

# TERRORISM

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## Prevention and Combating of Terrorist and Proliferation Activities Act 4 of 2014

**Summary:** This Act ([GG 5490](#)) provides for various criminal offences connected with terrorism and proliferation activities, and measures to combat and prevent such activities and the funding of such activities. It also gives effect to international conventions, United Nations Security Council Resolutions, instruments and best practices on measures to combat terrorist and proliferation activities. Some of its provisions are to be implemented by the Security Commission established under Article 114 of the Namibian Constitution. It repeals the Prevention and Combating of Terrorist Activities Act 12 of 2012 ([GG 5095](#)). The Act was brought into force on 1 July 2014 by GN 80/2014 ([GG 5497](#)).

**Regulations:** Section 64 provides that anything done under the repealed Prevention and Combating of Terrorist Activities Act 12 of 2012 that could be done under a corresponding provision of this Act is deemed to have been done under this Act. However, the only regulations issued under the 2014 Act have been repealed.<sup>142</sup>

In terms of the current Act, **Regulations relating to the Implementation of Security Council Decisions** are contained in GN 163/2014 ([GG 5560](#)), which repeals GN 196/2013 ([GG 5250](#)).

**Related international agreements:** Section 1 of the Act defines “terrorist activity” to include any act which constitutes an offence within the scope of, and as defined in one of the following treaties -

- *Convention for the Suppression of Unlawful Seizure of Aircraft (1970)*
- *Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1971)*
- *Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (1973)*
- *International Convention against the Taking of Hostages (1979)*
- *Convention on the Physical Protection of Nuclear Material (1980)*  
Note that this convention is now known as the “Convention on the Physical Protection of Nuclear Material and Nuclear Facilities, 1980”, due to the Amendment to the Convention on the Physical Protection of Nuclear Material (renaming the convention as Convention on the Physical Protection of Nuclear Material and Nuclear Facilities), 2005, which Namibia has accepted.
- *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)*
- *Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (2005)*
- *Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf (2005)*
- *International Convention for the Suppression of Terrorist Bombings (1997)*
- *International Convention for the Suppression of the Financing of Terrorism (1999)*
- *International Convention for the Suppression of Acts of Nuclear Terrorism (2005)*
- *Convention on the Suppression of Unlawful Acts relating to International Civil Aviation (2010)* (not yet agreed to by Namibia nor in force internationally)

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<sup>142</sup> The repealed regulations are the Prevention and Combating of Terrorist Activities Regulations contained in GN 196/2013 ([GG 5250](#)). GN 276/2013 ([GG 5318](#)) published a United Nations list of persons and organisations, and persons associated with such persons and organisations, against whom Member States of the United Nations must take actions in order to combat or prevent any terrorist activity, in terms of repealed regulation 4(2)(c).

- ***Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft (2010)*** (not yet agreed to by Namibia nor in force internationally).

**Notices:** In terms of the previous Act (and surviving pursuant to section 654 of this Act), GN 276/2013 ([GG 5318](#)) publishes a United Nations list of persons and organisations, and persons associated with such persons and organisations, against whom Member States of the United Nations must take actions in order to combat or prevent any terrorist activity in terms of regulation 4(2)(c).

In terms of this Act, GN 172/2015 ([GG 5804](#)) issues an arms embargo preventing the direct or indirect supply, sale, brokering or transfer of all types of arms and related materials to designated persons, organisations or countries by Namibian citizens or residents of Namibia, Namibian citizens outside Namibia or by making use of Namibian flagged vessels or aircraft or aircraft registered in Namibia.

From time to time, sanction lists issued by the United Nations Security Council pursuant to various Security Council Resolutions are published and freezing orders relating to these lists issued. These are published frequently and have not been recorded here.

#### **Commentary:**

These articles discuss the repealed Act –

“Anti-Terrorism Act of 2012: When ‘urgency’ trumps proper Parliamentary debate”, Institute for Public Policy Research, 2013, available [here](#)

Phillip Balhao, “Principle of legality: Assessing the definition of ‘Terrorist Activity’ with regards to the Combating and Prevention of Terrorist Activities Act No. 21 of 2012”, *UNAM Law Review*, Volume 2, Issue 1, 2014, available [here](#).

This article discusses the current law –

Graham Hopwood, “Rushed and Ill-considered: Namibia’s Anti-Terrorism Law”, Institute for Public Policy Research, 2015, available [here](#).

## **INTERNATIONAL LAW**

***Convention for the Suppression of Unlawful Seizure of Aircraft (Hague Hijacking Convention), 1970***

***Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Sabotage Convention), 1971***

*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, Montreal, 1988*

***Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 1988***

*Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (SUA PROT), 1988*

***Convention on Offences and Certain Other Acts Committed on Board Aircraft (Tokyo Convention), 1963***

***Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, 1973***

***Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, 1993***

***Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction (Ottawa Treaty), 1997***

***International Convention against the Taking of Hostages, 1979***

***International Convention for the Suppression of Acts of Nuclear Terrorism, 2005***

***International Convention for the Suppression of Terrorist Bombings, 1997***

***International Convention for the Suppression of the Financing of Terrorism, 1999***

***OUA Convention on the Prevention and Combating of Terrorism, 1999***

***SADC Declaration on Terrorism, 2002*** (not legally-binding).

See also Prevention of Organised Crime Act 29 of 2004 (**CRIMINAL LAW AND PROCEDURE**).

See also Financial Intelligence Act 13 of 2012 (**FINANCIAL INSTITUTIONS**).