORISM ACT 2002

Act 2/2002

Proclaimed by [[Proclamation No. 14 of 2002](#)] w. e. f. 16th March 2002

ARRANGEMENT OF SECTIONS

Section

1. [Short title](#)

PART I-INTRODUCTORY

2. [Interpretation](#)

PART II - ACTS OF TERRORISM AND RELATED OFFENCES

3. [Prohibition of acts of terrorism](#)

4. [Proscribed organisations](#)

5. [Terrorist meetings](#)

6. [Support](#)

7. [Harbouring terrorist](#)

8. [Information about acts of terrorism](#)

9. [Obstruction of terrorist investigation](#)

10. [International terrorism](#)

11. [Repealed by \[Act No. 37 of 2003\]](#)

12. [Hostages](#)

PART III- TERRORIST CASH AND TERRORIST PROPERTY

[13-14 Repealed by \[Act No. 37 of 2003\]](#)

15. [Dealing in terrorist property](#)

16. [Attachment of property](#)

17. [Property tracking](#)

PART IV. EXTRADITION

Amended by [[Act No. 35 of 2003](#)]

18-22 [Repealed by \[Act No. 35 of 2003\]](#)

PART V. INVESTIGATION

23-24. [Repealed by \[Act No. 35 of 2003\]](#)

25. [Intelligence gathering](#)

26. [Detention of aircraft or vessel](#)

27. [Detention for offences related to terrorism](#)

28. [Custody record and video recording](#)

PART VI. PROSECUTION

29. [Prosecution for offence](#)
30. [Extra-territorial jurisdiction](#)
31. [Competent Court](#)
32. [Penalties](#)

PART VII. MISCELLANEOUS

33. [Regulations](#)
34. [Consequential amendments](#)
35. [Commencement](#)

An Act

To provide for measures to combat terrorism and for related matters

ENACTED by the Parliament of Mauritius, as follows -

1. Short title

This Act may be cited as the Prevention of Terrorism Act 2002.

PART I -INTRODUCTORY

2. Interpretation

In this Act-

"act of terrorism" means an act specified in section 3;

"bank" -

(a) has the same meaning as in the Banking Act 2004; and

(b) includes any person licensed under the Banking Act 2004 to carry on deposit taking business;

"cash dealer" has the same meaning as in the Banking Act 2004;

"Commissioner" means the Commissioner of Police;

"financial institution" means any institution or person regulated by any of the enactments specified in the First Schedule;

"government" means the government of the Republic of Mauritius or of any other State;

"Minister" means the Minister to whom responsibility for the subject of national security is assigned;

"proscribed organisation" -

(a) means an organisation which has been declared to be a proscribed organisation under section 4; and

(b) includes a group which has been declared to be an international terrorist group under section 10;

"terrorist investigation" means an investigation of-

- (a) the commission, preparation or instigation of an act of terrorism or any other offence under this Act;
 - (b) any act or omission reasonably suspected to have been done for an act of terrorism or any other offence under this Act;
- (a) (a) the resources of a proscribed organisation;

"terrorist property" means property which -

- (a) has been, is being, or is likely to be used for any act of terrorism;
- (b) has been, is being, or is likely to be used by a proscribed organisation;
- (c) is the proceeds of an act of terrorism; or
- (d) is gathered for the pursuit of, or in connection with, an act of terrorism;

"trustee" has the same meaning as in the Trusts Act 2001.

Amended by [[Act No. 14 of 2005](#)]

PART II. ACTS OF TERRORISM AND RELATED OFFENCES

3. Prohibition of acts of terrorism

(1) Any person who-

- (a) does, or threatens to do, or does an act preparatory to or in furtherance of, an act of terrorism; or
- (b) omits to do anything that is reasonably necessary to prevent an act of terrorism,

shall commit an offence

(2) In this section, "act of terrorism" means an act which-

- (a) may seriously damage a country or an international organisation; and
- (b) is intended or can reasonably be regarded as having been intended to-
 - (i) seriously intimidate a population;

- (ii) unduly compel a Government or an international organisation to perform or abstain from performing any act;
- (iii) seriously destabilise or destroy the fundamental political, constitutional, economic or social structures of a country or an international organisation; or
 - (iv) otherwise influence such government, or international organisation; and
 - (a) involves or causes, as the case may be-
 - (i) attacks upon a person's life which may cause death;
 - (ii) attacks upon the physical integrity of a person;
 - (iii) kidnapping of a person;
 - (iv) extensive destruction to a Government or public facility, a transport system, an infrastructure facility, including an information system, a fixed platform located on the continental shelf, a public place or private property, likely to endanger human life or result in major economic loss;
 - (v) the seizure of an aircraft, a ship or other means of public or goods transport;
 - (vi) the manufacture, possession, acquisition, transport, supply or use of weapons, explosives or of nuclear, biological or chemical weapons, as well as research into, and development of, biological and chemical weapons;
 - (vii) the release of dangerous substance, or causing of fires, explosions or floods, the effect of which is to endanger human life;
 - (viii) interference with or disruption of the supply of water, power or any other fundamental natural resource, the effect of which is to endanger life.

4. Proscribed organisations

- (1) Where any 2 or more persons associate for the purpose of, or where an organisation engages in -
 - (a) participating, or collaborating, in an act of terrorism; ,
 - (b) promoting, encouraging or exhorting others to commit an act of terrorism; or
- (c) setting up or pursuing acts of terrorism, the Judge in Chambers may, on an application made by the Commissioner, declare the entity to be a proscribed organisation.
- (2) Any order made under subsection (1) shall be published in the Gazette, in 2 daily newspapers and at such other places, as the Judge in Chambers shall determine.

- (3) Any publication made under subsection (2) shall contain such relevant particulars as the Judge in Chambers may specify.
- (4) Any person who belongs, or professes to belong, to a proscribed organisation shall commit an offence.
- (5) It shall be a defence for a person charged under subsection (4) to prove that the organisation had not been declared a proscribed organisation at the time the person charged became, or began to profess to be, a member of the organisation and that he has not taken part in the activities of the organisation at any time after it has been declared to be a proscribed organisation.

(6) The Judge in Chambers may-

- (a) upon application by the proscribed organisation or by any person affected by a declaration made under subsection (1); and
- (b) on being satisfied that a proscribed organisation has ceased to engage in the acts specified in subsection (1) and that there is no likelihood of the organisation engaging in such acts specified in subsection (1) in the future,
cancel the declaration ordered under that subsection.

5. Terrorist meetings

Any person who -

- (a) arranges, manages, or assists in arranging or managing, or participates in a meeting, or an activity, which he knows is concerned with an act of terrorism;
- (b) provides logistics, equipment or facilities for a meeting, or an activity, which he knows is concerned with an act of terrorism; or
- (c) attends a meeting, which he knows is to support a proscribed organisation, or to further the objectives of a proscribed organisation,

shall commit an offence.

6. Support

(1) Any person who, in any manner or form-

- (a) solicits support for, or tenders support in relation to, an act of terrorism, or
 - (b)
 - (b) solicits support for, or tenders support to, a proscribed organisation,
- shall commit an offence.

(2) For the purposes of subsection (1), "support" includes-

- (a) instigation to the cause of terrorism;

- (b) (i) offer of material assistance, weapons including biological, chemical or nuclear weapons, explosives, training, transportation, false documentation or identification;
- (ii) offer or provision of moral assistance, including invitation to adhere to a proscribed organisation;
- (c) the provision of, or making available; such financial or other related services as may be prescribed.

7. Harboursing terrorists

Any person who harbours, conceals, or causes to be harboured or concealed, any person whom he knew to have committed, or to have been convicted of, an act of terrorism, or against whom he knew that a warrant of arrest or imprisonment for such an act had been issued, shall commit an offence.

8. Information about acts of terrorism

- (1) Subject to subsections (2) and (3), where a person has information which he knows or believes might be of material assistance-
 - (a) in preventing the commission by another person of an act of terrorism; or
 - (b) in securing the apprehension, prosecution or conviction of another person for an offence under this Act, and that person fails to disclose to a police officer at any police station the information as soon as reasonably practicable, he shall commit an offence.
- (2) It shall be a defence for a person charged under subsection (1) to prove that he has reasonable excuse for not making the disclosure.
- (3) Subsection (1) does not require disclosure by a law practitioner of any information, or a belief or suspicion based on any information, which he obtained in privileged circumstances.
- (4) For the purpose of subsection (3), information is obtained by a law practitioner in privileged circumstances where it is disclosed to him -
 - (a) by his client in connection with the provision of legal advice, not being a disclosure with a view to furthering a criminal purpose;
 - (b) by any person for the purpose of actual or contemplated legal proceedings, and not with a view to furthering a criminal purpose.

9. Obstruction of terrorist investigation

- (1) Any person who -
 - (a) discloses to another anything which is likely to prejudice a terrorist investigation;
 - (b) interferes with material which is likely to be relevant to a terrorist investigation,shall commit an offence.

- (2) It shall be a defence for a person charged with an offence under subsection (1) to prove-
- (a) that he did not know and had no reasonable cause to suspect that the disclosure was likely to affect a terrorist investigation; or

(b) that he had a reasonable excuse for the disclosure or interference.

- (3) Subsection (1) does not apply to a disclosure which is made by a law practitioner -
- (a) to his client in connection with the provision of legal advice, not being a disclosure with a view to furthering a criminal purpose;
- (b) to any person for the purpose of actual or contemplated legal proceedings, and not with a view to furthering a criminal purpose.

10. International terrorism

- (1) The Minister may declare any person to be a suspected international terrorist where-
- (a) he reasonably suspects that the person -
- (i) is or has been concerned in the commission, preparation or instigation of acts of international terrorism;
- (ii) is a member of, or belongs to, an international terrorist group; or
- (iii) has links with an international terrorist group, and he reasonably believes that the person is a risk to national security;
- (b) (b) the person is listed as a person involved in terrorist acts in any Resolution of the United Nations Security Council or in any instrument of the Council of the European Union; or
- (c) the person is considered as a person involved in terrorist acts by such State or other organisation as the Minister may approve.
- (2) Where the Minister makes a declaration under subsection (1) (a), he shall, in such manner as he considers appropriate, cause the person declared to be a suspected international terrorist to be notified as soon as is reasonably practicable.
- (3) Where a person declared a suspected international terrorist under subsection (1) possesses the Mauritian citizenship as well as the citizenship of any other country or State, the Minister may deprive that person of his Mauritian citizenship in the manner specified in section 11 of the Mauritian Citizenship Act.
- (4) The Minister may declare a group to be an international" terrorist group if the group -
- (a) is subject to the control or influence of persons outside Mauritius, and the Minister reasonably suspects that it is concerned in the commission, preparation or instigation of acts of international terrorism; or

- (b) is listed as a group or entity involved in terrorist acts in any Resolution of the United Nations Security Council or in any instrument of the Council of the European Union; or
- (c) is considered as a group or entity involved in terrorist acts by such competent authority of such State as the Minister may approve.
- (5) Reference in this Act to a proscribed organisation shall be deemed to include reference to an international terrorist group, and, whenever applicable, to a suspected international terrorist.
- (6) The Minister may, with respect to any suspected international terrorist or an international terrorist group, make regulations to provide -
 - (a) for the freezing of his or its funds, financial assets or other economic resources, including funds derived from property, owned or controlled directly or indirectly, by him or it, by persons acting on his or its behalf or at his or its direction;
 - (b) for the prevention of his or its entry into, or transit in, Mauritius;
 - (c) for the prohibition of the direct or indirect supply, sale and transfer to him or it of arms, weapons, ammunitions, military vehicles and equipment, paramilitary equipment, spare parts and related material, and technical advice, assistance, or training related to military activities;
 - (d) that any person who contravenes any regulations made under this subsection shall commit an offence and shall, on conviction, be liable to penal servitude for a period not exceeding 5 years.
- (7) The Minister shall give notice of any declaration made under subsections (1) and (4) in the Gazette and in such other manner as he deems fit.
- (8) For the purposes of this section, "act of international terrorism" means an act of terrorism involving -
 - (a) a non-citizen; or
 - (b) any person possessing dual citizenship as specified in subsection (3).

11. Repealed by [\[Act No. 37 of 2003\]](#)

12. Hostages

- (1) Any person who -
 - (a) seizes or detains;
 - (b) threatens to kill, injure or continue to detain, another person in order to compel, a third party to do or abstain from doing any act, as an explicit or implicit condition for the release of the hostage,shall commit an offence.
- (2) In this section, "third party" means a State, an international governmental organisation, a natural or juridical person or a group of persons.

PART III - TERRORIST CASH AND TERRORIST PROPERTY

13-14 Repealed by [\[Act No. 37 of 2003\]](#)

15. Dealing in terrorist property

- (1) (1) Any person who enters into, or becomes concerned in, an arrangement which facilitates the retention or control by, or on behalf of, another person of terrorist property, in any manner, including-
- (a) by concealment;
 - (b) by removal from the jurisdiction; or
 - (c) by transfer to any person,
- shall commit an offence.
- (2) It shall be a defence for a person charged under subsection (1) to prove that he did not know and had no reasonable cause to suspect that the arrangement related to terrorist property.

16. Attachment of property

- (1) Where a person is charged or about to be charged with an offence under this Act, the Commissioner may apply to a Judge in Chambers for a provisional order attaching in the hands of the suspect or in the hands of any other specified person, all moneys and other property due, or owing, or belonging to, or held on behalf of, the suspect.
- (2) An order made under subsection (1) may-
- (a) prohibit any person from making money or other property available to or for the benefit of the suspect;
 - (b) provide for the granting of authority to make money or other property available to such persons and on such conditions as may be specified in the order;
 - (c) require the suspect to provide such information or produce such document as may be required or reasonably needed for an investigation under this Act;
 - (d) include such other condition as the Judge may impose.
- (3) The Judge in Chambers may appoint the Official Receiver or any other suitable person to manage the assets of the suspect during the period of operation of an Order made under this section.
- (4) The Commissioner shall -
- (a) cause notice of the order to be published in the next issue of the Gazette and in 2 daily newspapers;
 - (b) give notice of the order to-
 - (i) all notaries;
 - (ii) banks, financial institutions and cash dealers;
 - (iii) any other person who may hold or be vested with property belonging to or held on behalf of the suspect.
- (5) An order under this section shall remain in force until the determination of any charge or intended charge under subsection (1) and, in the event of a conviction, until an order for forfeiture is made by the court or proceedings relating thereto are concluded.
- (6) Where an order under this section ceases to have effect, the Commissioner shall cause notice thereof to be published in the Gazette and 2 daily newspapers.
- (7) Any payment, transfer, pledge or other disposition of property made in contravention of an order under this section shall be void.

17. Property tracking

- (1) Where the Commissioner has reasonable grounds to suspect that a person has committed, is committing or is about to commit an act of terrorism or is in possession of terrorist property, he may, for the purposes of an investigation under this Act, apply to a Judge in Chambers for an order -
 - (a) compelling the suspect to deliver to him any document relevant to identifying, locating or quantifying any property belonging to, or in the possession or control of that person;
 - (b) requiring a bank or any other commercial institution, trustee, cash dealer or custodian, to produce to him all information and deliver to him all documents regarding any business transaction conducted by or on behalf of the suspect.
- (2) Where a person fails to comply with, is delaying or is otherwise obstructing an order made under subsection (1)(a), the Judge in Chambers may, upon information sworn to that effect by the Commissioner, authorise the Commissioner or any officer deputed by him to enter any premises, including a bank or other financial institution, and search the premises and remove any document for the purposes of executing such order.

PART IV - EXTRADITION

Amended by [\[Act No. 35 of 2003\]](#)

18-22 Repealed by [\[Act No. 35 of 2003\]](#)

PART V - INVESTIGATION

23-24 Repealed by [\[Act No. 35 of 2003\]](#)

25. Intelligence gathering

- (1) Notwithstanding any other enactment, the Minister may for the purposes of the prevention or detection of offences, or the prosecution of offenders, under this Act, give such directions as appear to him to be necessary to -
 - (a) communication service providers generally;
 - (b) communication service providers of a specified description;
 - (c) any particular communication service' provider.
- (2) Before giving a direction under this section, the Minister may consult any communication service provider he deems fit to consult.
- (3) (3) A direction under this section shall specify the maximum period for which a communication service provider may be required to retain communications data.
- (4) In this section-

"communication service provider" means a person who provides postal, or information and communication, including telecommunications, service;

"data" means information recorded in a form in which it can be processed by equipment operating automatically in response to instructions given for that purpose.

26. Detention of aircraft or vessel

- (1) An authorised person may issue a detention order in respect of an aircraft or vessel if he is of opinion that -
 - (a) a threat has been made to commit an act of violence against the aircraft or vessel, or against any person or property on board the aircraft or vessel; or
 - (b) an act of violence is likely to be committed against the aircraft or vessel, or against any person or property on board the aircraft or vessel.
- (2) Where the operator of an aircraft or vessel fails to comply with a detention order under subsection (1), the authorised person may -
 - (a) enter, or authorize any other person to enter, the aircraft or vessel;
 - (b) arrange for a person or thing to be removed from the aircraft or vessel,and may use reasonable force, or authorise the use of reasonable force by another person for any such purpose.
- (3) The authorised person shall give written notice to the operator of the aircraft or vessel of any detention order issued under this section.
- (4) Where the operator of an aircraft or vessel objects to a detention order, the Minister may, after hearing the interested parties, confirm, vary or cancel the order.
 - (5) Any person who -
 - (a) without reasonable excuse, fails to comply with the requirement of a detention order;
 - (b) intentionally obstructs or hinders any person acting in accordance with subsection (2),shall commit an offence.
- (6) For the purposes of this section, the Minister may, in writing, designate as an authorised person such person as he deems appropriate.

27. Detention for offences related to terrorism

- (1) Where any person is arrested under reasonable suspicion of having committed any offence under section 3, 4, 5, 6, 7, 12 or 15, a police officer not below the rank of Superintendent of Police may, subject to this section, direct that the person arrested be detained in police custody for a period not exceeding 36 hours from his arrest, without having access to any person other than a police officer not below the rank of Inspector, or a Government Medical Officer and, in any such case, that person shall be detained accordingly.
- (2) No direction under subsection (1) shall be made unless the Police officer has reasonable grounds to believe that giving access to any person other than the Police officer not below the rank of Inspector or the Government Medical Officer specified in that subsection -
 - (a) will lead to interference with or harm to evidence connected with an offence under section 3, 4, 5, 6, 7, 12 or 15, or to interference with, or physical injury to, other persons; or

- (b) will lead to the alerting of other persons suspected of having committed such an offence but not yet arrested for it; or
 - (c) will hinder the tracking, search and seizure of terrorist property.

Amended by [\[Act No. 37 of 2003\]](#)

- (3) As soon as a direction is issued under subsection (1), the person detained shall be informed that he may, if he so wishes, be examined by a Government Medical Officer.

28. Custody record and video recording

- (1) A custody record containing the information specified in the Third Schedule shall be kept in respect of any person detained pursuant to the powers conferred by section 27.
- (2) A video recording shall be made and kept in the manner specified in the Fourth Schedule in respect of any person detained pursuant to the powers conferred by section 27.
- (3) A video recording under this section shall, notwithstanding the common law rule against hearsay, be admissible in evidence in the course of any judicial proceedings to the same extent and in the same manner as documentary evidence would be admissible.
- (4) In this section, "video recording" includes the recording of visual images or sound by electronic or other technological means.

PART VI - PROSECUTION

29. Prosecution for offence

- (1) No prosecution for an offence under this Act shall be instituted except by or with the consent of the Director of Public Prosecutions.
- (2) A Court may, on motion by or on behalf of the Director of Public Prosecutions, order that no person shall publish -
 - (a) the name, address or photograph of any witness in any case tried or about to be tried before it for any offence under this Act; or
 - (b) any evidence or any other matter likely to lead to the identification of the witness.
- (3) A Court may, on motion by or on behalf of the Director of Public Prosecutions, in the interest of public safety or public order, exclude from proceedings instituted for any offence under this Act, any person other than the parties and their legal representatives.
- (4) (4) Any person who contravenes an order made under subsection (3) shall commit an offence.

30. Extra-territorial jurisdiction

A Mauritian Court shall have jurisdiction to try an offence and inflict the penalties specified in this Act where the act constituting the offence under sections 3, 4, 5, 6, 7, 12, and 15, has been done or completed outside Mauritius and -

- (a) the victim is a citizen of the Republic of Mauritius or has an effective link with Mauritius or is dealing with or on behalf of the Government of Mauritius;
 - (b) the alleged offender is in Mauritius; or
 - (c) the alleged offender is in Mauritius, and Mauritius does not extradite him.

31. Competent Court

- (1) Subject to subsection (2), prosecution for an offence under this Act shall take place, at the sole discretion of the Director of Public Prosecutions, before a Judge without a jury, the Intermediate Court or the District Court.
- (2) A prosecution for an offence under section 3 shall take place before a Judge without a jury.
 - (3) Notwithstanding any other enactment, the Intermediate Court shall have -
 - (a) jurisdiction to impose any penalty provided for an offence under this Act provided that the penalty for an offence does not exceed 20 years; and
 - (b) power to order sentences imposed under this Act to be served consecutively provided that the terms of such sentences shall not in the aggregate exceed 30 years.
- (4) Sections 150, 151, 152 and 153 of the Criminal Procedure Act and the Probation of Offenders Act shall not apply to a conviction for an offence under this Act.

32. Penalties

- (1) Subject to subsection (3), any person who commits an offence against this Act shall, on conviction, be liable -
 - (a) in the case of an offence under section 3, to penal servitude for a term of not less than 5 years nor more than 35 years;
 - (b) in the case of an offence under sections 4, 5, 6, 7, 12, and 15, to penal servitude for a term of not less than 3 years nor more than 20 years;
 - (c) in the case of an offence under sections 8 and 9, to penal servitude for a term of not less than 2 years nor more than 15 years;
 - (d) in the case of an offence under sections 26 and 29, to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding 5 years.
- (2) The Court before which a person is convicted of an offence under this Act may, in addition to any penalty imposed by the Court, order the forfeiture of -
 - (a) any terrorist cash, with any accrued interest, or terrorist property;
 - (b) any article, substance, device or material by means of which the offence was committed;
 - (c) any vehicle or vessel used in the commission of the offence.

- (3)
 - (a) Any person who has been convicted of a conspiracy to commit any of the offences under sections 3, 4, 5, 6, 7, 12 or 15 shall be exempted from penalty as specified in subsection (1) and absolutely discharged if, having revealed the conspiracy to the police or to the Court, he has made it possible to prevent the commission of the offence and to identify the other persons involved in the conspiracy.
 - (b) Notwithstanding subsection (1), the penalty incurred by any person convicted of any offence referred to in that subsection shall be reduced in such manner as the Court thinks just where that person has, before

any proceedings, made possible or facilitated the identification of the other guilty persons, or who, after the commencement of proceedings, has made possible or facilitated the arrest of such persons.

Amended by [\[Act No. 37 of 2003\]](#)

PART VII - MISCELLANEOUS

33. Regulations

- (1) The Minister may, for the purposes of this Act, make such regulations as he thinks fit.
 - (2) Regulations made under subsection (1) may provide for-
 - (a) the types of financial or other related services which may not be provided to proscribed organisations;
 - (b) the amendment of the Schedules.

34. Consequential amendments

- (1) The **Criminal Code (Supplementary) Act** is amended in section 109, in subsection (2), by deleting the words «or manslaughter» and replacing them by the words «manslaughter or an offence related to terrorism under the Prevention of Terrorism Act 2002.»
- (2) The **Criminal Procedure Act** is amended in the Fifth Schedule by adding the following new paragraph, the full stop at the end of paragraph (g) being replaced by a semi-colon -
 - (h) Prevention of Terrorism Act 2002, section 3.
- (3) The **Immigration Act** is amended in section 8, in subsection (1), by adding at the end the following new paragraph -
 - (1) persons declared suspected international, terrorists under the Prevention of Terrorism Act 2002.
 - (4) The **Mauritius Citizenship Act** is amended in section 11, in subsection (3) -
 - (a) in paragraph (a), by deleting the words «Subject to paragraph (b)» and replacing them by the words «Subject to paragraphs (b) and (c)»;
 - (b) in subparagraph (a)(i), by adding immediately after the word «State» the words «or is, or has been declared, a suspected international terrorist under the Prevention of Terrorism Act 2002»;
 - (c) by adding after paragraph (b), the following new paragraph -
 - (c) In the case of a person who is declared a suspected international terrorist as specified in sub-paragraph (a) (i) -
 - (i) the Minister may, subject to paragraph (b), deprive him of his citizenship irrespective of the manner in which he acquired both the citizenship of Mauritius and that of another State;
 - (ii) subsections 5, 6 and 7 shall not be applicable.

35. Commencement

Proclaimed by [[Proclamation No. 14 of 2002](#)] w. e. f. 16th March 2002

FIRST SCHEDULE

(sections 2 and 17)

Financial Services Act 2007 – Amended by [[Act No. 14 of 2007](#)]

Immigration Act in so far it applies to section 5A Insurance Act

Securities (Central Depository, Clearing and Settlement) Act

Securities Act 2005 [Amended by [[Act No. 22 of 2005](#)]

Trusts Act 2001

Unit Trusts Act

Amended by [[Act No. 22 of 2005](#)]; [[Act No. 14 of 2007](#)]

SECOND SCHEDULE

(section 11)

Civil Aviation (Hijacking and other Offences) Act, sections 4, 5, 6 and 6A

Section 12 of this Act

THIRD SCHEDULE
(section 28 (1))

Custody Record

1. Entries shall be made in the Custody Record in respect of all matters relevant to the detention of the arrested person. In particular, the entries shall be made in respect of the following -
 - (a) (a) an accurate record of the time and place of
 - (i) the arrest;
 - (ii) the issue of the direction under section 27; and
 - (iii) each interview, including any interview immediately following his arrest, of the person detained;
 - (b) (b) the place or places where the interview takes place;
 - (c) the time at which the interview begins and the time at which it ends;
 - (d) any break during the interview;
 - (e) the names of persons present at the interviews;
 - (f) the time and reason for any transfer of the detained person from one place of custody to another as well as the time at which the detention ends;
 - (g) any property secured from the person on his arrest or during his detention;
 - (h) the name and rank of the police officer upon whose authority any action in relation to the detained person is taken; and
 - (i) the ground or grounds, set out in section 27(2), on which the detention is based.
2. The Custody Record shall be opened as soon as practicable after the start of a person's detention under section 27.
3. The person making an entry in the Custody Record shall insert the time at which the entry is made and his signature against the entry made.
4. The Custody Record or copy of the Record shall accompany a detained person to any other place where he is transferred.
5. A copy of the Custody Record shall be supplied to the person detained or his legal representative as soon as is practicable after he or the representative makes a request upon his release from detention or his being taken to court.

6. The person detained shall be allowed to check and shall be made to insert his signature in respect of any entry in the Custody Record.
7. An entry shall be made in respect of any refusal of the person detained to insert his signature where such signature is required.
8. Entries in the Custody Record shall be made as soon as practicable after the occurrence of the events to which they relate.
9. A police officer not below the rank of Inspector shall be responsible for ensuring the accuracy and completeness of the Custody Record and that the Custody Record or a copy of the Record accompanies the detained person on his transfer.
10. Entries in a computerised Custody Record shall be timed and shall contain evidence of the computer operator's identity.

FOURTH SCHEDULE (section 28 (2))

Video Recording

1. The video recording of the detained person during his period of detention under section 27 shall be carried out in such manner as to constitute an accurate, continuous and uninterrupted record of the whole period of his detention, including his movements, interviews and statements.
2. When issuing the direction for detention under section 27, the Police Officer shall make arrangements for the video recording of the person detained during the whole of the period of his detention.
3. The Police Officer shall, for the purposes of the video recording, designate a recording officer under whose responsibility and control the video recording shall be conducted.
4. The recording officer shall be responsible for starting, without delay and immediately after a direction is issued under section 27, and for continuing the video recording without any interruption during the whole of the period of detention.
5. The recording officer shall, in respect of the video recording, keep a written record of the following -
 - (a) the name of the person detained;
 - (b) the name and rank of the recording officer;
 - (c) the name of the Police Officer who issued the direction under section 27;
 - (d) the names of all the persons involved in the video recording;
 - (e) the identification numbers of the video records used for video recording;
 - (f) the date, time of commencement, duration and place of-

- (i) (i) the detention; and
 - (ii) (ii) the recording;
 - (g) the place at which the video records are kept;
 - (h) particulars of the movement of the video records.
6. Where the person detained raises any objection during his period of detention or makes any statement, the whole of his objection or statement shall be recorded.
7. (a) The video record, referred to herein as the master video record, shall be sealed, with a label specifying that the record is a master video record, in the presence of the detained person at the end of his period of detention.
- (b) The recording officer shall sign the label and ask the detained person and any third party present to sign the label.
- (c) Where the detained person or the third party refuses to sign the label, another person may be asked to sign it.
8. (a) Where more than one video record is used, the recording officer shall ensure that all the video records are properly identified and labelled.
- (b) This shall be done by marking the video records with an identification number immediately after they are removed from the recorder.
9. The recording officer shall make arrangements for the video records to be kept securely under lock and key under the responsibility of an officer designated for that purpose.