

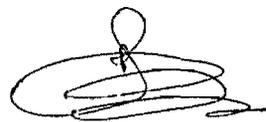
REPUBLIC OF NAURU

(No. 12 of 2008)

AN ACT

To amend the *Counter Terrorism and Transnational Organised Crime Act* 2004.

(Certified:- 26<sup>th</sup> November 2008)



Speaker.

**REPUBLIC OF NAURU** *(Amendment)*  
**Counter Terrorism & Transnational Organised Crime Act 2008**  
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REPUBLIC OF NAURU

(No. 12 of 2008)

AN ACT

To amend the *Counter Terrorism and Transnational Organised Crime Act* 2004.

(Certified: 26<sup>th</sup> November 2008)

Be it enacted by the Parliament of Nauru as follows:-

**1. Short Title and principal Act**

(1) This Act may be cited as the *Counter Terrorism and Transnational Organised Crime (Amendment) Act 2008*.

(2) The *Counter Terrorism and Transnational Organised Crime Act 2004* is in this Act called "the Principal Act".

**2. Definitions**

Section 3 of the principal Act is amended by inserting the following definitions –

*"means of delivery* means missiles, rockets and other unmanned systems capable of delivering nuclear, chemical and biological weapons that are specifically designed for delivering those weapons.

*nuclear facility* means:

(a) any nuclear reactor, including reactors installed on vessels, vehicles, aircraft (whether or not used for military, customs or police services) or space objects for use as an energy source in order to propel the vessels, vehicles, aircraft or space objects or for any other purpose;

(b) any plant or convenience being used for the production, storage or processing or transport of radioactive material.

*Nuclear Terrorism Convention* means the International Convention for the Suppression of Acts of Nuclear Terrorism, adopted by the General Assembly of the United Nations on 13 April 2005.

*radioactive device* means:

(a) any nuclear explosive device; or

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

*radioactive material* means nuclear material and other radioactive substances which contain nuclides which undergo spontaneous disintegration (a process accompanied by emission of one or more types of ionising radiation, such as alpha-, beta-, neutron particles and gamma rays) and which may, owing to their radiological or fissile

properties, cause death, serious bodily injury or substantial damage to property or to the environment.”.

**3. Substitution for sections 4-9**

For section 4 of the principal Act, substitute -

**“United Nations listed entities to be specified entities**

4. (1) For the purposes of this Act, the entities listed from time to time by the Security Council of the United Nations as terrorist entities are “specified entities”.

(2) The Minister for Justice must, by notice published in the Gazette, give notice of the list of terrorist entities referred to in subsection (1), and continue to give notice as and when the Security Council of the United Nations adds or removes any terrorist entity from that list.

(3) A list of the United Nations terrorist entities prepared and certified by the Minister of Justice is deemed to be prima facie evidence that the list is a correct list of entities by the Security Council of the United Nations as terrorist entities.”.

**4. New sections 10 and 10A**

For section 10 of the principal Act, substitute –

**“Terrorism financing**

10. (1) A person must not provide or collect, by any means, directly or indirectly, any property, intending, knowing or having reasonable grounds to believe that the property will be used, in full or in part, to carry out a terrorist act.

Penalty: imprisonment for life.

(2) A person must not provide or collect, by any means, directly or indirectly, any property intending, knowing, or having reasonable grounds to believe that they will benefit an entity that the person knows is a specified entity.

Penalty: imprisonment for life.

(3) In a prosecution for an offence against subsection (1), it is not necessary for the prosecutor to prove that the property collected or provided was actually used, in full or in part, to carry out a terrorist act.

**Terrorist act**

10A. A person commits an offence who engages in a terrorist act.

Penalty: imprisonment for life.”.

**5. Provision of property or services to a specified entity**

From subsection 11(1) of the principal Act delete –

“, other than for the purposes of humanitarian aid or legal services”

**6. Offences relating to nuclear material**

For paragraph 49(a) after the words “substantial damage to property”, add –

“or to the environment”

For subparagraph 49(e)(i) after the words “substantial damage to property” add –

“or to the environment”

Following subsection 49(e) add –

“(f) without lawful authority commit an act, or threaten to commit an act against a nuclear facility, or interfere with a nuclear facility in a way that causes or is likely to cause death or serious injury to a person or substantial damage to property or to the environment.”.

**7. New division, New sections 54A and 54B**

Following section 54 of the Principal Act insert –

**“Division 10 Nuclear terrorism**

**54A. (1) A person must not:**

(a) unlawfully possess radioactive material or make or possess a radioactive device:

- (i) with the intent to cause death or serious bodily injury; or
- (ii) with the intent to cause substantial damage to property or to the environment;

(b) unlawfully use in any way radioactive material or a radioactive device, or use or damage a nuclear facility in a manner which causes a release or increases the risk of release of radioactive material:

- (i) with the intent to cause death or serious bodily injury; or
- (ii) with the intent to cause substantial damage to property or to the environment; or
- (iii) with the intent to compel a person, state or an international organisation to do or refrain from doing any act.

(2) A person must not –

(a) threaten to commit an offence in the circumstances mentioned in subsection (1)(b); or

(b) unlawfully and intentionally demand or make a demand supported by a threat or use of force:

- (i) for the supply of radioactive material or a radioactive device; or
- (ii) for a nuclear facility to be made available or for access to a nuclear facility.

(3) The circumstances mentioned in subsection (2)(a) are that the threat must be made in circumstances that indicate the credibility of the threat.

Penalty: imprisonment for life

**Jurisdiction**

**54B. Section 54A does not apply if the offence is committed:**

- (a) in Nauru; and
- (b) by a citizen of Nauru who is present in Nauru; and
- (c) in relation to a citizen of Nauru.”.

**8. New Part 9A, New Section 70A**

After section 71 of the Principal Act insert –

**“Part 9A**

**Nuclear, chemical and biological weapons**

71A. (1) A person must not manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons or any means of delivery of those weapons.

Penalty: imprisonment for life.

(2) It is not an offence under subsection (1) if the person has written permission from Cabinet to do any of the things mentioned in subsection (1).”

**9. Jurisdiction**

At the commencement of section 71 of the principal Act insert –

“Unless otherwise provided for under this Act,”.

**10. Amendment of section 79**

Following “Act” in subsection 79(1) of the principal Act, insert –

“or the *Extradition of Fugitive Offenders Act 1972*”.

**11. New section 80**

Following section 79 of the Principal Act insert –

**“Offence under this act an offence for extradition purposes**

**80.** The Schedule to the *Extradition of Fugitive Offenders Act 1972* is amended by inserting the following immediately below the number and words “30 – Money laundering” -

“31 – Offence under the *Counter Terrorism and Transnational Organised Crimes Act 2004*”.

**12. Amendment of Schedule 1**

After item 13 of Schedule 1 of the principal Act insert –

“13. International Convention for the Suppression of Acts of Nuclear Terrorism, adopted by the General Assembly of the United Nations on 13 April 2005.”

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I hereby certify that the above is a fair print of a Bill for an Act entitled **Counter Terrorism & Transnational Organised Crime Act 2008**, has been passed by Parliament of Nauru is now presented to the Speaker for his certificate under Article 47 of the Constitution.



**Clerk of Parliament**  
26<sup>th</sup> November 2008

Pursuant to Article 47 of the Constitution, I, **RIDDEL AKUA**, Speaker of Parliament, hereby certify that the **Counter Terrorism & Transnational Organised Crime Act 2008** has been passed by Parliament of Nauru.



**Speaker**  
26<sup>th</sup> November 2008