

SAINT LUCIA

No. 28 of 2019

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I Assent

[L.S.]

NEVILLE CENAC,
Governor-General.

September 26, 2019.

SAINT LUCIA

No. 28 of 2019

AN ACT to amend the Anti-Terrorism Act, Cap. 3.16.

[8th October, 2019]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the House of Assembly and the Senate of Saint Lucia, and by the authority of the same, as follows:

Short title

1. This Act may be cited as the Anti-Terrorism (Amendment) Act, 2019.

Interpretation

2. In this Act “principal Act” means the Anti-Terrorism Act, Cap. 3.16.

Amendment of section 2

3. Section 2 of the principal Act is amended —

(a) in the definition of —

(i) “counter terrorism convention or convention”, by inserting immediately after paragraph (m) the following new paragraphs (n), (o) and (p) —

“(n) Treaty on the Non-Proliferation of Nuclear Weapons, done in New York on 12 June, 1968;

(o) Convention on the Prohibition of the Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, done in Washington on 10 April, 1972;

(p) Convention on the Prohibition of the Development, Production, and use of Chemical Weapons and on their Destruction, done in Paris on 13 January, 1993;”,

(ii) “terrorist property”, by inserting immediately after paragraph (d), the following new paragraph (da) —

“(da) property derived or generated from property owned or controlled, directly or indirectly, by a terrorist group”;

(b) by deleting the definition of —

(i) “financial institution” and by substituting the following definition —

““financial institution” means —

- (a) an entity licensed under the Banking Act, No. 3 of 2015;
 - (b) a building society registered under the Building Societies Act, Cap. 12.04;
 - (c) a credit union registered under the Co-operative Societies Act, Cap. 12.06;
 - (d) an insurance company registered under the Insurance Act, Cap. 12.08;
 - (e) an entity listed under Schedule 1 of the Financial Services Regulatory Authority Act, Cap. 12.23;
 - (f) a registered agent and trustee licensed under the Registered Agent and Trustee Licensing Act, Cap. 12.12;
 - (g) an entity registered under the International Trusts Act, Cap. 12.19;
 - (h) an entity licensed under the Money Services Business Act, Cap.12.22; or
 - (i) a person licensed as a dealer or investment adviser under the Securities Act, Cap.12.18;”,
- (ii) “person” and by substituting the following definition —
- ““person” includes any entity, natural or juridical, a corporation, partnership, trust or estate, joint stock company, association, syndicate, joint venture, or other unincorporated organization or group, capable of acquiring rights or entering into obligations;”,
- (iii) “property” and by substituting the following definition —
- ““property” —
- (a) means a legal or an equitable interest, whether full or partial, in funds or economic resources;”;
 - (b) includes funds and economic resources, whether situated in Saint Lucia or elsewhere;”;

(c) by inserting in the correct alphabetical sequence the following new definitions —

“1267 Committee” means the Committee established pursuant to United Nations Security Council Resolution 1267 (1999) and its successors;

“1988 Committee” means the Committee established pursuant to United Nations Security Council Resolution 1988 (2011) and its successors;

“1267 List” means the Sanctions List prepared by the 1988 Committee;

“1988 List” means the Sanctions List prepared by the 1988 Committee;

“competent authority” means the —

- (a) Attorney General’s Chambers;
- (b) Financial Intelligence Authority;
- (c) Financial Services Regulatory Authority;
- (d) Customs and Excise Department;
- (e) Royal Saint Lucia Police Force;
- (f) Ministry responsible for external affairs;

“control” means the power of a person, acting alone, with or through another person, to —

- (a) exercise more than fifty per cent of the voting rights at a general meeting of an entity;
- (b) elect a majority of the directors of an entity;
or
- (c) exercise influence that, if exercised, would result in dominance over the entity;

“designated entity” means an entity —

- (a) listed on the 1267 List or the 1988 List; and
- (b) deemed to be a specified entity under section 4(2);

“economic resources” means assets, whether tangible or intangible, movable or immovable, that are not funds but can be used to obtain funds, goods or services;

“freezing order” means an order made by the court under section 22A(3);

“funds” means financial assets and benefits, including —

- (a) cash, cheque, claim on money, bank draft, money order, and other payment instrument;
- (b) a deposit with a financial institution or other person, a balance on an account, a debt and debt obligation;
- (c) publicly and privately traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivative products;
- (d) interest, dividends and other income or value accruing from or generated by assets;
- (e) credit, rights of set-off, guarantees, performance bonds and other financial commitments;
- (f) a letter of credit, bill of lading and bill of sale;
or
- (g) a document, whether electronic or digital, that provides evidence of an interest in funds or financial resources;

“other business activity” has the meaning assigned to it under section 2 of the Money Laundering (Prevention) Act, Cap. 12.20;”.

Amendment of section 3

4. Section 3 of the principal Act is amended —

(a) by deleting subsection (1) and by substituting the following —

“(1) A competent authority, other than the Financial Intelligence Authority, that is in possession of information that an entity meets the following criteria, namely —

- (a) that the entity —
 - (i) committed,
 - (ii) attempted to commit,
 - (iii) participated in committing, or
 - (iv) facilitated the commission of,
 - a terrorist act;
- (b) that the entity is owned or controlled, directly or indirectly, by an entity referred to under paragraph (a);
- (c) that the entity is acting on behalf of, at the direction of or in association with an entity referred to under paragraph (a),

shall immediately submit that information to the Financial Intelligence Authority and the Financial Intelligence Authority shall forward the information to the Attorney General.”;

- (b) by inserting immediately after subsection (1), the following new subsections (1A), (1B), (1C) and (1D) —

“(1A) If the Attorney General receives information referred to under subsection (1) from the Financial Intelligence Authority and the Attorney General has reasonable grounds to believe that —

- (a) an entity has knowingly —
 - (i) committed,
 - (ii) attempted to commit,
 - (iii) participated in committing, or
 - (iv) facilitated the commission of,
 - a terrorist act;
- (b) an entity is owned or controlled, directly or indirectly, by an entity under paragraph (a);

- (c) an entity is knowingly acting on behalf of, at the direction of, or in association with an entity referred to under paragraph (a),

the Attorney General may, by Order published in the *Gazette*, declare an entity to be a specified entity.

(1B) If a country requests that Saint Lucia lists an entity pursuant to United Nations Security Council Resolution 1373 and the Attorney General has reasonable grounds to believe that an entity satisfies the following criteria, namely —

- (a) an entity has knowingly —
 - (i) committed,
 - (ii) attempted to commit,
 - (iii) participated in committing, or
 - (iv) facilitated the commission of, a terrorist act;
- (b) an entity is owned or controlled, directly or indirectly, by an entity referred to under paragraph (a);
- (c) an entity is knowingly acting on behalf of, at the direction of or in association with an entity referred to under paragraph (a),

the Attorney General may, by Order published in the *Gazette*, declare that entity to be a specified entity.

(1C) If the Attorney General receives information referred to under subsection (1) from the Financial Intelligence Authority concerning an entity that is located in a another country, the Attorney General may make a request to that country for that country to list that entity pursuant to United Nations Security Council Resolution 1373.

(1D) If the Attorney General makes a request to another country under subsection (1C) for that country to list an entity pursuant to United Nations Security Council Resolution 1373, the Attorney General must provide a record of the case in respect of the entity, including —

- (a) sufficient identifying information to allow for the accurate and positive identification of the entity; and
- (b) evidence that the entity meets the criteria set out under subsection (1A)(a) for listing pursuant to United Nations Security Council Resolution 1373; and
- (c) particulars of the facts on which the request is being made.”;
- (c) under subsection (3)(a), by inserting immediately after the word “*Gazette*” the following —
 - “, and shall immediately, and in any case within forty eight hours, give written notice of the revocation to —
 - (i) the specified entity,
 - (ii) the Financial Intelligence Authority,
 - (iii) the Financial Services Regulatory Authority,
 - (iv) the Royal Saint Lucia Police Force,
 - (v) the Ministry responsible for external affairs, and
 - (vi) any other person that the Attorney General considers appropriate;”;
- (d) under subsection (5)(a), by deleting the letter “t” appearing immediately after the words “in respect of the applicant and hear any”.

Insertion of new sections 3A and 3B

5. The principal Act is amended by inserting immediately after section 3 the following new sections 3A and 3B —

“Competent authority to submit information to Financial Intelligence Authority

3A. A competent authority, other than the Financial Intelligence Authority, that is in possession of information that an entity meets the following criteria, namely—

- (a) that an entity —

- (i) is participating in the financing, planning, facilitating, preparing, or perpetrating of acts or activities by, in conjunction with, under the name of, on behalf of, or in support of,
- (ii) is supplying, selling or transferring arms and related material to,
- (iii) is recruiting for or otherwise supporting acts or activities of,
Al-Qaida, or any cell, affiliate, splinter group or derivative of Al-Qaida;
- (b) that an entity is owned or controlled, directly or indirectly, by an entity referred to under paragraph (a);
- (c) that an entity is acting on behalf of, or at the direction of an entity referred to under paragraph (a);
- (d) that an entity —
 - (i) is participating in the financing, planning, facilitating, preparing, or perpetrating of acts or activities by, in conjunction with, under the name of, on behalf of, or in support of,
 - (ii) is supplying, selling or transferring arms and related materiel to,
 - (iii) is recruiting for or is otherwise supporting acts or activities of an entity referred to under subparagraph (i) that is associated with,
the Taliban in constituting a threat to the peace, stability and security of Afghanistan;
- (e) that an entity is owned or controlled, directly or indirectly, by an entity referred to under paragraph (d);
- (f) that an entity is acting on behalf of or at the direction of an entity referred to under paragraph (d),

shall immediately submit that information to the Financial Intelligence Authority and the Financial Intelligence Authority shall forward the information to the Attorney General.

Attorney General to propose names for listing and de-listing

3B.—(1) Where the Attorney General receives information referred to under section 3A from the Financial Intelligence Authority and the Attorney General has reasonable grounds to believe that an entity meets the following criteria, namely that —

- (a) an entity —
 - (i) is participating in the financing, planning, facilitating, preparing, or perpetrating of acts or activities by, in conjunction with, under the name of, on behalf of, or in support of,
 - (ii) is supplying, selling or transferring arms and related material to,
 - (iii) is recruiting for or otherwise supporting acts or activities of, Al-Qaida, or any cell, affiliate, splinter group or derivative of Al-Qaida;
- (b) an entity is owned or controlled, directly or indirectly, by an entity referred to under paragraph (a);
- (c) an entity is acting on behalf of or at the direction of an entity referred to under paragraph (a);
- (d) an entity —
 - (i) is participating in the financing, planning, facilitating, preparing, or perpetrating of acts or activities by, in conjunction with, under the name of, on behalf of, or in support of,
 - (ii) is supplying, selling or transferring arms and related material to,
 - (iii) is recruiting for or is otherwise supporting acts or activities of an entity referred to undersubparagraph (i) that is associated with, the Taliban in constituting a threat to the peace, stability and security of Afghanistan;

- (e) an entity is owned or controlled, directly or indirectly, by an entity referred to under paragraph (d);
- (f) an entity is acting on behalf of, or at the direction of an entity under paragraph (d),

the Attorney General shall make a proposal to the 1267 Committee or the 1988 Committee that the name of an entity be listed on the 1267 List or the 1988 List, as the case may be.

(2) The Attorney General must ensure that a proposal under subsection (2) to the 1267 Committee or the 1988 Committee —

- (a) is submitted in the standard forms for listing that is published by the 1267 Committee or the 1988 Committee;
- (b) includes the following information, which may also be required by INTERPOL —
 - (i) in the case of an individual —
 - (A) family name or surname;
 - (B) given names, other relevant names or aliases;
 - (C) date and place of birth;
 - (D) nationality or citizenship;
 - (E) gender;
 - (F) employment or occupation;
 - (G) country of residence;
 - (H) passport, other travel document and any national identification number;
 - (I) current and any previous addresses;
 - (J) police record,
 - (ii) in the case of a body corporate —
 - (A) name, registered name, any short name or acronym or any other name by which it is known or was formerly known;

- (B) registered address or address of its head office, branch, subsidiary or any linked organization;
 - (C) the nature of business or activity;
 - (D) country of main activity;
 - (E) leadership or management;
 - (F) registration or incorporation number or other identification number;
 - (G) status of body corporate such as whether it is in liquidation, wound-up or otherwise terminated;
 - (H) any website address;
- (c) is accompanied by a statement of case which includes —
- (i) information demonstrating that an entity satisfies the criteria for listing under subsection (1) set out in paragraphs 3 and 5 of United Nations Security Council Resolution 2253 (2015),
 - (ii) details of any connection with a specified entity,
 - (iii) information about any other relevant acts of the entity,
 - (iv) the nature of the supporting evidence,
 - (v) any additional information or documents supporting the proposed listing, as well as information about relevant court cases and proceedings; and
- (d) indicate whether the 1267 Committee, the 1988 Committee, the Secretariat or the United Nations Office of the Ombudsperson may disclose that Saint Lucia has made a proposal that the entity be listed on the 1267 List or the 1988 List.

(3) If an entity has been listed on the 1267 List or the 1988 List on the basis of a request by the Attorney General, and the Attorney General is satisfied that an entity listed under subsection (1) no longer satisfies the criteria for listing that is provided under subsection (1), the Attorney General shall submit a request to the 1267 Committee or the 1988 Committee, as the case may be, for the entity to be de-listed.

(4) The Attorney General shall ensure that a request under subsection (3) to the 1267 Committee or the 1988 Committee for de-listing —

(a) is submitted in the standard form for de-listing that is published by the 1267 Committee or the 1988 Committee;

(b) includes information showing that the entity no longer meets the criteria for listing that is provided under subsection (1).

(5) Notwithstanding subsection (3), where an entity has been placed on the 1267 List or the 1988 List, the Attorney General shall, as far as practicable, inform the entity of the availability of the United Nations Office of the Ombudsperson or the Focal Point for De-listing, as appropriate, for the purposes of petitioning the removal of the name of the entity from the 1267 List or the 1988 List.”.

Substitution of section 6

6. The principal Act is amended by deleting section 6 and by substituting the following —

“Provision of financial or economic resources for commission of terrorist act

6.—(1) A person shall not, directly or indirectly, provide or make available funds, economic resources, financial or other related services —

(a) intending that the funds, economic resources, financial or other related service be used, in whole or in part, for the purpose of committing or facilitating the commission of a terrorist act or for the purpose of benefiting a person who is committing or facilitating the commission of a terrorist act;

(b) knowing or having reasonable grounds to believe that the funds, economic resources, financial or other related services will be used by or will benefit —

- (i) a terrorist group,
 - (ii) a person owned or controlled by a terrorist group, or
 - (iii) a person acting on behalf of a terrorist group.
- (2) A person who contravenes subsection (1) commits an offence and is liable on conviction on indictment to imprisonment for a term of twenty-five years.
- (3) A financial institution that contravenes subsection (1) commits an offence and is liable on conviction on indictment to a fine not exceeding one million dollars.
- (4) A director, general manager, or an employee of a financial institution who contravenes subsection (1) commits an offence and is liable on conviction on indictment to imprisonment for a term of twenty-five years.

Insertion of new section 6A

7. The principal Act is amended by inserting immediately after section 6 the following new section 6A —

“Prohibition against having a business or professional relationship with a specified entity

6A.—(1) Unless otherwise directed by the Financial Intelligence Authority or the Commissioner of Police, a financial institution or a person engaged in other business activity that has been served with a freezing order, in respect of a specified entity, shall immediately terminate a business or professional relationship with that specified entity or refrain from providing services to that specified entity.

(2) A financial institution or a person engaged in other business activity that contravenes subsection (1) commits an offence and is liable on conviction on indictment to a fine not exceeding one million dollars.

(3) A director, manager or an employee of a financial institution or a person engaged in other business activity who contravenes subsection (1) is liable on conviction on indictment to imprisonment for a term of twenty-five years.”.

Amendment of section 7

8. Section 7(b) of the principal Act is amended by inserting immediately after the word “knowing” the words “or having reasonable grounds to believe”.

Amendment of section 19

9. Section 19 of the principal Act is amended by inserting immediately after the word “knows” the words “or has reasonable grounds to believe”.

Insertion of new sections 22A, 22B, 22C, 22D, 22E, 22F, 22G and 22H

10. The principal Act is amended by inserting immediately after section 22 the following new sections 22A, 22B, 22C, 22D, 22E, 22F, 22G and 22H —

“Attorney General to make application for freezing order

22A.—(1) The Attorney General shall immediately apply to the court for a freezing order —

- (a) to freeze property in circumstances where the property is —
 - (i) owned or controlled by a specified entity,
 - (ii) wholly or jointly owned or controlled, directly or indirectly, by a specified entity, or
 - (iii) derived or generated from funds or other assets that is owned or controlled directly or indirectly by a specified entity;
- (b) to prohibit a specified entity from possessing, controlling or having access to property or economic resources.

(2) An application under subsection (1) must be —

- (a) made *ex parte*; and
- (b) accompanied by an affidavit deposing to circumstances referred to under subsection (1)(a).

- (3) Subject to section 22B, a freezing order may —
- (a) be made subject to any condition that the court considers reasonable;
 - (b) prohibit a specified entity from possessing or controlling cash in excess of an amount specified by the court;
 - (c) indicate into which account held in a financial institution any excess cash must be deposited;
 - (d) make provisions as is just in the circumstances to preserve the rights of a *bona fide* third party acting in good faith.
- (4) Notwithstanding subsection (3)(b), where a specified entity is in possession of cash in excess of an amount specified in the freezing order, the specified entity shall deposit the excess amount into a bank account owned by the specified entity in Saint Lucia, as specified by the court.
- (5) The Attorney General shall serve the freezing order on —
- (a) the specified entity named in the freezing order;
 - (b) a financial institution;
 - (c) a person engaged in other business activity; and
 - (d) any other person likely to be affected by the freezing order, which may include a person with the same or similar name to a specified entity,
- and cause the freezing order to be published in the *Gazette* and in at least two newspapers of general circulation in Saint Lucia.
- (6) If the Attorney General reasonably believes that a specified entity that is the subject of a freezing order has funds in another country, he or she may apply to the relevant authorities in that country for the enforcement of the freezing order.
- (7) If the court gives a direction for the administration of frozen property, the person on whom the duty to administer the property is imposed is not liable —
- (a) for any loss or damage to the property;

(b) for the costs of proceedings taken to establish a claim to the property; or

(c) to a person having an interest in the property,

unless the court in which the claim is made is of the opinion that the person has been negligent in respect of taking of custody or control of the property.

(8) The Government is not liable for damages or costs arising directly or indirectly from the making of a freezing order unless it is proved on a balance of probability that the application for the freezing order was made in bad faith.

Provisions regarding basic expenses for specified entity

22B. Where a freezing order has been made in respect of a specified entity that is not listed on the 1267 List or the 1988 List, the court may, in the freezing order —

(a) make provision for meting out of the property or specified part of the property, reasonable living expenses, including —

(i) mortgage or rent payments,

(ii) allowances for food, medicine and medical treatment,

(iii) any payments due as a result of an order of the court,

(iv) provision for —

(A) the reasonable living expenses of dependants of the specified entity, including educational expenses; and

(B) medicine and the medical treatment of dependants of the specified entity; and

(v) provision for taxes, insurance premiums and public utilities;

(b) make provision for reasonable legal expenses, including expenses incurred in defending a criminal charge or any proceedings connected to that criminal charge and any proceedings under this Act;

- (c) make provision for expenses necessary to enable a person to carry on a trade, business, profession or occupation;
- (d) make provision for fees or service charges for routine holding or maintenance of frozen funds or other financial assets or economic resources; and
- (e) make the specified entity subject to any other condition that the court considers reasonable.

Provisions regarding basic expenses for specified entry listed on the 1267 List or the 1988 List

22C. If a freezing order has been made in respect of a specified entity that is listed on the 1267 List or the 1988 List, the Attorney General shall not apply to the court for a variation of the freezing order under section 22D(2) to make provision for meting out of the property or specified part of the property

- (a) any expense under section 22B(a)(i), (ii) and (v), (b),(c) or (d), unless the Attorney General has first notified the 1267 Committee or the 1988 Committee of his or her intention to apply to the court for such an order and the 1267 Committee or the 1988 Committee, as the case may be, has not, within forty-eight hours of being notified, indicated its objection to an application to the court; or
- (b) any other expense, unless the Attorney General has first obtained the consent of the 1267 Committee or the 1988 Committee for an application to the court.

Review of freezing order

22D.—(1) The Attorney General shall, every six months, review a freezing order to determine whether the circumstances under section 22A(1)(a) with respect to a specified entity continue to exist.

(2) If the Attorney General determines that the circumstances under section 22A(1)(a) no longer exist, he or she may apply to the court for an order to set aside the freezing order.

- (3) Nothing in this section precludes the Attorney General, at any time, from —
- (a) conducting a review of the circumstances referred to in section 22A(1)(a) in respect of a specified entity to determine whether the circumstances continue to exist in respect of the specified entity; or
 - (b) applying to the court for the variation or setting aside of a freezing order.
- (4) Where the court varies or sets aside a freezing order in respect of a specified entity, the Attorney General shall publish a copy of that order in the *Gazette* and in two newspapers of general circulation in Saint Lucia.

Application for review of freezing order by specified entity

22E.—(1) Within sixty days after the date of publication of a freezing order under section 22A(5), a specified entity that is not listed on the 1267 List or the 1988 List may apply to the court for a review of the freezing order, and shall notify the Attorney General of the application.

- (2) On an application made to the court under subsection (1), the court may —
- (a) hear evidence that may be presented by the Attorney General and may, at the request of the Attorney General, hear all or part of that evidence or information in the absence of the applicant or an attorney-at-law representing the applicant, if the court is of the opinion that the disclosure of the information would be prejudicial to national security or endanger the safety of a person;
 - (b) provide the applicant with a statement summarising the information available to the court, so as to enable the applicant to be reasonably informed of the reasons for the making of the freezing order, without disclosing any information, the disclosure of which would, in the opinion of the court, be prejudicial to national security or endanger the safety of a person;

- (c) provide the applicant with a reasonable opportunity to be heard; and
- (d) determine whether the freezing order should be set aside on the basis of the information available to the court and, if the court determines that the freezing order should be set aside, direct that the freezing order be set aside.

(3) For the purposes of an application for a review of a freezing order under this section, the court may receive in evidence anything that, in the opinion of the court, is reliable and relevant.

(4) On an application to the court under subsection (1), the court shall, if satisfied that the circumstances specified under section 22A(1)(a) do not continue to exist in respect of a specified entity, make an order to set aside the freezing order, which must be —

- (a) published in the *Gazette* and in two newspapers of general circulation in Saint Lucia; and
- (b) served on the Financial Intelligence Authority or the Attorney General, if the Attorney General is not a party to the proceedings.

Application for review of freezing order by an affected person

22F.—(1) A person affected or likely to be affected by a freezing order in respect of a specified entity that is not listed on the 1267 List or the 1988 List may, at any time, after being served with the freezing order, apply to the court for a review of the freezing order.

(2) Where an application for review of a freezing order is made under subsection(1), the applicant shall serve the Attorney General with a copy of the application and the Attorney General shall be given an opportunity to make representations to the court in respect of proceedings for the review of the freezing order.

Requirement to freeze funds

22G.—(1) On being served with a freezing order in respect of a specified entity, a financial institution and a person engaged in other business activity, where appropriate, shall, without delay, freeze all funds in an account that is —

- (a) owned or controlled, wholly or jointly by the specified entity; or
- (b) derived or generated from economic resources, owned or controlled, by the specified entity.

(2) A financial institution or a person engaged in other business activity that contravenes subsection (1) commits an offence and is liable, on conviction on indictment, to a fine not exceeding one million dollars.

(3) A director, manager or an employee of a financial institution or a person engaged in other business activity that contravenes subsection (1) commits an offence and is liable on conviction on indictment to imprisonment for a term not exceeding twenty-five years.

(4) Nothing in this section prohibits the addition of interest or earnings due on an account frozen under this section or payments under contracts, agreements or obligations that arose prior to the making of a freezing order.

(5) Where a financial institution or a person engaged in other business activity credits a frozen account as a result of —

- (a) interest or other earnings due on the account,
- (b) payments due under contracts, agreements or obligations that were concluded or arose before the account became a frozen account;
- (c) receiving funds transferred to the account,

that financial institution or person engaged in other business activity shall immediately notify the Financial Intelligence Authority.

(6) A financial institution or a person engaged in other business activity that contravenes subsection (5) commits an offence

and is liable, on conviction on indictment, to a fine not exceeding one million dollars.”.

Freezing of funds in extreme urgency

22H. Notwithstanding sections 22A and 22G, where the Attorney General receives information under section 3(1) from the Financial Intelligence Authority and the Attorney General has reasonable grounds to believe that an entity satisfies the following criteria, namely —

- (a) an entity has knowingly —
 - (i) committed,
 - (ii) attempted to commit,
 - (iii) participated in committing, or
 - (iv) facilitated the commission of,
 a terrorist act;
- (b) an entity is owned or controlled, directly or indirectly, by an entity referred to under paragraph (a);
- (c) an entity is knowingly acting on behalf of, at the direction of, or in association with an entity referred to under paragraph (a),

the Attorney General may direct a financial institution or a person engaged in other business activity to immediately freeze funds in an account that is —

- (i) owned or controlled by a specified entity,
- (ii) wholly or jointly owned or controlled, directly or indirectly, by a specified entity,
- (iii) derived or generated from funds or other assets that is owned or controlled, directly or indirectly, by a specified entity,

and the Attorney General may apply to the court within seventy- two hours for a continuation of the freezing order.”.

Amendment of section 32**11. Section 32 of the principal Act is amended —**

(a) by deleting subsection (2) and by substituting the following

—
 “ (2) The Financial Intelligence Authority may disclose any information in its possession relating to any property owned or controlled by or on behalf of a terrorist group to —

- (a) the Comptroller of the Customs and Excise Department;
- (b) the Comptroller of the Inland Revenue Department;
- (c) the Commissioner of Police,
- (d) the Director of Public Prosecutions;
- (e) a Financial Intelligence Unit of a foreign State or an appropriate authority of a foreign State, as the case may be,

if such information is requested or if the Financial Intelligence Authority is of the view that the information would be relevant to the Financial Intelligence Unit of a foreign State or an appropriate authority of a foreign State.”;

(b) under subsection (3), by inserting immediately after the words “financial institution” the words “or a person engaged in other business activity”;

(c) by deleting subsection (4) and by substituting the following —

“(4) In addition to the requirement under subsection (3), a financial institution and a person engaged in other business activity, as the case may be, shall immediately report to the Financial Intelligence Authority —

- (a) funds frozen under sections 22G and 22H;
- (b) any transaction which occurs within the course of its activities, and in respect of which there are reasonable grounds to suspect that the transaction is related to the commission of a terrorist act;

- (c) any action taken in relation to the termination of a business or professional relationship with a specified entity.”.

Passed in the House of Assembly this 17th day of September, 2019.

ANDY G. DANIEL,
Speaker of the House of Assembly.

Passed in the Senate this 19th day of September, 2019.

JEANNINE GIRAUDY-MCINTYRE,
President of the Senate.