

TURKS AND CAICOS ISLANDS

**PREVENTION OF TERRORISM (AMENDMENT)
ORDINANCE 2024**

(Ordinance 22 of 2024)

ARRANGEMENT OF SECTIONS

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PREVENTION OF TERRORISM (AMENDMENT)
ORDINANCE 2024

(Ordinance 22 of 2024)

Assent.....30th September 2024

Publication in Gazette.....30th September 2024

Commencement.....in accordance with section 1

**AN ORDINANCE TO AMEND THE PREVENTION OF TERRORISM
ORDINANCE; AND FOR CONNECTED PURPOSES.**

ENACTED by the Legislature of the Turks and Caicos Islands.

Short title and commencement

1. This Ordinance may be cited as the Prevention of Terrorism (Amendment) Ordinance 2024 and shall come into operation on such day as the Governor may appoint by Notice published in the *Gazette*.

Interpretation

2. In this Ordinance the “principal Ordinance” means the Prevention of Terrorism Ordinance.

Section 10 substituted

3. The principal Ordinance is amended by repealing section 10 and substituting the following section—

“Raising or arranging funds for terrorism

10. (1) A person commits an offence if he by any means, directly or indirectly, unlawfully and willingly—

- (a) invites another to provide property; and
 - (b) intends that it should be used, or has reasonable cause to suspect, that it may be used, in whole or in part, for the purposes of terrorism.
- (2) A person commits an offence if he by any means, directly or indirectly, unlawfully and willingly—
 - (a) receives property; and
 - (b) intends that it should be used, or has reasonable cause to suspect that it may be used, in whole or in part, for the purposes of terrorism.
- (3) A person commits an offence if he by any means, directly or indirectly, unlawfully and willingly—
 - (a) provides property; and
 - (b) knows or has reasonable cause to suspect that it will or may be used, in whole or in part, for the purposes of terrorism.
- (4) A person commits an offence if he—
 - (a) enters into or becomes concerned in an arrangement as a result of which property is made available or is to be made available to another by any means, directly or indirectly, unlawfully and willingly; and
 - (b) knows or has reasonable cause to suspect that it will or may be used, in whole or in part, for the purposes of terrorism.
- (5) An offence under subsection (1), (2), (3) or (4) is committed—
 - (a) even if the act of terrorism referred to in subsection (1), (2), (3) or (4) does not occur or is not attempted;
 - (b) even if the property is not—
 - (i) actually used to commit or to attempt the act of terrorism referred to in subsection (1), (2), (3) or (4); or
 - (ii) linked to a specific act of terrorism.
- (6) A person who commits an offence under this section is liable on conviction on indictment to a fine or to imprisonment for a term of fourteen years, or to both.

(7) In this section, a reference to the provision of property is a reference to its being given, lent or otherwise made available, whether or not for consideration.”.

Part VIA inserted

4. The principal Ordinance is amended by inserting after Part VI the following Part—

“PART VIA

EXTRADITION AND MUTUAL ASSISTANCE IN CRIMINAL MATTERS

Exchange of information relating to terrorist groups and terrorist acts

54A. (1) Subject to subsection (2), the Financial Intelligence Agency and the Commissioner of Police may, on a request made by the appropriate authority of a foreign state, disclose to that authority, any information in its possession or in the possession of any other government department or agency relating to any of the following—

- (a) the actions and movements of terrorist groups 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 weapons and sensitive materials by terrorist groups or persons suspected of involvement in the commission of terrorist acts; or
- (d) the use of communications technologies by terrorist groups.

(2) A disclosure under subsection (1) may only be made—

- (a) if it is not prohibited by any other law;
- (b) subject to any other law regulating the procedure to be followed when making such a disclosure;
- (c) for use by the requested Party in investigations, prosecutions or proceedings for which it was requested unless prior consent of the requested Party is obtained for use of the requested information in investigations, prosecutions or proceedings other than those stated in the request;
- (d) if, in opinion of the Financial Intelligence Agency, after consulting with the Attorney General, and the

Commissioner of Police, it would not be prejudicial to national security or public safety.

Counter-terrorism Convention to be used as basis for extradition

54B. (1) Where—

- (a) the United Kingdom becomes a party to a counter-terrorism Convention and it extends such Convention to the Islands; and
- (b) there is in force, an extradition arrangement between the United Kingdom and another state which is a party to that counter-terrorism Convention,

the extradition arrangement shall be deemed for the purposes of giving effect to this Ordinance to include provision for extradition in respect of offences falling within the scope of that counter-terrorism Convention.

(2) Where—

- (a) the United Kingdom becomes a party to a counter-terrorism Convention and it extends such Convention to the Islands; and
- (b) there is no extradition arrangement between the United Kingdom and another state which is a party to that counter-terrorism Convention,

the Cabinet may, by order published in the *Gazette*, treat the counter-terrorism Convention for the purposes of giving effect to this Ordinance, as an arrangement between the United Kingdom and that state for providing for extradition in respect of offences falling within the scope of the counter-terrorism Convention.

Counter-terrorism Convention to be used as basis for mutual assistance in criminal matters

54C. (1) Where—

- (a) the United Kingdom becomes party to a counter-terrorism Convention and it extends such Convention to the Islands; and
- (b) there is in force an arrangement between the United Kingdom and another state which is a party to that counter-terrorism Convention, for mutual assistance in criminal matters,

the arrangement shall be deemed for the purposes of mutual legal assistance legislation in the Islands to include provisions for mutual legal assistance in criminal matters falling within the scope of the counter-terrorism Convention.

(2) Where—

- (a) the United Kingdom becomes party to a counter-terrorism Convention and it extends such Convention to the Islands; and
- (b) there is no arrangement between the United Kingdom and another state which is a party to that counter-terrorism Convention, for mutual assistance in criminal matters,

the Cabinet may, by order published in the *Gazette*, treat the counter-terrorism Convention for the purposes of giving effect to this Ordinance, as an arrangement between the United Kingdom and that state for providing for mutual legal assistance in criminal matters falling within the scope of the counter-terrorism Convention.

Offences under this Ordinance deemed not to be offences of a political character for purposes of extradition

54D. (1) Notwithstanding any provision in any other Ordinance relating to extradition, an offence under this Ordinance shall for the purposes of extradition 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.

(2) A request for extradition or for mutual legal assistance based on such an offence under this Ordinance may not be refused on the sole ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives.

Person being detained or serving sentence presence required in another State

54E. A person who is being detained or is serving a sentence in the Islands whose presence in another State is requested for purposes of identification, testimony or otherwise providing assistance in obtaining evidence for the investigation or prosecution of offences set forth in sections 3, 10, 11, 12, and 13 may be transferred if the following conditions are met—

- (a) the person freely gives his informed consent;
- (b) the competent authorities of the Islands and the requesting State agree, subject to such conditions as they may deem appropriate.

Provisions of extradition treaties modified by counter-terrorism Convention

54F. The provisions of all extradition treaties and arrangements between the Islands and any State with regard to offences under this Ordinance shall be deemed to be modified as

between States Parties to the extent that they are incompatible with any counter-terrorism Convention the United Kingdom extends to the Islands.”.

Section 56A inserted

5. The principal Ordinance is amended by inserting after section 56 the following section—

“Jurisdiction to try offences

56A. Where an offence under sections 3, 10, 11, 12 or 13 is committed outside the Islands, proceedings for the offence may be taken in the Islands, and the offence may for all incidental purposes be treated as having been committed in the Islands when—

- (a) the offence is committed on board a vessel flying the flag of the Islands or an aircraft registered in the Islands at the time the offence is committed;
- (b) the offence is committed by a Turks and Caicos Islander, a British Overseas Territory Citizen, or a permanent resident;
- (c) the offence was directed towards or resulted in the carrying out of an offence referred to in one of the treaties listed in Schedule 1 or any other act or action taken for the purposes of terrorism as defined in section 3—
 - (i) in the Islands of or against by a Turks and Caicos Islander, a British Overseas Territory Citizen, or a permanent resident;
 - (ii) against the Islands or Turks and Caicos Islands government facility abroad, including consular premises of the Turks and Caicos Islands;
 - (iii) committed in an attempt to compel the Islands to do or abstain from doing any act;
- (e) the offence is committed by a stateless person who has his or her habitual residence in the Islands;
- (f) the offence is committed on board an aircraft which is operated by the government of the Islands.”.

Schedule 6 amended

6. Schedule 6 to the principal Ordinance is amended by repealing paragraphs 6 and 7 and substituting the following paragraphs—

“Rights to have someone informed when detained

6. (1) A person detained under section 34 or Schedule 7 at a police station in the Islands shall be entitled, if he so requests, to have one named person informed as soon as is reasonably practicable that he is being detained there.

(2) Where a detained person is transferred from one police station to another, he shall be entitled to exercise the right under this paragraph in respect of the police station to which he is transferred.

(3) Where a request is made under subparagraph (1) and (2), the request and the time at which it was made shall be recorded.

Access to legal advice, etc.

7. A person detained under section 34 or Schedule 7 at a police station in the Islands shall be entitled to—

- (a) consult an attorney-at-law as soon as is reasonably practicable, privately and at any time;
- (b) be visited by a representative of the Islands;
- (c) be informed of that person’s rights under sub-paragraphs (a) and (b).

Paragraphs 6 and 7 without prejudice to others claim to jurisdiction

7A. The provisions of paragraphs 6 and 7 shall be without prejudice to the right of any State having a claim to jurisdiction in accordance with any counter-terrorism Convention to invite the International Committee of the Red Cross to communicate with and visit the alleged offender.”.
