



[L.S.]

I Assent,

James B. Carlisle,
Governor-General.

3rd December, 2001.

ANTIGUA AND BARBUDA

No. 15 of 2001

AN ACT to prohibit the use of the territory of Antigua and Barbuda and any facilities provided therein for the promotion of terrorist activities.

[27th December, 2001]

ENACTED by the Parliament of Antigua and Barbuda as follows —

1. This Act may be cited as the Prevention of Terrorism Act, 2001. Short title and commencement.

2. In this Act — Interpretation.

"Al-Qaida organisation" is the same organisation as "Al-Qaeda organisation";

"Entity" means a partnership, joint venture, association, corporation, organization, network, group or subgroup or any form of business collaboration;

"gift" in relation to property, includes a **transfer** for a consideration significantly less than the greater of —

- (a) the **prevailing market value** of the property;
or
- (b) the consideration paid by the defendant.

"person" means an individual or entity;

"property" includes money, investments, holdings, possessions, assets and all other property real or personal, heritable or moveable including things in action and other intangible or incorporeal property wherever situate (whether in Antigua and Barbuda or elsewhere) and includes any interest in such property;

"Supervisory Authority" has the same meaning as the meaning assigned to it by the Money Laundering Prevention Act, No. 9 of 1996;

"terrorist" means an individual who engages in a terrorist activity;

"terrorist activity" means activity that —

- (a) involves a violent act or an act dangerous to human life, property or infrastructure; and
- (b) appears to be intended to —
 - (i) intimidate or coerce a civilian population;
 - (ii) influence the policy of government by intimidation or coercion; or
 - (iii) affect the conduct of a government by mass destruction, assassination, kidnapping or hostage taking;

"terrorist organisation" means an entity that engages in terrorist activity;

"Usama bin Laden" is the same person as "Osama bin Laden";

3. (1) The Supervisory Authority is hereby **authorised** to designate a person as a terrorist or a terrorist organisation if the Supervisory Authority reasonably suspects that the person has engaged in a terrorist activity;

**Designation and
identification of
terrorist and
terrorist
organisation.**

(2) The Supervisory Authority shall, by declaration, published in the *Gazette*, specify the name of any person that has been designated in accordance with this section as a terrorist or terrorist organisation and include in such publication —

- (a) in the case of an individual, the name, date of birth, place of birth, nationality, address, telephone number, passport number and **tax** identification number;
- (b) in the case of an entity, the name of the organisation, the date of incorporation, the place of incorporation, address, telephone number and facsimile number and any affiliated groups.

(3) For the purpose of this Act, the designation of a terrorist or terrorist organisation takes effect upon publication under subsection (2).

(4) Upon publication under subsection (2), the Supervisory Authority shall issue a written direction to any financial institution in Antigua and Barbuda requiring it to restrain or freeze any account or other property held by that financial institution on behalf of a person declared to be a terrorist or terrorist organisation.

(5) Subject to subsection (6), any direction given by the Supervisory Authority pursuant to subsection (4) shall be effective for three months unless previously revoked by the Supervisory Authority or by order of the High Court.

(6) The High Court may, upon the application of the Supervisory Authority, order the extension of a restraining or a freeze direction issued pursuant to subsection (4); provided that the High Court is satisfied that the conditions referred to in subsection (1) still apply

(7) An application under subsection (6) may be heard *ex-parte*.

(8) Where a written direction has been issued pursuant to subsection (4) and an application has been filed for an order pursuant to subsection (6), the direction issued pursuant to subsection (4) shall remain in force **until** the application pursuant to subsection (6) is **finally** determined.

(9) The Supervisory Authority shall, from time to time, amend the declaration published under subsection (2).

(10) The Supervisory Authority may revoke any declaration under subsection (2) if —

- (a) the circumstances that form the basis of the designation no longer exists; or
- (b) the national security of Antigua and Barbuda is no longer in danger.

(11) The revocation of a declaration does not affect any action taken or proceedings based on conduct committed prior to the effective date of such revocation.

(12) Not later than thirty (30) days after the publication in the *Gazette* of the designation and the written direction by the Supervisory Authority made pursuant to subsection (4), a person designated as a terrorist or a terrorist organisation may apply to the High Court for an order to revoke the declaration and any **written direction made pursuant** to this Act.

(13) An application for the revocation of a declaration and a written direction shall not affect any action taken under this Act unless the court makes a final order setting aside a declaration or a written direction.

(14) An application pursuant to subsection (12) by a person, other than the Supervisory Authority, shall be granted if the person proves to the satisfaction of the court that —

- (a) the person the subject of the relevant declaration is not a terrorist or terrorist organisation; or
- (b) the property the subject of the restraining or freeze direction is legally and beneficially owned by the applicant and not subject to any interest held by the

terrorist or terrorist organization named in the relevant declaration.

(15) Any property the subject of a restraining or freeze direction pursuant to subsection (4) is forfeited to the Crown if —

- (a) no application is made under subsection (6) or subsection (12) within three months of the date of the order;
- (b) an application has been made under subsection (12) when that application is determined; or
- (c) the application is discontinued, withdrawn or struck out.

4. No person shall directly or indirectly supply, sell or transfer to any terrorist or terrorist organisation or to the territory of **Afghanistan** under the **control** of the Government of the **Taliban** —

Prohibition of sale and supply of military hardware and software to terrorist and terrorist organisation

- (a) any arms, weapons, ammunition, **military** vehicles and equipment, paramilitary equipment, aircraft or ship or spare parts and any related materials in respect of the aforementioned;
- (b) technical advice, assistance or training related to military activities or armed personnel;
- (c) the chemical acetic anhydride or any chemical, biological or nuclear weapon of mass destruction.

5. (1) Any transaction or dealing by a person in, or under the jurisdiction of Antigua and Barbuda —

Dealings with property of terrorist and terrorist organisation prohibited.

- (a) in property or interest in property of a terrorist or a terrorist organisation so designated in accordance with section 3;
- (b) that evades or avoids, or has the effect of evading or avoiding, and any attempt, or conspiracy to violate, any of the prohibitions in this Act,

is prohibited.

(2) The dealing by any person in Antigua and Barbuda in any property wherever situated held by or on behalf of —

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- (a) the territory of Afghanistan under the control of the Government of the **Taliban**;
- (b) Usama bin **Laden**;
- (c) the Al-Qaida organisation; or
- (d) any terrorist or terrorist organisation,

is prohibited.

(3) A person holds an interest in property if it is subject to his effective control or has parted with such interest by way of gift to another person within six **years** of any designation under section 3.

Prohibition of use of financial services.

6. The provision or acquisition by any person in, or organisation under the jurisdiction of Antigua and Barbuda, of financial services or any other services to, from or for the benefit of or on the direction or order of —

- (a) the territory of Afghanistan under the control of the Government of the **Taliban**;
- (b) Usama bin Laden;
- (c) the Al-Qaida organisation; or
- (d) any known terrorist or terrorist organisation,

is prohibited.

Banks and financial institutions prohibited from transacting business with terrorist and terrorist organisation.

7. (1) No bank or financial institution licensed in Antigua and Barbuda shall transact any business with Usama bin Laden, the Al-Qaida organisation or any person associated with or suspected of having any relationship with Usama bin Laden or the Al-Qaida organisation or any other terrorist or terrorist organisation as the Supervisory Authority may by declaration published in the *Gazette* designate from time to time.

(2) The Supervisory Authority may, by written direction, direct any bank or financial institution licensed in Antigua and Barbuda to freeze all accounts held in the **name Osama bin Laden**, the **Al Qaida** organisation or any other terrorist organisation or any person associated with or suspected of having relationship with Usama bin Laden or the **Al Qaida** organisation or any other terrorist or terrorist organisation.

(3) Any bank or **financial** institution which freezes any account pursuant to subsection (2) shall, as soon as practicable, notify the holder of the account that the account has been frozen.

(4) On receipt of such notification, the account holder may within thirty (30) days of the receipt of the **notification**, apply to a judge in Chambers to revoke the declaration and any written direction freezing such account under this section.

8. Any person who becomes aware that he has possession of, or control over any funds or other assets in which a terrorist or terrorist organisation, or agent, or affiliate of a terrorist or terrorist organisation has an interest **shall —**

Reporting assets belonging to a terrorist or terrorist organisation.

- (a) retain possession and maintain control over such funds or such assets; and
- (b) report to the Supervisory Authority the existence of such funds or assets in accordance with written instructions or directions issued by the Supervisory Authority.

9. (1) The Supervisory Authority shall, for purposes of implementing the provisions of this Act and for other purposes relating to the prevention of terrorism, investigate, regulate, review or prohibit —

Implementation.

- (a) any transaction in foreign exchange, currency or securities;
- (b) any transfer or credit or payment by, through or to any banking institution, to the extent that such transfers or payments involve any interests of any foreign country or national thereof.

(2) The Supervisory Authority may require any financial institution or any person having possession of, or control over any assets of any person frozen under this Act to keep and maintain proper record of the frozen assets or any record of any other assets under investigation pursuant to this Act.

(3) The Supervisory Authority shall, in any such investigation, request the production of any records or documents in rela-

tion to any matter in connection with any frozen assets under this Act.

Defences.

10. (1) It shall be a defence to any action brought against any person who complies with any written direction or instruction issued by the Supervisory Authority in relation to any matter under this Act that the compliance was in accordance with the provisions of this Act.

(2) No person shall be held liable in any Court for or with respect to anything done or omitted to be done in good faith in connection with the administration of, or pursuant to, and in reliance on this Act or any regulation, instruction, or direction issued under this Act.

Offences and
penalty.

11. (i) Any person who contravenes section 4, commits an indictable offence and is liable on conviction to twenty five (25) years imprisonment.

(2) In addition, the Court shall order that any funds or other property which is derived from any such transaction by a person convicted under subsection (1) or in relation to which the offence was committed shall be forfeited to the Crown.

(3) Any person who fails to —

(a) comply with sections 5, 6, 7 or 9 or any order, instructions or directions given by the Supervisory Authority under this Act; or

(b) report to the Supervisory Authority the existence of any funds or assets belonging to a designated terrorist or terrorist organisation pursuant to section 8,

commits an offence and is liable on conviction on indictment to a fine of **\$100,000.00** or twice the amount of which the financial institution was required to retain possession of or control over whichever is greater.

Validation.

12. Any written direction made by the Supervisory Authority before the commencement of this Act directing any bank or financial institution to freeze the account of —

(a) **Usama bin Laden** or the Al-Qaida organisation or

the territory of Afghanistan under the control of the Government of the **Taliban**; or

- (b) any person known as a terrorist or terrorist organisation, or any person suspected **of being** a terrorist or terrorist organisation,

is deemed to have been validly made under this Act and any account so **frozen** is deemed to have been validly frozen.

13. The Minister may make regulation for the better carrying **Regulation.** out of the purpose of this Act.

Passed the House of Representatives
this 27th day of November, 2001.

B. Harris,
Speaker.

S. Walker,
Clerk to the House of Representatives.

Passed the Senate this 30th day
of October, 2001.

M. Percival,
President.

S. Walker,
Clerk to the Senate.