



## ANALYSIS

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 2007, No. 31

An Act to amend the Terrorism Suppression Act 2004 to provide for certain additional offences dealing with terrorism and for related purposes

(12<sup>th</sup> November 2007)

**BE IT ENACTED** by the Parliament of the Cook Islands in Session assembled, and by the authority of the same, as follows:

1. Short Title – This Act may be cited as the Terrorism Suppression Amendment Act 2007 and shall be read together with and deemed part of the Terrorism Suppression Act 2004 (hereinafter referred to as “the principal Act”).

2. Interpretation – Section 3 of the principal Act is amended by -

(1) Inserting in section 3(1) the following definitions in alphabetical order -

“**means of delivery**” means missiles, rockets and other unmanned systems capable of delivering nuclear, chemical and biological weapons that are specifically designed for delivering those weapons.

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**“Nuclear, chemical, or biological weapon”** means -

- (a) nuclear weapons and other nuclear explosive devices;
- (b) chemical weapons which are, together or separately:
  - (i) toxic chemicals and their precursors, except where intended for:
    - (A) industrial, agricultural, research, medical, pharmaceutical, or other peaceful purposes; or
    - (B) protective purposes, namely those purposes directly related to protection against toxic chemicals and to protection against chemical weapons; or
    - (C) military purposes not connected with the use of chemical weapons and not dependent on the use of the toxic properties of chemicals as a method of warfare; or
    - (D) law enforcement including domestic riot control purposes, as long as the types and quantities are consistent with such purposes:
  - (ii) munitions and devices specifically designed to cause death or other harm through the toxic properties of those toxic chemicals specified in subparagraph (i), which would be released as a result of the employment of such munitions and devices;
  - (iii) any equipment specifically designed for the use directly in connection with the employment of munitions and devices specified in subparagraph (i): biological weapons which are;
  - (iv) microbial or other biological agents, or toxins whatever their origin or method of production, of types and in quantities that have no justification for prophylactic, protective, or other peaceful purposes; or
  - (v) weapons, equipment or means of delivery designed to use such agents or toxins for hostile purposes or in armed conflict.

**“nuclear facility”** means -

- (a) any nuclear reactor, including reactors installed on vessels, vehicles, aircraft (whether or not used for military, customs or police services) or space objects for use as an energy source in order to propel the vessels, vehicles, aircraft or space objects or for any other purpose; or
- (b) any plant or convenience being used for the production, storage or processing or transport of radioactive material.

**“radioactive device”** means -

- (a) any nuclear explosive device; or
- (b) any radioactive material dispersal or radiation-emitting device which may, owing to its radiological properties, cause death, serious bodily injury or substantial damage to property or the environment.

**“radioactive material”** means nuclear material and other radioactive substances which contain nuclides which undergo spontaneous disintegration (a process accompanied by emission of one or more types of ionizing radiation, such as alpha-, beta-, neutron particles and gamma rays) and which may, owing to their radiological or fissile properties, cause death, serious bodily injury or substantial damage to property or the environment.

(2) Deleting the words “ a group that is” from paragraph (b) of the definition of “terrorist group” in section 3(1).

(3) Inserting the following after subsection (2):

“(3) For the purposes of this Act the expression “an offence against this Act” includes an offence listed in the Second Schedule.

3. Definition of terrorist act – Section 4(3)(a) of the principal Act is amended by deleting “or (iv)” and substituting “, (iv), (v), or (vi)”.

4. Terrorist financing – Section 11 of the principal Act is amended by -

(1) Inserting the following after subsection (1):

“(2) A person must not provide or collect by any means, directly or indirectly, any property intending, knowing, or having reasonable grounds to believe that the property will benefit an entity that the person knows is a specified entity.

(3) In a prosecution for an offence against subsection (1), it is not necessary for the prosecutor to prove that the property collected or provided was actually used, in full or part, to carry out a terrorist act.”.

(2) Renumbering subsection (2) as subsection (4).

(3) Inserting in subsection (2), after the words “subsection (1)” the expression “or (2)”.

5. Participation in terrorist group – The principal Act is amended by inserting the following after section 15 -

“15A. Participation in terrorist group - (1) A person must not participate (whether as a member, associate member or prospective member) in a terrorist group, knowing it is a terrorist group.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a term of imprisonment of up to 14 years.”

6. Nuclear terrorism – The principal Act is amended by inserting the following after section 40 -

*“ Nuclear terrorism*

40A. Nuclear terrorism – (1) A person must not:

(a) unlawfully possess radioactive material or make or possess a radioactive device:

(i) with the intent to cause death or serious bodily injury; or

- (ii) with the intent to cause substantial damage to property or the environment;
  - (b) unlawfully use in any way radioactive material or a radioactive device, or use or damage a nuclear facility in a manner which causes a release or increases the risk of the release of radioactive material:
    - (i) with the intent to cause death or serious bodily injury; or
    - (ii) with the intent to cause substantial damage to property or the environment; or
    - (iii) with the intent to compel a person, State or international organization to do or refrain from doing any act.
- (2) A person must not -
- (a) threaten to commit an offence mentioned in subsection (1)(b); or
  - (b) unlawfully and intentionally make a demand supported by a threat or use of force:
    - (i) for the supply of radioactive material or a radioactive device; or
    - (ii) for a nuclear facility to be made available, or for access to a nuclear facility.
- (3) A threat referred to in subsection (2) must be made in circumstances which indicate the credibility of the threat.
- (4) A person who contravenes subsection (1) or (2) commits an offence and is liable on conviction to a term of imprisonment of up to 14 years.”

7. Obligation to extradite or prosecute – Section 44(2) of the principal Act is deleted and the following substituted:

“(2) The offences referred to in subsection (1) are those set out in sections 11, 12, 13, 14, 15, 15A, 16, 35, 36, 37, 38, 40, 40A, and the offences listed in the Second Schedule.”.

8. Consequential amendment – The Aviation Offences Act 1973 is amended by renumbering section 5A (which was inserted in the Act by the Aviation Offences Amendment Act 2007) as section 5AA, and all references to section 5A in the Aviation Offences Amendment Act 2007 shall be read as referring to the renumbered section 5AA.

9. Amendment to Schedules – The principal Act is amended by -
- (1) Deleting the word “Schedule” in Section 3 and substituting the words “the First Schedule”.
  - (2) Adding the following to the First Schedule:  
“13. International Convention for the Suppression of Acts of Nuclear Terrorism, adopted by the General Assembly of the United Nations on 13 April 2005.”
  - (3) Adding after the First Schedule, the Second Schedule contained in the Schedule to this Act.
  - (4) Deleting from Section 42 the word “Schedule” and substituting the words “First and Second Schedules”.

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This Act is administered by the Crown Law Office

SCHEDULE

SECOND SCHEDULE

Section 3

LIST OF OTHER TERRORIST OFFENCES

Crimes (Internationally Protected Persons and Hostages) Act 1982- all offences under this Act.

Aviation Offences Act 1973- all offences under sections 3, 4, 5 and 5A.

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