

H.B. 1, 2006

Gazetted Friday 24th March, 2006.

DISTRIBUTED BY VERITAS TRUST

**Tel: [263] [4] 794478 Fax & Messages [263] [4] 793592
E-mail: veritas@mango.zw**

**VERITAS MAKES EVERY EFFORT TO ENSURE THE PROVISION OF RELIABLE INFORMATION,
BUT CANNOT TAKE LEGAL RESPONSIBILITY FOR INFORMATION SUPPLIED.**

SUPPRESSION OF FOREIGN AND INTERNATIONAL TERRORISM BILL, 2006

MEMORANDUM

The phenomenon of terrorism that is waged on an international scale is not adequately addressed by our existing laws. Nor is the problem of mercenaries covered in our legislation. Accordingly, this Bill will provide for the suppression of foreign and international terrorism, including mercenary activity. The following is a clause-by-clause analysis of the Bill:

Clause 1

This clause sets out the Bill's short title.

Clause 2

This clause defines terms used throughout the Bill.

Clause 3

This clause will provide for the punishment of persons who engage in foreign or international terrorist activity.

Clauses 4 to 6

Clauses 4 to 6 will make it an offence to undergo training for foreign or international terrorism, to recruit persons to undergo such training, or to possess weaponry that will be used for the purposes of foreign or international terrorist activity. The maximum penalty for these offences will be life imprisonment.

Clause 7

Under this clause it will be an offence knowingly to harbour or conceal a foreign or international terrorist or to fail to report such terrorist within 72 hours of becoming aware of his or her presence in Zimbabwe. The maximum penalties for these offences will be a fine of level 14 or ten years' imprisonment or both, in the case of harbouring or concealing a foreign or international terrorist, and a fine of level 10 or five years' imprisonment or both for failing to report one or failing to disclose such a terrorist's presence upon being questioned by an official.

Clause 8

This clause provides for the designation of specific foreign or international terrorist organisations. The provisions of the Unlawful Organizations Act [*Chapter 11:13*] will apply to organisations so designated.

Clause 9

This clause provides for the punishment of persons promoting, directing or belonging to foreign or international terrorist organisations.

Clause 10

This clause provides for the punishment of persons soliciting support for foreign or international terrorist organisations.

Clause 11

This clause provides for the punishment of persons supplying weaponry to foreign or international terrorists or terrorist organisations. The maximum penalty for this offence will be life imprisonment.

Clause 12 and 13

These clause will punish persons who provide other forms of direct assistance to foreign or international terrorists or terrorist organisations.

Clause 14

This clause provides for the extra-territorial application of sections 3, 4, 5, 6, 9, 10, 11, 12 and 13.

Clause 15

This clause applies certain provisions of the Public Order and Security Act [*Chapter 11:17*] to this Bill.

Clause 16

This clause applies the provisions of the Bank Use Promotion and Suppression of Money Laundering Act [*Chapter 24:24*] and the Serious Offences (Confiscation of Profits) Act [*Chapter 9:17*] to property used for foreign or international terrorist purposes.

Clause 17

This clause provides for the Minister to make regulations required or permitted to be prescribed under the Bill or which, in his or her opinion, are necessary or convenient to be prescribed for carrying out or giving effect to this Bill, including regulations implementing measures adopted by United Nations Security Council for the suppression of foreign or international terrorism.

Clause 18

This clause will repeal the Foreign Subversive Organisations Act [*Chapter 11:05*], whose provisions are substantially incorporated in this Bill.

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title and date of commencement.
2. Interpretation.

PART II

FOREIGN OR INTERNATIONAL TERRORIST ACTIVITY AND RELATED OFFENCES

3. Engaging or participating in foreign or international terrorist activity.
4. Training as foreign or international terrorist.
5. Recruiting or training foreign or international terrorists.
6. Possessing weaponry for the purposes of foreign or international terrorist activity.
7. Harboursing, concealing or failing to report foreign or international terrorist.

PART III

FOREIGN OR INTERNATIONAL TERRORIST ORGANISATIONS

8. Identification of foreign or international terrorist organisations.
9. Promoting, directing or belonging to foreign or international terrorist organisations.
10. Soliciting support for foreign or international terrorist organisations.

PART IV

ASSISTING FOREIGN OR INTERNATIONAL TERRORISTS AND TERRORIST ORGANISATIONS

11. Supplying weaponry to foreign or international terrorists or terrorist organisations.
12. Collection or supplying of information for purposes of foreign or international terrorist activity.
13. Materially assisting foreign or international terrorists or terrorist organisations.

PART V

GENERAL

14. Extra-territorial application of sections 3, 4, 5, 6, 9, 10, 11 and 13.
15. Application of certain provisions of Part VI of Cap.11:17.
16. Application of Cap. 9:17 and Cap. 24:24 to property referred to in section 13.
17. Regulations.
18. Repeal of Cap.11:17.

DISTRIBUTED BY VERITAS TRUST

**Tel: [263] [4] 794478 Fax & Messages [263] [4] 793592
E-mail: veritas@mango.zw**

**VERITAS MAKES EVERY EFFORT TO ENSURE THE PROVISION OF RELIABLE INFORMATION,
BUT CANNOT TAKE LEGAL RESPONSIBILITY FOR INFORMATION SUPPLIED.**

BILL

To provide for the suppression of foreign and international terrorism, including mercenary activities; to repeal the Foreign Subversive Organisations Act [*Chapter 11:05*]; and to provide for matters connected therewith or incidental thereto.

WHEREAS in 1989 the United Nations adopted the Convention against the Recruitment, Use, Financing and Training of Mercenaries;

AND WHEREAS in 1992 Zimbabwe signed and ratified the Organisation of African Unity Convention for the Elimination of Mercenarism in Africa;

AND WHEREAS it is necessary to make provision in the domestic law of Zimbabwe for the suppression of foreign and international terrorism, including, or in addition to, mercenarism;

NOW, THEREFORE, be it enacted by the President and the Parliament of Zimbabwe as follows:—

PART I

PRELIMINARY

1 Short title and date of commencement

(1) This Act may be cited as the Suppression of Foreign and International Terrorism Act [*Chapter 11:21*].

(2) This Act shall come into operation on a date to be fixed by the President by statutory instrument:

Provided that the President may fix different dates of commencement for different provisions of this Act.

2 Interpretation

(1) In this Act—

“designate”, in relation to an organisation, means designate it as a foreign or international terrorist organisation in terms of section 8;

“foreign or international terrorist organisation” means any association of persons formed with a view to—

- (a) overthrowing or taking over the government of any State by unlawful means or usurping the functions of such government; or
- (b) conducting a campaign or assisting any campaign against the lawfully established government of any State with a view to securing any of the objects or purposes described in paragraph (a); or
- (c) engaging in foreign or international terrorist activity;

- whether or not such organisation is designated, and includes any branch, section or committee of the organisation and any local, regional or subsidiary association forming part of such organisation;
- “foreign or international terrorist” means a person who engages in foreign or international terrorist activity;
- “foreign or international terrorist activity” means—
- (a) the doing of any act inside or outside Zimbabwe against the government of any State which, if committed against the Government of Zimbabwe, would constitute an act of insurgency, banditry, sabotage or terrorism; or
 - (b) engaging in mercenary activity;
- “law enforcement agency” means the Police Force (including a member of the Police Constabulary as defined in section 2 (“Interpretation”) of the Police Act [*Chapter 11:10*]) or an intelligence service maintained by the Government, or any agency assigned by an enactment to maintain and enforce the law;
- “leader”, in relation to a foreign or international terrorist organisation, means a person who directs at any level the activities of such organisation;
- “member”, in relation to a foreign or international terrorist organisation, includes a person who professes to be member of such organisation;
- “mercenary activity” means the following—
- (a) the doing of any act aimed at overthrowing a government or undermining the constitutional order, sovereignty or territorial integrity of a State; or
 - (b) personal involvement or the rendering of private military-related assistance in an armed conflict between two or more States or within a State;
- “Minister” means the Minister of Home Affairs or any other Minister to whom the President may, from time to time, assign the administration of this Act;
- “office-bearer”, in relation to a foreign or international terrorist organisation, means a member of the governing body of—
- (a) the organisation; or
 - (b) any branch, section or committee of the organisation; or
 - (c) any local, regional or subsidiary association forming part of such organisation;
- “officer”, in relation to a foreign or international terrorist organisation, means any person working for the organisation or for any branch, section or committee of the organisation, or for any local, regional or subsidiary association forming part of such organisation;
- “official” means—
- (a) a member of any law enforcement agency; or
 - (b) an ancillary member of the Police Force as defined in section 2 (“Interpretation”) of the Police Act [*Chapter 11:10*]; or
 - (c) a member of the Defence Forces; or
 - (d) a provincial or district administrator or an assistant provincial or district administrator or any other employee of the State acting in that capacity;
- “private military-related assistance” means military services or military-related services provided by an individual, company or association, in the form of—
- (a) advice or training; or
 - (b) personnel, financial, logistical, intelligence or operational support; or
 - (c) personnel recruitment; or
 - (d) medical or para-medical services; or
 - (e) procurement of equipment; or
 - (f) security services for the protection of individuals involved in armed conflict or their property;

“promoter”, in relation to a foreign or international terrorist organisation, means any person who organises or sets up or helps to organise or set up or advocates or urges the setting up of the organisation.

(2) Any word or expression which has not been defined in subsection (1) and to which a meaning has been assigned in any provision of the Public Order and Security Act [*Chapter 11:17*] (No. 1 of 2002) or the Criminal Law (Codification and Reform) Act [*Chapter 9:23*] (No. 23 of 2004) shall have the same meaning when used in this Act.

PART II

FOREIGN OR INTERNATIONAL TERRORIST ACTIVITY AND RELATED OFFENCES

3 Engaging or participating in foreign or international terrorist activity

(1) Any person who, whether or not he or she is a member of a foreign or international terrorist organisation, engages or participates in any foreign or international terrorist activity shall be guilty of an offence and liable to imprisonment for life or any shorter period.

(2) Subsection (1) does not apply to any person who, but for this subsection, would be regarded as engaging in mercenary activity within the meaning of “foreign or international terrorist activity” if such person—

- (a) participates in an armed conflict as a member of a lawfully constituted disciplined force of a State or international organisation with which Zimbabwe has diplomatic relations;
- (b) provides private military-related assistance to or on behalf of a State or an international organisation with which Zimbabwe has diplomatic relations.

4 Training as foreign or international terrorist

(1) Any person who attends or undergoes any course of training, whether inside or outside Zimbabwe, for the purpose of enabling him or her to engage or participate in any foreign or international terrorist activity shall be guilty of an offence and liable to imprisonment for life or any shorter period.

(2) If it is proved in a prosecution for an offence under subsection (1) that the accused person attended or underwent a course of training the effect of which was to enable that person to engage or participate in any foreign or international terrorist activity, it shall be presumed, unless the contrary is proved on a balance of probabilities, that he or she did so for that purpose.

5 Recruiting or training foreign or international terrorists

Any person who intentionally—

- (a) recruits, assists or encourages any other person to undergo training inside or outside Zimbabwe in order to engage or participate in any foreign or international terrorist activity; or
- (b) provides training to any person, whether inside or outside Zimbabwe, in order to engage or participate in any foreign or international terrorist activity;

shall be guilty of an offence and liable to imprisonment for life or any shorter period.

6 Possessing weaponry for the purposes of foreign or international terrorist activity

(1) Any person who has any weaponry in his or her possession or under his or her control with the intention that such weaponry will be used for the purposes of foreign or international terrorist activity shall be guilty of an offence and liable to imprisonment for life or any shorter period.

(2) If it is proved in a prosecution under subsection (1) that—

- (a) the accused person is a member, leader, promoter, officer or office-bearer of a foreign or international terrorist organisation; and
- (b) the accused person was in unlawful possession of any weaponry; and

- (c) the weaponry consists of any weapon, firearm or ammunition—
 - (i) referred to in section 24 (“Special provisions relating to certain types of weapons and ammunition”) of the Firearms Act [*Chapter 10:09*]; or
 - (ii) for the purchase, acquisition or possession of which the accused person has no good ostensible reason; or
 - (iii) that was part of a cache or was found in the possession of the accused person in such a quantity as cannot be accounted for by reason of personal use alone;

it shall be presumed, unless the contrary is proved on a balance of probabilities, that the accused person possessed the weaponry with the intention that it should be used for the purposes of foreign or international terrorist activity.

- (3) A person charged with an offence under subsection (1) may be found guilty of—
 - (a) contravening section 10 (“Possessing weaponry for insurgency, banditry, sabotage or terrorism”) of the Public Order and Security Act [*Chapter 11: 17*] (No. 1 of 2002); or
 - (b) contravening section 13 (“Possession of dangerous weapons”) of the Public Order and Security Act [*Chapter 11: 17*] (No. 1 of 2002); or
 - (c) contravening section 4 (“Penalty for purchasing firearms or ammunition without firearm certificate”) of the Firearms Act [*Chapter 10:09*];

if such are the facts proved.

7 Harboursing, concealing or failing to report foreign or international terrorist

(1) Any person who, knowing that another person is a foreign or an international terrorist, intentionally harbours or conceals that other person shall be guilty of an offence and liable to a fine not exceeding level fourteen or to imprisonment for a period not exceeding ten years or to both such fine and such imprisonment.

(2) Any person who becomes aware of the presence in Zimbabwe of another person whom he or she knows to be a foreign or an international terrorist and who—

- (a) fails, within the period prescribed in subsection (3), to report to an official the presence of that other person in Zimbabwe and any information which is in his or her power to give in relation to that other person; or
- (b) upon being questioned by an official, intentionally—
 - (i) omits or refuses to disclose to the official any information which is in his or her power to give in relation to that other person; or
 - (ii) gives the official false information in relation to that other person;

shall be guilty of an offence and liable to a fine not exceeding level ten or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

(3) A person shall make a report in terms of subsection (2)(a) as soon as is reasonably practicable after he or she becomes aware of the presence in Zimbabwe of the foreign or international terrorist concerned and, in any event, within seventy-two hours of becoming so aware.

PART III

FOREIGN OR INTERNATIONAL TERRORIST ORGANISATIONS

8 Identification of foreign or international terrorist organisations

(1) The Minister may, after consultation with the Minister responsible for foreign affairs, designate by notice in a statutory instrument any organisation to be a foreign or an international terrorist organisation for the purposes of this Act.

(2) In any prosecution for an offence against this Act involving an organisation that is—

- (a) designated, the accused person shall bear the burden of proving, on a balance of probabilities, that the organisation is not a foreign or international terrorist organisation; or
- (b) alleged to be a foreign or international terrorist organisation but which is not designated, the State shall bear the burden of proving, on a balance of probabilities, that the organisation is a foreign or international terrorist organisation.

(3) The designation of an organisation shall have effect as if the organisation is declared to be an unlawful organisation in terms of section 3 (“Declaration of organization to be unlawful”) of the Unlawful Organisations Act [*Chapter 11:13*], and that Act shall apply, subject to the substitution of references to the President by the Minister and any other changes that may be necessary, to such organisation.

(4) Any designated organisation or any person affected by the organisation’s designation may apply to the Minister in the prescribed manner for the Minister to revoke the designation of the organisation.

9 Promoting, directing or belonging to foreign or international terrorist organisations

Any person who is a promoter of a foreign or international terrorist organisation, or is or becomes a leader, office-bearer, officer or member of a foreign or international terrorist organisation, shall be guilty of an offence and liable—

- (a) in the case of a promoter, leader, office-bearer or officer of a foreign or international terrorist organisation, to imprisonment for a period not exceeding ten years;
- (b) in the case of a member of a foreign or international terrorist organisation, to a fine not exceeding level fourteen or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

10 Soliciting support for foreign or international terrorist organisations

Any person who, without being a promoter, leader, office-bearer, officer or member of a foreign or international terrorist organisation—

- (a) solicits, invites or encourages moral or material support for the foreign or international terrorist organisation; or
- (b) arranges, manages or assists in arranging or managing a meeting which he or she knows is—
 - (i) to support the foreign or international terrorist organisation; or
 - (ii) to further the activities of the foreign or international terrorist organisation; or
 - (iii) to be addressed by a person who belongs or professes to belong to the foreign or international terrorist organisation;

shall be guilty of an offence and liable to a fine not exceeding level fourteen or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

PART III

ASSISTING FOREIGN OR INTERNATIONAL TERRORISTS AND TERRORIST ORGANISATIONS

11 Supplying weaponry to foreign or international terrorists or terrorist organisations

Any person who supplies weaponry to a foreign or international terrorist or foreign or international terrorist organisation, knowing that the weaponry will be used for the purpose of foreign or international terrorist activity, or realising that there is a real risk or possibility that the weaponry will be so used, shall be guilty of an offence and liable to imprisonment for life or any shorter period.

12 Collection or supplying of information for purposes of foreign or international terrorist activity

Any person who—

- (a) obtains any information with the intention that it will be used for the purpose of foreign or international terrorist activity; or
- (b) supplies any information to a foreign or international terrorist or foreign or international terrorist organisation, knowing that the information will be used for the purpose of foreign or international terrorist activity, or realising that there is a real risk or possibility that it will be so used;

shall be guilty of an offence and liable to a fine not exceeding level fourteen or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

13 Materially assisting foreign or international terrorists or terrorist organisations

Any person who, whether or not he or she is a promoter, leader, office-bearer, officer or member of a foreign or international terrorist organisation—

- (a) receives or holds money or other property on behalf of any foreign or international terrorist or foreign or international terrorist organisation; or
- (b) provides money or other property to any foreign or international terrorist or foreign or international terrorist organisation; or
- (c) enters into or becomes concerned in an arrangement—
 - (i) as a result of which money or other property is made available to a foreign or international terrorist or foreign or international terrorist organisation; or
 - (ii) which facilitates the retention or control of money or other property by a foreign or international terrorist or foreign or international terrorist organisation by means of concealment, removal from the jurisdiction, transfer to nominees or in any other way;

knowing or realising that there is a real risk or possibility that the property or money will be used by the foreign or international terrorist or foreign or international terrorist organisation for the purposes of foreign or international terrorist activity shall be guilty of an offence and liable to a fine not exceeding level fourteen or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

PART V

GENERAL

14 Extra-territorial operation of sections 3, 4, 5, 6, 9, 10, 11, 12 and 13

Sections 3, 4, 5, 6, 9, 10, 11, 12 and 13 shall have extra-territorial operation.

15 Application of certain provisions of Part VI of Cap.11:17

Sections 36 (“Attorney-General to authorise certain prosecutions under this Act”), 39 (“Powers of search, seizure and forfeiture generally”) and 40 (“Special jurisdiction of magistrates”) of the Public Order and Security Act [*Chapter 11:17*] (No. 1 of 2002) shall apply, with such changes that may be necessary, to proceedings instituted in terms of this Act, powers of search, seizure and forfeiture and the special jurisdiction of magistrates over any offence committed under this Act.

16 Application of Cap. 9:17 and Cap. 24: 24 to property referred to in section 13

Where any property that may be the subject-matter of an offence under section 13—

- (a) consists of money, the Bank Use Promotion and Suppression of Money Laundering Act [*Chapter 24:24*] (No. 2 of 2004) shall apply to such property as if the offence were a cash detainable offence in terms of that Act;

- (b) consists of property other than money, the Serious Offences (Confiscation of Profits) Act [*Chapter 9:17*] shall apply to such property as if it were tainted property in terms of that Act.

17 Regulations

(1) The Minister may make regulations providing for all matters which by this Act are required or permitted to be prescribed or which, in his or her opinion, are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) The Minister, with the consent of the President, may by regulations make such provision (including provision for the apprehension, trial and punishment of persons offending against the regulations) as appears to him or her necessary or expedient for giving effect within or outside Zimbabwe to any resolution that the Security Council of the United Nations has passed under Article 41 of the Charter of the United Nations (being the Article which relates to measures not involving the use of armed force) calling upon Member States of the United Nations to apply any measures regarding any foreign or international terrorist activity.

18 Repeal of Cap.11:17

The Foreign Subversive Organisations Act [*Chapter 11:05*] is repealed.