

EXTRACTS DATED 10TH DECEMBER, 2015

BILL No. 16 of 2015

Thursday 10th December, 2015

PARLIAMENT OFFICE
Public Buildings,
Georgetown,
Guyana

10th December, 2015.

The following Bill which will be introduced in the National Assembly is published for general information.

S E Isaacs,
Clerk of the National Assembly.



BILL No. 16 of 2015

ANTI-TERRORISM AND TERRORIST RELATED ACTIVITIES BILL 2015 ARRANGEMENT OF SECTIONS

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**A BILL
Intituled**

An Act to criminalize terrorism, and terrorist related activities and to provide for the detection, prevention, prosecution, conviction and punishment of terrorism and terrorist related activities.

• **A.D.2015** • Enacted by the Parliament of Guyana:-

PART I

PRELIMINARY

Short title and
commencement.

1. This Act may be cited as the Anti-Terrorism and Terrorist Related Activities Act 2015 and shall come into operation on such date as the Minister may by order appoint.

Interpretation.

2. In this Act, unless the context otherwise requires -

"aircraft in flight" means an aircraft at any time from the moment when all its external doors are closed following embarkation until the moment when any such door is opened for disembarkation; in the case of a forced landing, the flight shall be deemed to continue until the competent authorities take over the responsibility

for the aircraft and for persons and property on board;

"aircraft in service" means an aircraft from the beginning of the pre-flight preparation of the aircraft by ground personnel or by the crew for a specific flight until twenty-four hours after any landing; the period of service shall, in any event, extend for the entire period during which the aircraft is in flight;

"BCN weapon" means -

(a) "biological weapons", which are -

(i) 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

(ii) weapons, equipment or means of delivery designed to use such agents or toxins for hostile purposes or in armed conflict;

(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 (b)(i), which would be released as a result of the employment of such munitions and devices;

(iii) any equipment specifically designed for use directly in connection with the employment of

munitions and devices specified in

subparagraph (b)(ii);

-nuclear-weapons-and----other--nuclear-----explosive
devices;

"Convention" means any of the following Conventions -

- (a) Convention on Offences and Certain Other Acts committed on Board Aircraft signed at Tokyo on 14th September, 1963;
- (b) Convention for the Suppression of Unlawful Seizure of Aircraft done at The Hague on 16th December, 1970;
- (c) Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14th December, 1973;
- (d) International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17th December, 1979;
- (e) Convention on the Physical Protection of Nuclear Material, adopted at Vienna on 3rd March, 1980;
- (f) Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10th March, 1988;
- (g) Protocol for the Suppression of Unlawful Acts against the

- Safety of Fixed Platforms located on the Continental Shelf,
done at Rome on 10th March, 1988;
- (h) Convention on the Marking of Plastic Explosives for the
Purposes of Detection, signed at Montreal on 1st March,
1991;
 - (i) International Convention for the Suppression of Terrorist
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Nations on 15th December, 1997;
 - (j) Convention on the Suppression of Unlawful Acts relating to
International Civil Aviation, done at Beijing on 10th
September, 2010;
 - (k) Protocol Supplementary to the Convention for the
Suppression of Unlawful Seizure of Aircraft, done at Beijing
on 10th September, 2010;
 - (l) Inter-American Convention against Terrorism;

"device" means -

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

"explosive or other" lethal device" means -

- (a) a weapon; or
- (b) an explosive or incendiary weapon, that is designed or has the capability to cause death, serious bodily injury or substantial material damage;

"fixed platform" means an artificial island, installation or structure permanently attached to the sea-bed for the purpose of exploration or exploitation of resources or for other economic purposes;

"IAEA" means the International Atomic Energy Agency;

"imprisonment for life" in relation to an offender means imprisonment for the remainder of the natural life of the offender;

"internationally protected person" means -

- (a) 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 of Foreign Affairs, whenever any such person is in a foreign State, as well as members of his family who accompany him;
- (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 him, his official premises, his private accommodation or his means of transport is committed, is entitled pursuant to international law to special protection from any attack on his person, freedom or dignity, as well as members of his family forming part of his household;

"international organization" means an organization constituted by States to which its Member States have transferred competence over matters governed by a Convention of the United Nations;

"Judge" means a Judge of the High Court of the Supreme Court of Judicature;

"juridical person" means any law enforcement body, military body, member of the judiciary or magistracy; or any other person not being natural person; or a person created by law and recognized as a legal entity having distinct identity, legal personality, and duties and rights;

"master" in relation to a vessel, means the owner or person (except a harbour master or pilot) having for the time being command or charge of the vessel;

"Minister" means the Minister to whom responsibility for the Ministry of Public
& m i - t y --- i s - a s s i - g n e d ; -----

: "nuclear material" means plutonium except that with isotopic concentration
. exceeding 80% in plutonium 238, uranium-233, uranium enriched in the isotope
• 235 or 233, uranium containing the mixture of isotopes as occurring in nature
other than in the form of ore or ore-residue and any material containing one or
more of the foregoing;

: "operator" in relation to an aircraft, means the owner or person for the time being
, in charge or command or control of the aircraft;

• "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;

"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;

"precursor" means any chemical reactant which takes part at any stage in the production by whatever method of a toxic chemical including any key component of a binary or multi-component chemical system;

"property" means any asset of every kind, whether corporeal or incorporeal, moveable or immovable, tangible or intangible, 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, letters of credit;

"public transportation system" means all facilities, conveyances and instrumentalities, whether publicly or privately owned, that are used in or for publicly available services for the transportation of persons or cargo;

"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 to the environment;

"serious injury or damage" means -

(a) serious bodily injury; or

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government facility, infrastructure facility, or public
transportation system, resulting in major economic loss;

or

(c) substantial damage to the environment, including air, soil,
water, fauna, or flora;

"ship" means a vessel of any type whatsoever not permanently attached to the
sea-bed, including dynamically supported craft, submersibles, or any other
floating craft;

"source material" and "special fissionable material" have the same meaning as
given to those terms in article XX of the Statute of the International Atomic
Energy Agency, done at New York on 26th October, 1956;

"State or government facility" means any pennant 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;

"terrorist act" means -

(a) an act whether committed in or outside of Guyana which causes or is likely to cause -

- (i) loss of human life or serious bodily harm;
- (ii) damage to property;
- (iii) prejudice to national security or disruption of public safety including disruption in the provision of emergency services or to any computer or electronic system or to the provision of services directly related to banking, communications, infrastructure, financial services, public utilities, transportation or other essential infrastructure,

and is intended to -

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(A) compel a government or an international organization to do or refrain from doing any act; or

(B) intimidate the public or a section of the public, for the purpose of advancing a political, ideological or a religious cause; or

(b) any act which constitutes an offence within the scope of, and as defined in any of the Convention:

Provided that an act which -

---, causes death or serious bodily harm to a person -

taking active part in armed conflict in accordance with the applicable rules of international law; or

(b) disrupts any service and is committed in pursuance of a demonstration, protest or stoppage of work and is not intended to result in any harm referred to in paragraph (a) of the definition of "terrorist act",

shall not be considered a terrorist act;

"terrorist property" means -

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

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

(c) property which has been collected for the purpose of funding a terrorist act;

"territory of Guyana" means the land territory of the State referred to in article 2 of the Constitution, its internal waters and the territorial sea, which extend from twelve nautical miles generally from the low water line along the coast;

"transport" means to initiate, arrange or exercise effective control, including

' decision-making authority, over the ov ment f person or item;

· "toxic chemical" means any chemical which through its chemical action on life
· processes can cause death, temporary incapacitation or permanent harm to
. humans or animals including all such chemicals, regardless of their origin or of
: their method of production, and regardless of whether they are produced in
. facilities, in munitions or elsewh_ere;

· "uranium enriched in the isotope 235 or 233" means uranium containing the
: isotope 235 or 233 or both in an amount such that the abundance ratio of the sum
of these isotopes to the isotope 238 is greater than the ratio of th isotope 235 to
, the isotope 238 occurring in nature;

. "weapon" includes a firearm, explosive; hemical, biological or nuclear weapon.

PART II

OFFENCES

- Terrorist acts.
3. "(1) A person who commits terrorist act commits an offence and shall on conviction on indictment be liable to -
- (a) be sentenced to death, if such act has resulted in the death of any person;
 - (b) be punished with a fine of not less than five hundred thousand

dollars nor more than three million dollars together with

imprisonment for not less than ten nor more than fifteen years, in

~~any other case~~.

(2) A person who attempts or conspires to commit, or advocates, aids and abets, advises or incites or knowingly facilitates the commission of a terrorist act or any act preparatory to a terrorist act, commits an offence and shall be punishable for the offence as if he had been guilty as a principal offender.

(3) The penalties specified in this section do not apply to offences referred to in Part III.

Provision of services for commission of terrorist acts.

4. A person who, directly or indirectly, provides or makes available financial or other related services intending that they be used, in whole or in part, for the purpose of committing or facilitating the commission of a terrorist act, commits an offence and shall, on conviction on indictment, be liable to imprisonment for not less than fifteen years nor more than twenty years.

Collection or provision of property to commit terrorist acts.

5. A person who collects, provides, or makes available property having reasonable grounds to believe that the property will be used to commit a terrorist act, commits an offence and shall, on conviction on indictment, be liable to imprisonment for not less than fifteen years nor more than twenty years.

Use of property
for commission
of terrorist acts.

6. A person who -
- (a) uses property, directly or indirectly, in whole or in part, for the purpose of committing or facilitating the commission of a terrorist act; or
 - (b) possesses property intending that it be used or knowing that it will be used, directly or indirectly, in whole or in part, for the purpose of committing or facilitating the commission of a terrorist act,
- commits an offence and shall, on conviction on indictment, be liable to imprisonment for not less than fifteen years nor more than twenty years.

Arrangements
for retention or
control
of terrorist
property.

7. A person who knowingly becomes concerned in or enters into an arrangement which facilitates the acquisition, control or retention of terrorist property by or on behalf of another person, commits an offence and shall, on conviction on indictment, be liable to imprisonment for not less than fifteen years nor more than twenty years.

Dealing with
terrorist
property.

8. A person who knowingly -
- (a) acquires or possesses terrorist property;
 - (b) conceals, converts or disguises terrorist property;
 - (c) deals directly or indirectly with any terrorist property; or
 - (d) enters into or facilitates directly or indirectly any transaction in relation to terrorist property,

commits an offence and shall, on conviction on indictment, be liable to imprisonment for not less than fifteen years nor more than twenty years.

soliciting or giving support for the commission of terrorist acts.

9. (1) A person who knowingly-

(a) supports; or

(b) solicits support for,

the commission of a terrorist act, commits an offence and shall, on conviction on indictment, be liable to imprisonment for not less than fifteen years nor more than twenty years.

(2) For the purposes of subsection (1) "support" includes but is not limited to -

(a) an offer to provide or the provision of expertise or a skill;

(b) an offer to provide or the provision of falsified or forged

documents; and

(c) entering or remaining in any country, for the purpose of committing or facilitating a terrorist act.

Harbouring of persons committing terrorist acts.

10. A person who conceals or harbours another person or hinders, interferes with or prevents the apprehension of, any other person having reason to believe or knowing that that other person has committed, is planning or is likely to commit a terrorist act, commits an offence and shall, on conviction on indictment, be liable to imprisonment for not less than fifteen years nor more than twenty years.

Provision of devices.

11. A person who knowingly offers to provide, or provides any explosive or other lethal device for the purpose of committing or facilitating a terrorist act commits an offence and shall, on conviction on indictment, be liable to imprisonment for not less than fifteen years nor more than twenty years.

Recruitment of persons for terrorist purposes.

12. A person who agrees to recruit or recruits any other person to participate in the commission of a terrorist act, commits an offence and shall, on conviction on indictment, be liable to imprisonment for not less than fifteen years nor more than twenty years.

Provision of instruction or training to persons committing terrorist acts.

13. A person who knowingly agrees to provide instruction or training or provides instruction or training in -

- (a) the carrying out of a terrorist act;
- (b) the making or use of any explosive or other lethal device;
- or
- (c) the practice of military exercises or movements,

to a person engaging in or preparing to engage in the commission of a terrorist act, commits an offence and shall, on conviction on indictment, be liable to imprisonment for not less than fifteen years nor more than twenty-five years.

Incitement - promotion or solicitation of property for the commission of terrorist acts.

14. A person who, knowingly, incites or promotes the commission of a terrorist act, or solicits property for the commission of a terrorist act commits an offence and shall, on conviction on indictment, be liable to imprisonment for

not less than fifteen years nor more than twenty five years.

15. Providing, -l person-who---being---me,-----
facilities in
supponof
terrorist acts.

(a) agent, charterer, lessee, master, operator or owner in charge of a vessel knowingly pennits that vessel to be used;

(b) agent, charterer, lessee, operator, owner or pilot in charge of an aircraft knowingly pennits that aircraft to be used;

(c) lessee, occupier, owner or person in charge of any place or premises knowingly pennits a meeting to be held in that place or building; or

(d) lessee, owner or person in charge of any equipment or facility that may be used for conferencing, recording or meetings through the use of technological means knowingly pennits the equipment or facility to be used to facilitate the commission of an offence under this Act,

commits an offence and shall, on conviction on indictment be liable to imprisonment for not less than fifteen years nor more than twenty years.

supply of
weapons for the
commission of
terrorist acts.

16. A person who supplies or offers to supply weapons to another person with the intention or in the knowledge that the weapons are to be used for the purpose of committing -

(a) any of the offences set out in this Part; or

(b) any other act intended to cause death or serious bodily injury to a

civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is -

- (i) to intimidate a population; or
- (ii) to compel a government or an international organization to do or to abstain from doing any act,

commits an offence and shall on conviction on indictment be liable to imprisonment for not less than fifteen years nor more than twenty years.

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acts.

11. A person who distributes or otherwise makes available a message to the public, with the intent to incite or with the knowledge that such message may incite the commission of -

- (a) any of the offences set out in this Part, or in the other provisions of this Act; or
- (b) any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act, where such act, whether or not directly advocating an act mentioned in this section, causes a danger that one or more such offences may be committed,

commits an offence and shall, on conviction on indictment be liable to

imprisonment for not less than fifteen years nor more than twenty years.

Agreement
of
terrorist
acts.

48. A person who agrees with one or more persons to commit

- (a) any of the offences set out in this Part or Part III; or
- (b) any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act,

commits an offence and shall, on conviction on indictment, be imprisoned for not less than fifteen years nor more than twenty years.

Plannin and
preparation for
the commission
of terrorist acts.

19. A person who makes plans or preparations with the intention or in the

knowledge that such plans or preparations are for the purpose of committing -

- (a) any of the offences set out in this Part or Part III; or
- (b) any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act,

commits an offence and shall, on conviction on indictment, be imprisoned for not

less than fifteen years nor more than twenty years.

Attempt and
complicity to
commit terrorist
acts.

20. (1) A person who attempts to commit any offence under this Act shall, on conviction on indictment, be punished with a fine of not less than five hundred thousand dollars nor more than three million dollars together with imprisonment for not less than fifteen years nor more than twenty years.

(2) To the extent not otherwise defined by law, a person who -

(a) participates as an accomplice in conducts defined as offences under this Act;

(b) organizes or directs others to commit offences under this Act;

(c) contributes to the commission of one or more offences by a group of persons acting with a common purpose, where such contribution is intentional and is made with the aim of furthering the criminal activity or criminal purpose of the group,

commits an offence and shall, on conviction on indictment, be punished with a fine of not less than five hundred thousand dollars nor more than three million dollars together with imprisonment for not less than fifteen years nor more than twenty years.

PART III

CONVENTION OFFENCES

Endangering the
safety of
maritime

21. (1) A person who, in respect of a ship registered in Guyana or within the

territory of Guyana

- (a) seizes or exercises control over a ship or a fixed platform, by force or ~~Threat~~ or any ~~other form~~ of intimidation;-----
- (b) performs an act of violence against a person on board a ship or fixed platform, if that act is likely to endanger safety;
- (c) destroys the ship or causes damage to the ship or to its cargo which is likely to endanger the safe navigation of the ship;
- (d) places or causes to be placed on the ship, by any means whatsoever, a device or substance which is likely to destroy the ship, or cause damage to the ship or its cargo which endangers or is likely to endanger the safe navigation of the ship;
- (e) destroys or seriously damages maritime navigational facilities or seriously interferes with their operation, if such act is likely to endanger the safe navigation of the ship;
- (f) destroys a fixed platform or causes damage to it, which is likely to endanger its safety, or places or causes to be placed on a fixed platform, by any means whatsoever, a device or substance likely to destroy that fixed platform or to endanger its safety;
- (g) communicates information, knowing the information to be false and under circumstances in which the information may reasonably be believed, thereby endangering the safe navigation of the ship;
- (h) injures or kills any person in connection with the commission of any of the offences set out in paragraphs (a) to (g),

commits an offence and shall, on conviction on indictment, be liable to -

- (i) be sentenced to death, if such act has resulted in the death of any person;
- (ii) be punished with a fine of not less than five hundred thousand dollars nor more than three million dollars together with imprisonment for not less than ten nor more than fifteen years, in any other case.

(2) A person who issues a threat aimed at compelling a physical or juridical person to do or refrain from doing any act, to commit any of the offences set out in subsection (1) if the act is likely to endanger the safe navigation of a ship or the safety of the fixed platform commits an offence and shall, on conviction on indictment, be punished with a fine of not less than five hundred thousand dollars nor more than three million dollars together with imprisonment for not less than fifteen years nor more than twenty years.

Offences related to terrorist bombings.

22. (1) A person who unlawfully and 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, a public transport facility, a public transportation system or an infrastructure facility-
- (a) with the intent to cause death or serious bodily injury; or
 - (b) with the intent to cause extensive damage to, or destruction of the place, facility or system, where the destruction results in or is likely to

result in major economic loss,

commits an offence and shall, on conviction on indictment

i) be sentenced to death, if such act has resulted in the death of any person;

(ii) be punished with a fine of not less than five hundred thousand dollars nor more than three million dollars together with imprisonment for not less than ten nor more than fifteen years, in any other case.

(2) This section does not apply to the military forces of the State-

(a) during an armed conflict; or

(b) in respect of activities undertaken in the exercise of their official duties.

Offences Related To Radioactive Material And Nuclear Facilities

· Handling of
· radioactive
· material and
· devices.

23. (1) A person who possesses, transfers, alters, disposes, or disperses radioactive material or makes or possesses a device with the intent to cause -

(a) death or serious bodily injury; or

(b) substantial damage to property or to the environment,

commits an offence and shall, on conviction on indictment, be liable to -

(i) be sentenced to death, if such act has resulted in the death of any person;

(ii) be punished with a fine of not less than five hundred thousand dollars nor more than three million dollars together with imprisonment for not less than ten nor more than fifteen years, in any other case.

(2) A person who commits -

(a) a theft or robbery of radioactive material;

(b) an embezzlement or fraudulent obtaining of radioactive material;

or

(c) an act which constitutes the carrying, sending, or moving of

radioactive material into or out of a State without lawful authority,

commits an offence and shall, on conviction on indictment, be liable to imprisonment for not less than fifteen years nor more than twenty years.

(3) A person who threatens to commit an offence under subsection 2(a) in order to compel a natural or legal person, international organization or State to do or to refrain from doing any act, commits an offence and shall, on conviction on indictment, be liable to imprisonment for not less than fifteen years nor more than twenty years.

Use of
radioactive
material.

24. (1) A person who unlawfully and intentionally uses in anyway radioactive material or a device in a manner which releases or risks the release of radioactive material with the intent -

(a) to cause death or serious bodily injury;

(b) to cause substantial damage to property or to the environment;

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a State to do or refrain from doing an act,

commits an offence and shall, on conviction on indictment, be liable to -

(i) be sentenced to death, if such act has resulted in the death of any person;

(ii) be punished with a fine of not less than five hundred thousand dollars nor more than three million dollars together with imprisonment for not less than ten nor more than fifteen years, in any other case.

(2) A person who unlawfully and intentionally demands radioactive material or a device by threat, under circumstances that indicate the credibility of the threat, or by use of force, or by any other form of intimidation, commits an offence and shall, on conviction on indictment, be liable to imprisonment for not less than fifteen years nor more than twenty years.

(3) A person who unlawfully and intentionally threatens, under circumstances that indicate the credibility of the threat, to commit the offence under subsection (1), commits an offence and shall, on conviction on indictment, be liable to imprisonment for not less than fifteen years nor more than twenty years.

25. (1) A person who unlawfully and intentionally-

(a) intends to acquire or possesses nuclear material or designs or manufactures or possesses a device, or attempts to manufacture or acquire a device, with the intent-

(i) to cause death or serious bodily injury; or

(ii) to cause substantial damage to property or to the environment;

(b) uses in any way nuclear material or a device, or uses or damages a nuclear facility in a manner which releases or risks the release of nuclear material with the intent -

(i) to cause death or serious bodily injury;

(ii) to cause damage to property or the environment; or

(iii) to compel a natural or legal person, an inter-governmental organization or a State to do or refrain from doing an act,

commits an offence and shall, on conviction on indictment, be liable to-

(i) be sentenced to death, if such act has resulted in the death of any person;

(ii) be punished with a fine of not less than five hundred thousand dollars nor more than three million dollars together with imprisonment for not less than ten nor more than fifteen years, in any other case.

(2) A person who -

(a) threatens, under circumstances which indicate the credibility of the threat, to commit an offence referred to in subsection (1) (b);

(b) unlawfully and intentionally demands radioactive material, a device or control of a nuclear facility by threat, under circumstances which indicate the credibility of the threat, or by use of force;

(c) demands to take control of a nuclear facility by threat, under circumstances that indicate the credibility of the threat, or by use of force,

commits an offence and shall be liable on conviction on indictment to not less than fifteen years nor more than twenty years imprisonment.

Hoaxes involving noxious substances or things or explosives or lethal devices.

26. (1) A person who -

(a) places any substance or other thing in any place;

(b) sends any substance or other thing from one place to another by any means whatsoever,

'with the intention of inducing in a person anywhere in the world a belief that it is likely to be or contain a noxious substance or other noxious thing or a lethal device or chemical, biological or nuclear weapon;

(c) communicates any information which he knows or believes to be false with the intention of inducing in a person anywhere in the world a belief that a noxious substance or other noxious thing or a lethal device or a weapon of mass destruction is likely to be present, whether at the time the information is communicated or later, in any place,

commits an offence and shall be liable on conviction on indictment to imprisonment for not less than fifteen years nor more than twenty years.

(2) For a person to be guilty of an offence under this section it is not necessary for him to have any particular person in mind as the person in whom he intends to induce the belief in question.

(3) The court, in imposing a sentence on a person who has been convicted of an offence under subsection (1), may order that person to reimburse any party incurring expenses incident to any emergency or investigating response to that conduct, for those expenses.

(4) A person ordered to make reimbursement under subsection (3) shall be jointly and severally liable for such expenses; with each other person, if any, who is ordered to make reimbursement under subsection (3) for the same expenses.

(5) An order of reimbursement under subsection (3) shall, for the purposes of enforcement, be treated as a civil judgment.

(6) For the purposes of this section "substance" includes any biological agent and any other natural or artificial substance, whatever its form, origin or method of production.

Offences Based On The Status Of The Victim

Protection of internationally protected persons.

27. (1) A person who -

(a) murders, kidnaps or carries out other attacks upon the person or liberty of an internationally protected person;

(b) carries out a violent attack, by means of fire or explosives, upon the official premises, the private accommodation or the means of transport of an internationally protected person likely to endanger his person or liberty,

commits an offence and shall, on conviction on indictment, be liable to -

(i) be sentenced to death, if such act has resulted in the death of any person;

(ii) a fine of not less than five hundred thousand dollars nor more than three million dollars together with imprisonment for not less than ten nor more than fifteen years, in any other case.

(2) A person who carries out a violent attack, by means of fire or explosives, upon the premises or property, or upon which an internationally protected person is present, or is likely to be present, with intent to endanger the life of that internationally protected person by the destruction or damage of that property or premises commits an offence and shall, on conviction on indictment, be liable to imprisonment for not less than fifteen years nor more than twenty years.

(3) A person who threatens to do anything that would constitute an offence under

subsections (1) and (2) commits an offence and shall, on conviction on indictment, be liable to imprisonment for ten years.

(4) A person who, with intent to intimidate, coerce, threaten or harass, -

(a) enters or attempts to enter any building or premises which is used or occupied for official business or for diplomatic, consular, or residential purposes by an internationally protected person within Guyana; or

(b) refuses to depart from such building or premises after a request by an employee of a foreign government or an international organisation, if such employee is authorised to make such request,

commits an offence and shall, on conviction on indictment, be liable to a fine of one hundred thousand dollars and to imprisonment for five years.

correns b-ased
on the taking of
hostages.

28. A person who seizes or detains and threatens to kill, to injure or to continue to detain another person, in order to compel a third party, namely, a State, an international intergovernmental organisation, a natural or juridical person, or a group of persons, to do or abstain from doing any act as an explicit or implicit condition for the release of the hostage, commits an offence and shall, on conviction on indictment, be liable to -

(a) be sentenced to death, if such act has resulted in the death of any person;

(b) be punished with a fine of not less than five hundred thousand dollars nor more than three million dollars together with imprisonment for not less than ten nor more than fifteen years, in

any other case.

Use of chemical,
biological or
nuclear
weapons.

29. (1) A person who, unlawfully and intentionally uses, threatens or attempts or conspires to use chemical, biological or nuclear weapons -

(a) against a citizen of Guyana or a person ordinarily resident in Guyana while either such person is in or outside Guyana;

(b) against any other person within Guyana; or

(c) against any property that is owned, leased or used by the Government of Guyana, whether the property is within or outside of Guyana,

commits an offence and shall, on conviction on indictment, be liable to imprisonment for life.

(2) A citizen of Guyana or person ordinarily resident within Guyana who, unlawfully and intentionally, uses chemical, biological or nuclear weapons outside of Guyana commits an offence and shall, on conviction on indictment, be liable to imprisonment for life.

Offences Related To Civil Aviation

Hijacking of aircraft.

30. (I) Whoever on board an aircraft in flight seizes or exercises control of the aircraft in service by force or threat, or by coercion, or by any other form of intimidation, or by any technological means, commits an offence and shall, on conviction on indictment, be liable to-

- (a) be sentenced to death, if such act has resulted in the death of any person;
- (b) be punished with a -fine of not less than -five hundred thousand dollars nor more than three million dollars together with imprisonment for not less than ten nor more than fifteen years, in any other case.

(2) In this section an aircraft is considered to be in service from the beginning of the pre-flight preparation of the aircraft) by ground personnel or by the crew for a specific flight until twenty-four hours after any landing and in the case of a forced landing, the flight shall be deemed to continue until the competent authorities take over the responsibility for the aircraft and for persons and property on board.

Offences against the safety of civil aviation.

31. (I) A person who -

- (a) commits an act of violence against a person on board an aircraft in flight, if that act is likely to endanger the safety of that aircraft;
- (b) destroys an aircraft in service, or causes damage to such an aircraft which renders it incapable of flight or which is likely to endanger its

safety in flight;

- (c) places or causes to be placed on an aircraft in service, by any means whatsoever, a device or a substance which is likely to destroy that aircraft, or causes damage to it which renders it incapable of flight, or causes damage which is likely to endanger its safety in flight;
- (d) destroys or damages air navigation facilities or interferes with their operation, if any such act is likely to endanger the safety of the aircraft in flight;
- (e) communicates information which the person knows to be false, thereby endangering the safety of the aircraft in flight;
- (f) uses an aircraft in service for the purpose of causing death, serious bodily injury, or serious damage to property or the environment;
- (g) releases or discharges from an aircraft in service any BCN weapon or explosive, radioactive, or similar substances in a manner that causes or is likely to cause death, serious bodily injury or serious damage to property or the environment;
- (h) uses against or on board an aircraft in service any BCN weapon or explosive, radioactive, or similar substances in a manner that causes or is likely to cause death, serious bodily injury or serious damage to property or the environment;
- (i) transports, causes to be transported, or facilitates the transport of, on board an aircraft -

(A) any explosive or radioactive material, knowing that it is

intended to be used to cause, or in a threat to cause, with or without a condition, death or serious injury or damage for the purpose of intimidating a population, or compelling a government or an international organization to do or to abstain from doing any act;

- (B) any BCN weapon, knowing it to be a BCN weapon;
- (C) any source material, special fissionable material, or equipment or material especially designed or prepared for the processing, use or production of special fissionable material, knowing that it is intended to be used in a nuclear explosive activity or in any other nuclear activity not under safeguards pursuant to a safeguards agreement with the IAEA;
- (D) any equipment, materials or software or related technology that significantly contributes to the design, manufacture or delivery of a BCN weapon without lawful authorisation and with the intention that it will be used for such purpose;

commits an offence and shall, on conviction on indictment, be liable to-

- (i) be sentenced to death, if such act has resulted in the death of any person;
- (ii) be punished with a fine of not less than five hundred thousand dollars nor more than three million dollars together with imprisonment for not less than ten nor more than fifteen years, where the attack causes grievous bodily harm:

Provided that for activities involving Guyana, including those undertaken by a
entity licensed by Guyana, it shall not be an offence under
subparagraphs (C) and (D) if the transport of such items or materials is consistent
with or is for a use or activity that is consistent with its rights, responsibilities and
obligations under the applicable multilateral non-proliferation treaty to which
Guyana is a party.

- (2) A person who makes a threat aimed at compelling a physical or juridical
• person to do or refrain from doing any act to commit an offence under subsection
(1) if the threat is likely to endanger the safety of an aircraft commits an offence
and shall, on conviction on indictment, be liable to imprisonment for not less than
• fifteen years nor more than twenty years.

Offences against
safety at airports
serving civil
aviation.

32. (1) Whoever commits any of the following acts, using any device,
substance or weapon, if such acts are likely to endanger the safety at an airport
serving international aviation -
- (a) an act of violence against a person which causes or is likely to
cause serious injury or death;
 - (b) destroys or seriously damages the facilities of the airport or aircraft
not in service located thereon or disrupts the services of the airport,
commits an offence and shall, on conviction on indictment, be liable to -
 - (i) be sentenced to death, if such act has resulted in the death of

any person;

(ii) a fine of not less than five hundred thousand dollars nor more than three millions dollars together with imprisonment for not less than ten nor more than fifteen years, where the attack causes grievous bodily harm.

(2) A person who makes a threat, aimed at compelling a physical or juridical person to do or refrain from doing any act to commit any of the offences under subsection (1) if the threat is likely to endanger the safety at the airport, commits an offence and shall, on conviction on indictment, be liable to -

(a) be sentenced to death, if such act has resulted in the death of any person;

(b) a fine of not less than five hundred thousand dollars nor more than three million dollars together with imprisonment for not less than ten nor more than fifteen years, where the attack causes grievous bodily hann, or in any other case.

PARTIV

INVESTIGATION OF OFFENCES

Detention
orders.

33. (1) Subject to subsection (2), a police officer shall, for the purpose of preventing the commission of an offence under this Act or preventing interference in the investigation of an offence under this Act, apply *ex parte*, to a Judge in Chambers for a detention order.

~~(i) A police officer shall make an application under subsection (1) through the~~

Director of Public Prosecutions.

(3) A Judge may make an order under subsection (1) for the detention of the person named in the application if he is satisfied that there are reasonable grounds to believe that the person is -

- (a) interfering or is likely to interfere with an investigation of;
- (b) preparing to commit; or
- (c) facilitating the commission of,

an offence under this Act.

(4) An order under subsection (3) shall be for a period not exceeding seventy-two hours in the first instance and may be extended for a further period provided that the maximum period of detention under the order does not exceed fourteen days.

(5) Every order shall specify the place at which the person named in the order is to be detained and conditions in respect of access to a medical officer.

First Schedule

(6) An accurate and continuous record shall be kept in accordance with the First Schedule, in respect of any detainee for the whole period of his detention.

Power to gather information.

34. (1) The Director of Public Prosecutions on behalf of the Police Force may,

for the purpose of an investigation of an offence under this Act, apply *ex parte* to a Judge in Chambers for an order for the gathering of information from named persons.

(2) Notwithstanding the nature of the proceedings by the Director of Public Prosecutions on behalf of the Police Force the Minister shall be served with all documents and may appear in the proceedings.

(3) A Judge may make an order under subsection (1) for the gathering of information if he is satisfied -

(a) that there are reasonable grounds to believe that an offence under this Act has been committed and that -

(i) information concerning the offence; or

(ii) information that may reveal the whereabouts of a person suspected by the police of having committed the offence,

is likely to be obtained as a result of the order; or

(b) that-

(i) there are reasonable grounds to believe that an offence under this Act will be committed;

(ii) there are reasonable grounds to believe that a person has direct and material information that relates to the offence referred to in subparagraph (i); or

(iii) there are reasonable grounds to believe that a person has

direct and material information that may reveal the whereabouts of a person who the police officer suspects may commit the offence referred to in subparagraph (f); and

(iv) reasonable attempts have been made to obtain the information referred to in subparagraph (ii) or (iii) from the person referred to therein.

(4) An Order made under this section may -

- (a) include conditions or terms which the Judge considers reasonable;
- (b) order the examination on oath of the person named in the Order;
- (c) order the person to attend at a time and place fixed by the Judge, for the purpose of being examined; and
- (d) order the person to bring and produce any document or thing in his control or possession for the purpose of the examination.

(5) An Order made under this section may be executed anywhere in Guyana.

(6) The Judge who makes an Order under this section, or another Judge of the same Court, may vary its terms and conditions.

(7) A person named in an Order made under this section shall answer questions put to the person by the Director of Public Prosecutions or the Director of Public

Prosecutions' representative, and shall produce to the presiding Judge documents or things that the person was ordered to bring, but may, subject to the ruling of the Judge under subsection (8), refuse to do so if answering a question or producing a document or thing would disclose information that is protected by the law relating to non-disclosure of information or privilege.

(8) The presiding Judge shall rule on every objection or issue relating to a refusal to answer any question or to produce any document or thing.

(9) A person shall not be excused from answering a question or producing a document or thing on the ground that the answer, document or thing may incriminate him or subject him to any penalty or proceedings.

(10) Notwithstanding subsection (9) any-

- (a) answer given;
- (b) document or thing produced; or
- (c) evidence obtained,

from that person shall not be used or received against him in any criminal proceedings other than in a prosecution for perjury.

(11) A person may retain and instruct counsel at any stage of the proceedings under this section and counsel so retained may attend and represent the person named in the order when he is being examined.

(12) The presiding Judge, if satisfied that any document or thing produced during the course of the examination is likely to be relevant to the investigation of an offence under this Act, shall order that the document or thing be given into the custody of the police officer or someone acting on the police officer's behalf.

(13) Subject to subsection (8), nothing in this section requires the disclosure of any information which is protected by privilege.

PART V

JURISDICTION

Jurisdiction.

35. (I) The Courts shall have jurisdiction in respect of any offence referred to in this Act if they have been attempted or committed-

- (a) in Guyana;
- (b) on board or against an aircraft registered in Guyana, a ship flying the flag of Guyana, or a fixed platform located on the continental shelf of Guyana;
- (c) on board or against an aircraft leased without crew to a lessee who has his principal place of business or, if the lessee has no such place of business, his permanent residence, in Guyana.

- (2) In addition, the Supreme Court of Judicature shall have jurisdiction for any of the offences prohibited under this Act committed outside Guyana if -
- (a) the offence was committed by a national of Guyana;
 - (b) the offence was committed by a stateless person whose habitual residence is in Guyana;
 - (c) the alleged perpetrator is found in Guyana and is not extradited to any State requesting extradition for the same conduct;
 - (d) in the case of an offence involving an aircraft under section 30 [hijacking of aircraft] and section 31 [offences against safety of airports], the offence was committed onboard the aircraft, if it lands in Guyana with the alleged offender still on board;
 - (e) in the case of the offence under in section 28 [taking of hostages], the offence was committed in order to compel the Government of Guyana to do or abstain from doing any act; or
 - (f) in the case of the offence under in section 27 [protection of internationally protected persons], the offence was committed against an internationally protected person by virtue of functions that person exercises on behalf of the Government of Guyana.

(3) An act or omission committed outside Guyana which would if committed in Guyana constitute an offence under this Act shall be deemed to have been committed in Guyana if the person committing the act or omission is present in Guyana and cannot be extradited to a foreign State having jurisdiction over the

offence constituted by such act or omission.

PART VI

INVESTIGATION, PRE-TRIAL MEASURES, RIGHTS OF THE PERSON SUBJECT TO PROCEEDINGS FOR OFFENCES UNDER TIDS ACT

Investigation.

36. (1) Where the Minister receives information that there may be present in Guyana a citizen of Guyana or a foreign national who is alleged to have committed an offence under this Act, the Minister shall -

- (a) cause the Police Force to carry out an investigation in respect of that allegation;
- (b) inform any other foreign State which might also have jurisdiction over the alleged offence promptly of the findings of the investigations of the Police Force; and
- (c) indicate promptly to other foreign States which might also have jurisdiction over the alleged offence whether to the best of his knowledge, information and belief, a prosecution is intended in Guyana by the Director of Public Prosecutions.

(2) The Minister shall ensure the presence of the alleged person for purposes of prosecution or extradition, when necessary requesting that the alleged person be placed under judicial control or in custody.

Applicability of international law.

37. Any person in relation to whom proceedings are taken for any of the offences under this Act shall be granted fair treatment, including enjoyment of all applicable rights and guarantees in conformity with international law, in particular international human rights and humanitarian law.

Right of communication, visit and notification.

38. (1) If a person has been placed under custody for any of the offences under this Act, that person shall be entitled to -

(a) communicate without delay with the nearest representative of the State where he is a citizen or with someone otherwise entitled to protect his rights or, in the case of a stateless person, the country where he is habitually resident;

(b) be visited by a representative of that State;

(c) be informed of the rights afforded him under paragraphs (a) and (b).

(2) If a person has been taken into custody to ensure the person's presence for the purpose of prosecution or surrender to a foreign State in terms of this section, the Commissioner of Police shall, immediately after the person is taken into custody, notify the Minister.

(3) The Minister shall inform any foreign State which might have jurisdiction over the offence concerned, and any other State that he considers it advisable to inform or notify either directly or through the Secretary-General of the United Nations, of -

(a) the fact that the person is in custody; and

(b) the circumstances that justify the person's detention.

(4) When the Director of Public Prosecutions declines to prosecute, and a foreign State has jurisdiction over the offence concerned, the Minister shall inform the foreign State, accordingly with the view to the surrender of the person to the foreign State for prosecution by that State.

Extradition from
Guyana
Cap. 10:04.

39. The proceedings referred to in the Fugitive Offenders Act shall apply with the necessary changes in respect of any surrender referred to in section 38.

Evidence by
certificate.

40. Where in any proceedings for an offence under this Act, a question arises as to whether anything or substance is a weapon, a hazardous, radioactive or a harmful substance, a toxic chemical or microbial or other biological agent or toxin, a certificate purporting to be signed by an appropriate person authorised by the Commissioner of Police to the effect that the thing or substance, described in the certificate is a weapon, hazardous, radioactive or harmful substance, a toxic chemical or microbial or other biological agent or toxin, shall be admissible in evidence without proof of the signature or authority of the person appearing to have signed it and shall, in the absence of evidence to the contrary, be proof of the facts stated therein.

PART VII

INFORMATION SHARING, EXTRADITION AND MUTUAL ASSISTANCE IN CRIMINAL MATTERS

Exchange of
information
relating
to terrorist acts.

41. The Minister may, after consultation with the Attorney General, on a

request made by the appropriate authority of a foreign State, disclose to that authority, any information in his possession or, with the necessary permission, in the possession of any other government department or agency, relating to any of the following -

- (a) the actions or movements of persons suspected of involvement in the commission of terrorist acts;
- (b) the use of forged or falsified travel papers by persons suspected of involvement in the commission of terrorist acts;
- (c) traffic in explosives or other lethal devices or sensitive materials by persons suspected of involvement in the commission of terrorist acts;
- or
- (d) the use of communication technologies by persons suspected of involvement in the commission of terrorist acts,

• if the disclosure is not prohibited by any law and will not, in the Minister's view ; be prejudicial to national security or public safety.

re at Y 10-b; used as basis for extradition.

Cap. 10:04

42. (1) Where Guyana becomes a party to a Convention and there is in force, an extradition arrangement between the Government of Guyana and another State which is a party to that Convention, the extradition arrangement shall be deemed, for the purpose of the Fugitive Offenders Act, to include provision for extradition in respect of offences falling within the scope of that Convention.

(2) Where Guyana becomes a party to a Convention and there is no extradition arrangement between the Government of Guyana and another State which is a party to that Convention, the Minister may, by Order, subject to a negative

resolution of the National Assembly treat the Convention, for the purposes of the Fugitive Offenders Act, as an extradition arrangement between the Government of Guyana and that State, providing for extradition in respect of offences falling within the scope of that Convention.

Treaty to be used as basis for mutual assistance in criminal matters.

Cap. 15:05

43. (1) Where Guyana becomes a party to a Convention and there is in force, an arrangement between the Government of Guyana and another State which is a party to that Convention, for mutual assistance in criminal matters, the arrangement shall be deemed, for the purposes of the Mutual Assistance in Criminal Matters Act, to include provision for mutual assistance in criminal matters in respect of offences falling within the scope of that Convention.

(2) Where Guyana becomes a party to a Convention/Treaty and there is no arrangement between the Government of Guyana and another State which is a party to that Treaty/Convention for mutual assistance in criminal matters, the Minister may, by Order subject to negative resolution of the National Assembly, treat the Treaty/Convention as an arrangement between the Government of Guyana and that State providing for mutual assistance in criminal matters in respect of offences falling within the scope of that Treaty/Convention.

Extradition request for acts committed outside the territory of the requesting State.

44. (!) When the Minister receives a request for extradition for an offence that was not committed in the territory of the requesting State, that offence shall be treated by the Minister as if it had been committed in the territory of the requesting State as long as -

- (a) the offence falls within the scope of a Convention; and
- (b) Guyana and the requesting State are both Parties to that Convention;

and the requesting State has established its jurisdiction based on any of the grounds mentioned in section 35.

(2) Where Guyana becomes a party to a Convention and there is no arrangement between the Government of Guyana and another State which is a party to that Convention for mutual assistance in criminal matters, the Minister may, by Order subject to negative resolution of the National assembly, treat the Convention as an arrangement between the Government of Guyana and that State providing for mutual assistance in criminal matters in respect of offences falling within the scope of that Convention.

Offences under this Act not deemed to be offences of a political character.

Cap. 10:04

Cap. 15:05

45. Notwithstanding anything in the Fugitive Offenders Act or the Mutual Assistance in Criminal Matters Act, an offence under this Act or an offence under any other Act where the act or omission constituting the offence also constitutes a terrorist act, shall, for the purposes of extradition or of mutual assistance, be deemed not to be an offence of a political character or an offence connected with a political offence or an offence inspired by political motives.

Decision not to extradite; case submitted to Director of Public Prosecutions.

46. If a decision is taken not to extradite the alleged perpetrator for any of the offences under this Act, the case shall be submitted by the Minister to the Director of Public Prosecutions who will decide on the course of action to be taken for the purpose of prosecution, irrespective of whether -

(a) the alleged perpetrator is present in Guyana;

(b) he is a national of Guyana or a stateless-person;

(c) the offence was committed in Guyana.

Mutual Assistance In Criminal Matters

Applicability of general provisions of laws and treaties in force.

Cap. 15:05

47. The conditions and procedures relating to mutual assistance with regard to the offences under this Act are regulated by the relevant applicable laws and treaties in force in Guyana and the Mutual Assistance in Criminal Matters Act.

Transfer of detained persons for purposes of identification, testimony to a foreign State.

48. (1) The Minister may address a request to a foreign State for the transfer of a person who is being detained or is serving a sentence in such State whose presence is required for purposes of identification, testimony or otherwise providing in obtaining evidence for the investigation or prosecution of offences under this Act.

(2) Unless the Minister of the foreign State so agrees, the person being transferred, whatever his nationality-

(a) shall not be prosecuted or detained or subjected to any other restriction of his personal liberty in respect of acts or convictions anterior to his departure from the territory of the foreign State;

(b) shall be kept in custody, unless otherwise requested or authorised by the foreign State;

(c) shall be returned without delay to the custody of the foreign State as agreed.

(3) The Minister shall not require the initiation of extradition proceedings for the

return of the person to the foreign State.

Common Provisions And Duties Of Notification

Offences not to be regarded as political,

49. For the purpose of extradition and mutual assistance, the offences under this Act shall not be regarded as political offences, or as offences connected with a political offence or offences inspired by political motives.

Non-discrimination clause.

50. Nothing shall impose an obligation to extradite or provide assistance in relation to an alleged offender for any of the offences under this Act, if there are substantial grounds for believing that the request has been made for the purpose of prosecuting or punishing that person on account of his gender, race, religion, nationality, ethnic origin or political opinion or that compliance with the request would cause prejudice to that person's position for any of these reasons.

Notification to other competent or interested States.

51. When the person who is the subject of an investigation for an offence under this Act has been placed into custody, the Minister shall immediately notify the State mentioned in section 36 -

(a) of the fact that such person is in custody; and

(b) of the circumstances that warrant that person's detention.

Notification to relevant international organizations.

52. (1) The Minister shall promptly inform the foreign State which might have jurisdiction over the offence concerned, and any other foreign State that he

considers it advisable to inform or notify either directly or through the Secretary-General of the United Nations, of-

- (a) the conclusion of the investigation, and indicate to them whether he intends to exercise jurisdiction; and
- (b) the circumstances that justify the person's detention.

(2) The Minister shall communicate the outcome of proceedings concerning the offences under this Act to the following international bodies -

- (a) the Secretary-General of the United Nations for the offences under sections 22, 27 and 28 ;
- (b) the Secretary-General of the International Maritime Organization for the offences under section 21;
- (c) the Council of the International Civil Aviation Organization for the offences under sections 30, 31 and 32 ;
- (d) the Secretary-General of the United Nations and the Director General of the IAEA for the offences contained in sections 23, 24, 25 and 26.

PART VIII

DISCLOSURE

Duty to disclose information relating to offences and terrorist acts.

53. (1) Subject to subsection (2) every person who has any information which will assist in -

- (a) preventing the commission by another person, of a terrorist act; or

(b) securing the arrest or prosecution of another person for an offence under this Act, or an offence under any other law and which also constitutes a terrorist act,

shall forthwith disclose the information to a police officer not below the rank of sergeant.

(2) A person referred to in subsection (1) shall not be required to disclose any information which is protected by privilege.

(3) Civil or criminal proceedings shall not lie against any person for disclosing any information in good faith pursuant to subsection (1).

(4) Any person who fails to comply with subsection (1) commits an offence and is liable on conviction on indictment to a fine of five hundred thousand dollars and to imprisonment for two years.

Duty to disclose information relating to property used for commission of offences.

54. (1) Every person shall forthwith disclose to the designated authority appointed under section 57(1) -

(a) the existence of any property in his possession or control, which to his knowledge is terrorist property, or which there are reasonable grounds to believe is terrorist property;

(b) any information regarding a transaction or proposed transaction in respect of terrorist property; or

(c) any information regarding a transaction or proposed transaction which there are reasonable grounds to believe may involve terrorist property.

{2r'fhe-Comrmissiuneruf-Pulice-1nm-tlre-tfoad-of Spcciat-organised-erime-tl} shall disclose to the Director of Public Prosecutions, any information in their possession relating to any terrorist property if such information is requested or if the Minister is of the view that the information would be relevant to a foreign State.

(3) No civil or criminal proceedings shall lie against any person for making a disclosure or report, in good faith, under subsection (1) or (2).

(4) Every person who fails to comply with subsection (1) commits an offence and shall on conviction on indictment be liable to a fine of five hundred thousand dollars and imprisonment for two years.

Duty to disclose information relating to passengers of aircraft and vessels.

55. (1) The operator of an aircraft or master of a vessel-

(a) departing from Guyana; or

(b) registered in Guyana departing from any place outside Guyana,

shall, in accordance with regulations made under this section provide to the -

(i) Chief Immigration Officer any information in his possession relating to persons on board or expected to be on board the aircraft or vessel; or

(ii) competent authority of a foreign State any information in his

possession relating to persons on board or expected to be on board the aircraft or vessel in accordance with the law of that foreign State.

- (2) The Minister may, in accordance with the regulations, provide to the competent authority in a foreign State any information in his possession relating to persons entering or leaving Guyana, by land, and that is required by the laws of that foreign State.
- (3) No information provided to the Chief Immigration Officer under subsection (1) shall be used or disclosed by the Chief Immigration Officer except for the purpose of protecting national security or public safety.
- (4) The Minister may make regulations generally to give effect to the purposes of this section, including regulations -
 - (a) respecting the types or classes of information that may be provided under this section;
 - (b) specifying the foreign States to which the information may be provided.

PART IX

MISCELLANEOUS POWERS

Repeal,

Cap 8:01

56. The amendments made to the Criminal Law (Offences) Act by the Criminal Law (Offences) (Amendment) Act 2002 are repealed.

Power to make subsidiary legislation.

57. (t) The Minister may by subsidiary legislation appoint a designated authority for the purpose of section 54.

(2)

(2) The Minister may make subsidiary legislation in respect of all matters for which such legislation is required or authorised to be made by this Act.

(3) Subsidiary legislation made under this section shall be subject to negative resolution of the National Assembly.

PART X

Certain articles of conventions to have the force of law.
Second Schedule.

58. (1) Articles 7, 8, 10 and 11 of the United Nations Convention against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988 (The Vienna Convention) in Part A of the Second Schedule shall have the force of law.

(2) Article 1(1) of the International Convention for the Suppression of the Financing of Terrorism 1999 in Part B of the Second Schedule shall have the force of law.

(3) Articles 7, 18, 19, 20, 24, 25, 29 of the International Convention against Organized Crime and the Protocols Thereto 2004 (The Palermo Convention) in Part C of the Second Schedule shall have the force of law.

Declaration of other articles to have the force of law.

59. The President may, by Order, where it is expedient to so do, declare any other article of any of the Conventions mentioned in section 58 to have the force of law in Guyana.

CUSTODY RECORD FOR DETAINED PERSON

1. Entries shall be made in respect of all matters relevant to the detention of the arrested person and shall be referred to as the Custody Record. In particular, the entries shall be made in respect of the following -
 - (a) an accurate record of the time and place of
 - (i) the arrest;
 - (ii) the issue of the direction; and
 - (iii) each interview, including any interview immediately following the arrest of the person detained;
 - (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, on which the detention is based.

r. - The Custody Record shall be opened as soon as practicable after the start of a person's detention.

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 of the rank of inspector or above 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.

Part A

UNITED NATIONS CONVENTION AGAINST ILLICIT TRAFFIC IN
NARCOTIC DRUGS
AND PSYCHOTROPIC SUBSTANCES 1988 (THE VIENNA CONVENTION)

Excerpt of Articles including Articles 7, 8, 10 and 11.

Article 7

MUTUAL LEGAL ASSISTANCE

1. The Parties shall afford one another, pursuant to this article, the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to criminal offences established in accordance with article 3, paragraph 1.
2. Mutual legal assistance to be afforded in accordance with this article may be requested for any of the following purposes:
 - a) Taking evidence or statements from persons;
 - b) Effecting service of judicial documents;
 - c) Executing searches and seizures;
 - d) Examining objects and sites;
 - e) Providing information and evidentiary items;
 - f) Providing originals or certified copies of relevant documents and records, including bank, financial, corporate or business records;
 - g) Identifying or tracing proceeds, property, instrumentalities or other things for

evidentiary purposes.

3. The Parties shall afford one another any other forms of mutual legal assistance allowed by the domestic law of the requested Party.

4. Upon request, the Parties shall facilitate or encourage, to the extent consistent with their domestic law and practice, the presence or availability of persons, including persons in custody; who consent to assist in investigations or participate in proceedings.

5. A Party shall not decline to render mutual legal assistance under this article on the ground of bank secrecy.

6. The provisions of this article shall not affect the obligations under any other treaty, bilateral or multilateral, which governs or will govern, in whole or in part, mutual legal assistance in criminal matters.

7. Paragraphs 8 to 19 of this article shall apply to requests made pursuant to this article if the Parties in question are not bound by a treaty of mutual legal assistance. If these Parties are bound by such a treaty, the corresponding provisions of that treaty shall apply unless the Parties agree to apply paragraphs 8 to 19 of this article in lieu thereof.

8. Parties shall designate an authority, or when necessary authorities, which shall have the responsibility and power to execute requests for mutual legal assistance or to transmit them to the competent authorities for execution. The authority or the authorities designated for this purpose shall be notified to the Secretary-General. Transmission

of requests for mutual legal assistance and any communication-related thereto shall be effected between the authorities designated by the Parties; this requirement shall be without prejudice to the right of a Party to require that such requests and communications be addressed to it through the diplomatic channel and, in urgent circumstances, where the Parties agree, through channels of the International Criminal Police Organization, if possible.

9. Requests shall be made in writing in a language acceptable to the requested Party. The language or languages acceptable to each Party shall be notified to the Secretary-General. In urgent circumstances, and where agreed by the Parties, requests may be made orally, but shall be confirmed in writing forthwith.

10. A request for mutual legal assistance shall contain:

- a) The identity of the authority making the request;
- b) The subject matter and nature of the investigation, prosecution or proceeding to which the request relates, and the name and the functions of the authority conducting such investigation, prosecution or proceeding;
- c) A summary of the relevant facts, except in respect of requests for the purpose of service of judicial documents;
- d) A description of the assistance sought and details of any particular procedure the requesting Party wishes to be followed;
- e) Where possible, the identity, location and nationality of any person concerned;
- t) The purpose for which the evidence, information or action is sought.

11. The requested Party may request additional information when it appears necessary for the execution of the request in accordance with its domestic law or where it can facilitate such execution.

12. A request shall be executed in accordance with the domestic law of the requested Party and, to the extent not contrary to the domestic law of the requested Party and where possible, in accordance with the procedures specified in the request.

13. The requesting Party shall not transmit or use information or evidence furnished by the requested Party for investigations, prosecutions or proceedings other than those stated in the request without the prior consent of the requested Party.

14. The requesting Party may require that the requested Party keep confidential the fact and substance of the request, except to the extent necessary to execute the request. If the requested Party cannot comply with the requirement of confidentiality, it shall promptly inform the requesting Party.

15. Mutual legal assistance may be refused:

- a) If the request is not made in conformity with the provisions of this article;
- b) If the requested Party considers that execution of the request is likely to prejudice its sovereignty, security, public order or other essential interests;
- c) If the authorities of the requested Party would be prohibited by its domestic law from carrying out the action requested with regard to any similar offence, had it been subject to investigation, prosecution or proceedings under their own jurisdiction;

d) If it would be contrary to the legal system of the requested Party relating to mutual legal assistance for the request to be granted.

16. Reasons shall be given for any refusal of mutual legal assistance.

17. Mutual legal assistance may be postponed by the requested Party on the ground that it interferes with an ongoing investigation, prosecution or proceeding. In such a case, the requested Party shall consult with the requesting Party to determine if the assistance can still be given subject to such terms and conditions as the requested Party deems necessary.

18. A witness, expert or other person who consents to give evidence in a proceeding or to assist in an investigation, prosecution or judicial proceeding in the territory of the requesting Party, shall not be prosecuted, detained, punished or subjected to any other restriction of his personal liberty in that territory in respect of acts, omissions or convictions prior to his departure from the territory of the requested Party. Such safe conduct shall cease when the witness, expert or other person having had, for a period of fifteen consecutive days, or for any period agreed upon by the Parties, from the date on which he has been officially informed that his presence is no longer required by the judicial authorities, an opportunity of leaving, has nevertheless remained voluntarily in the territory or, having left it, has returned of his own free will.

19. The ordinary costs of executing a request shall be borne by the requested Party, unless otherwise agreed by the Parties concerned. If expenses of a substantial or extraordinary nature are or will be required to fulfil the request, the Parties shall consult

to determine the terms and conditions under which the request will be executed as well as the manner in which the costs shall be borne.

20. The Parties shall consider, as may be necessary, the possibility of concluding bilateral or multilateral agreements or arrangements that would serve the purposes of, give practical effect to, or enhance the provisions of this article.

Article 8

TRANSFER OF PROCEEDINGS

The Parties shall give consideration to the possibility of transferring to one another proceedings for criminal prosecution of offences established in accordance with article 3, paragraph 1, in cases where such transfer is considered to be in the interest of a proper administration of justice.

Article 9

OTHER FORMS OF CO-OPERATION AND TRAINING

1. The Parties shall cooperate closely with one another, consistent with their respective domestic legal and administrative systems, with a view to enhancing the effectiveness of law enforcement action to suppress the commission of offences established in accordance with article 3, paragraph 1. They shall, in particular, on the basis of bilateral or multilateral agreements or arrangements:

a) Establish and maintain channels of communication between their competent agencies and services to facilitate the secure and rapid exchange of information

concerning all aspects of offences established in accordance with article 3, paragraph 1, including, if the Parties concerned deem it appropriate, links with other criminal activities;

b) - Co-operate with one another in conducting enquiries, with respect to offences established in accordance with article 3, paragraph 1, having an international character, concerning:

i) The identity, whereabouts and activities of persons suspected of being involved in offences established in accordance with article 3, paragraph 1;

ii) The movement of proceeds or property derived from the commission of such offences;

iii) The movement of narcotic drugs, psychotropic substances, substances in Table I and Table II of this Convention and instrumentalities used or intended for use in the commission of such offences;

c) In appropriate cases and if not contrary to domestic law, establish joint teams, taking into account the need to protect the security of persons and of operations, to carry out the provisions of this paragraph. Officials of any Party taking part in such teams shall act as authorised by the appropriate authorities of the Party in whose territory the operation is to take place; in all such cases, the Parties involved shall ensure that the sovereignty of the Party on whose territory the operation is to take place is fully respected;

d) Provide, when appropriate, necessary quantities of substances for analytical or investigative purposes;

e) Facilitate effective co-ordination between their competent agencies and services

and promote the exchange of personnel and other experts, including the posting of liaison officers.

2. Each Party shall, to the extent necessary, initiate, develop or improve specific training programmes for its law enforcement and other personnel, including customs, charged with the suppression of offences established in accordance with article 3, paragraph 1. Such programmes shall deal, in particular, with the following:

- a) Methods used in the detection and suppression of offences established in accordance with article 3, paragraph 1;
- b) Routes and techniques used by persons suspected of being involved in offences established in accordance with article 3, paragraph 1, particularly in transit States, and appropriate countermeasures;
- c) Monitoring of the import and export of narcotic drugs, psychotropic substances and substances in Table I and Table II;
- d) Detection and monitoring of the movement of proceeds and property derived from, and narcotic drugs, psychotropic substances and substances in Table I and Table II, and instrumentalities used or intended for use in, the commission of offences established in accordance with article 3, paragraph 1;
- e) Methods used for the transfer, concealment or disguise of such proceeds, property and instrumentalities;
- f) Collection of evidence;
- g) Control techniques in free trade zones and free ports;
- h) Modern law enforcement techniques.

3. The Parties shall assist one another to plan, and implement research and training

programmes designed to share expertise in the areas referred to in paragraph 2 of this article and, to this end, shall also, when appropriate, use regional and international conferences and seminars to promote co-operation and stimulate discussion on problems of mutual concern, including the special problems and needs of transit States.

Article 10

INTERNATIONAL CO-OPERATION AND ASSISTANCE FOR TRANSIT STATES

1. The Parties shall co-operate, directly or through competent international or regional organizations, to assist and support transit States and, in particular, developing countries in need of such assistance and support, to the extent possible, through programmes of technical co-operation on interdiction and other related activities.

2. The Parties may undertake, directly or through competent international or regional organizations, to provide financial assistance to such transit States for the purpose of augmenting and strengthening the infrastructure needed for effective control and prevention of illicit traffic.

3. The Parties may conclude bilateral or multilateral agreements or arrangements to enhance the effectiveness of international co-operation pursuant to this article and may take into consideration financial arrangements in this regard.

Article 11

CONTROLLED DELIVERY

I. If permitted by the basic principles of their respective domestic legal systems, the

Parties shall take the necessary measures, within their possibilities, to allow for the appropriate use of controlled delivery at the international level, on the basis of agreement or arrangements mutually consented to, with a view to identifying persons involved in offences established in accordance with article 3, paragraph 1, and to taking legal action against them.

2. Decisions to use controlled delivery shall be made on a case-by-case basis and may, when necessary, take into consideration financial arrangements and understandings with respect to the exercise of jurisdiction by the Parties concerned.

3. Illicit consignments whose controlled delivery is agreed to may, with the consent of the Parties concerned, be intercepted and allowed to continue with the narcotic drugs or psychotropic substances intact or removed or replaced in whole or in part.

Part B

INTERNATIONAL CONVENTION FOR THE SUPPRESSION OF THE FINANCING OF TERRORISM

Adopted by the General Assembly of the United Nations

in Resolution 54/109 of the 9 December 1999

Excerpt of Article 1.

Article I

For the purposes of this Convention:

1. AFunds@ 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, letters of credit.

2. AA State or governmental 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 inter_governmental organization in connection with their official duties.

3. AProceeds@ means any funds derived from or obtained, directly or indirectly, through the commission of an offence under article 2.

UNITED NATIONS CONVENTION AGAINST TRANSNATIONAL
ORGANISED

CRIME AND THE PROTOCOLS THERETO

(THE PALERMO CONVENTION)

2004

Excerpt of Articles 7, 18, 19, 20, 24, 25, 29

Article 7. Measures to combat money-laundering

1. Each State Party:

(a) Shall institute a comprehensive domestic regulatory and supervisory regime for banks and non-bank financial institutions and, where appropriate, other bodies particularly susceptible to money-laundering, within its competence, in order to deter and detect all forms of money-laundering, which regime shall emphasize requirements for customer identification, record-keeping and the reporting of suspicious transactions;

(b) Shall, without prejudice to articles 18 and 27 of this Convention, ensure that administrative, regulatory, law enforcement and other authorities dedicated to combating money-laundering (including, where appropriate under domestic law, judicial authorities) have the ability to cooperate and exchange information at the national and international levels within the conditions prescribed by its domestic law and, to that end, shall consider the establishment of a financial intelligence unit to serve as a national centre for the collection, analysis and dissemination of information regarding potential money-

laundering.

2. States Parties shall consider implementing feasible measures to detect and monitor the movement of cash and appropriate negotiable instruments across their borders, subject to safeguards to ensure proper use of information and without impeding in any way the movement of legitimate capital. Such measures may include a requirement that individuals and businesses report the cross-border transfer of substantial quantities of cash and appropriate negotiable instruments.

3. In establishing a domestic regulatory and supervisory regime under the terms of this article, and without prejudice to any other article of this Convention, States Parties are called upon to use as a guideline the relevant initiatives of regional, interregional and multilateral organizations against money-laundering.

4. States Parties shall endeavour to develop and promote global, regional, subregional and bilateral cooperation among judicial, law enforcement and financial regulatory authorities in order to combat money-laundering.

Article 18. Mutual legal assistance

1. States Parties shall afford one another the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the offences covered by this Convention as provided for in article 3 and shall reciprocally extend to one another similar assistance where the requesting State Party has reasonable grounds to suspect that the offence referred to in article 3, paragraph 1 (a) or (b), is

transnational in nature, including that victims, witnesses, proceeds, instrumentalities or evidence of such offences are located in the requested State Party and that the offence involves an organized criminal group.

2. Mutual legal assistance shall be afforded to the fullest extent possible under relevant laws, treaties, agreements and arrangements of the requested State Party with respect to investigations, prosecutions and judicial proceedings in relation to the offences for which a legal person may be held liable in accordance with article 10 of this Convention in the requesting State Party.

3. Mutual legal assistance to be afforded in accordance with this article may be requested for any of the following purposes:

- (a) Taking evidence or statements from persons;
- (b) Effecting service of judicial documents;
- (c) Executing searches and seizures, and freezing;
- (d) Examining objects and sites;
- (e) Providing information, evidentiary items and expert evaluations;
- (f) Providing originals or certified copies of relevant documents and records, including government, bank, financial, corporate or business records;
- (g) Identifying or tracing proceeds of crime, property, instrumentalities or other things for evidentiary purposes;
- (h) Facilitating the voluntary appearance of persons in the requesting State Party;

(i) Any other type of assistance that is not contrary to the domestic law of the requested State Party.

4. Without prejudice to domestic law, the competent authorities of a State Party may, without prior request, transmit information relating to criminal matters to a competent authority in another State Party where they believe that such information could assist the authority in undertaking or successfully concluding inquiries and criminal proceedings or could result in a request formulated by the latter State Party pursuant to this Convention.

5. The transmission of information pursuant to paragraph 4 of this article shall be without prejudice to inquiries and criminal proceedings in the State of the competent authorities providing the information. The competent authorities receiving the information shall comply with a request that said information remain confidential, even temporarily, or with restrictions on its use. However, this shall not prevent the receiving State Party from disclosing in its proceedings information that is exculpatory to an accused person. In such a case, the receiving State Party shall notify the transmitting State Party prior to the disclosure and, if so requested, consult with the transmitting State Party. ff, in an exceptional case, advance notice is not possible, the receiving State Party shall inform the transmitting State Party of the disclosure without delay.

6. The provisions of this article shall not affect the obligations under any other treaty, bilateral or multilateral, that governs or will govern, in whole or in part, mutual legal assistance.

7. Paragraphs 9 to 29 of this article shall apply to requests made pursuant to this article if the States Parties in question are not bound by a treaty of mutual legal assistance; ~~in those States Parties which are bound by such a treaty; the~~ corresponding provisions of that treaty shall apply unless the States Parties agree to apply paragraphs 9 to 29 of this article in lieu thereof. States Parties are strongly encouraged to apply these paragraphs if they facilitate cooperation.

8. States Parties shall not decline to render mutual legal assistance pursuant to this article on the ground of bank secrecy.

9. States Parties may decline to render mutual legal assistance pursuant to this article on the ground of absence of dual criminality. However, the requested State Party may, when it deems appropriate, provide assistance, to the extent it decides at its discretion, irrespective of whether the conduct would constitute an offence under the domestic law of the requested State Party.

10. A person who is being detained or is serving a sentence in the territory of one State Party whose presence in another State Party is requested for purposes of identification, testimony or otherwise providing assistance in obtaining evidence for investigations, prosecutions or judicial proceedings in relation to offences covered by this Convention may be transferred if the following conditions are met:

- (a) The person freely gives his or her informed consent;
- (b) The competent authorities of both States Parties agree, subject to such conditions

as those States Parties may deem appropriate.

11. For the purposes of paragraph 10 of this article:

- (a) The State Party to which the person is transferred shall have the authority and obligation to keep the person transferred in custody, unless otherwise requested or authorised by the State Party from which the person was transferred;
- (b) The State Party to which the person is transferred shall without delay implement its obligation to return the person to the custody of the State Party from which the person was transferred as agreed beforehand, or as otherwise agreed, by the competent authorities of both States Parties;
- (c) The State Party to which the person is transferred shall not require the State Party from which the person was transferred to initiate extradition proceedings for the return of the person;
- (d) The person transferred shall receive credit for service of the sentence being served in the State from which he or she was transferred for time spent in the custody of the State Party to which he or she was transferred.

12. Unless the State Party from which a person is to be transferred in accordance with paragraphs 10 and 11 of this article so agrees, that person, whatever his or her nationality, shall not be prosecuted, detained, punished or subjected to any other restriction of his or her personal liberty in the territory of the State to which that person is

transferred in respect of acts, omissions or convictions prior to his or her departure from the territory of the State from which he or she was transferred.

13. Each State Party shall designate a central authority that shall have the responsibility and power to receive requests for mutual legal assistance and either to execute them or to transmit them to the competent authorities for execution. Where a State Party has a special region or territory with a separate system of mutual legal assistance, it may designate a distinct central authority that shall have the same function for that region or territory. Central authorities shall ensure the speedy and proper execution or transmission of the requests received. Where the central authority transmits the request to a competent authority for execution, it shall encourage the speedy and proper execution of the request by the competent authority. The Secretary-General of the United Nations shall be notified of the central authority designated for this purpose at the time each State Party deposits its instrument of ratification, acceptance or approval of or accession to this Convention. Requests for mutual legal assistance and any communication related thereto shall be transmitted to the central authorities designated by the States Parties. This requirement shall be without prejudice to the right of a State Party to require that such requests and communications be addressed to it through diplomatic channels and, in urgent circumstances, where the States Parties agree, through the International Criminal Police Organization, if possible.

14. Requests shall be made in writing or, where possible, by any means capable of producing a written record, in a language acceptable to the requested State Party, under

conditions allowing that State Party to establish authenticity. The Secretary-General of the United Nations shall be notified of the language or languages acceptable to each State Party at the time it deposits its instrument of ratification, acceptance or approval or accession to this Convention. In urgent circumstances and where agreed by the States Parties, requests may be made orally, but shall be confirmed in writing forthwith.

15. A request for mutual legal assistance shall contain:

- (a) The identity of the authority making the request;
- (b) The subject matter and nature of the investigation, prosecution or judicial proceeding to which the request relates and the name and functions of the authority conducting the investigation, prosecution or judicial proceeding;
- (c) A summary of the relevant facts, except in relation to requests for the purpose of service of judicial documents;
- (d) A description of the assistance sought and details of any particular procedure that the requesting State Party wishes to be followed;
- (e) Where possible, the identity, location and nationality of any person concerned; and
- (f) The purpose for which the evidence, information or action is sought.

16. The requested State Party may request additional information when it appears

necessary for the execution of the request in accordance with its domestic law or when it can facilitate such execution.

17. A request shall be executed in accordance with the domestic law of the requested State Party and, to the extent not contrary to the domestic law of the requested State Party and where possible, in accordance with the procedures specified in the request.

18. Wherever possible and consistent with fundamental principles of domestic law, when an individual is in the territory of a State Party and has to be heard as a witness or expert by the judicial authorities of another State Party, the first State Party may, at the request of the other, permit the hearing to take place by video conference if it is not possible or desirable for the individual in question to appear in person in the territory of the requesting State Party. States Parties may agree that the hearing shall be conducted by a judicial authority of the requesting State Party and attended by a judicial authority of the requested State Party.

19. The requesting State Party shall not transmit or use information or evidence furnished by the requested State Party for investigations, prosecutions or judicial proceedings other than those stated in the request without the prior consent of the requested State Party. Nothing in this paragraph shall prevent the requesting State Party from disclosing in its proceedings information or evidence that is exculpatory to an accused person. In the latter case, the requesting State Party shall notify the requested State Party prior to the disclosure and, if so requested, consult with the requested State Party. If, in an exceptional case, advance notice is not possible, the requesting State Party shall inform the requested State Party of the disclosure without delay.

20. The requesting State Party may require that the requested State Party keep confidential the fact and substance of the request, except to the extent necessary to execute the request. If the requested State Party cannot comply with the requirement of confidentiality, it shall promptly inform the requesting State Party.

21. Mutual legal assistance may be refused:

(a) If the request is not made in conformity with the provisions of this article;

(b) If the requested State Party considers that execution of the request is likely to prejudice its sovereignty, security, *ordre public* or other essential interests;

(c) If the authorities of the requested State Party would be prohibited by its domestic law from carrying out the action requested with regard to any similar offence, had it been subject to investigation, prosecution or judicial proceedings under their own jurisdiction;

(d) If it would be contrary to the legal system of the requested State Party relating to mutual legal assistance for the request to be granted.

22. States Parties may not refuse a request for mutual legal assistance on the sole ground that the offence is also considered to involve fiscal matters.

23. Reasons shall be given for any refusal of mutual legal assistance.

24. The requested State-Party shall execute the request for mutual legal assistance as soon as possible and shall take as full account as possible of any deadlines suggested by the requesting State Party and for which reasons are given, preferably in the request. The requested State Party shall respond to reasonable requests by the requesting State Party on progress of its handling of the request. The requesting State Party shall promptly inform the requested State Party when the assistance sought is no longer required.

25. Mutual legal assistance may be postponed by the requested State Party on the ground that it interferes with an ongoing investigation, prosecution or judicial proceeding.

26. Before refusing a request pursuant to paragraph 21 of this article or postponing its execution pursuant to paragraph 25 of this article, the requested State Party shall consult with the requesting State Party to consider whether assistance may be granted subject to such terms and conditions as it deems necessary. If the requesting State Party accepts assistance subject to those conditions, it shall comply with the conditions.

27. Without prejudice to the application of paragraph 12 of this article, a witness, expert or other person who, at the request of the requesting State Party, consents to give evidence in a proceeding or to assist in an investigation, prosecution or judicial proceeding in the territory of the requesting State Party shall not be prosecuted, detained, punished or subjected to any other restriction of his or her personal liberty in that territory in respect of acts, omissions or convictions prior to his or her departure from the territory of the requested State Party. Such safe conduct shall cease when the witness, expert or other person having had, for a period of fifteen consecutive days or for any period agreed upon by the States Parties from the date on which he or she has been

officially informed that his or her presence is no longer required by the judicial authorities, an opportunity of leaving, has nevertheless remained voluntarily in the territory of the requesting State Party or, having left it, has returned of his or her own free will.

28. The ordinary costs of executing a request shall be borne by the re-requested State Party, unless otherwise agreed by the States Parties concerned. If expenses of a substantial or extraordinary nature are or will be required to fulfil the request, the States Parties shall consult to determine the terms and conditions under which the request will be executed, as well as the manner in which the costs shall be borne.

29. The requested State Party:

(a) Shall provide to the requesting State Party copies of government records, documents or information in its possession that under its domestic law are available to the general public;

(b) May, at its discretion, provide to the requesting State Party in whole, in part or subject to such conditions as it deems appropriate, copies of any government records, documents or information in its possession that under its domestic law are not available to the general public.

30. States Parties shall consider, as may be necessary, the possibility of concluding bilateral or multilateral agreements or arrangements that would serve the purposes of, give practical effect to or enhance the provisions of this article.

Article 19. Joint investigations

States Parties shall consider concluding bilateral or multilateral agreements or arrangements whereby, in relation to matters that are the subject of investigations, prosecutions or judicial proceedings in one or more States, the competent authorities concerned may establish joint investigative bodies. In the absence of such agreements or arrangements, joint investigations may be undertaken by agreement on a case-by-case basis. The States Parties involved shall ensure that the sovereignty of the State Party in whose territory such investigation is to take place is fully respected.

Article 20. Special investigative techniques

I. If permitted by the basic principles of its domestic legal system, each State Party shall, within its possibilities and under the conditions prescribed by its domestic law, take the necessary measures to allow for the appropriate use of controlled delivery and, where it deems appropriate, for the use of other special investigative techniques, such as electronic or other forms of surveillance and undercover operations, by its competent authorities in its territory for the purpose of effectively combating organized crime.

2. For the purpose of investigating the offences covered by this Convention, States Parties are encouraged to conclude, when necessary, appropriate bilateral or multilateral agreements or arrangements for using such special investigative techniques in the context of cooperation at the international level. Such agreements or arrangements shall be concluded and implemented in full compliance with the principle of sovereign equality

of States and shall be carried out strictly in accordance with the terms of those agreements or arrangements.

3. In the absence of an agreement or arrangement as set forth in paragraph 2 of this article, decisions to use such special_ investigative techniques at the international level shall be made on a case-by-case basis and may, when necessary, take into consideration financial arrangements and understandings with respect to the exercise of jurisdiction by the States Parties concerned.

4. Decisions to use controlled delivery at the international level may, with the consent of the States Parties concerned, include methods such as intercepting and allowing the goods to continue intact or be removed or re-placed in whole or in part.

Article 21. Transfer of criminal proceedings

States Parties shall consider the possibility of transferring to one another proceedings for the prosecution of an offence covered by this Convention in cases where such transfer is considered to be in the interests of the proper administration of justice, in particular in cases where several jurisdictions are involved, with a view to concentrating the prosecution.

Article 22. Establishment of criminal record

Each State Party may adopt such legislative or other measures as may be necessary to

take into consideration, under such terms as and for the purpose that it deems appropriate, any previous conviction in another State of an alleged offender for the purpose of using such information in criminal proceedings relating to an offence covered by this Convention.

Article 23. Criminalization of obstruction of justice

Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(a) The use of physical force, threats or intimidation or the promise, offering or giving of an undue advantage to induce false testimony or to interfere in the giving of testimony or the production of evidence in a proceeding in relation to the commission of offences covered by this Convention;

(b) The use of physical force, threats or intimidation to interfere with the exercise of official duties by a justice or law enforcement official in relation to the commission of offences covered by this Convention. Nothing in this subparagraph shall prejudice the right of States Parties to have legislation that protects other categories of public officials.

Article 24. Protection of witnesses

1. Each State Party shall take appropriate measures within its means to provide effective protection from potential retaliation or intimidation for witnesses in criminal proceedings who give testimony concerning offences covered by this Convention and, as

appropriate, for their relatives and other persons close to them.

2. The measures envisaged in paragraph 1 of this article may include, inter alia, without prejudice to the rights of the defendant, including the right to due process:

(a) Establishing procedures for the physical protection of such persons, such as, to the extent necessary and feasible, relocating them and permitting, where appropriate, non-disclosure or limitations on the disclosure of information concerning the identity and whereabouts of such persons;

(b) Providing evidentiary rules to permit witness testimony to be given in a manner that ensures the safety of the witness, such as permitting testimony to be given through the use of communications technology such as video links or other adequate means.

3. States Parties shall consider entering into agreements or arrangements with other States for the relocation of persons referred to in paragraph 1 of this article.

4. The provisions of this article shall also apply to victims insofar as they are witnesses.

Article 25. Assistance to and protection of victims

I. Each State Party shall take appropriate measures within its means to provide assistance and protection to victims of offences covered by this Convention, in particular in cases of threat of retaliation or intimidation.

2. Each State Party shall establish appropriate procedures to provide access to compensation and restitution for victims of offences covered by this Convention.

3. Each State Party shall, subject to its domestic law, enable views and concerns of victims to be presented and considered at appropriate stages of criminal proceedings against offenders in a manner not prejudicial to the rights of the defence.

Article 26. Measures to enhance cooperation with law enforcement authorities

1. Each State Party shall take appropriate measures to encourage persons who participate or who have participated in organized criminal groups:

(a) To supply information useful to competent authorities for investigative and evidentiary purposes on such matters as:

(i) The identity, nature, composition, structure, location or activities of organized criminal groups;

(ii) Links, including international links, with other organized criminal groups;

(iii) Offences that organized criminal groups have committed or may commit;

(b) To provide factual, concrete help to competent authorities that may contribute to depriving organized criminal groups of their resources or of the proceeds of crime.

2. Each State Party shall consider providing for the possibility, in appropriate cases, of mitigating punishment of an accused person who provides substantial cooperation in the investigation or prosecution of an offence covered by this Convention.

3. Each State Party shall consider providing for the possibility, in accordance with its fundamental principles of its domestic law, of granting immunity from prosecution to a person who provides substantial cooperation in the investigation or prosecution of an offence covered by this Convention.

4. Protection of such persons shall be as provided for in article 24 of this Convention.

5. Where a person referred to in paragraph 1 of this article located in one State Party can provide substantial cooperation to the competent authorities of another State Party, the States Parties concerned may consider entering into agreements or arrangements, in accordance with their domestic law, concerning the potential provision by the other State Party of the treatment set forth in paragraphs 2 and 3 of this article.

Article 27. Law enforcement cooperation

1. States Parties shall cooperate closely with one another, consistent with their respective domestic legal and administrative systems, to enhance the effectiveness of law enforcement action to combat the offences covered by this Convention. Each State Party shall, in particular, adopt effective measures:

(a) To enhance and, where necessary, to establish channels of communication between their competent authorities, agencies and services in order to facilitate the secure and rapid exchange of information concerning all aspects of the offences covered by this Convention, including, if the States Parties concerned deem it appropriate, links with other criminal activities;

(b) To cooperate with other States Parties in conducting inquiries with respect to offences covered by this Convention concerning:

(i) The identity, whereabouts and activities of persons suspected of involvement in such offences or the location of other persons concerned;

(ii) The movement of proceeds of crime or property derived from the commission of such offences;

(iii) The movement of property, equipment or other instrumentalities used or intended for use in the commission of such offences;

(c) To provide, when appropriate, necessary items or quantities of substances for analytical or investigative purposes;

(d) To facilitate effective coordination between their competent authorities, agencies and services and to promote the exchange of personnel and other experts, including, subject to bilateral agreements or arrangements between the States Parties concerned, the posting

of liaison officers;

(e) To exchange information with other States Parties on specific means and methods used by organized criminal groups, including, where applicable, routes and conveyances and the use of false identities, altered or false documents or other means of concealing their activities;

(f) To exchange information and coordinate administrative and other measures taken as appropriate for the purpose of early identification of the offences covered by this Convention.

2. With a view to giving effect to this Convention, States Parties shall consider entering into bilateral or multilateral agreements or arrangements on direct cooperation between their law enforcement agencies and, where such agreements or arrangements already exist, amending them. In the absence of such agreements or arrangements between the States Parties concerned, the Parties may consider this Convention as the basis for mutual law enforcement cooperation in respect of the offences covered by this Convention. Whenever appropriate, States Parties shall make full use of agreements or arrangements, including international or regional organizations, to enhance the cooperation between their law enforcement agencies.

3. States Parties shall endeavour to cooperate within their means to respond to transnational organized crime committed through the use of modern technology.

Article 28. Collection, exchange and analysis of information on the nature of organized

- I. Each State Party shall consider analysing, in consultation with the scientific and academic communities, trends in organized crime in its territory, the circumstances in which organized crime operates, as well as the professional groups and technologies involved.
2. States Parties shall consider developing and sharing analytical expertise concerning organized criminal activities with each other and through international and regional organizations. For that purpose, common definitions, standards and methodologies should be developed and applied as appropriate.
3. Each State Party shall consider monitoring its policies and actual measures to combat organized crime and making assessments of their effectiveness and efficiency.

Article 29. Training and technical assistance

1. Each State Party shall, to the extent necessary, initiate, develop or improve specific training programmes for its law enforcement personnel, including prosecutors, investigating magistrates and customs personnel, and other personnel charged with the prevention, detection and control of the offences covered by this Convention. Such programmes may include secondments and exchanges of staff. Such programmes shall deal, in particular and to the extent permitted by domestic law, with the following:
 - (a) Methods used in the prevention, detection and control of the offences covered by this Convention;

(b) Routes and techniques used by persons suspected of involvement in offences covered by this Convention, including in transit States, and appropriate countermeasures;

(c) Monitoring of the movement of contraband;

(d) Detection and monitoring of the movements of proceeds of crime, property, equipment or other instrumentalities and methods used for the transfer, concealment or disguise of such proceeds, property, equipment or other instrumentalities, as well as methods used in combating money-laundering and other financial crimes;

(e) Collection of evidence;

(f) Control techniques in free trade zones and free ports;

(g) Modern law enforcement equipment and techniques, including electronic surveillance, controlled deliveries and undercover operations;

(h) Methods used in combating transnational organized crime committed through the use of computers, telecommunications networks or other forms of modern technology; and

(i) Methods used in the protection of victims and witnesses.

2. States Parties shall assist one another in planning and implementing research and training programmes designed to share expertise in the areas referred to in paragraph 1 of

this article and to that end shall also, when appropriate, use regional and international conferences and seminars to promote cooperation and to stimulate discussion on problems of mutual concern, including the special problems and needs of transit States.

3. States Parties shall promote training and technical assistance that will facilitate extradition and mutual legal assistance. Such training and technical assistance may include language training, secondments and exchanges between personnel in central authorities or agencies with relevant responsibilities.

4. In the case of existing bilateral and multilateral agreements or arrangements, States Parties shall strengthen, to the extent necessary, efforts to maximize operational and training activities within international and regional organizations and within other relevant bilateral and multilateral agreements or arrangements.

Explanatory Memorandum

. This Bill seeks to criminalize terrorism in its various forms and to provide for the detection, prevention, prosecution and punishment of persons involved in terrorist activities in and outside Guyana.

CLAUSE 1

Clause I of the Bill sets out the short title and commencement.

CLAUSE2

Clause two deals with the interpretation of terms and words used in the Bill.

CLAUSE3

CLAUSE three establishes those acts which are exempted from being termed as terrorist acts.

CLAUSE4

Clause four deals with a person who directly or indirectly gives financial or other related assistance to anyone intending to use such assistance for the purpose of committing a terrorist act.

. CLAUSE 5

Clause five makes provision for the punishment of any person who makes available property to be used in committing a terrorist act.

CLAUSE6

Clause six penalize\$ persons who use property for the commission of terrorists

acts.

CLAUSE?

Clause seven establishes provision to penalize the arrangements for the retention or control of terrorist property:

CLAUSES

Clause eight makes provision to penalize persons dealing with the acquisition and concealment of terrorist property.

CLAUSE9

Clause nine makes provision for the conviction of any person who solicits or gives support for the commission of terrorist acts.

CLAUSE 10

Clause ten makes provision to criminalize as a terrorist act the harboring of person_s who commit terrorist acts.

. CLAUSE 11

. Clause eleven makes it an offence for persons who knowingly offer to provide or provide any explosives or other lethal devices.

CLAUSE12

Clause twelve deals with the recruitment of persons for terrorist purposes.

CLAUSE13

Clause thirteen provides for the penalization of persons who provide instructions or training to any person for carrying out a terrorist act.

CLAUSE 14

Clause fourteen deals with persons who incite others to commit a terrorist act.

CLAUSE 15

Clause fifteen makes it an offence for persons who make available facilities in support of terrorist acts.

CLAUSE16

Clause sixteen makes it an offence to supply weapons to be used for the purpose of committing a terrorist act.

CLAUSE 17

Clause seventeen makes it an offence for any person to distribute or, make available messages to the public intending to incite the commission of a terrorist offence as set out in this Bill.

CLAUSE 18

Under clause eighteen it is an offence for one person to agree with another person or other person to commit terrorist acts.

CLAUSE 19

Clause nineteen criminalizes the planning and preparation for the commission of terrorist acts.

CLAUSE20

Clause twenty establishes the complicity and attempt to commit terrorist acts as offences.

•CLAUSE21

Clause twenty one establishes as offences those acts intended to endanger the safety of maritime navigation and fixed platforms.

CLAUSE22

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Clause twenty two deals with offences related to terrorism such as internationally delivering or placing or detonating explosives or other lethal devices.

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· CLAUSE 23

Clause twenty three is concerned with the handling of,radioactive material and devices and creates, for instance for the offence of the theft of radioactive material, a penalty of not less than fifteen years nor more than twenty years imprisonment.

CLAUSE24

Clause twenty- four deals with the unlawful use or release of radioactive material or device with intent to cause death or damage to any person or the environment.

CLAUSE25

Clause twenty -five deals with the damage to any nuclear facility.

CLAUSE 26

· Clause twenty- six makes offences hoaxes involving noxious substances or things or explosives or other lethal material.

CLAUSE 27

Clause twenty -seven makes provision for the protection of internationally protected persons.

CLAUSE28

· Clause twenty- eight establishes as an offence the taking of hostages.

CLAUSE29

· Clause twenty nine criminalizes the use of chemical, biological or nuclear

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weapons.

CLAUSE30

· Clause thirty deals with the hijacking of aircraft.

· CLAUSE 31

Clause thirty-one makes provision for offences against the safety of civil

· aviation.

· CLAUSE 32

Clause thirty-two provides for offences against the safety at airports serving civil aviation.

CLAUSE 33

Clause thirty-three makes provision for detention orders where a police officer may apply to a judge in chambers for such.

CLAUSE34

Clause thirty-four gives powers to the relevant authority to apply to a Judge in

· Chambers for an order to gather information from named persons.

CLAUSE 35

· Clause thirty-five deals with the jurisdiction of the High Court of the Supreme Court of Judicature in relation to any of the offences referred to in this Bill.

CLAUSE36

Clause thirty-six deals with procedural measures for investigation where a foreign national is alleged to have committed an offence set out in this Bill.

· CLAUSE37

Clause thirty-seven makes provision for the applicability of International Law to

any trial as they relate to terrorist acts.

CLAUSE38

Clause thirty-eight makes provision for the right of communication and visit in relation to a person taken into custody.

CLAUSE39

Clause thirty-nine deals with the issue of extradition from Guyana of a fugitive offender charged with committing an offence set out in this Bill.

CLAUSE40

Clause forty relates to the certification of any substance as harmful by an appropriate authority.

CLAUSE41

Clause forty-one makes provision for the exchange of information relating to terrorist acts.

CLAUSE42

Clause forty-two caters for the provision of Treaty to be used as basis for extradition.

CLAUSE43

Clause forty-three caters for the provision of Treaty to be used as basis for Mutual Assistance in Criminal matters.

CLAUSE44

Clause forty-four addresses Extradition requests for acts committed outside the territory of the requesting state.

CLAUSE45

Clause forty-five provides that offences set out in this Bill are not deemed to be offences of a political character.

CLAUSE46

Clause forty-six provides that where there is no decision to extradite the alleged offender the Director of Public Prosecutions decides the course of prosecution.

CLAUSE 47

- Clause forty seven states the applicability of the general provisions of laws and treaties in force relating to mutual assistance

· CLAUSE48

: Clause forty-eight is concerned with the transfer of detained persons for the purposes of identification, and testimony to a foreign State.

CLAUSE49

- Clause forty-nine states for the purpose of extradition and mutual assistance the offences set out in this Bill are not regarded as political.

CLAUSE50

· Clause fifty mentions that there is no obligation to extradite if the request was made for the purpose of prosecution on account of gender, race, religion, ethnic origin or political opinion.

CLAUSE 51

Clause fifty-one provides for the notification by the Minister to other foreign interested States.

CLAUSE 52

- Clause fifty-two provides for notification by the Minister to relevant international organizations of the outcome of proceedings concerning offences.
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CLAUSE 53

Clause fifty-three makes provision for duty to disclose information relating to offences and terrorist acts which will assist in the prosecution of terrorist acts.

CLAUSE 54

Clause fifty-four imposes a duty to disclose information relating to property used for commission of offences set out in this Bill.

CLAUSE 55

Clause fifty-five deals with the duty to disclose information relating to passengers of aircraft and vessels.

CLAUSE 56

Clause 56 repeals the amendment to the Criminal Law (Offences) Act by the Criminal Law Offences (Amendment) Act 2002

CLAUSE 57

Clause fifty-seven makes provision for the Minister to have the power to make subsidiary legislation in respect of all matters for which such legislation is

required or authorised to be made by this Act

CLAUSES 58 and 59

Clauses fifty eight and fifty nine seek to give the force of law to certain specific articles of the United Nations Convention against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988, the International Convention for the Suppression of the Financing of Terrorism 1999 and the United Nations Convention against Transnational Organized Crime and the Protocols Thereto 2004. In addition the President may by order declare any other article of the afore-mentioned conventions to have the force of law.

Hon. Buil Williams MP

Attorney General and Minister of Legal Affairs.