

Anti-Terrorism (Amendment) Bill, 2013

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ANTI-TERRORISM (AMENDMENT) BILL, 2013

AN ACT to amend the Anti-Terrorism Act, 2008 (Act 762) to clarify the power of the High Court to order the funds and other assets of a terrorist, financiers of terrorism or a terrorist organisation to be frozen and to provide for related matters.

DATE OF ASSENT:

PASSED by Parliament and assented to by the President:

Section 5 of Act 762 amended

1. The Anti-Terrorism Act, 2008 (Act 762) referred to in this Act as the principal enactment is amended in section 5 by the substitution for subsection (2) of

“(2) The High Court shall order the funds and other assets of

- (a) a terrorist,
- (b) financiers of terrorism, or
- (c) a terrorist organisation

to be frozen and any person holding the funds shall, without delay, freeze them.”

Section 40 of Act 762 amended

2. The principal enactment is amended in section 40 by

- (a) the insertion of a new definition after “accountable institution” of

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“Committee” means the Implementation Committee established under section 1 of the Instructions for the Implementation of United Nations Security Council Resolutions 1267 (1999), 1373 (2001), 1718 (2006), 1737 (2006), Successor Resolutions and Other Relevant Resolutions, 2013 (E. I. 2)”;

(b) the insertion of a new definition after “firearm” of

“funds or other assets” include

- (a) financial assets, economic resources, property of every kind, whether tangible or intangible, movable or immovable, however acquired, and
- (b) legal documents or instruments in the nature of
 - (i) electronic or digital documents, evidencing title to, or interest in, those funds or other assets,
 - (ii) bank credits, traveller’s cheques, bank cheques, money orders, shares, securities, bonds, drafts, or
 - (iii) other letters of credit and any interest, dividends or other income on or value accruing from or generated by those funds or other assets”;

(c) the insertion of a new definition after “terrorist group” of

“terrorist organisation” means any group of terrorists that

- (a) commits or attempts to commit a terrorist act by any means, directly or indirectly;
- (b) participates as an accomplice in a terrorist act;
- (c) organises or directs others to commit a terrorist act; or
- (d) contributes to the commission of a terrorist act by a group of persons acting with a common

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purpose where the contribution is made intentionally and with the aim of furthering the terrorist act or with the knowledge of the intention of the group to commit a terrorist act”;

(d) the substitution for the definition of “terrorist property” of
“ “terrorist property” means

(a) proceeds from the commission of a terrorist act;

(b) property which has been, is being or is intended to be provided or used to commit a terrorist act;

(c) property which has been, is being, or is intended to be provided to or used by a terrorist or a terrorist organisation;

(d) property owned or controlled by or on behalf of, or otherwise related or linked to a terrorist, a terrorist organisation or those who finance terrorism; or

(e) property which has been collected for the purpose of providing support to a terrorist or a terrorist organisation or funding a terrorist act”;

(e) the insertion of a new definition after “weapon of mass destruction” of

“ “without delay” means ideally within a matter of hours
of

(a) in the case of the United Nations Sanctions List and freezing actions dealing with third party requests, receipt of information relating to the listing or delisting of a terrorist individual, entity or organisation,

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- (b) in the case of or designation by the Committee, confirmation by order of the Court, or
- (c) upon having reasonable grounds, or a reasonable basis to suspect or believe that an individual, entity or organisation is a terrorist, one who finances terrorism or a terrorist organisation."

Date of *Gazette* notification: 21st June, 2013.

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MEMORANDUM

The High Court is empowered under section 5(2)(c) of the Anti-Terrorism Act, 2008 (Act 762) to order the freezing of funds and other assets of a terrorist, a financier of terrorism or a terrorist organisation designated by the United Nations Security Council in accordance with Chapter VII of the United Nations Charter. With respect to terrorist organisations, this meant that the High court could make the order only in respect of a terrorist organisation designated by the United Nations Security Council. This situation lets other terrorist organisations off the hook.

The purpose of this Bill is to amend the Anti-Terrorism Act, 2008 (Act 762) by substituting section 5(2). The new subsection 5(2)(c) removes the qualification of a terrorist organisation as an organisation designated by only the United Nations Charter and not that of any other terrorist organisation.

The amending provision in *clause* 1 rectifies this anomaly and renders it possible for the High Court to order the funds of a terrorist, financiers of terrorism or a terrorist organisation in general to be frozen.

Clause 2 of the Bill provides for the substitution of existing definitions and the insertion of new definitions in the Anti-Terrorism Act, 2008 (Act 762).

MARIETTA BREW APPIAH-OPONG (MRS.)
Attorney-General and Minister for Justice

Date: 17th June, 2013