

TERRORISM (PREVENTION) (AMENDMENT) ACT, 2013

EXPLANATORY MEMORANDUM

This Act amends the Terrorism (Prevention) Act No. 10, 2011, makes provision for extra-territorial application of the Act and strengthens terrorist financing offences.

TERRORISM (PREVENTION) (AMENDMENT) ACT, 2013

ARRANGEMENT OF SECTIONS

Section:

1. Amendment of Act No.10, 2011.
2. Amendment of section 1.
3. Substitution for sections 3-8
4. Substitution for section 10.
5. Deletion of section 11.
6. Amendment of section 12.
7. Substitution for section 13.
8. Amendment of section 14.
9. Amendment of section 15.
10. Deletion of sections 16 and 17.
11. Amendment of section 24.
12. Substitution for section 25.
13. Substitution for sections 26 - 29.
14. Deletion of section 31.
15. Amendment of section 32.
16. Substitution for section 33.
17. Deletion of section 34.
18. Amendment of section 36, 37 and 38.
19. Amendment of section 40.
20. Citation.

TERRORISM (PREVENTION) (AMENDMENT) ACT, 2013

A Bill
For

An Act to amend the Terrorism (Prevention) Act, 2011 by providing for extra-territorial application of the Act and strengthening of terrorist financing offences; and for related matters.

[]

Commencement

ENACTED by the National Assembly of the Federal Republic of Nigeria -

1. The Terrorism (Prevention) Act, 2011 (in this Act referred to as the “Principal Act”) is amended as set out in this Act. Amendment of Act No. 10, 2011.
2. Section 1 of the Principal Act is amended by— Amendment of section 1.
 - (a) inserting a new subsection “(1)” before the existing subsection (1) -

“(1) All acts of terrorism and financing of terrorism are hereby prohibited.”;
 - (b) renumbering the existing subsections (1)–(3) as subsections (2)–(4) accordingly”;
 - (c) substituting for the renumbered subsection (2) a new subsection “(2)” –

“(2) A person or body corporate who knowingly in or outside Nigeria directly or indirectly willingly –

 - (a) does, attempts or threatens any act of terrorism,
 - (b) commits an act preparatory to or in furtherance of an act of terrorism,

- (c) omits to do anything that is reasonably necessary to prevent an act of terrorism,
- (d) assists or facilitates the activities of persons engaged in an act of terrorism or is an accessory to any offence under this Act,
- (e) participates as an accomplice in or contributes to the commission of any act of terrorism or offences under this Act,
- (f) assists, facilitates, organizes or directs the activities of persons or organizations engaged in any act of terrorism,
- (g) is an accessory to any act of terrorism, or
- (h) incites, promises or induces any other person by any means whatsoever to commit any act of terrorism or any of the offences referred to in this Act,

commits an offence under this Act and is liable on conviction to maximum of death sentence.”

- (2) Section 1 of the Principal Act is amended by inserting a new section “1A” immediately after the new section 1(4) of the Principal Act -

“National
Coordinating
Bodies

1A. (1) The Office of the National Security Adviser (in this Act referred to as “ONSA”) shall be the coordinating body for all security and enforcement agencies under this Act and shall -

- (a) provide support to all relevant security, intelligence, law enforcement agencies and military services to prevent and combat acts of terrorism in Nigeria;
- (b) ensure the effective formulation and

implementation of a comprehensive counter-terrorism strategy for Nigeria;

(c) build capacity for the effective discharge of the functions of all relevant security, intelligence, law enforcement and military services under this Act or any other law on terrorism in Nigeria; and

(d) do such other acts or things that are necessary for the effective performance of the functions of the relevant security and enforcement agencies under this Act.

(2) The Attorney – General of the Federation shall be the authority for the effective implementation and administration of this Act and shall strengthen and enhance the existing legal framework to ensure -

(a) conformity of Nigeria’s counter - terrorism laws and policies with international standards and United Nations Conventions on Terrorism;

(b) maintain international co-operation required for preventing and combating international acts of terrorism; and

(c) the effective prosecution of terrorism matters.

(3) The law enforcement and security agencies (in this Act referred to as “law enforcement agencies) shall be responsible for the gathering of intelligence and investigation of the offences provided under this Act.

(4) Further to subsection (3), the law enforcement agencies shall have powers to -

(a) enforce all laws and regulations on counter - terrorism in Nigeria;

- (b) adopt measures to prevent and combat acts of terrorism in Nigeria;
 - (c) facilitate the detection and investigation of acts of terrorism in Nigeria;
 - (d) establish, maintain and secure communications, both domestic and international, to facilitate the rapid exchange of information concerning acts that constitute terrorism;
 - (e) conduct research with the aim of improving preventive measures to efficiently and effectively combat terrorism in Nigeria;
 - (f) partner with Civil Society Organizations and the Nigerian public to provide necessary education, support, information, awareness and sensitization towards the prevention and elimination of acts of terrorism;
- (5) Subject to the provisions of this Act, the law enforcement agencies shall have powers to -
- (a) investigate whether any person or entity has directly or indirectly committed an act of terrorism, is about to commit an act of terrorism or has been involved in an act of terrorism under this Act or under any other law;
 - (b) execute search warrants as granted by the courts authorizing its officers or any other law enforcement officer to enter into any premises, property or conveyance for the purpose of conducting searches in furtherance of its functions under this Act or under any other law;
 - (c) investigate, arrest and provide evidence for the prosecution of offenders under this Act or any other law on terrorism in Nigeria;
 - (d) seize, freeze or maintain custody over terrorist property or

fund for the purpose of investigation, prosecution or recovery of any property or fund which the law enforcement and security agencies reasonably believe to have been involved in or used in the perpetration of terrorist activities in Nigeria or outside Nigeria;

(e) seal up premises upon reasonable suspicion of such premises being involved with or being used in connection with acts of terrorism;

(f) adopt measures to identify, trace, freeze, seize terrorist properties as required by the law and seek for the confiscation of proceeds derived from terrorist activities whether situated within or outside Nigeria;

(g) under the authority of the Attorney - General of the Federation, enter into co-operation agreements or arrangements with any national or international body, other intelligence, enforcement or security agencies or organizations which, in its opinion, will facilitate the discharge of its functions under this Act;

(h) request or demand for, and obtain from any person, agency or organization, information, including any report or data that may be relevant to its functions; and

(i) appoint experts or professionals, where necessary, to execute the powers required in furtherance of its functions under this Act.

(6) The law enforcement agencies may initiate, develop or improve on specific training programmes for its officers charged with the responsibility for the prevention, detection, investigation, elimination and prosecution of terrorism activities in Nigeria.”

3. Substitute for sections 3-8 of the Principal Act new sections “3- 25” –

Substitution for sections 3-8.

“Offences
against
internationally
protected
persons

3. Any person who intentionally-

(a) murders, kidnaps or commits other attacks on the person or liberty of an internationally protected

person,

(b) carries out a violent attack on the official premises, private accommodation or means of transport of an internationally protected person in a manner likely to endanger his person or liberty, or

(c) threatens to commit any such attack,

commits an offence and is liable on conviction to life imprisonment.

Terrorist meetings

4. Any person who-

(a) arranges, manages, assists in arranging or managing, participates in a meeting or an activity, which in his knowledge is concerned or connected with an act of terrorism or terrorist group,

(b) collects, or provides logistics, equipment, information, articles or facilities for a meeting or an activity, which in his knowledge is concerned or connected with an act of terrorism or terrorist group, or

(c) attends a meeting, which in his knowledge is to support a proscribed organisation or to further the objectives of a proscribed organization,

commits an offence under this Act and is liable on conviction to imprisonment for a term of not less than twenty years.

Soliciting and giving support to terrorist groups for the commission of terrorist

5. (1) Any person who knowingly, in any manner, directly or indirectly, solicits or renders support -

(a) for the commission of an act of terrorism or

(b) to a terrorist group,

commits an offence under this Act and is liable on conviction to imprisonment for a term of not less than twenty years.

(2) For the purposes of subsection (1) of this section, "support" includes -

(a) incitement to commit a terrorist act through the internet, or any electronic means or through the use of printed materials or through the dissemination of terrorist information;

(b) receipt or provision of material assistance, weapons including biological, chemical or nuclear weapons, explosives, training, transportation, false documentation or identification to terrorists or terrorist groups;

(c) receipt or provision of information or moral assistance, including invitation to adhere to a terrorist or terrorist group;

(d) entering or remaining in a country for the benefit of, or at the direction of or in association with a terrorist group; or

(e) the provision of, or making available, such financial or other related services prohibited under this Act or as may be prescribed by regulations made pursuant to this Act.

(3) In this section, it is not necessary to prove that the material or information or facilities or financial assistance was actually collected or provided if it can be reasonably established that the person collected or provided the material, information or facilities or financial assistance to terrorists, or terrorist groups.

Harbouring
terrorists or
hindering the
arrest of a
terrorist

6. Any person, who knowingly harbours, conceals or

causes to be harboured or concealed, hinders or interferes with the arrest of a person whom to his knowledge has –

- (a) committed or about to commit an act of terrorism,
- (b) likely to commit an act of terrorism,
- (c) is a member of a terrorist group,
- (d) has been convicted of an act of terrorism but escaped from punishment, or
- (e) against whom he knew that a warrant of arrest had been issued,

commits an offence and is liable on conviction to imprisonment for a term of not less than twenty years.

Provision of training and instruction to terrorist groups or terrorists

7. Any person who, knowingly, agrees to provide or receive training, training material or instructions –

- (a) in the making or use of any form of explosive or other lethal devices,
- (b) in carrying out a terrorist act, to a member of a terrorist group,
- (c) to a person engaging in or preparing to engage in the commission of a terrorist act, or
- (d) in the practice of a military exercise or movements but who is not an authorized officer acting in the performance of an official duty,

commits an offence and is liable on conviction, to imprisonment for a term of not less than twenty

years.

Concealing of
information
about acts of
terrorism

8(1) Subject to the provisions of subsections (2) and (3) of this section, where a person has information which he knows or believes to be of material assistance in-

(a) preventing the commission by any person or an organization of an act of terrorism, or

(b) securing the apprehension, prosecution or conviction of another person for an offence under this Act and fails to disclose such information to any law enforcement or security officer as soon as reasonably practicable,

commits an offence under this Act and is liable on conviction to imprisonment for a term of not less than ten years.

(2) It is a defence for a person charged with an offence under subsection (1) of this section to prove that he-

(a) did not know and had no reasonable cause to suspect that the disclosure was likely to affect a terrorist investigation; or

(b) has a reasonable excuse for the non-disclosure or interference.

(3) Subsection (1) of this section does not require disclosure by a legal practitioner of any information, belief or suspicion based on any information, which he obtained in privileged circumstances.

(4) For the purpose of subsection (3) of this section, information is obtained by a legal practitioner in privileged circumstances where it is disclosed to him by –

- (a) his client in connection with the provisions of legal advice, not being a disclosure with a view to furthering a criminal purpose; or
- (b) any person for the purpose of actual or contemplated legal proceeding and not with a view to furthering a criminal purpose.

Provision of devices to a terrorist

9. Any person who knowingly offers to provide, or provides any explosive or other lethal device to a terrorist group, a terrorist or any other person for use by, or for the benefit of, a terrorist group or a member of a terrorist group, commits an offence and is liable on conviction to imprisonment for a term of not less than twenty years.

Recruitment of persons to be members of terrorist groups or to participate in terrorist acts

10. Any person who knowingly agrees to recruit or recruits another person to be a member of a terrorist group or participate in the commission of a terrorist act commits an offence and is liable on conviction to imprisonment to a term of not less than twenty years.

Incitement, promotion or solicitation of property for the commission of terrorist acts

11. Any person, who knowingly –
- (a) incites or promotes the commission of a terrorist act,
 - (b) incites or promotes membership in a terrorist group,
or
 - (c) solicits property for the benefit of a terrorist group or for the commission of a terrorist act,
- commits an offence and is liable on conviction to imprisonment for a term of not less than twenty years.

Provision of facilities in support of terrorist acts

12. Any person who being –
- (a) the owner, occupier, lessee or person in charge of any building, premises, room, or place knowingly

permits a meeting to be held in that building, premises, room or place,

- (b) the owner, charterer, lessee, operator, agent or master of a vessel or the owner, charterer, lessee, operator, agent or pilot in charge of an aircraft knowingly permits that vessel or aircraft to be used, or
- (c) the owner, lessee or person in charge of any equipment or facility that allows for recording, conferencing or meetings through the use of technological devices, knowingly permits that equipment, facility or devices to be used for purposes of committing an offence under this Act or for planning, promoting or supporting the commission of a terrorist act,

commits an offence and is liable on conviction to life imprisonment.

Financing of terrorism

13.(1) Any person or entity who, in or outside Nigeria-

- (a) solicits, acquires, provides, collects, receives, possesses or makes available funds, property or other services by any means to –
 - (i) terrorists, or
 - (ii) terrorist groups, directly or indirectly with the intention or knowledge or having reasonable grounds to believe that such funds or property will be used in full or in part in order to commit an offence under this Act or in breach of the provisions of this Act,
- (b) possesses funds 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 by terrorist or terrorist groups,

commits an offence under this Act and is liable on conviction to imprisonment for life imprisonment.

(2) Any person who knowingly enters into, or becomes involved in an arrangement –

(a) which facilitates the acquisition, retention or control by or on behalf of another person of terrorist fund by concealment, removal out of jurisdiction, transfer to a nominee or in any other way, or

(b) as a result of which funds or other property are to be made available for the purposes of terrorism or for the benefit of a specified entity or proscribed organization,

commits an offence under this Act and is liable on conviction for life imprisonment.

(3) For an act to constitute an offence under this section, it is not necessary that the funds or property were actually used to commit any offence of terrorism.

Dealing in
terrorist
property

14. (1) A person or entity who, knowingly -

(a) deals, directly or indirectly, in any terrorist funds;

(b) acquires or possesses terrorist fund,

(c) enters into, or facilitates, directly or indirectly, any transaction in respect of a terrorist funds,

(d) converts, conceals, or disguises terrorist funds or property, or

(e) provides financial or other services in respect of terrorist fund or property at the direction of a terrorist or terrorist group,

commits an offence under this Act and is liable on conviction to imprisonment for a term of not less than twenty years.

- (2) It is a defence for a person charged under subsection (1) of this section to prove that he did not know and had no reasonable cause to suspect or believe that the arrangement is related to a terrorist property.

Hostage
taking

15. (1) Any person who knowingly-

- (a) seizes, detains or attempts to seize or detain,
- (b) threatens to kill, injures or continues to detain another person in order to compel a third party to do or abstain from doing any act, or
- (c) gives an explicit or implicit condition for the release of the person held hostage,

commits an offence under this Act and is liable on conviction to life imprisonment.

- (2) In this section, a "third party" means a state, an international governmental organisation, a natural or legal person or a group of persons.

Membership
of a terrorist
group or
proscribed
organization

16. (1) Any person who is a member or professes to be a member of a terrorist group commits an offence and is liable on conviction to imprisonment for a term of not less than twenty years.

- (2) It is a defence for a person charged with an offence under this section to prove that the entity in respect of which the charge is brought was not a terrorist group at or on the date that he-

- (a) became a member of that entity;
- (b) professed to be a member of that entity; or
- (c) has not taken part in the activities of that entity, after it became a terrorist group.

(3) Any person who belongs or professes to belong to a proscribed organisation commits an offence under this Act and is liable on conviction to imprisonment for a term of not less than twenty years.

(4) It is a defence for a person charged under subsection (3) of this section to prove that the organisation had not been declared a proscribed organisation at the time the person charged became or began to profess to be a member of the organisation and that he has not taken part in the activities of the organisation at any time after it has been declared to be a proscribed organisation.

Conspiracy

17. Any person who conspires with another to commit an offence under this Act in Nigeria, or to commit a terrorist act in any place outside Nigeria being an act, which if done in Nigeria would have constituted an offence under this Act, shall be deemed to have conspired to do that act in Nigeria and is liable on conviction to –

- (a) life imprisonment where the act of terrorism is committed; and
- (b) an imprisonment for a term of not less than twenty years, where the act of conspiracy is committed.

Aiding and abetting

18. A person who knowingly, directly or indirectly-

- (a) aids and abets,

(b) induces, incites, instigates, instructs,

(c) counsels or procures another person by any means whatsoever to commit an act of terrorism,

commits an offence and is liable on conviction -

(a) where the act of terrorism is committed, to life imprisonment; and

(b) where the offence of terrorism is not committed, to an imprisonment for a term of not less than twenty years.

Escape or
aiding and
abetting
escape

19. Any person who -

(a) being in lawful custody, escapes; or

(b) aids, facilitates or abets the escape of a person who is in lawful custody of any law enforcement or security agency or a person suspected to have committed an offence under any of the provisions of this Act,

commits an offence and is liable on conviction to life imprisonment.

Attempt to
commit an
offence
under this
Act

20. (1) Any person who attempts to commit any offence under this Act is liable on conviction to life imprisonment.

(2) Where a person is charged with any of the offences under this Act and the evidence establishes an attempt to commit that offence, he may be convicted of having attempted to commit the offence and is liable on conviction to a life imprisonment.

(3) Where a person is charged with an attempt to commit an offence under this Act, but the evidence

establishes the commission of the full offence, the offender is not entitled to acquittal but is convicted for the commission of the offence and is liable on conviction to life imprisonment.

Preparation
to commit
terrorist
acts

21. Any person who engages in any conduct in preparation to commit acts of terrorism or assisting another person to commit an act of terrorism commits an offence and is liable on conviction to life imprisonment.

Unlawful
assumption
of character
of officer of
any law
enforcement
or security

22. Any person who, with intent to deceive, unlawfully assumes the name, character or designation of an officer of any law enforcement or security agency commits an offence under this Act and is liable on conviction to imprisonment for not less than five years.

Tampering
with
evidence
and
witness

23. A person who tampers with –

(a) a witness by intimidation, threats, blackmail or similar acts, or

(b) evidence or exhibit by falsification, conversion, destruction or forgery,

commits an offence under this Act and is liable on conviction to imprisonment for a term not less than five years.

Obstruction
of any officer
of a law
enforcement
or security
agency

24. (1) Any person who -

(a) willfully obstructs any authorized officer of a relevant enforcement or security agency in the exercise of any of the powers conferred on it by this Act, or

(b) fails to comply with any lawful enquiry or request or information, wherever located, made by any

authorized officer in accordance with the provisions of this Act,

commits an offence and is liable on conviction to imprisonment for a term not less than five years.

(2) Any person who –

- (a) refuses any officer the relevant law enforcement or security agency access to any premises, or fails to submit to a search by a person authorized to search him under this Act,
- (b) assaults, or obstructs any officer of the relevant law enforcement or security agency in the execution of his duty under this Act, or
- (c) fails to produce or conceals or attempts to conceal from an officer of the relevant law enforcement or security agency, any book, document, information storage system or article in relation to which such officer has reasonable grounds for suspecting or believing that an offence under this Act or any other law prohibiting terrorism has been or is being committed, or which is liable to seizure under this Act,

commits an offence and is liable on conviction to imprisonment for a term of not less than five years.

(3) Any person who –

- (a) discloses to another anything which is likely to prejudice a terrorist investigation, or
- (b) interferes with material which is likely to undermine a terrorist investigation, or likely to be relevant to a terrorist investigation,

commits an offence under this Act and is liable on

conviction to imprisonment for a term of not less than five years.

- (4) It is a defence for a person charged with an offence under subsection (3) of this section to prove that he did not know and had no reasonable cause to suspect that the disclosure was likely to affect a terrorist investigation.

Offences by
an entity

25.(1) Where an offence under this Act committed by an entity is proved to have been committed on the instigation or with the connivance of, or is attributable to any neglect on the part of a director, manager, secretary of the entity or any person purported to act in any such capacity, the officer is liable on conviction to life imprisonment.

(2) Where an entity is convicted of an offence under this Act, it is liable to the forfeiture of any assets, funds or property used or intended to be used in the commission of the offence and the court may issue an order to windup the entity or withdraw the practice licence of the entity and its principal officers or both.

(3) Where the court orders the entity to be wound up, its assets and properties shall be transferred to the Federation Account.

(4) Nothing contained in subsections (1) and (2) of this section shall render any person liable to punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.”

4. Substitute for section 10 of the Principal Act a new section “10” –

Substitution for section
10.

“Funds to
support
terrorism

10 (1) A person or body corporate who, in any manner, directly or indirectly, willingly provides, solicits or collects any fund or attempts to provide, solicit or collect any fund with the intention or knowledge

that they will be used, in full or in part to -

- (a) finance a terrorist or terrorist organization,
- (b) commit an offence in breach of an enactment specified in the Schedule to this Act, or
- (c) do any other act intended to cause death or serious bodily injury to a civilian or 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 group of people or to compel a government or an international organization to do or abstain from doing any act,

commits an offence under this Act and is liable on conviction to imprisonment for a term of not less than ten years and in the case of a corporate body

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- (i) to a fine of not less than ₦100,000,000,
- (ii) the prosecution of the principal officers of the corporate body who are on conviction be liable to imprisonment for a term of not less than ten years, and
- (iii) the winding up of the corporate body and prohibition from its reconstitution or incorporation under any form or guise.

(2) An offence under this section shall apply, regardless of whether the person alleged to have committed the offence is in the same country or a different country from the one in which –

- (a) the terrorist, terrorist group or proscribed organisation is located; or

(b) the terrorist act occurred or is planned to occur.

(3) In proving the offence of terrorist financing, it shall not be required that the funds:

- (a) were actually used to carry out terrorist acts;
- (b) were used to attempt a terrorist act; or
- (c) be linked to a specific terrorist act.

(4) For the purpose of this section, intention may be inferred from objective factual circumstances.”

5. Section 11 of the Principal Act is deleted.

Deletion of section 11.

6. Section 12 of the Principal Act is amended by-

Amendment of section 12.

(a) substituting for the word “cash” in subsections (5), (6) and (7), the words “funds or property”; and

(b) deleting subsection (8).

7. Substitute for section 13 of the Principal Act a new section “13” –

Substitution for section 13.

“Funds or property used for terrorist acts

13(1) Any person or body corporate, who, in or outside Nigeria –

(a) solicits, acquires, provides, collects, receives, possesses or makes available funds, property or other services by any means, whether legitimate or otherwise, to –

(i) terrorist organisation, or

(ii) individual terrorist, directly or indirectly, willingly with the unlawful intention or knowledge or having reasonable grounds to believe that such funds or property will be used in full or in part in order to commit or facilitate an offence under this

Act or in breach of the provisions of this Act,

- (b) attempts to do any of the acts specified in paragraph (a) of this subsection, and
- (c) possesses funds with the unlawful intention 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 by terrorists or terrorist groups,

commits an offence under this Act and is liable on conviction to imprisonment for a term of not less than ten years and not more than life imprisonment.

- (2) Any person who knowingly enters into or becomes involved, participates as an accomplice, organizes or directs others in an arrangement –

- (a) which facilitates the acquisition, retention or control by or on behalf of another person of terrorist fund by concealment, removal out of jurisdiction, transfer to a nominee or in any other way, or
- (b) as a result of which funds or other property is to be made available for the purpose of terrorism or for the benefit of –

- (i) terrorist individual,

- (ii) terrorist organization, or

- (iii) proscribed organization,

commits an offence under this Act is liable on conviction to life imprisonment.

- (3) For an act to constitute an offence under this section,

it is not necessary that the funds or property were actually used to commit any offence of terrorism.

(4) An offence under this section shall apply, regardless of whether the person alleged to have committed the offence is in the same country or a different country from the one in which –

(a) the terrorist, terrorist group or proscribed organisation is located; or

(b) the terrorist act occurred or is planned to occur.

(5) Where an offence is committed by a corporate body under this section, it is on conviction liable to a fine of not less than ₦100,000,000, in addition to –

(a) the prosecution of the principal officers of the corporate body who, on conviction are liable to imprisonment for a term of not less than ten years; or

(b) the winding-up of the corporate body and prohibition from its reconstitution or incorporation under any form or guise.”

8. Section 14 of the Principal Act is amended –

Amendment of section 14.

(a) in subsection (1), by substituting for the words “within a period of not more than 72 hours” in line 2, the words “immediately but not later than 72 hours”;

(b) by substituting for subsection (4), a new subsection “(4)”

-

“(4) Any person who commits an offence under this Act is liable on conviction to a minimum fine of ₦10,000,000.00 or a term of imprisonment of not less than 5 years”;

- (c) in subsection (6), by substituting for the expression “N5,000,000.00 or imprisonment for a maximum term of five years for the principal officers of the institution or the defaulting officer”, a new expressio, “liable to a minimum fine of 20,000,000.00 or imprisonment term of not less than ten years for the principal officers of the institution”.

9. Section 15 of the Principal Act is amended by –

Amendment of section
15.

- (a) deleting subsection (1);
- (b) renumbering the existing subsections (2) (3), (4), (5), (6), (7), (8), (9) and (10) as subsections (1) (2) (3), (4), (5), (6), (7), (8) and (9);
- (c) deleting the words “Inspector General of Police and the National Security Adviser” in subsections (3), (6), (8) and (10) and insert the words “Attorney General shall apply to the Judge in Chambers.”; and
- (d) substituting for subsections (3), (5),(7) and (9), new subsections “(3)”, “(5)”, “(7)” and “(9)” -

“(3) Where a person is charged or about to be charged with an offence under this Act, the Attorney General shall apply to the Judge in Chambers for a provisional order to attach all monies and other property belonging to, or held on behalf, of the suspect.

(5) The Attorney General shall -

- (a) cause notice of the order to be published in the Official Gazette and in two national newspapers; and
- (b) give notice of the order to -

(i) banks, financial institutions and cash dealers, or

(ii) any other person who may hold or be vested with property belonging to or held on behalf of the suspect.

(7) Where an order under this section ceases to have effect, the Attorney-General shall cause notice to be published in the Official Gazette and two national daily newspapers.

(9) Where the Attorney-General has reasonable grounds to suspect that a person has committed, is committing or is likely to commit an act of terrorism or is in possession of terrorist property, he may, for the purposes of an investigation under this Act, apply to a Judge in Chambers for the accused person for an order compelling the suspect to deliver to him any document relevant to identifying, locating any property belonging to, or in the possession or control of that person.”

10. Sections 16 and 17 of the Principal Act are deleted.

Deletion of sections 16 and 17

11. Substitute for section 24 of the Principal Act a new section “24”-

Amendment of section 24.

“Issuance of warrant for terrorist investigation

24. (1) An officer of any duly authorized enforcement law or security agency may apply *ex parte* to the court for the issuance of a warrant for the purposes of a terrorist investigation.

(2) The court may issue a warrant authorizing an officer of any law enforcement and security agency to-

(a) enter the premises or conveyance specified or described in the warrant;

- (b) search the premises or conveyance and any person found therein; and
 - (c) seize and detain any relevant material found therein.
- (3) The court shall not issue a warrant under subsection (2) of this section unless the court is satisfied that –
- (a) the warrant is sought to prevent the commission of an offence under this Act or to prevent the interference in an investigation under this Act;
 - (b) the warrant is used for the purpose of a terrorist investigation;
 - (c) there are reasonable grounds for believing that there is a person or material on the premises or conveyance which may be relevant to the terrorist investigation; or
 - (d) the person being sought is preparing or about to commit an offence under this Act.
- (4) Where a seizure is effected in the course of search or investigation under this section, a copy of the list of all the articles, documents and other materials seized shall be made, duly endorsed and handed to each of the following -
- (a) person on whom the search is made; or
 - (b) owner of the premises, place or conveyance seized”.

12. Substitute for section 25 of the Principal Act a new section “25” -

Amendment of section 25.

“Investigation and search without warrant

25 (1) Where in a case of verifiable urgency, or a life is threatened, or to prevent the commission of an offence provided under this Act, and an application to the court or to a Judge in Chambers to obtain a warrant would

cause delay that may be prejudicial to the maintenance of public safety or order, an officer of any law enforcement or security agency may, without prejudice to the provisions of section 28 this Act or any other law, with the assistance of such other officers as may be necessary and while search warrant is being sought for -

- (a) enter and search any premises or place if he has reason to suspect that, within those premises, place or conveyance -
 - (i) an offence under this Act is being committed or likely to be committed,
 - (ii) there is evidence of the commission of an offence under this Act, or
 - (iii) there is an urgent need to prevent the commission of an offence under this Act, or
 - (b) search any person or conveyance found on any premises or place which such officer is empowered to enter and search under paragraph (a) of this subsection;
 - (c) stop, board and search any conveyance where the officer has reasons to suspect that there is evidence of the commission or likelihood of the commission of an offence under this Act;
 - (e) arrest, search and detain any person whom the officer reasonably suspects to have committed or likely to commit an offence under this Act.
- (2) Where a seizure is effected in the course of search or investigation under this section, a copy of the list of all the articles, documents and other materials seized shall

be made, duly endorsed and handed to the-

(a) person on whom the search is made; or

(b) owner of the premises, place or conveyance seized.

(3) Notwithstanding the provisions of subsection (1) of this section, a woman shall only be searched by a woman.

(4) Nothing in this section shall be construed as derogating from the lawful right of any person in defence of his person or property.”

13. Substitute for sections 26 -29 of the Principal Act new sections “26-34” -

Substitution for sections 26 - 29.

“Recording, measurements samples, photographs or fingerprint impressions during investigations

26(1) Any law enforcement or security officer shall take and record, for the purpose of identification and evidence, the measurements, samples, photographs and fingerprint impressions of all persons who may, from time to time, be in lawful custody for any offence under this Act.

(2) A person who refuses to submit to the taking and recording of his measurements, photographs or fingerprint impressions shall be taken before the court and where the court is satisfied that such a person is in lawful custody, it shall make such order as it deems fit authorising the law enforcement officer to take measurements, photographs and fingerprint impressions of such a person.

Detention for offences related to terrorism

27(1) The court may, pursuant to an ex-parte application, grant an order for the detention of a suspect under

this Act for a period not exceeding 90 days subject to renewal for a similar period until the conclusion of the investigation and prosecution of the matter that led to the arrest and detention is dispensed with.

- (2) Any officer of the law enforcement or security agency may use such force as may be reasonably necessary for the exercise of the powers conferred by subsection (1) of this section.
- (3) A person found on any premises or place or in any conveyance may be detained by the relevant law enforcement officer of any agency until the completion of the search or investigation under the provisions of this Act.

Access to a
detained person
pending
conclusion of
terrorist
investigation

28. (1) Where a person is arrested under reasonable suspicion of having committed any offence under this Act, the relevant law enforcement or security officer may direct that the person arrested be detained in custody for a period not exceeding forty-eight hours from his arrest, without having access to -

(a) any person other than a medical officer of the relevant law enforcement or security agency or his counsel; or

(b) any phone or communication gadget.

(2) A direction under subsection (1) of this section shall not be issued unless the law enforcement agency has reasonable grounds to believe that giving access to any person, other than the medical officer or his counsel as specified in that subsection shall-

(a) lead to interference with or destruction of the evidence connected with an offence under this Act or to interference with or

physical injury to other persons;

(b) lead to alerting of other persons suspected of having committed an offence under this Act or any other law but who are not yet arrested; or

(c) hinder the tracking, search and seizure of terrorist property.

(3) As soon as a direction is issued under subsection (1) of this section, the person detained shall be informed that he may, if he so wishes, be examined by a medical officer or speak to his counsel.

(4) Where a person arrested under this Act is granted bail by a court within the 90 days detention period stipulated by this Act, the person may, on the approval of the Head of the relevant law enforcement agency be placed under a house arrest and shall –

(a) be monitored by its officers;

(b) have no access to phones or communication gadgets; and

(c) speak only to his counsel until the conclusion of the investigation.

Intelligence
gathering

29. (1) Without prejudice to any other law, the relevant law enforcement agency with the approval of the Attorney - General of the Federation may, with the approval of the Coordinator on National Security for the purpose of the prevention of terrorist acts or to enhance the detection of offences related to the preparation of a terrorist act or the prosecution of offenders under this Act,

apply *ex-parte* to a judge for an interception of communication order.

(2) A judge to whom an application is made under subsection (1) may make an order to –

(a) require a communication service provider to intercept and retain a specified communication or communications of a specified description received or transmitted or about to be received or transmitted by that communications service provider;

(b) authorize the relevant law enforcement agency to enter any premises and to install in such premises, any device for the interception and retention of a communication or communications of specified description and to remove and retain such a device for the purpose of intelligence gathering; and

(c) authorize the relevant law enforcement agency to execute covert operations in relation to an identified or suspected terrorist group or persons for the purpose of gathering intelligence.

(3) An order under this section shall specify the maximum period for which a communications service provider may be required to retain communications data.

(4) Any information contained in a communication –

(a) intercepted and retained pursuant to an order under subsection (3), or

(b) intercepted and retained in a foreign state in accordance with the law of that foreign state

and certified by a judge of that foreign state to have been so intercepted and retained,

shall be admissible in a proceeding for an offence under this Act, as evidence of the truth of its content.

(5) In this section –

"communications service provider" means a person who provides postal, information or communication services, including telecommunications services; and

"data" means information generated, sent, received or stored that can be retrieved by electronic, magnetic, optical or any similar means.

Detention of
a conveyance

30. (1) Any authorised officer of the relevant law enforcement or security agency may issue a detention order in respect of a conveyance, if he is of the opinion that -

(a) a threat has been made to commit an act of violence against the conveyance or against any person or property on board the conveyance;

(b) the conveyance is used or intended to be used to commit an offence under this Act, or

(c) an act of violence is likely to be committed against the conveyance, or against any person or property on board the conveyance.

(2) Where the operator of a conveyance fails to comply with a detention order under subsection (1) of this section, the authorized person may –

- (a) enter or authorize any other person to enter the conveyance; or
 - (b) arrange for the person or thing under threat to be removed from the conveyance.
- (3) The authorised officer shall give written notice to the operator of the conveyance of any detention order issue under this section.
- (4) Where the operator of a conveyance objects to a detention order made pursuant to this section, the operator may apply to the court, and the court may, after considering the application, confirm, vary or cancel the order.
- (5) In this section
- “conveyance” means an aircraft, train, vehicle, vessel or any other mode of transportation.
- (6) Any person who –
- (a) without reasonable excuse, fails to comply with the requirement of a detention order; or
 - (b) intentionally obstructs or hinders any person acting in accordance with subsection (2) of this section,
- commits an offence under this Act and is liable on conviction to a fine of N5,000,000 or imprisonment for a term of not less than five years.
- (7) Subsection 7 of the Principal Act is deleted.

under any provision of this Act as may be required by the relevant enforcement or security agency.

- (2) Records in respect of any person, conveyance or property detained under any provision of this Act shall be kept in the custody of the relevant enforcement or security agency.
- (3) A video recording and other forms of electronic evidence shall be admissible in evidence before any court of competent jurisdiction in Nigeria for offences under this Act subject to the provisions of the Evidence Act.
- (4) In this section, "video recording" includes the recording of visual images or sound by electronic or other technological means.

Evidence by
certificate

32. Where in any proceeding for an offence under this Act, question arises as to whether anything or substance is a weapon, a hazardous, radioactive or harmful substance, a toxic chemical or microbial or other biological agent or toxin, a certificate purporting to be signed by an appropriate authority to the effect that the thing or substance described in the certificate is a weapon, hazardous, radioactive or harmful substance, a toxic chemical or other biological agent, shall be admissible in evidence without proof of the signature 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.

Protection of
informants and
information

33. Where a person volunteers to the relevant law enforcement or security agency any information that may be useful in the investigation or prosecution of an offence under this Act, the agency shall take all reasonable measures to protect the identity and life of that person and the information so volunteered shall be

treated as confidential.

Protection of
persons and
witnesses

34. (1) The court may, on its own or on a motion by the Attorney-General or a relevant law enforcement or security agency, protect a witness or any person in any proceeding before it where it is satisfied that the life of the person or witness is in danger and take such measures as it deems fit to keep the identity and address of the witness or person secret.

(2) The measures which the court may take under subsection (1) of this section may include the-

(a) holding of the proceeding at a place to be decided by the court;

(b) avoidance of the mention of the *real* name and address of the witness or person in its orders, judgments or records of the case, which are accessible to the public; or

(c) issuing of a direction for ensuring that the identity and address of the witness or person are not disclosed;

(d) undertaking the proceeding in camera in order to protect the identity and location of witnesses and other persons.

(3) The court may also decide, in the public interest and national security that –

(a) all or any of the proceedings pending before the court shall not be published in any manner; and

(b) that such proceedings shall be adjourned and the accused persons detained pending when the Attorney-General is able to guarantee the

safety of the witnesses and other persons involved in the matter.

- (4) The court may, on an application by or on behalf of the relevant law enforcement or security agency, in the interest of public safety or order, exclude from proceedings for any offence under this Act any person other than the parties and their legal representatives.
- (5) A person who contravenes an order or direction made under this section commits an offence and is liable on conviction to imprisonment term of not less than five years.”

14. Section 31 of the Principal Act is deleted.

Deletion of section 31.

15. Substitute for section 32 of the Principal Act a new section “32”–

Substitution for section 32.

Jurisdiction
to try
offences
under this
Act

32. (1) The Federal High Court located in any part of Nigeria, regardless of the location where the offence is committed, shall have jurisdiction to –

- (a) try offences under this Act or any other related enactment;
- (b) hear and determine proceedings arising under this Act; and
- (c) whether or not the offence was commenced in Nigeria and completed outside Nigeria and the victim is –
 - (i) a citizen or resident of Nigeria,
 - (ii) not a citizen of any country but ordinarily resident in Nigeria,
 - (iii) in transit or has a link with Nigeria,

- (iv) dealing with or on behalf of the Government of Nigeria, or a citizen of Nigeria or an entity registered in Nigeria, or
 - (v) the alleged offender is in Nigeria and not extradited to any other country for prosecution.
- (2) The Federal High Court shall have jurisdiction to impose any penalty provided for an offence under this Act or any other related law.
- (3) Whenever any person is convicted of an offence under this Act, the court in passing sentence shall, in addition to any punishment which the court may impose in respect of the offence, order the forfeiture of any –
 - (a) terrorist fund with accrued interest,
 - (b) terrorist property,
 - (c) article, substance, device or material by means of which the offence was committed, or
 - (d) conveyance used in the commission of the offence,

which is reasonably believed to have been used in the commission of the offence or for the purpose of or in connection with the commission of the offence and which may have been seized under this Act or is in the possession or custody or under the control of the convicted person, to the Federal Government of Nigeria.

- (4) Notwithstanding subsection (3) of this section, and on application of the Attorney - General, the prison sentence imposed on a person convicted of an offence referred to in that subsection may be reduced in such manner as the

court deems fit where that person has, before any proceeding, made possible or facilitated the identification of other accused persons and their sponsors or who, after the commencement of the proceedings, has made possible or facilitated the arrest of such persons.

- (5) In any trial for an offence under this Act, the court shall have power, notwithstanding anything to the contrary in any other enactment, adopt all legal measures necessary to avoid unnecessary delays and abuse in the conduct of matters.
- (6) Subject to the provisions of the Constitution of the Federal Republic of Nigeria, an application for stay of proceedings in respect of any criminal matter brought under this Act shall not be entertained until judgment is delivered.”

16. Substitute for section 33 of the Principal Act a new section “33”–

Substitution for section 33.

“Penalties 33(1) The court before which a person is convicted of an offence under this Act may, in addition to any penalty imposed by the court, order the forfeiture of any proceed or fund traceable to a terrorist act and includes proceed or fund irrespective of the person in whose names such proceeds or funds are standing or in whose possession they are found.

(2) In addition to the sanctions provided for under this Act, a body corporate found liable under this Act may be subjected to civil proceedings and any other administrative sanctions by the relevant authorities.”

17. Section 34 of the Principal Act is deleted.

Deletion of section 34.

18. Sections 36 (2), 37 (1) and 38 of the Principal Act are amended by substituting for the words “Minister of Internal Affairs” , the words “Nigerian Immigration Service” wherever they appear.

Amendment of section 36, 37 and 38.

19. Section 40 of the Principal Act is amended by –

Amendment of section
40.

- (a) substituting for the words “Cash Dealers” , the words “Bureau D’ Change”;
- (b) deleting the definition of the phrase, “Counter Terrorism Convention” contained in paragraphs (a) – (m);
- (c) by inserting immediately after the definition of ‘law enforcement agency’, the following definition -

“Law Enforcement and Security Agency” includes Nigerian Armed Forces and Nigeria Prisons Service immediately after paragraph (j) of the Principal Act;

- (d) substituting for the definition of the words “proscribed organization” after the definition of the words “proceeds of terrorism”, the following new definition –

“proscribed organization” is a group involved in terrorism and is prohibited by law from operating in Nigeria and –

- (i) declared to be a proscribed organization under section 2 of this Act; and
 - (ii) includes a group which has been declared to be an international terrorist group under section 9 of this Act;
- (e) inserting after the definition of the words “terrorism investigation ” the following –
- “terrorist” means any person involved in the offences under sections 1-4 of this Act and includes his sponsor.” ; and

- (f) substituting for the definition of the word “terrorist”, a new definition –
- “terrorist” means any natural person who commits any of

the following acts –

- (i) commission or attempting to commit, terrorist acts intentionally by any means, either directly or indirectly,
 - (ii) participation as an accomplice in terrorist acts, or
 - (iii) organizing terrorist acts or directing others to commit such acts,
 - (iv) contributing to the commission of terrorist acts with a group of persons acting with a common purpose where the contribution is made intentionally and with the aim of furthering the terrorist act or with the knowledge of the intention of the group to commit a terrorist act;
- (g) inserting after the definition of terrorist, the following definition-

“terrorist act”, in addition to the provisions of the renumbered section 1 subsection (3) of the Principal Act, means an act which constitutes an offence according to the following agreements -

- (i) Convention for the Suppression of Unlawful Seizure of Aircraft, 1970,
- (ii) Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, 1971,
- (iii) Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons; including Diplomatic Agents, 1973,
- (iv) International Convention against the Taking of Hostages, 1979,
- (v) Convention on the Physical Protection of

Nuclear Material, 1980,

- (vi) Protocol for the Suppression of Unlawful Acts of violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, 1988,
 - (vii) Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 1988,
 - (ix) Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, 1988,
 - (ix) The International Convention for the Suppression of Terrorist Bombing, 1997,
 - (x) The Convention against Terrorist Financing,
 - (xi) Convention on Offences and certain other Acts committed on Board Aircraft, and
 - (xii) Convention on the Making of Plastic Explosives for the purpose of Detection; and
- (h) inserting immediately after the definition of the words “terrorist investigation” in the Principal Act, the following –

“terrorist organization” means any group of terrorist that –

- (i) commits, or attempts to commit terrorist acts by any means, directly or indirectly, unlawfully and willfully,
- (ii) participates as an accomplice in terrorist acts,

- (iii) organizes or directs others to commit terrorist acts, or
- (iv) contributes to the commission of terrorist acts by a group of persons acting with a common purpose where the contribution is made intentionally and with the aim of furthering the terrorist act or with the knowledge of the intention of the group to commit a terrorist act”; and
- (i) substituting for the words, “prosecuting agency” wherever they appear in the Principal Act, the words “Prosecuting Authority” to mean “the Attorney-General of the Federation.”

20. This Act may be cited as the Terrorism (Prevention) (Amendment) Act, Citation
2013.